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The Selection Process – Written Entrance Examination – Not a Necessary Selection Tool

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ABSTRACT

One goal of the police recruitment process is the selection of the best-qualified candidate for employment. These candidates submit to many examinations and tests which include: written examinations, physical agility tests, physical fitness criteria, background investigations, oral interviews, assessment centers, psychological and polygraph examinations. This research will focus on the written examination as it relates to the selection process. It will determine that the written portion of the selection process is not needed in smaller agencies or those agencies with less than 50 officers. Conversely, it will show that the exam is needed for larger agencies or agencies with more than 50 officers.

The purpose of the written examination is to eliminate those candidates whose mental ability falls below a predetermined standard of acceptance set by the law enforcement agency. Written entrance examinations have brought to light considerable controversy in the last twenty years, with EEOC guidelines and civil rights legislation declaring any biased assessment instrument to be invalid and illegal. Various analyses revealed that minority and disadvantaged applicants did consistently score lower than their counterparts on intelligence tests. Validations of written examinations as they relate to job performance have become an acceptable method of fair testing.

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INTRODUCTION

Selection testing has long been recognized as contributing to quality policing. "Initial adoption of entry level testing was a mechanism designed to thwart the political spoils system and employ quality police officers" (Fogelson, 1977. & O. W. Wilson, 1963). Thus, "the idea of quality through testing is rooted in police tradition, and departments historically have depended on the written test to serve as the primary gatekeeper for this quality" (Gaines, Costello & Crabtree, 1989). O.W. Wilson and B. McLaren Advocated a positive police selection system to identify candidates (1977). "A positive system of selection refers to selecting from only those candidates who meet the highest qualifications. A negative system entails rejecting those who are not fit for service and selecting from the remaining applicant pool" (1977).

A positive selection system results in higher quality recruits. Second, the notion that personnel decisions should always be made in favor of the department -- any time there was a question as to an applicant's qualifications the question should be resolved in the department's favor. A department should never hire or promote anyone whose qualifications are suspect or questionable. (Gaines, Costello & Crabtree, 1989)

Using this orientation, police departments developed and utilized a wide variety of selection tests including intelligence, aptitude and general knowledge tests. "The emphasis was on quality, and quality was defined as those candidates who passed the most rigorous testing hurdles. In many cases, departments were not interested with test validity, but only that the tests had an appearance of identifying quality applicants" (Gaines, Costello & Crabtree 1989).

The first step in the selection process determines the desired and basic requirements the agency seeks in recruits. Some agencies require a certain level of education, passing of an entry-level examination, a certain level of experience, and a certain physical ability. The Texas Commission on Law Enforcement Officer Standards and Education, the State of Texas regulating body for police officers, sets guidelines that all Texas police agencies must comply with. These guidelines are referred to as minimum standards. Many police agencies go above this minimum standard. However, there are agencies that comply with the minimum standards and do not go beyond that. The TCLEOSE minimum standards specify that all police agencies conduct a background investigation on all candidates that are hired for police service. Every agency must give a psychological examination and a physical with drug screen. Each candidate for employment must complete 560 hours of an accredited police academy training. Each candidate must be

over 21 years of age at completion of the police academy. All applicants must be free from any misdemeanor (class B or above) conviction in the last five (5) years. Applicants may not have a felony conviction and must be a legal resident of the United States of America.

"The initial selection process is particularly important because entry into police service traditionally begins at the lowest level. The quality of personnel selected for police service determines the character of police performance as well as the quality of police leadership" (Simmons, 1991). "The quality and quantity requirements directly affect the number of personnel demands of the changing times, both in quantity and quality, they must devote careful attention to attracting many qualified applicants. The effort cannot be sporadic or haphazard but must be constant and selective" (NACCJSG, 1973). "Effects of governmental pressure on selection the broadest sense include; recruitment, hiring, testing, interviewing, promotion and training in making selection decisions" (Miner, 1979).

