

NOTES

THE POLYGRAPH IN BUSINESS AND INDUSTRY

Human emotional states are accompanied by observable physiological responses (breathing, blood pressure and pulse, skin resistance to external current) largely though not exclusively under the control of the autonomic nervous system. The attempt to deceive seems to involve such an emotional state and corresponding responses. The term "polygraph" (lie detector) includes all the sensors which monitor these responses and the multiple-pen subsystem which records on a roll of paper the reactions of the sensors. From his reading of the responses to carefully worded questions, the examiner infers attempted deception, though it is admitted that other emotions present during the interrogation could contaminate this inference.¹

The polygraph is used in many contexts: by federal agencies (e.g., to screen for highly sensitive security positions), by local agencies (e.g., to screen for suitability for the police force). Increasingly, however, it is being used in modern business by banks, supermarkets, department stores, retail stores of all kinds, discount houses, manufacturers, etc. In modern business the polygraph is generally put to a double use: pre-employment screening (and periodic rescreening) and specific-instance testing. Mr. George Lindberg of John E. Reid and Associates (Chicago) estimated that 25 percent of their tests for 1963 involved pre-employment assessments, roughly 1700 of 5000 tests administered.²

A simple case-presentation will make clear the meaning of these terms.

¹ The polygraph does not exactly prove *fact*. Rather, it indicates that the individual believes (or not) what he is saying. Thus, if a mental patient believes he is President Lincoln, the polygraph when competently used will indicate that he believes this. For a description of the mechanics of the polygraph and the techniques of deception detection, cf. Fred E. Inbau and John E. Reid, *Lie Detection and Criminal Interrogation* (Baltimore, 1953). Thorough bibliographies on all aspects of the polygraph may be found in *Use of Polygraphs as "Lie Detectors" by the Federal Government* (Washington, D.C.: U.S. Government Printing Office, 1964-65). These publications consist of several preliminary studies and the hearings before a subcommittee of the Committee on Government Operations. To this point the publications include six parts separately published but with consecutive pagination. In the future I shall refer to them simply as *Hearings*. There is a great deal of popular (and semipopular) literature on the subject. Some examples: *Scientific American* 209 (1963) 66-67; *Science Digest* 54 (1963) 23-29; *Popular Science* 183 (1963) 64-67; *Saturday Evening Post* 236 (1963) 82; *Harvard Business Review* 40 (1962) 127-34; *U.S. Catholic*, July, 1964, pp. 6-11; *Ave Maria* 101 (1965) 5-8; *Business Week*, Jan. 18, 1960, pp. 98 ff; *Reporter* 28 (1963) 16 ff. A compact summary of many aspects of lie detection which is both thorough and objective is that of Dr. Jesse Orlansky; it is contained in *Hearings*, pp. 627-65.

² *Hearings*, p. 66.

An investigation at a bank concerning the mysterious disappearance of \$1000 on a certain date indicates that only ten employees and no outsiders had reasonable access to the funds. All ten are extensively quizzed by a competent investigator and deny complicity. Field investigation of former employers, neighbors, friends, and the police results in no information of investigative significance. Pursuant to the insurance company's request, the bank issues a notice that each of the ten persons will be asked to undergo a polygraph examination. They are advised further that the only questions to be reported on by the examiner will be: (a) Did you steal the \$1000? (b) Do you know who stole that \$1000? Finally, anyone who refuses to undergo the examination will be allowed to resign. A failure to resign will result in a dismissal for violating the bank's policy. In this case we are concerned with specific-instance testing.

An owner of a large supermarket chain suffers from the perennial problem of employee theft. To reduce his losses in the future, the owner decides that anyone to be employed within his chain in the future must first undergo a polygraph test. Furthermore, he adds to his prospective employees that they will be expected to undergo periodic or routine polygraph checks every six months. Here we are concerned with pre-employment screening and routine periodic rescreening. Routine periodic rescreening differs from specific-issue testing in so far as the subject knows of it as a policy before employment and in so far as it is not associated with any isolated theft or dishonesty.

