

POLYGRAPHS

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MEMORANDUM

TO: Judge Starr
OIC Attorneys

FROM: Brett Kavanaugh

RE: Polygraphs

DATE: August 14, 1995

An issue was raised at our meeting Monday regarding the use of polygraphs by this Office. Two witnesses in Washington have been given polygraphs: Maggie Williams and Betsy Pond. In the Williams case, the Office had evidence suggesting that she carried documents out of the Counsel's suite on the night of July 20. In the Pond case, we had evidence suggesting that she had lied to investigators about her purpose for going into Foster's office on the morning of July 21. In both cases, however, it was decided that the witness would not be prosecuted on the basis of the evidence we then possessed. (In the Williams case, the conclusion was reached by Mark Stein in August 1994 and the polygraph was given in early September.)

In these two cases, the polygraph was in effect a way to confirm to the satisfaction of the attorneys and agents the decision not to prosecute. It is important to note, however, that we have not confronted a case in Washington where a witness facing indictment has offered to take a polygraph. Therefore, I do not believe that we can be criticized for inconsistency in a decision to decline Watt's polygraph offer.

Even though there would be no problem of Office inconsistency in declining Watt's offer, I do note that the DOJ Manual appears more receptive to polygraphs than was suggested at our meeting Monday. It says that "Department policy therefore supports the limited use of the polygraph during investigations" and that "[t]he Department, unlike the Government Operations Committee, supports the limited use of polygraphs for investigatory purposes."

Memorandum

Office of the Independent Counsel

To : AIC Brett Kavanaugh

Date 11/20/95

From : CI Coy A. Copeland

Subject: Repeated Polygraph Examinations

On 11/20/95, Supervisory Special Agent JAMES K. MURPHY, Unit Chief, Polygraph Unit, Document Section, Laboratory Division, FBIHQ, telephone 202-324-2985, advised he is the polygraph examiner who examined MARGARET WILLIAMS in connection with this investigation.

He also advised when he administered the examination to WILLIAMS, he was aware that she had previously been examined by a polygraph examiner in Philadelphia that her attorney had set up for her. He was also aware that at the time of the examination she was taking some type of prescription drug, which he could not now recall.

His professional opinion is that a "practice" examination(s) will not effect the outcome of subsequent examinations.