The purpose of this research is to show that law enforcement departments with less than 50 officers can not attract the number of applicants that larger department attract. In addition, the written examination is too costly for agencies with less than 50 officers to implement. The written examination can lead to adverse impact on minority candidates. Moreover, the examination faces many legal challenges. For agencies with less than 50 officers the written examination poses more harm than benefits.

HISTORICAL, LEGAL AND THEORETICAL CONTEXT

Written entrance examinations have compromised a traditional portion of law enforcement selection procedures. The written exams purpose is as a screening device used to eliminate those candidates whose mental ability falls below predetermined standards of acceptance set by the law enforcement agency.

There are about eleven thousand public-sector law enforcement agencies in the United States, employing approximately 400,000 sworn law enforcement officers. The work is complex, frequently dangerous and physically demanding, and emotionally stressful. The job involves problems arising, on the one hand, from the discretion allowed the officer in the use of power and force to do his or her job, and on the other, from the temptations and challenges to the officers' integrity. The job also requires an above-average level of intelligence to successfully complete academy training and to understand and correctly apply the complex matrix of laws that govern society. A high level of intelligence is also required to unravel and solve the problems created by crimes. (Ash, Slora, & Britton, 1990)

According to Ash, Slora and Britton (1990), police officers must have a high level of intelligence to perform the everyday duties of police work. This includes writing reports that will be subject to the scrutiny of the court, attorneys and of the general public. In addition, officers must make decisions in a very short period of time, such as whether to take a person's life. That decision of the officer again will be at the scrutiny of the court system. The courts will have years to decide if that particular decision that the officer made was the correct decision to make at that time. Moreover, the individuals questioning the decisions of the officers will be very educated and experienced. This strengthens the commitment to hire applicants that have a high level of intelligence.

These requirements call for multiple and appropriate police officer selection procedures. It is only in recent years, however, that systematic selection procedures have been widely employed, with the most dramatic increase in the utilization of modern techniques primarily a phenomenon of the last decade. (Moriarty, 1989)

There were early and sporadic beginnings: Lewis M. Terman (1917) ran trials of the then new Stanford Revision of the Binet-Simon Intelligence Test about the period of World War I. This exam was administered to about thirty police applicants. Terman suggested that a cut-off score under which candidates should be rejected should be at an IQ of 80. Although Terman recommended a comparative analysis of IQ scores with subsequent job performance, the additional research was not conducted.

In 1922, Thurstone conducted an analysis of police officer intelligence by administering the Army Alpha Scale, a measure of general intelligence, to 358 Detroit, Michigan police officers. He found that the more intelligent officers tended to leave the force, exemplified by the statistical regression toward the mean of the total scores the higher the number of years served. In a study of civil service examinations, Blum (1964) concluded that these selection tools correlated with the Otis Intelligence Test. Blum recommended that instead of using unvalidated, locally devised civil service examinations, police departments adopt standardized, validated intelligence tests. (Roper, 1981)

August Vollmer, an enthusiastic and leading proponent of professionalizing police work, introduced the World War I Army Alpha Group Intelligence Test to select police in Berkeley, California (Vollmer, 1936). The use of the Army Alpha became widespread in police selection (DuBois & Watson 1950; Mullineaux 1955; O'Conner 1962; Blum 1964). However, as late as 1961 Chenoweth, discussing the possibility of supplementing IQ tests with other measures (situational tests), observed that "... the policeman selection procedure utilized almost universally today is very little different from the one first employed in London, England, in the year 1829, which was a character check, medical examination

(including some estimate of the applicant's intelligence), and a personal interview" (Chenoweth, 1961). There was a gradual increase in the 1960s in the use of psychological tests, including personality-type tests (for example, Naffol & Levitt 1963; International Association of Chiefs of Police 1971; Murphy 1972; Eisenberg, Kent, & Wall, 1973), and in the use of psychiatric evaluations and other techniques such as assessment centers.