These are simple examples of two of the most common uses of the polygraph in modern business, though neither instance need necessarily be limited to dishonesty or theft. It is the morality of these uses which I should like to explore here.

GENERAL MORAL PRINCIPLES

Since the use of the polygraph is basically enquiry into another's secret, the limitations on an employer will stem especially from the principles in control of such enquiry. Moral literature has long accepted the fact that enquiry into another's secrets is sometimes justifiable, hence not necessarily a violation of right. This is true when two conditions are realized.³

First, there is a right to enquire. Frequently (though not always) such a right is attached to an office where enquiry is a necessary means to execution of some duty. For example, government officials have a right to investigate citizens to the extent that this is necessary for the common good and not in

³ Robert E. Regan, O.S.A., *The Moral Principles Governing Professional Secrecy* (Washington, D.C., 1943) p. 34.

conflict with a higher law. Police officials may investigate suspicious characters. At times and with restrictions, parents may investigate the secrets of their children. In general, it can be said that these are situations where a notable good is to be achieved or a notable harm prevented, by someone charged with this duty or having a legitimate concern therewith, and where enquiry is necessary to execute this charge.

Secondly, licit means must be used in the enquiry. Here the moral propriety of enquiry into another's secrets experiences a further limitation. To say that one has a right to enquire into secrets is not to say that he may use any means. Thus, the right and duty of the state to search out and punish crime does not imply the right to torture into confession, or the duty of the subject to confess. Similarly, the right of the employer to inform himself of the applicant's honesty and general reliability does not mean the right to force information out of the applicant, nor does it imply the correlative duty of the subject to submit to all tests and exams.

The crucial question, then, is: What are licit means? I believe that all moralists would agree that enquiry into another's secrets, even when done by a questioning process which stimulates responses largely controlled by the autonomic nervous system (hence when done by some penetration of the psychism), is not evil *ex objecto*. This means that licitness of means will be governed by circumstances. The relation of an individual use of the lie detector to certain broad juridical areas will constitute the circumstances to be weighed. Such circumstances would include at least the following: the rights of employers, the rights of individuals to secrecy and to reputation, the rights of society to healthy labor relations.

It is not always easy to weigh these circumstantial factors, because the various rights mentioned appear to come into conflict after a certain point. Thus, the right of an employer to safeguard his goods (to recover stolen goods, to prevent theft) appears to conflict with the individual's right to his reputation and secrets. This apparent conflict can be dissipated in a general way if it is remembered that the determination of rights cannot be made in isolation. In a democratic society where rights are acknowledged, rights are defined and limited by reference to other rights. For just as there is no liberty without law, so there is no right without a limitation upon rights in general. Thus, it has been said that one man's right to swing his arm in public ends where another man's nose begins. In a similar way, the right of the employer to protect his business experiences some limitations.

The following individual and social rights suggest these limitations. In doing so, they provide a general picture of the circumstances to be judged when one attempts to assess permissibility of means.

The right against self-incrimination. Any means which imposes, or risks imposition of, confession of a crime is an infringement of a natural right, the right against self-incrimination.⁴ To be sure, the protection of this right seems at times to handicap those charged with the prosecution of crime; indeed, it seems occasionally to encourage crime by unduly protecting the criminal. In the long run, however, modern jurists and theologians agree that it is a lesser evil to let a criminal go free for lack of this type of proof than to run the risks associated with forced confession. If this right is to be respected, there must be no coercion, either physical or moral, to take the test. This consideration suggests that punishment or penalty cannot be one's only alternative to submission to the polygraph test. More specifically, it suggests that unwarranted social stigma, assuredly a form of punishment, cannot be the only alternative to refusal to take the test.⁵

The right to reputation. The existence of this right excludes any means of enquiry which unnecessarily harms the reputation of an individual. Practically, this excludes means which involve revelation of nonexistent faults and tendencies—and therefore proscribes tests whose possibly fallible results will be accepted as unqualified truth; which involve unnecessary revelation of true faults or tendencies; which regard the subject as guilty or suspect unjustifiably until proved innocent.

