

## Polygraph Examination of Jack Ruby

### PRELIMINARY ARRANGEMENTS

As early as December of 1963, Jack Ruby expressed his desire to be examined with a polygraph, truth serum, or any other scientific device which would test his veracity.<sup>1</sup> The attorneys who defended Ruby in the State criminal proceedings in Texas agreed that he should take a polygraph examination to test any conspiratorial connection between Ruby and Oswald.<sup>2</sup> To obtain such a test, Ruby's defense counsel filed motions in court and also requested that the FBI administer such an examination to Ruby.<sup>3</sup> During the course of a psychiatric examination on May 11, 1964, Ruby is quoted as saying: "I want to tell the truth. I want a polygraph \* \* \*."<sup>4</sup> In addition, numerous letters were written to the President's Commission on behalf of Ruby requesting a polygraph examination.<sup>5</sup>

When Ruby testified before the Commission in Dallas County Jail on June 7, 1964, his first words were a request for a lie detector test. The Commission hearing commenced with the following exchanges:

Mr. JACK RUBY. Without a lie detector test on my testimony, my verbal statements to you, how do you know if I am telling the truth?

Mr. TONAHILL [Defense Counsel]. Don't worry about that, Jack.

Mr. RUBY. Just a minute, gentlemen.

Chief Justice WARREN. You wanted to ask something, did you, Mr. Ruby?

Mr. RUBY. I would like to be able to get a lie detector test or truth serum of what motivated me to do what I did at that particular time, and it seems as you get further into something, even though you know what you did, it operates against you somehow, brain washes you, that you are weak in what you want to tell the truth about and what you want to say which is the truth.

Now Mr. Warren, I don't know if you got any confidence in the lie detector test and the truth serum, and so on.

Chief Justice WARREN. I can't tell you just how much confidence I have in it, because it depends so much on who is taking it, and so forth.

But I will say this to you, that if you and your counsel want any kind of test, I will arrange it for you. I would be glad to do that, if you want it. I wouldn't suggest a lie detector test to testify the truth.

We will treat you just the same as we do any other witness, but if you want such a test, I will arrange for it.

Mr. RUBY. I do want it. Will you agree to that, Joe?  
Mr. TONAHILL. I sure do, Jack.<sup>6</sup>

Throughout Ruby's testimony before the Commission, he repeated his request on numerous occasions that he be given an opportunity to take a lie detector test.<sup>7</sup> Ruby's insistence on taking a polygraph examination is reflected right to the end of the proceedings where in the very last portion of the transcribed hearings Ruby states:

Mr. RUBY. All I want to do is to tell the truth, and the only way you can know it is by the polygraph, as that is the only way you can know it.

Chief Justice WARREN. That we will do for you.<sup>8</sup>

Following Ruby's insistence on a polygraph test, the Commission initiated arrangements to have the FBI conduct such an examination.<sup>9</sup> A detailed set of questions was prepared for the polygraph examination, which was set for July 16, 1964.<sup>10</sup> A few days before the scheduled test, the Commission was informed that Ruby's sister, Eva Grant, and his counsel, Joe H. Tonahill, opposed the polygraph on the ground that psychiatric examinations showed that his mental state was such that the test would be meaningless.<sup>11</sup>

The Commission was advised that Sol Dann, a Detroit attorney representing the Ruby family, had informed the Dallas office of the FBI on July 15, 1964, that a polygraph examination would affect Ruby's health and would be of questionable value according to Dr. Emanuel Tanay, a Detroit psychiatrist.<sup>12</sup> On that same date, Assistant Counsel Arlen Specter discussed by telephone the polygraph examination with Defense Counsel Joe H. Tonahill, who expressed his personal opinion that a polygraph examination should be administered to Ruby.<sup>13</sup> By letter dated July 15, 1964, Dallas District Attorney Henry Wade requested that the polygraph examination cover the issue of premeditation as well as the defensive theories in the case.<sup>14</sup>