"Few occupations in society involve the extraordinary individual responsibility associated with the job of a police officer" (TCLEOSE, 1976). No one with any significant knowledge of those responsibilities would deny that this is an occupation, which demands a large degree of individual capability and qualification.

There are, mainly, three pieces of federal legislation that apply to affirmative action and have been the basis of most challenges to municipal employment practices: (1) Section 1981 of the Civil Rights Act of 1866, (2) the Fourteenth Amendment to the Constitution, and (3) Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972.

TITLE VII

"Although Title VII is not an exclusive remedy for plaintiffs who allege employer discrimination, it has become the modern civil rights statute" (Gannire, 1982). Title VII prohibits any discrimination based on race, color, religion, sex, or national origin in all employment practices to include hiring, promotion, firing, compensation and other terms, privileges, and conditions of employment for employers with fifteen (15) or more employees. "The intention of the act was to remove artificial, arbitrary and unnecessary barriers to employment when such barriers restricted the employment of someone representing a protected class of individuals. It was not the intention of the Act to guarantee a job to every person regardless of qualification, although it has come to be viewed as such in many instances" (Gaines, Costello & Crabtree, 1989).

The actual intention of this Act is the center of a growing controversy. As McKinney notes, "conflict exists between those who consider the intent of civil rights legislation as ensuring equal results for the protected groups now, and those who argue that the legislation means equal opportunities for all individuals forever" (1987, p. 243). Put in another way, Hudson and Broadnax analyze the intent of the

Civil Rights legislation in terms of justice and fairness. They note that injustice is the "the dissimilar or disparate treatment of similar cases" (1982, p. 268) Thus, the concept of "justice" demands that similar individuals in similar circumstances receive similar treatment. "The court essentially has debated the appropriate balance between the competing values of individual rights, social equity, and efficiency in employment discrimination for the past eighteen (18) years" (Nalbandian, 1989).

The first significant application of Title VII came in the case of *Griggs v. Duke Power Company* (1971). *Griggs v. Duke Power* involved the personnel practices of the Duke Power Company's power-generating facility at Draper, North Carolina, known as the Dan River steam station. In 1964, the Dan River station employed ninety-five (95) workers and was organized into five (5) departments. The station's lowest paying jobs were in its labor department, where the highest paying job paid less than the lowest paying job in the other four departments. Promotions within each department were generally based on seniority. The station employed fourteen (14) African Americans by 1964, all of whom worked in the labor department. In 1955, the company began to require a high school education for initial placement in all departments except labor. This policy effectively prohibited African Americans from working in any department except labor. Then, on July 2, 1965, which just so happened to be the effective date of the Civil Rights Act of 1964, the company an additional requirement for new employees. In order to qualify for placement in any department but labor, it was necessary to pass two aptitude tests. Later that year, the company eased up on its policy of requiring a high school diplomas for transfers from labor department to any of the other departments; it was now willing to allow incumbent employees to qualify for transfer by simply taking the two aptitude tests. The tests used by the Dan River steam station were the Wonderlic personnel test designed to measure general intelligence, and the Bennett mechanical comprehension test. These tests did not and were not intended to measure the ability to perform successfully in any particular type of job. Not surprisingly, the tests were actually more restrictive than the previous requirement for a high school diploma because the requisite scores used by the company approximated the national median for high school graduates. On a national basis only about half of all high school graduates would have been able to gain the requisite scores. In early 1966, the "racial barrier" at the Dan River station was broken. An African American employee, a high school graduate who had worked for Duke Power since 1953 in the

labor department, was promoted. His promotion came five (5) months after charges had been filed with the Equal Employment Opportunity Commission (EEOC) against the company. The next year, thirteen (13) of the African American employees at the Dan River steam station all of whom had been denied promotion because they scored low on the aptitude tests, filed a class-action suit against their employer, the Duke Power Company. They charged that the company's requirements of a high school education and passing scores on the intelligence tests for selection or promotion within the company were discriminatory and violated Title VII of the Civil Rights Act of 1964. While Title VII forbids discriminatory employment practices, it does allow the use of professionally developed ability and aptitude tests for employment practices, provided there is no intent to discriminate. *The Griggs* decision originally applied to the private sector, but since passage of the Equal Employment Opportunity Act in 1972, which extended the provisions of Title VII of the Civil Rights Act to cover public employees, *The Griggs* decision opened the doors to a new era in public employee testing and selection. (Shafritze et al., 1992, pp. 167 - 169)