The right to secrecy. This right excludes those means which involve unwarranted violation of another's secrecy. Practically, it excludes those means which involve violation of personal integrity (e.g., sodium amytal on an unwilling subject); which unnecessarily explore another's secrets or which do not limit the scope of necessary enquiry or offer no guarantees of such limitation; which offer no guarantee of limitation of revelations.

The right to healthy labor relations. I refer here to what we might loosely call society's right that labor-management relations be founded on practices which promote responsibility, initiative, a spirit of co-operation, and personal dignity. Practices which undermine or tend to undermine these atmospheres unnecessarily by surrounding labor relations with feelings of mutual suspicion and distrust must be regarded as militating against the common good.

When techniques of exploration give full respect to these rights, it is safe to say that they will be circumstantially proper and therefore that they will represent licit means. In general, it seems safe to say that testing techniques will safeguard these rights only when there is complete freedom in taking

⁴ Cf. Patrick Granfield, O.S.B., "The Right to Silence," *THEOLOGICAL STUDIES* 26 (1965) 280-98.

⁵ The stigma would be the result of an inferential judgment or suspicion.

the test—a point we shall clarify below. The following remarks represent a tentative attempt to isolate more in detail those features of specific-instance testing and pre-employment screening by polygraph which describe their relationship to the aforementioned juridical spheres.

SPECIFIC-INSTANCE TESTING

In the cases of specific-instance testing, the man or men to be tested are faced with a penalty for refusing to take the test, at least in the situation as described. They will be allowed to resign, and if they refuse they will be fired. Resignation in the circumstances described is practically equivalent to dismissal. Hence it is certainly a punishment (job loss) and will almost certainly be accompanied by a certain stigma, at least in the eyes of one's fellow workers.⁶

I believe that the procedure is immoral because the possible harm in the test-or-else ultimatum represents an infringement of several rights. There is an infringement of rights because the employee would have legitimate objections to either alternative. In other words, the proposal does not allow the subject complete freedom to take the test or to refuse to take it. To take the test freely, the subject must be able to refuse it without sanction. If the test is demanded under threat of "accepted resignation" or dismissal, there are only two options: take the test or be dismissed. There are legitimate objections against either alternative.

Objections against taking the test. If the employee is actually guilty, he could object that his only alternative to confession-by-testing was dismissal and subjection to suspicion because of dismissal and refusal to be tested. Hence he could argue that his right against self-incrimination is not sufficiently safeguarded. There is no guarantee (should he take the test) that he cannot be prosecuted on the basis of the test results. He would conclude that a price was being put on his enjoyment of the natural right against self-incrimination.

If he is innocent of the theft, he could reasonably object against the test on several grounds. First, he is being made to show his innocence by revelation of factual dishonesty of the past which is irrelevant to the target crime.⁷

⁶ There is the further possibility that the employees will be allowed to remain but will be subjected to a subtle but unmistakable differential treatment which will not, to say the least, enhance their upward mobility. Such treatment must be viewed also as a penalty.

⁷ The reference here is to the "control-question technique." The control question is one which pertains to the same general area as the target question and one regarding which it is reasonable to believe the subject will lie. By comparing the subject's reaction to the control question with his reaction to the target question, the examiner has the basis for a diagnosis of deception. Cf. Inbau and Reid, *op. cit.*, pp. 34 ff; *Hearings*, p. 14.

Secondly, he risks being judged guilty by a fallible process. False positives occur, especially because results are inferential and depend heavily on the competence of the examiner. Thirdly, he is an object of suspicion until proved innocent. Fourthly, there are no constitutional or statutory guarantees against use of the revealed material against him. Finally, his right against self-incrimination is not sufficiently protected. For if he could be coerced into taking the test now to prove his innocence, he would obviously be no better off at another time if and when he is guilty. Whether guilty or not, therefore, he has legitimate objections against the test.

Objections against dismissal for refusal. Because his objections against taking the test are legitimate, it follows that he is reasonable in objecting against punishment for refusal to do so. His objections are all the stronger when it is remembered that dismissal-for-refusal is not simply loss of employment. It will be followed by suspicion, at least in the eyes of his confreres. Furthermore, his refusal and its circumstances could be used against him in later attempts at employment.