Against this background, it was decided that a representative of the Commission would travel to Dallas to determine whether Jack Ruby wanted to take the polygraph test. Since Ruby had had frequent changes in attorneys and because he was presumed to be sane, the final decision on the examination was his, especially in view of his prior personal insistence on the test.<sup>15</sup> In the jury conference room at the Dallas jail on July 18, Assistant Counsel Arlen Specter, representing the Commission, informed Chief Defense Counsel Clayton Fowler, co-Counsel Tonahill and Assistant District Attorney William F. Alexander that the Commission was not insisting on or even requesting that the test be taken, but was merely fulfilling its commitment to make the examination available.<sup>16</sup> In the event Ruby had changed his mind and would so state for the record, that would conclude the issue as far as the Commission was concerned.<sup>17</sup>

Chief Defense Counsel Fowler had objected to the test. He conferred with Jack Ruby in his cell and then returned stating that

Ruby insisted on taking the examination.<sup>18</sup> Mr. Fowler requested that (1) Dr. Tanay, the Detroit psychiatrist, be present; (2) the results of the test not be disclosed other than to the Commission; (3) the questions to be asked not be disclosed to the District Attorney's office; and (4) the results of the test be made available to defense counsel.<sup>19</sup> Sheriff William Decker announced his intention to have Allan L. Sweatt, his chief criminal deputy who was also a polygraph operator, present to maintain custody of Jack Ruby while the examination was being administered.<sup>20</sup> Assistant District Attorney Alexander requested a list of questions, a copy of the recording made by the polygraph machine and a copy of the report interpreting the test.<sup>21</sup> In response to the numerous requests, the procedure was determined that the questions to be asked of Ruby would be discussed in a preliminary session in the presence of defense counsel, the assistant district attorney and Chief Jailer E. L. Holman, who was to replace Sweatt.<sup>22</sup> The assistant district attorney would not be present when Ruby answered the questions, but Jailer Holman was allowed to remain to retain custody of Ruby.<sup>23</sup> No commitment was made on behalf of the Commission as to what disclosure would be made of the results of the examination.<sup>24</sup> Since Dr. Tanay was not in Dallas and therefore could not be present,<sup>25</sup> arrangements were made to have in attendance Dr. William R. Beavers, a psychiatrist who had previously examined and evaluated Ruby's mental state.<sup>26</sup>

At the conclusion of the lengthy preliminary proceedings, Ruby entered the jury conference room at 2:23 p.m. and was informed that the Commission was prepared to fulfill its commitment to offer him a polygraph examination, but was not requesting the test.<sup>27</sup> On behalf of the Commission, Assistant Counsel Specter warned Ruby that anything he said could be used against him.<sup>28</sup> Chief Defense Counsel Fowler advised Ruby of his objections to the examination.<sup>29</sup> Ruby then stated that he wanted the polygraph examination conducted and that he wanted the results released to the public as promptly as possible.<sup>30</sup> Special Agent Bell P. Herndon, polygraph operator of the FBI, obtained a written "consent to interview with polygraph" signed by Jack Ruby.<sup>31</sup> Herndon then proceeded to administer the polygraph examination by breaking the questions up into series which were ordinarily nine questions in length and consisted of relevant interrogatories and control questions.<sup>32</sup>

## ADMINISTRATION OF THE TEST

During the course of the polygraph examination Jack Ruby answered the relevant questions as follows:

- Q. Did you know Oswald before November 22, 1963?
- A. No.<sup>33</sup>
- Q. Did you assist Oswald in the assassination?
- A. No.<sup>34</sup>
- Q. Are you now a member of the Communist Party?

A. No.<sup>35</sup>

Q. Have you ever been a member of the Communist Party?

A. No.<sup>36</sup>

Q. Are you now a member of any group that advocates the violent overthrow of the United States Government?

A. No.<sup>37</sup>

Q. Have you ever been a member of any group that advocates violent overthrow of the United States Government?

A. No.<sup>38</sup>

Q. Between the assassination and the shooting, did anybody you know tell you they knew Oswald?

A. No.<sup>39</sup>

Q. Aside from anything you said to George Senator on Sunday morning, did you ever tell anyone else that you intended to shoot Oswald?