The U.S. Equal Employment Opportunity Commission (EEOC) was established in 1964, to investigate alleged violations of the Title VII Act.

The court in *Albemarle Paper Co. v. Moody* (1975), expanded the effects of *Griggs* by requiring employers not only to show tests were job related, but also that other less discriminatory means of selection were not available. This requirement mandates that organizations explore all avenues of selection, and when a valid test is used which has adverse impact, it must be shown that no other test that did not have adverse impact could have been used. This requirement, to a degree, requires an operational analysis of all available alternatives even though they may not be used to select employees. (Gaines, Costello & Crabtree, 1989).

Gaines, Costello and Crabtree (1989) cite the key to any discrimination case is adverse impact. That is, does the selection procedure have adverse impact on any protected class? If it does exist, then the requirements established in *Griggs and Albemarle* apply. "The courts recognize four basic tests to establish adverse impact: disparate rejection rates (the four-fifths or 80% rule), restricted policies, population comparisons, and the McDonald-Douglas test" (Dressler, 1984). Most of the discrimination cases involving law enforcement have used disparate rejection rates and population comparisons. Disparate

rejection rates use what has come to be known as the four-fifths or 80% rule, which means the selection rate for minorities must be at least 80 % of the selection rate for the majority candidates. In some cases, the courts have strictly enforced this rule. For example in *Bigby v. City of Chicago* (1984), the court found adverse impact for minority selection rates of 76% and 78.5%. "As a result of federal legislation and court cases, many organizations adopted one of two strategies: the total elimination of testing, or a bottom line defense strategy. McKinney identifies Civil Rights legislation as Contributing to the private sector's abandonment of personnel testing altogether as they were willing to pay for test validation or to risk potential lawsuits when selection testing was used. Hiring has become an informal process consisting of interviews and examination of biographical data, with administrators ensuring that adequate minority representation occurs. In many cases, self-imposed quota systems have been established. (McKinney).

Gaines Costello and Crabtree suggest that agencies using the "bottom line" defense are, in essence, using a modified, self imposed quota system. Disparate rejection rate traditionally has been the rule used by most of the public agency litigation. Agencies such as police have multiple hurdles or tests for the hiring process. It was believed that if the final outcome satisfied the 80% rule, then adverse impact did not exist. However, the court in *Connecticut v. Teal* (1982) held this bottom line defense to be invalid. The court required that each and every component in the selection process be devoid of adverse impact or be validated. A plaintiff could file a Title VII lawsuit when he or she was discriminated against by an individual segment of the selection process, even though an agency may not have had adverse impact when the entire selection process was completed. (1989).

The effects of a Title VII lawsuit can be substantial. For example, the Court in *United States v. Paradise* (1987) ordered the Alabama Department of Public Safety to promote one black officer for each white officer promoted, after the agency repeatedly refused to develop and implement a valid promotion system. "At a minimum, a suit will usually freeze the selection or promotion system for a substantial period of time while the court considers the case and renders a decision. This generally creates personnel shortages in the affected ranks" (Gaines, Costello & Crabtree, 1989, p. 141).

The principles of equal employment opportunity and the principles of merit selection are not incompatible. An employer can perhaps better obey the law, and also hire the most qualified personnel by assuring that all employment decisions are based upon job related considerations rather than upon such unlawful and irrelevant factors as race, color, religion, sex or national origin (Simmons, 1991).