The only available alternatives, therefore, do not sufficiently protect the individual's basic rights. Such failure to protect the individual's rights necessarily involves an infringement of society's right to healthy labor relations. Because, then, there are genuine objections against both alternatives, a third alternative must be present before the test is morally justifiable, scil., refusal to take the test without reprisal either in the form of suspicion or dismissal. This means that the test must be offered as a completely free option. It would seem that only when this third alternative is available would specific-instance polygraph testing escape a type of moral coercion irreconcilable with basic individual and social rights.

PRE-EMPLOYMENT SCREENING

Routine periodic rescreening may be treated, as we have noted, as identical with pre-employment screening, provided that the routine security check has been agreed upon previous to employment and is not presented to one already employed as the only alternative to dismissal.

Some theologians would probably argue that this type of screening is invasion of conscience and that such a practice is never morally justifiable even though it is licit at times to explore the secrets of others. The exploration of secrets, they would suggest, excludes secrets of conscience. This may well be sufficient to condemn pre-employment screening which involves penetration of the psychism to the extent that polygraph testing seems to do. Yet I am not convinced of this analysis, since the psychic penetration involved is somewhat different from the ordinary meaning of that term, and

since, given full voluntariety, it does not merit the name "psychic invasion." I would prefer the following formulation and the explanatory analysis which accompanies it: it is morally justifiable to demand pre-employment polygraph tests of applicants and to stipulate them as routine checks and deterrents if certain conditions are fulfilled.

The test must be taken freely. This means, in a very general way, that submission to the test and revelations during the test are fully voluntary. Full freedom in submitting to the test would render the reactions and the revelations inferred from them sufficiently voluntary. Practically this full freedom would mean the following. (1) The test is not physically forced on the subject and not given without the subject's knowledge. There is little difficulty here, since it is all but impossible to coerce a subject physically into taking the test. (2) There is a genuine, acceptable alternative to the test. In other words, there must also be freedom from moral coercion.⁸ This will be the case (if the third condition is observed), since the job applicant need not work here. He can always seek employment elsewhere. (3) Refusal to take the test must not be used against the man, scil., become part of the dossier on him. For since there are many reasons why a subject might not care to take the test (e.g., its fallibility, danger of irrelevant disclosures, lack of statutory guarantees, unscrupulous examiners, etc.), he is reasonable in demanding that refusal not be given an inferential significance it does not deserve. (4) The subject must be informed of the nature of the test and its method. (5) The questions to be asked should be submitted beforehand to the examinee.

Secrecy and right to reputation must be observed. It must be obvious that information gathered by such testing may not be revealed or used in a manner incompatible with the general principles of secrecy. For while it can be reasonable at times to ask the subject to make certain (even embarrassing) disclosures in job application, it ceases to be reasonable when these disclosures will unnecessarily tarnish his reputation. Being spelled out in detail, this would mean the following. (1) The test's results are not accepted as more reliable than they actually are. (2) The test must be limited in scope. (3) Refusal of employment must not be publicly attributable to failure to pass the test. If it were, there is equivalent revelation of the test's results in a general way, or at least there is damaging suspicion. Hence the subject would be asked to accept possible ruin of reputation while seeking employment. (4) Failure of the test must not become part of a reference dossier on

⁸ Cf. *Hearings*, p. 112, where the broad sense of freedom is explicitly treated. Inbau admits that where there is a penalty of any kind for refusal to take the test, the test may be said to be involuntary.

the subject. (5) There must be legal protection against unscrupulous misuse of revealed material and legal immunity from prosecution of punishable crime. (6) As partial assurance of the above conditions, the examiner must be both competent and ethically conscientious.

There is a sufficient reason for the use of the polygraph. This will mean that other means have proved inadequate and the polygraph is both adequate and necessary.

