

Please answer TRUE or FALSE to the following:

- I have had no difficulty starting or holding my urine.
- I feel sure that there is only one true religion.
- I have never been in trouble because of my sex behavior.
- Bad words, often terrible words, come into my mind and I cannot get rid of them.

SIBI SOROKA'S pencil paused in midstroke. "What the hell do *these* questions have to do with getting a job as a security officer at Target Stores?" he thought. Offended, but needing the work, the Oakland resident trudged through the rest of the three-hour test, telling the omniscient paper interrogator whether he was attracted to men, if he believed in the second coming, and ironically enough, if he thought his sins were unpardonable.

Soroka took and passed the Target test in April 1989 and was offered the job. But he decided that he'd been humiliated enough. In February 1990, he filed a class action in Alameda County Superior Court challenging Target's use of lengthy, intrusive psychological tests. It's the first major case to pit California's constitutional guarantee to privacy against pre-employment psychological screening.

Although the case is still working its way through the courts, attorneys for Soroka have obtained an injunction that prevents Target from using the test, which will probably scare other

California corporations away from heavy-duty psychological testing—for now. If Soroka prevails, such tests might be banned, but more likely, only certain questions will be illegal. Testing is here to stay in a big way.

Unfortunately, Soroka's experience is not isolated. In the 1980s, your boss wanted you to pee in a jar. Today, he wants to peer into your mind with expensive, in-depth psychological tests like the Minnesota Multiphasic Personality Inventory, or cruder and cheaper "integrity tests." With the former, you endure a three-hour, 600-plus-question probe into every supposed corner of your psyche. With the latter, you're given the paper equivalent of a quick lie-detector test and asked if you've ever stolen from an employer; if you'd *like* to steal; if you'd really, really like to steal; and if shoplifters should have their hands severed.

Although statistics are hard to come by, a handful of recent studies indicate that close to a third of American companies require honesty or personality tests for more than 5 million job seekers every year, and the trend is clearly on the upswing. Corporate America is bullish on testing. True, few businesses use comprehensive psychological exams such as the MMPI. That test has been successfully attacked in many states as being racially biased. Plus, with Target having lost the early rounds of its suit, most companies will probably steer clear. (And after all, the MMPI was originally developed by clinical psychologists to spot pathological types, not pick cooks for Jack-in-the-Box.)

Nevertheless, if you're an executive or manager, part of your screening may involve some kind of personality assessment, and if you're a poor working stiff trying to get an entry-level retail job in the 1990s, chances are you *will* have to take an integrity test to prove you are honest and don't exhibit "counterproductive" tendencies.

Businesses are turning to integrity tests in a desperate effort to select workers who are loyal, drug free and won't steal. A number of test publishers even confidently claim that their wares can not only select honest, clear-eyed employees, but cut absenteeism, jumpstart productivity, slash worker compensation claims and boost sales—for as little as \$25 a head. But few independent studies back up these boasts, and many psychologists who have scrutinized integrity tests consider most of them useless or even harmful. "I am truly amazed and embarrassed by what has been going on in the testing industry," wrote Dr. Robin Inwald in the June 1990 issue of *Personnel*. Inwald should know—she's one of the few forensic diplomates of the American Board of Professional Psychology, the founder of test publisher Hilson Research, and the author of respected pre-employment tests used by hundreds of law enforcement and security agencies. Adds Dr. David Lykken, a blunt psychologist with the University of Minnesota and a longtime polygraph critic: "Most of this stuff is junk."

Psychological testing is invading the American workplace, and the implications are pretty damn scary.



Want That Job? Open Your Brain!

By Robert Luhn

Inwald, Lykken and many other respected psychologists damn integrity test publishers for incomplete or slipshod validation studies, inflated marketing claims and refusal to open their proprietary data to academic scrutiny. No enforceable standards regulate who creates and sells such tests—anyone can hang up a shingle. As most of the interviewed psychologists readily admit, even carefully designed and administered psychological tests—such as Inwald's Personality Inventory—can

portant, the test is supposed to be a guide, not the sole measure of a person.

In practice, of course, it seldom works that way. For starters, most publishers refuse to open their data to psychologists, so it's difficult to gauge a test's ability to predict future behavior. But one of Dr. Lykken's experiments sheds some interesting light. He administered the Reid Report to 150 prison inmates, 100 members of the clergy and 250 college students. The results? "There was so much

decisions." What that encourages, say critics, is the use of a single pass-fail mark that is scientifically spurious.

Worse, an integrity test is sometimes a prospective employee's first and only hurdle. If you don't pass, you never get called in for an interview. Another common criticism raised by human resources directors: Even if a company also interviews and checks backgrounds, it tends to give integrity tests far too much weight. "If you flunk a math skills test, it doesn't mean you're stupid," says Nancy Rotchford, a psychologist at Bank of America, which does not rely on integrity tests. "But if you fail an integrity test, the implication is that you're dishonest."