Many police departments have been sued in federal court for alleged discrimination in employment under one or more federal statutes (TCLEOSE, 1979). In most of these cases the police departments have been unable to defend one or more of the challenged employment practices. The results have included permanent injunctions against the use of some tests and employment standards, court - imposed hiring quotas (United States v. Paradise, 1987), and the payment of substantial sums of money in the form of attorney fees and pay back.

The police personnel administrator bears the final responsibility for maintaining an awareness of new developments in this area. The administrator also has the responsibility of insuring that the selection process is consistent with legal requirements (Simmons, 1991). "The courts have pointed out that if an employment practice can be shown to be a "business necessity" it would not be prohibited, through it may result in an adverse impact on a protected group" (Minor & Minor, 1979, p. 7). "Selection is the first place to look for practices which result in that adverse impact" (Minor & Minor, 1979, p. 16).

Information included on application forms or asked in an initial interview must be job related. This is particularly true when it involves such matters as education background or experience. These areas may have the effect of screening out disproportionate numbers of a protected group. (Minor & Minor 1979). "Employers using pre-employment tests must determine whether the use of a test results in an adverse impact, and if so, to make sure the use of the test can be proven to be job related" (Minor & Minor, 1979, p. 335).

REVIEW OF LITERATURE & PRACTICE

The selection process actually begins with recruitment. Agencies across the country conduct recruitment in many different manners. Many agencies like the Vernon, Texas Police Department conducted virtually no recruitment before 1995. In Contrast agencies like the City of Amarillo, Texas have a general policy that covers the process in which the recruitment is to be conducted. This applies to

advertising in local as well as non-local newspapers. Advertisement of job openings are placed with the Texas Workforce Commission and announced all over the State of Texas. Mail-outs are sent to police academies regarding the position. Posters are placed at Colleges and Universities. Recruiting officers attend career days at high schools and colleges. Job announcements are placed on the internet home pages of police departments. Some agencies seek to recruit candidates for employment from outside the State of Texas. Most larger agencies (those over 50 officers) will accept candidates that have not been through the police academy. In fact those agencies will hire the candidates and pay them a salary as well as paying for the cost of the police academy. Some larger agencies actually have a police academy that is conducted within the department by the police department staff. However, due to budget constraints, smaller agencies (those less than 50 officers) will only accept candidates that have graduated from a police academy. These agencies are faced with a limited amount of qualified personnel. In fact, The City of Vernon, Texas receives very few minority applicants, therefore, the department has no diversity. This raises questions of equal employment opportunities for minorities. In addition, most smaller agencies (less than 50 officers) in a rural setting can not compete with larger agencies (more than 50 officers) salaries.

TABLE 1

| SALARY SURVEY CONDUCTED BY THE VERNON POLICE ASSOCIATION (1995) | | | |
|---|-------------------|-----------------------|-----------------------------------|
| <i>Agency</i> | <i># Officers</i> | <i>Monthly Salary</i> | <i>Higher Sworn Officers Only</i> |
| Hereford, Tx. | 25 | \$ 2110 | Yes |
| Vernon, Tx. | 22 | \$ 1591 | Yes |
| Snyder, Tx. | 25 | \$ 2000 | Yes |
| Dickenson, Tx. | 19 | \$ 2000 | Yes |
| Stephenville, Tx. | 30 | \$ 2230 | Yes. |
| Farmers Branch | 71 | \$ 3365 | No |
| Dallas, Tx. | 3049 | \$ 2493 | No |
| Wichita Falls, Tx. | 180 | \$ 2300 | No |
| Austin, Tx. | 1000 | \$ 2108 | No |
| Arlington, Tx. | 472 | \$ 2681 | No |

This research concludes that smaller agencies not only have less pay to offer but also will only hire sworn personnel or candidates for employment that have been through a police academy prior to application. This severely limits the applicant pool. In addition, the most qualified applicants are attracted to the larger agencies that have a higher salary. Moreover, most larger agencies have a larger budget and therefore,

operate with better and more advanced equipment. This is very disturbing for a recruiting officer with a smaller agency that is seeking to attract the most qualified applicants, especially minority applicants.