Because polygraph testing represents some (albeit voluntary) penetration of psychic privacy and because there are grave dangers connected with this (undue probing, revelation beyond consent of the subject, harm to reputation, and ultimately an increase of manipulative practices which blur the perception of the employee as a person), the dangers involved must be avoided whenever reasonably possible. It is reasonably possible if other available means which would avoid these dangers (routine reference checking, routine investigative measures, preventive cautions) are adequate. Only when they are inadequate does one begin to think of the polygraph.

When one speaks of the "adequacy" of the polygraph, he uses a very general term. It can have at least two senses. First, it can refer to the validity and reliability of the polygraph itself as an instrument of deception detection. Secondly, it can refer to its effectiveness in comparison with other investigative techniques, to the significantly better results it produces when compared to other measures, even though it falls far short of absolute validity and reliability. I am using the term "adequacy" in this second sense. This very relative sense of the term connotes to some extent (or at least allows for) the possibility of diagnostic error, and therefore suggests many of the limitations already noted to be put on the use of the lie detector.⁹

Pre-employment screening will qualify as necessary not simply because it is more efficient in preventing dishonesty. Where the person remains an object of reverence, necessity must mean more than mere efficiency. Anyone with a sensitivity for the dignity and autonomy of the human person is revolted by the prospect of a business atmosphere so oblivious of its purposes

⁹ This relative sense of the word "adequacy" or "effectiveness" is not, of course, unrelated to the independent validity and reliability of the lie detector. Where this independent effectiveness of the polygraph is concerned, Orlansky claims that, in spite of his own belief that the device "works" and notwithstanding the allegations of the polygraph examiners, "the polygraph examiner attempts to identify a pattern of emotional responses which recurs only with a specific category of questions and it is precisely the accuracy with which this function can be performed which has not been objectively determined" (*Hearings*, p. 630). As for relative effectiveness, he asserts that "we do not know at present the increment in effectiveness which the polygraph brings over an interrogation without a polygraph" (*ibid.*, p. 629).

and place on the human scene that it is willing to reduce the person to an automaton to be stripped, dissected, and factored for the smoother functioning of the economic machine. Therefore, when one says that the polygraph is necessary, he refers rather to situations in which self-exposure to revelations is a reasonable demand for job qualification. Just when such a demand is reasonable is not always easy to determine. It would seem reasonable where the sensitivity of one's employment identifies the individual closely with the national or even public security.¹⁰ At the other extreme, it is frightening to think that every prospective bank teller, supermarket clerk, or salesman would have to submit to such treatment simply because ample opportunities for dishonesty and actual dishonesty exist in modern business. And not only is it frightening; it may prove self-defeating by intensifying an atmosphere of distrust which actually exacerbates the dishonesty problem in the long run.¹¹ Between these extremes there is a vast middle ground where only a truly Christian image of man will guarantee a prudent judgment. But while reasonableness is a contingent and flexible judgment, it will always re-

¹⁰ Dr. Joseph Kubis of the Psychology Department of Fordham University has expressed what appears to me to be a sane and balanced judgment when he distinguishes serious instances from trivial ones. He says: "We should not tolerate such invasions when the matter under investigation is not serious from the point of view of the social obligations that that individual has to maintain or live up to in that society. There should be serious matters for a lie detection examination. I am very strong on that point. . . . I don't believe they should be used in trivial cases. I do not believe there should be continual checkups. I am strongly in disfavor of its use as preemployment screening for types of jobs that don't seem to have serious matters connected with them except for the loss of limited and sometimes trivial amounts of money or property" (*Hearings*, p. 373). Kubis' opinion is founded on a twofold fact: that a man's reputation is involved (p. 373) and that "personnel screening gives a pseudo-guarantee that the individual will act so-and-so in the future on the basis of these results. . . . Although in some instances the past may indicate that he may do the same thing in the future, this is not inevitable" (p. 306). Dr. John I. Lacey, chairman of the Department of Psychophysiology-Neurophysiology, Fels Research Institute, has expressed substantially the same judgment. "Now I will completely agree with Dr. Kubis in what he characterized as trivial instances, like preemployment screening. I am horrified at the thought of a department store clerk being subjected to a polygraph examination. I am not horrified at the thought of men being selected for some highly sensitive mission in our Government, let us say, and the polygraph being used as one—and not even a major one—information gathering device" (*Hearings*, p. 343).