A. No.<sup>40</sup>

Q. Did you shoot Oswald in order to silence him?

A. No.<sup>41</sup>

Q. Did you first decide to shoot Oswald on Friday night?

A. No.<sup>42</sup>

Q. Did you first decide to shoot Oswald on Saturday morning?

A. No.<sup>43</sup>

Q. Did you first decide to shoot Oswald on Saturday night?

A. No.<sup>44</sup>

Q. Did you first decide to shoot Oswald on Sunday Morning?

A. Yes.<sup>45</sup>

Q. Were you on the sidewalk at the time Lieutenant Pierce's car stopped on the ramp exit?

A. Yes.<sup>46</sup>

Q. Did you enter the jail by walking through an alleyway?

A. No.<sup>47</sup>

Q. Did you walk past the guard at the time Lieutenant Pierce's car was parked on the ramp exit?

A. Yes.<sup>48</sup>

Q. Did you talk with any Dallas police officers on Sunday, November 24, prior to the shooting of Oswald?

A. No.<sup>49</sup>

Q. Did you see the armored car before it entered the basement?

A. No.<sup>50</sup>

Q. Did you enter the police department through a door at the rear of the east side of the jail?

A. No.<sup>51</sup>

Q. After talking to Little Lynn did you hear any announcement that Oswald was about to be moved?

A. No.<sup>52</sup>

Q. Before you left your apartment Sunday morning, did anyone tell you the armored car was on the way to the police department?

A. No.<sup>53</sup>

Q. Did you get a Wall Street Journal at the Southwestern Drug Store during the week before the assassination?

A. No.<sup>54</sup>

Q. Do you have any knowledge of a Wall Street Journal addressed to Mr. J. E. Bradshaw?

A. No.<sup>55</sup>

Q. To your knowledge, did any of your friends or did you telephone the FBI in Dallas between 2 or 3 a.m. Sunday morning?

A. No.<sup>56</sup>

Q. Did you or any of your friends to your knowledge telephone the sheriff's office between 2 or 3 a.m. Sunday morning?

A. No.<sup>57</sup>

Q. Did you go to the Dallas police station at any time on Friday, November 22, 1963, before you went to the synagogue?

A. No.<sup>58</sup>

Q. Did you go to the synagogue that Friday night?

A. Yes.<sup>59</sup>

Q. Did you see Oswald in the Dallas jail on Friday night?

A. Yes.<sup>60</sup>

Q. Did you have a gun with you when you went to the Friday midnight press conference at the jail?

A. No.<sup>61</sup>

Q. Is everything you told the Warren Commission the entire truth?

A. Yes.<sup>62</sup>

Q. Have you ever knowingly attended any meetings of the Communist Party or any other group that advocates violent overthrow of the Government?

A. No.<sup>63</sup>

Q. Is any member of your immediate family or any close friend, a member of the Communist Party?

A. No.<sup>64</sup>

Q. Is any member of your immediate family or any close friend a member of any group that advocates the violent overthrow of the Government?

A. No.<sup>65</sup>

Q. Did any close friend or any member of your immediate family ever attend a meeting of the Communist Party?

A. No.<sup>66</sup>

Q. Did any close friend or any member of your immediate family ever attend a meeting of any group that advocates the violent overthrow of the Government?

A. No.<sup>67</sup>

Q. Did you ever meet Oswald at your post office box?

A. No.<sup>68</sup>

Q. Did you use your post office mailbox to do any business with Mexico or Cuba?

- A. No.<sup>69</sup>
- Q. Did you do business with Castro-Cuba?
- A. No.<sup>70</sup>
- Q. Was your trip to Cuba solely for pleasure?
- A. Yes.<sup>71</sup>
- Q. Have you now told us the truth concerning why you carried \$2,200 in cash on you?
- A. Yes.<sup>72</sup>
- Q. Did any foreign influence cause you to shoot Oswald?
- A. No.<sup>73</sup>
- Q. Did you shoot Oswald because of any influence of the underworld?
- A. No.<sup>74</sup>
- Q. Did you shoot Oswald because of a labor union influence?
- A. No.<sup>75</sup>
- Q. Did any long-distance telephone calls which you made before the assassination of the President have anything to do with the assassination?
- A. No.<sup>76</sup>
- Q. Did any of your long-distance telephone calls concern the shooting of Oswald?
- A. No.<sup>77</sup>
- Q. Did you shoot Oswald in order to save Mrs. Kennedy the ordeal of a trial?
- A. Yes.<sup>78</sup>
- Q. Did you know the Tippit that was killed?
- A. No.<sup>79</sup>
- Q. Did you tell the truth about relaying the message to Ray Brantley to get McWillie a few guns?
- A. Yes.<sup>80</sup>
- Q. Did you go to the assembly room on Friday night to get the telephone number of KLIF?
- A. Yes.<sup>81</sup>
- Q. Did you ever meet with Oswald and Officer Tippit at your club?
- A. No.<sup>82</sup>
- Q. Were you at the Parkland Hospital at any time on Friday?
- A. No.<sup>83</sup>
- Q. Did you say anything when you shot Oswald other than what you've testified about?
- A. No.<sup>84</sup>
- Q. Have members of your family been physically harmed because of what you did?
- A. No.<sup>85</sup>
- Q. Do you think members of your family are now in danger because of what you did?
- (No response.)<sup>86</sup>
- Q. Is Mr. Fowler in danger because he is defending you?
- (No response.)<sup>87</sup>