DISCUSSION OF RELEVANT ISSUES

Most public agencies, including law enforcement, depend on a written test as a major part of the selection process. It is difficult, if not impossible, for agencies to validate their tests using criterion-related validation strategy. The courts have been reluctant to accept content validation, and viable construct validation strategies that currently do not exist (Gaines, Costello & Crabtree, 1989). "This state of affairs places the police administrator in a difficult position- without validation, the department is in an extremely vulnerable position if testing procedures adverse impact" (Gaines, Costello & Crabtree, 1989, p. 142).

Proponents of equal employment opportunity generally recognize that minorities score lower on written tests than white candidates, but advocate that the differences in scores are a reflection of differences in cultures, rather than in ability or aptitude. Crowley summarizes the issue:

...until it is possible to say with more confidence that selection tests are measuring of specific ability and not a person's familiarity with mainstream culture, then the tension between the doctrine of equal opportunity and the use of some types of selection tests will continue. (1985, p. 361)

Sproule recognized that adverse impact frequently occurred on written tests with minorities typically scoring approximately one standard deviation less than majority candidates. (1984). This supposition was tested using data from a medium-sized police department which utilized the Multi-Jurisdictional Police Officer Examination developed by the International Association of Chiefs of Police (IACP) and the International Personnel Manager's Association (IPMA). This test is recognized as having the least amount of adverse impact and its developers advertise that it is validated. (Gaines, Costello, & Crabtree, 1989).

In this analysis, three years of data (1984-86) were collected and analyzed. Each year minority candidates scored at least one standard deviation below white candidates, sustaining Sproule's observation. "The consequent difficulty facing police administrators when using the written test as an employment screening device is clear; they must use some method other than rank-ordered selection or face Title VII

litigation. If Title VII litigation occurs, the department must have validated the test procedure" (Gaines, Costello & Crabtree, 1989, p. 143).

Rigid hiring standards, such as minimum education or physical requirements, for certain jobs have been scrutinized carefully by the Equal Employment Opportunity Commission and the courts. The requirement of a high school education has been found unlawful in several cases where such a requirement resulted in adverse impact and the employer did not show that it was sufficiently related to job performance. (Minor & Minor, 1979).

"Policies that automatically exclude job applicants because of police arrests records or even, conviction have been ruled illegal because of adverse impact on minority employment. Such policies disqualify a disproportionate number of blacks since they are arrested more frequently than whites" (Georgy, 1970). When it has been shown that such a policy is justified on the basis of business necessity, the policy has been upheld. In the case of hotel bellman, for example, an employer could require that applicant's record be fairly free from convictions for serious property crimes because bellman have access to guest's rooms and belongings. (Richardson, 1970)

CONCLUSION / RECOMENDATIONS

Smaller agencies receive less applicants than that of larger agencies. In addition, the smaller agencies can not commit the recruiting resources that the larger agencies can. Moreover, smaller departments have tighter budgetary constraints than that of the larger agencies. Therefore, it is suggested that a written examination is not needed in the selection process of cities larger than 50 officers. It would be a very costly and time-consuming process from a smaller department to take the responsibility of validating a written examination. In contrast, agencies with over 50 officers can not afford to be without the written examination. This tool in the selection process will establish a level of intelligence that matches the needs for performance of the job. In addition, screening out of applicants is a must. The written examination tool in the selection process is the largest eliminator among all of the selection tools.

The case law concerning police employment procedures is continually evolving. While the recent cases appear to rely upon specific principles of law, there can be no guarantee that the conclusions and recommendations will not later require change to obey revised legal opinion. The police personnel

administrator bears the final responsibility for maintaining an awareness of new developments in this area and insuring that the selection process is conducted consistent with legal requirements.

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