Such potential mislabeling has set the stage for some major legal fisticuffs. "The right to privacy is a given—but employers have a right to select the best employee. Where do you draw the line?" says Victor Schachter, a corporate labor lawyer who successfully defended the Times-Mirror Corp.'s applicant drug-testing program. "If a test is sufficiently related to the job, the courts will probably consider it fair. But if a test is given too much weight by an employer, or isn't very accurate, courts and juries will be *very* skeptical."

The question may be joined with increasing frequency. A 1988 Bureau of National Affairs study indicates that 29 percent of American companies do some kind of honesty or personality testing; the American Management Society's "1990 Hiring and Firing Survey" notes that personality and aptitude testing jumped a whopping 38 percent from the year before. Not surprisingly, a Lou Harris poll conducted the same year for Equifax finds that 79 percent of Americans are concerned about threats to privacy—and 30 percent have turned down jobs, credit or insurance because of intrusive questions.

But businesses point out that privacy is abstract, while employee theft is a very real problem that costs as much as \$40 billion a year. If integrity tests can reduce turnover and weed out potential employees who steal, they say, it's worth the price paid in privacy. "These tests aren't a panacea," admits Jack Jones, vice president of Illinois-based London House, the premier employment test publisher. "But compared to everything else—interviews, handwriting analysis—they're the most accurate selection tools."

Days Inn of America, with more than 1,200 motels nationwide, is certainly sold on the concept. The company has been giving potential cashiers the Reid Report integrity test for at least 10 years. According to Senior Vice President Richard Smith, it's effective, cheap and an absolute must. "Undesirable applicants will make admissions that they wouldn't make in an interview—or that you'd [not] find in a reference check. Besides, it doesn't take a rocket scientist to handle cash—but you can't train someone to be honest." Two other



Sibi Soroka says employers have no right to psychoanalyze job applicants with a paper polygraph.

misclassify as many as a third of all suitable applicants.

Integrity tests get far less care, and it shows: A 1990 study by the Office of Technology Assessment indicates that the misclassification rates for integrity tests can range from 18 percent to a whopping 63 percent. The chilling result? If integrity tests are widely adopted, says Lykken, "a lot of honest people could be shut out of the job market."

Integrity tests didn't spring whole from the head of Freud. Some are essentially abbreviated versions of the MMPI; others combine elements from traditional personality tests used by industrial psychologists; and many others are regurgitated polygraph tests. This makes integrity tests hard to classify and even harder to regulate. But integrity tests basically ask about your attitudes toward theft and your past unsavory acts. In theory, a test shouldn't return a single hire-don't hire score; it should measure relative strengths and weaknesses on a number of scales. Psychologists then try to gauge how closely the results correlate with later behavior. More im-

overlap in the answers that you couldn't discriminate between the groups. The Reid Report would have been useless in helping me pick who to hire."

One problem is the underlying assumption by test publishers that attitudes predict behavior—an erroneous assumption, say some psychologists. "For example, many integrity tests confuse honesty with cynicism," says Dr. Paul Sackett, an industrial psychologist at the University of Minnesota whose work was frequently cited by the 1990 technology office study. "The two groups who do the worst on these tests are cops and journalists." In a famous case recounted by MMPI expert Dr. Benjamin Kleinmuntz, a nun was denied a job at a Chicago bookstore because she had the lowest honesty score ever recorded. When asked questions such as "Would you forgive someone who has stolen?" she replied in all Christian charity, "Yes"—and flunked. In short, it pays to be punitive and not *too* honest.

Another problem is that few companies have an in-house psychologist to interpret tests. Why bother? Most test publishers tout their ability to receive answer sheets via modem, fax or phone, and to provide "immediate scoring for quick hiring

Robert Lubn is a contributing editor who writes about the politics of technology.

frequently cited reasons to test: lack of honest references from former employers; and fear of negligent hiring lawsuits, a new breed of litigation that holds employers responsible for employee actions.

Sounds reasonable enough, but the reaction from many personnel directors, labor advocates, legislators and psychologists is barely printable in a family magazine. San Leandro Democratic Assemblyman Johan Klehs, a member of the Labor and Employment Committee, sums it up pithily:

"Companies test because they're lazy—lazy about properly interviewing applicants, about training them, about supervising them." Hiring experts informally polled for a recent *San Francisco Chronicle* article on "problem employees" note that employers don't even check the references of as many as 75 percent of all job candidates.

Fear of defamation suits over candid employee recommendations is also exaggerated. California law protects companies in just this situation. "You have to do something extreme—defame or blacklist an employee—to get in trouble," says Ed Chen, a labor attorney for the Northern California ACLU. Dan Metz, managing director for the San Francisco office of Russell Reynolds, an executive recruiting firm, adds gently that "checking references and getting people to answer your questions isn't black magic. Do your job adequately and testing is unnecessary."

And what of negligent hiring fears? "It's a bogeyman—there probably haven't been six cases in 10 years," says Brad Seligman, the attorney representing Sibi Soroka. However, Schachter points out that those few cases have resulted in major judgments. His rule for employers: Due diligence requirements will be stifled if your employees—like airline pilots and nurses—pose a threat to public safety. If they don't, your grounds for testing may be less defensible.