Q. Did "Blackie" Hanson speak to you just before you shot Oswald?

A. No.<sup>88</sup>

## INTERPRETATION OF THE TEST

A polygraph examination is designed to detect physiological responses to stimuli in a carefully controlled interrogation. Such responses may accompany and indicate deception.<sup>89</sup> The polygraph instrument derives its name from the Greek derivative "poly" meaning many and the word "graph" meaning writings.<sup>90</sup> The polygraph chart writings consist of three separate markings placed on a graph reflecting three separate physiological reactions.<sup>91</sup> A rubber tube is placed around the subject's chest to record his breathing pattern on a pneumograph.<sup>92</sup> That device records the respiratory ratio of inhalation and exhalation strokes.<sup>93</sup> The second component is called a galvanic skin response which consists of electrodes placed on the examinee's fingers, through which a small amount of electrical current is passed to the skin.<sup>94</sup> The galvanometer records the minute changes in electrical skin response.<sup>95</sup> The third component consists of a cardiograph which is a tracing obtained by attaching a pneumatic cuff around the left arm in a manner very similar to an apparatus which takes blood pressure.<sup>96</sup> When the cuff is inflated, that device records relative blood pressures or change in the heart rate.<sup>97</sup>

From those testing devices, it is possible to measure psychological or emotional stress.<sup>98</sup> This testing device is the product of observation by psychologists and physiologists who noted certain physiological responses when people lie.<sup>99</sup> In about 1920 law enforcement officials with psychological and physiological training initiated the development of the instrument to serve as an investigative aid.<sup>100</sup>

The polygraph may record responses indicative of deception, but it must be carefully interpreted.<sup>101</sup> The relevant questions, as to which the interrogator is seeking to determine whether the subject is falsifying, are compared with control questions where the examiner obtains a known indication of deception or some expected emotional response.<sup>102</sup> In evaluating the polygraph, due consideration must be given to the fact that a physiological response may be caused by factors other than deception, such as fear, anxiety, nervousness, dislike, and other emotions.<sup>103</sup> There are no valid statistics as to the reliability of the polygraph.<sup>104</sup> FBI Agent Herndon testified that, notwithstanding the absence of percentage indicators of reliability, an informed judgment may be obtained from a well-qualified examiner on the indications of deception in a normal person under appropriate standards of administration.<sup>105</sup>

Ordinarily during a polygraph examination only the examiner and the examinee are present.<sup>106</sup> It is the practice of the FBI, however, to have a second agent present to take notes.<sup>107</sup> It is normally undesirable to have other people present during the polygraph examina-

tion because the examinee may react emotionally to them.<sup>108</sup> Because of the numerous interested parties involved in Ruby's polygraph examination, there were present individuals representing the Commission and the Dallas district attorney, as well as two defense counsel, two FBI agents, the chief jailer, the psychiatrist, and the court reporter, although the assistant district attorney and one defense counsel left when Ruby was actually responding to questions while the instrument was activated.<sup>109</sup> Ruby was placed in a position where there was a minimum of distraction for him during the test.<sup>110</sup> He faced a wall and could not see anyone except possibly through secondary vision from the side.<sup>111</sup> Agent Herndon expressed the opinion that Ruby was not affected by the presence of the people in the room.<sup>112</sup>

