

U.S. Court Here Allows Lie Test Use in Evidence

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A federal judge ruled yesterday that the results of polygraph or lie detector tests will be admitted as evidence in court for the first time in the District of Columbia.

The decision by District Judge Barrington D. Parker runs counter to the refusal of judges here and across the country to admit the results of lie detector tests, except where both parties in a case agree to its admission.

Parker's decision follows by only days a ruling by a federal judge in Michigan allowing the conditional use of the results of a polygraph test. In his decision, Parker said that polygraphy has become "an established field of science and technology."

If the rulings by Parker and Judge Charles W. Joiner of the federal court in Michigan indicate a trend, the admission of lie detector tests could have a profound effect on the nature of the trial process.

Parker, alluding to the possible effect that polygraph testimony could have on jury, concluded that "polygraph testimony . . . is both compatible with the system of trial by jury and possessed of a demonstrated evidential force which strikes the balance in favor of its admission."

Parker said that it is the duty of the trial judge to prepare the jury before the polygraph examiner is permitted to state his conclusions. The examiner, Parker said, will not be allowed to state his opinion on the guilt or innocence of the accused "but will be asked to assess the truthfulness of the defendant's answer to factual questions."

In addition, Parker said that "vigorous cross-examination of the examiner and other expert witnesses will expose inadequacies which may have affected the results of a particular examination."

The polygraph machine uses a number of indices, including changes in blood pressure, pulse rate, respiration rate,



BARRINGTON D. PARKER
... 'effective instrument'

breathing and the resistance of the skin to electrical current, to measure whether the person examined is telling the truth.

Parker noted that polygraph tests are used extensively by law enforcement agencies, governmental security organizations and private industry. Studies cited by Parker indicate that polygraph tests, when properly administered by trained experts, have been 85 per cent to 91 per cent accurate.

The testimony of experts and studies presented in evidence, Parker said, "lead the court to believe that the polygraph is an effective instrument for detecting deception."

In his opinion, Parker referred to the 1923 Circuit Court of Appeals decision that has served as the basis for excluding polygraph tests from trials except when both sides agree to its admission. In that decision, the court said that a "twilight zone" existed between the time "a scientific principle or discovery crosses the line between the experimental and demonstrable stages."

"Today," Parker said, "polygraphy has emerged from that twilight zone into an es-

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established field of science and technology."

The ruling came in the case of Errol Zeiger, 32, a Food and Drug Administration scientist convicted in January of assault with intent to kill a government secretary. Zeiger's

conviction subsequently was set aside by U.S. District Judge George L. Hart Jr., who ruled that the jury verdict was contrary to the weight of the evidence in the case. Hart later withdrew from the case and it was reassigned to Parker.

The U.S. attorney's office said in April, after Hart ordered a new trial, that rather than drop charges against Zeiger, it would proceed with a retrial.

Zeiger, who has strongly asserted his innocence, has taken three lie-detector tests and one sodium pentathol (truth serum) test, all of which indicated that Zeiger was telling the truth. Parker's ruling makes the evidence from the polygraph tests admissible in any new trial of Zeiger.

The test that the defense seeks to have admitted was administered on Zeiger on Oct. 21, 1969 by Lt. Hamilton W. Shoop, then a member of the metropolitan police. Parker said that Shoop was an acknowledged expert in the field of polygraphy and had been called upon by various government agencies, including the FBI, to administer more than 2,000 polygraph tests.