¹¹ Of the periodic use of the lie detector in business, Kubis notes: "The lie detector is basically an instrument of distrust, to be used where there is a strong suspicion that one or more individuals are not telling the truth. In the 'storewise' checkup the innocent are placed in an embarrassing role—that of being a suspect whose word and intentions are fundamentally distrusted" (*Hearings*, p. 303). It is not surprising that the executives of a large midwestern firm told me that employee reaction to use of the lie detector (in a specific instance) was so adverse that management concluded "Never again."

sist the conclusion that psychic privacy and human trust may be summarily victimized on the altar of business efficiency.

PRACTICAL QUALIFICATIONS

The preceding assertions are proposed as general guidelines. It is another question whether these conditions are factually fulfilled in the current day-to-day use of the lie detector as we know it. To determine the actual moral status of pre-employment screening (specific-instance testing without a third alternative seems immoral without further ado—though this opinion is certainly open to revision), one must face the actual situation. Here I would like to list some facts, then draw the conclusions which seem warranted by the facts. It is important to note that the vast majority of these facts are drawn from statements made by polygraph examiners themselves.

First of all, the diagnostic use of the polygraph involves inference (from certain physiological changes to present deception; from certain past actions to predictability of conduct in the future, or at least to assessment of risk factors), and there are some variables which operate as obstacles to this inference.

Secondly, it is generally admitted that the technique of deception detection is no better than the man who is making the inference.¹² Furthermore, a large percentage of tests require great ability and training to interpret them properly.¹³ Without this competence at diagnosis the lie detector is a very dangerous instrument.¹⁴

Thirdly, of the people utilizing the lie detector today, large percentages do not measure up to the standards set by competent examiners.¹⁵

Fourthly, there are no generally accepted specifications for the training and licensing of examiners.¹⁶

Fifthly, the attractive fee structure encourages the quack. Furthermore, strong motivation exists for an examiner to come up with a report. Thus Inbau notes: "There is a practice among certain examiners in private industry whereby they proceed to squeeze someone for something of an embarrassing nature, something by way of some indiscretion so it can be reported to the employing agency, to indicate that this examiner knows how

¹² Cf., for example, the remarks of George Lindberg in *Hearings*, p. 63. To the question "The operator is very important, then?" Dr. Kubis answered: "Exceedingly important, because the machine does not say a thing. It is the operator who does the work" (*Hearings*, p. 327). Cf. *ibid.*, pp. 6, 660, and *passim*.

¹³ *Hearings*, p. 22. ¹⁴ *Ibid.*, p. 6.

¹⁵ Inbau says: "Let us face it, of the people who are utilizing this device today, in my judgment about 80 per cent of them are not measuring up to what standards we feel are required" (*Hearings*, p. 8). Cf. also *ibid.*, pp. 110, 155, 303; Inbau and Reid, *op. cit.*, p. 114.

¹⁶ *Hearings*, pp. 9, 43, 54, 59, 303, 659.

to come up with something even though he may be very vague as to whether this person is responsible for the thing that is under particular enquiry. . . ."¹⁷

Sixthly, it is no secret that prospective employees have been refused employment solely on the basis of the polygraph report. In combination with other tests the polygraph is frequently relied on in industry and government as a means of refusing employment to prospective applicants.¹⁸ Thus the examiner is in a position of considerable power over the subject through the recommendation he makes.