Answer by Ruby to certain irrelevant control questions suggested an attempt to deceive on those questions. For example, Ruby answered "No" to the question "While in the service did you receive any disciplinary action?"<sup>113</sup> His reaction suggested deception in his answer.<sup>114</sup> Similarly, Ruby's negative answer to the query "Did you ever overcharge a customer?" was suggestive of deception.<sup>115</sup> Ruby further showed an emotional response to other control questions such as "Have you ever been known by another name?"<sup>116</sup> "Are you married?"<sup>117</sup> "Have you ever served time in jail?"<sup>118</sup> "Are your parents alive?"<sup>119</sup> "Other than what you told me, did you ever hit anyone with any kind of a weapon?"<sup>120</sup> Herndon concluded that the absence of any physiological response on the relevant questions indicated that there was no deception.<sup>121</sup>

An accurate evaluation of Ruby's polygraph examination depends on whether he was psychotic. Since a psychotic is divorced from reality, the polygraph tracings could not be logically interpreted on such an individual. A psychotic person might believe a false answer was true so he would not register an emotional response characteristic of deception as a normal person would.<sup>122</sup> If a person is so mentally disturbed that he does not understand the nature of the questions or the substance of his answers, then no validity can be attached to the polygraph examination.<sup>123</sup> Herndon stated that if a person, on the other hand, was in touch with reality, then the polygraph examination could be interpreted like any other such test.<sup>124</sup>

Based on his previous contacts with Ruby and from observing him during the entire polygraph proceeding, Dr. William R. Beavers testified as follows:

In the greater proportion of the time that he answered the questions, I felt that he was aware of the questions and that he understood them, and that he was giving answers based on an appreciation of reality.<sup>125</sup>

Dr. Beavers further stated that he had previously diagnosed Ruby as a "psychotic depressive."<sup>126</sup>

Based on the assumption that Ruby was a "psychotic depressive," Herndon testified:

There would be no validity to the polygraph examination, and no significance should be placed upon the polygraph charts.<sup>127</sup>

Considering other phases of Dr. Beavers' testimony, Herndon stated:

Well, based on the hypothesis that Ruby was mentally competent and sound, the charts could be interpreted, and if those conditions are fact, the charts could be interpreted to indicate that there was no area of deception present with regard to his response to the relevant questions during the polygraph examination.<sup>128</sup>

In stating his opinion that Ruby was in touch with reality and understood the questions and answers, Dr. Beavers excepted two questions where he concluded that Ruby's underlying delusional state took hold.<sup>129</sup> Those questions related to the safety of Ruby's family and his defense counsel.<sup>130</sup> While in the preliminary session Ruby had answered those questions by stating that he felt his family and defense counsel were in danger, he did not answer either question when the polygraph was activated.<sup>131</sup> Dr. Beavers interpreted Ruby's failure to answer as a reflection of "internal struggle as to just what was reality."<sup>132</sup> In addition, Dr. Beavers testified that the test was not injurious to Ruby's mental or physical condition.<sup>133</sup>

Because Ruby not only volunteered but insisted upon taking a polygraph examination, the Commission agreed to the examination. FBI Director J. Edgar Hoover commented on the examination as follows:

It should be pointed out that the polygraph, often referred to as "lie detector" is not in fact such a device. The instrument is designed to record under proper stimuli emotional responses in the form of physiological variations which may indicate and accompany deception. The FBI feels that the polygraph technique is not sufficiently precise to permit absolute judgements of deception or truth without qualifications. The polygraph technique has a number of limitations, one of which relates to the mental fitness and condition of the examinee to be tested.

During the proceedings at Dallas, Texas, on July 18, 1964, Dr. William R. Beavers, a psychiatrist, testified that he would generally describe Jack Ruby as a "psychotic depressive." In view of the serious question raised as to Ruby's mental condition, no significance should be placed on the polygraph examination and it should be considered nonconclusive as the charts cannot be relied upon.<sup>134</sup>

Having granted Ruby's request for the examination, the Commission is publishing the transcript of the hearing at which the test was conducted <sup>135</sup> and the transcript of the deposition of the FBI polygraph operator who administered the test.<sup>136</sup> The Commission did not rely on the results of this examination in reaching the conclusions stated in this report.