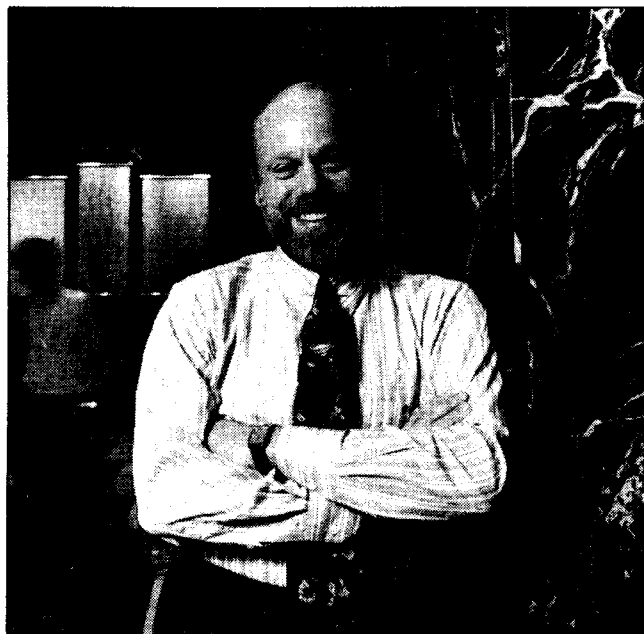
But until some multimillion-dollar court judgments are handed down, integrity tests and their ilk will continue to infiltrate the workplace. Only as testing moves up the corporate food chain from cashier to CEO will louder questions be asked.

Until then, privacy and labor advocates are worried, given the dearth of employee privacy laws and the rise of electronic databases that track "troublesome" workers. (The Employers Information Service in Gretna, La., for example, lets companies check up on an employee's past workers' compensation claims.) "There are no serious impediments that prevent an employer from disclosing your test results—no psychologist-patient privilege, no federal statutes," says Lewis Maltby, head of the ACLU's New York-based task force on civil liberties in the workplace. "I don't think we'll see massive abuse, but unwarranted disclosures will happen."

A false test score, like a bad credit report, could hound some workers for years.

Unfortunately, there's not much an employee can do. "The Constitution doesn't apply to GM," thumps Peter Eide, a labor law manager for the national Chamber of Commerce. "If a company's testing is that intrusive, then don't apply there." But as integrity testing becomes widespread, many people won't have that option.

Under federal law, a company can more or less



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ask applicants whatever it wants, as long as it doesn't violate basic civil rights laws. California laws are a bit stricter and do apply to the private sector. Thanks to the Labor Code and the state Fair Housing and Employment Act, questions about your race, religion, sex life and politics are verboten. Everything else is ostensibly covered by

When asked whether she would forgive someone who stole, the nun answered 'yes'—and flunked the test.

California's constitutional right to privacy.

But without any specific statutes, the boundaries of employee privacy must be nailed down by the courts. According to the ACLU's Chen, California companies have been prevented or penalized for releasing sensitive employee information. But when it comes to employee testing, says Chen, the "courts

aren't requiring employers to show a compelling need, just a *reasonable* need. And that's a pretty weak standard." That standard could change. The recent injunction slapped on Target by the appellate court argues that a compelling job-related need by the employer is required. But naturally, this is being appealed to the state Supreme Court.

In the meantime, workers and companies must wait not only for the courts, but for legislative bodies to do something. It could be a long wait.

U.S. Rep. Pat Williams, D-Mont., the man behind the 1988 ban on employee polygraph testing, is pushing legislation that prohibits electronic surveillance in the office. Integrity testing might be addressed in the spring hearings, but that's about it. One congressional aide echoed a common rule of politics: "You need a lot of *awful* horror stories to get some action around here."

The powers that be in California, consumed with reapportionment and budget battles, have been content to let someone else take action. Labor committee hearings are in the distant future. And it's not encouraging to discover that Bonnie Guiton—former White House consumer affairs adviser and current head of the State and Consumer Services Agency, which oversees everything from the Department of Fair Employment and Housing to the state Personnel Board—is "concerned" but clueless about the issue.

Tom Rankin of the California Labor Federation just sighs: "Look at asbestos—it was a life-and-death issue and it took Congress 10 years to act. Integrity testing is sick, an unbelievable invasion of privacy. But it isn't a life-or-death issue."

In the meantime, companies and workers will joust over where the line between productivity and privacy is drawn. Some civil libertarians and attorneys think the solution might be a federal privacy law. Psychologists say either ban integrity tests altogether or require companies to hire psychologists to interpret them—a "Psychologists Full Employment Act," according to one wag. Corporate personnel directors argue that giving workers skill tests and training managers how to interview might be the best solution of all.

But none of these solutions address the real issue: fear. Companies are afraid to trust their employees, their managers and ultimately, their own judgment. And a do-or-die integrity test gives workers a very clear message. As Richard Nixon once said: "I don't know anything about polygraphs and I don't know how accurate they are, but I know they scare the hell out of people."

If intimidating workers is the goal, integrity tests will do the job. But if productivity—and not control—are what businesses really seek, they might question their leap into the scary world of integrity testing. ♦