Seventhly, when someone is subjected to this technique, there is some penetration of privacy. As for the question of delving into the unconscious, the matter has been approached from two points of view. The polygraph examiners generally take the point of view that the examiner does not delve into and bring out deep-rooted unconscious things.¹⁹ On the other hand, psychologists believe that, since the stimulus question produces a differential reaction originating at the autonomic level, it is subject to interpretation as reaction from the unconscious level.²⁰

Eighthly, there is a definite tendency for polygraph examinations to reach out beyond the scope necessary (for security purposes in government).²¹ Furthermore, the pre-employment screening test is not aimed at determining only truth or deception in any given target area. It concerns also or may concern itself with background material (via peak of tension testing) which will render the employee a liability to the company in other ways: for example, indebtedness, marital tranquility, extent of gambling and drinking.²²

Ninthly, a factual stigma attaches to those who are under some suspicion (even the most general) and who refuse to take a lie-detector test. This is probably due especially to the fact that the general public believes that the polygraph is infallible, that "you can't beat the machine."

Tenthly, there is no statutory privilege of confidentiality which protects the examinee against the examiner. That is, the examiner could be commanded by court order to reveal even material in the control question, although the examiner himself may regard this as confidential.²³ Furthermore, there is no legal guarantee that information will not be put into the hands of the unscrupulous.²⁴ Nor is there any guarantee that revelations will not be the basis for prosecution of punishable crime by an employer.

Finally, there are no statistical data on detector reliability acceptable to scientists outside the field.²⁵ Hence, as Backster notes, there is no defense against the attacks on inadequate statistical data.²⁶

¹⁷ *Ibid.*, p. 7. ¹⁸ *Ibid.*, pp. 35-36.

¹⁹ Thus Inbau, Reid, Backster, and Lindberg, in *Hearings*, p. 47.

²⁰ *Hearings*, p. 45. ²¹ *Ibid.*, p. 11. ²² *Ibid.*, pp. 71-72. ²³ *Ibid.*, p. 69.

²⁴ *Ibid.*, p. 350. ²⁵ *Ibid.*, pp. 630-38, 324. ²⁶ Backster, in *Hearings*, p. 155.

These are some important facts which will lead one to nuance his practical application of the threefold condition suggested for licitness of pre-employment screening. Given the existence of these facts, a harsh critic might conclude that when the polygraph is used in business today, one asks for the following: an individual's secrets on a variety of subjects, from the subject himself, via autonomic responses, interpreted (too often) by inadequately trained men, where the outcome is vitally important to the examinee's reputation and fortune, in an atmosphere where refusal to be tested very easily brings the stigma of suspicion, in a climate where the practice can easily extend itself beyond justifiable limits, without adequate legal safeguards, at a time of growing impersonalism in business. This same harsh critic might summarize these remarks as follows: there is great power over the fortunes and reputation of men in the hands of inadequately trained men without adequate safeguards and guarantees.

If this assessment is accurate, the obvious conclusion is: pre-employment and routine periodic screening by polygraph *in the present circumstances* may easily represent an illicit means of enquiry, because (and in so far as) they do not sufficiently protect some extremely important individual and social rights. This failure to protect basic rights is, of course, incompatible with a Christian morality of love which, under pain of disappearance, esteems and promotes the total good of the other as a human person, and which therefore esteems and promotes those things so radically identified with this total good—human rights. Love, intent on union, is thereby intent on and protects those things which render another unionable, his distinctness and dignity as a person and the rights which protect these.

The judgment just presented must be carefully understood. First of all, it is a judgment of a whole institution, not of individual instances or men or firms. It is quite possible that individual instances fulfil the conditions I have mentioned (excepting, it seems, legal safeguards). Certainly, the author is personally acquainted with competent, conscientious, and prudent examiners. Secondly, the conclusion is based on a nonexpert's study of the polygraph and one man's assessment of the issues it raises. Quite clearly, therefore, it is presented only tentatively and as the basis for discussion among theologians. Finally, since the conclusion is based on the factual nonfulfilment of certain apparently necessary conditions, the picture could and should change. The best way to promote this change is assuredly not to alienate those most capable of introducing reform into modern practice by global and unqualified condemnations.²⁷ Rather, the polygraph examiners

²⁷ Certainly those existing practices which clearly violate the rights of individuals should be halted immediately.

should be encouraged to continue to press for those improvements which will insure that their activity will increasingly safeguard rather than threaten individual rights, hence will represent an appropriate expression of Christian charity and a community service.

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