The Role of Psychological Testing in Forensic Assessment

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Despite the apparent widespread use of psychological tests in evaluations performed by psychologists to assist legal decision makers, there has been little critical but balanced examination of the appropriate parameters for the forensic use of such tests. The following discussion examines the nature of legal decision making, and concludes that the primary legal criterion for the admissibility of psychological testing is relevance to the immediate legal issue or to some underlying psychological construct. Assuming that accuracy is a more consistent concern for psychologists performing such evaluations, the criticisms of various commentators are discussed. Some criticisms appear appropriate and are incorporated into a set of proposed guidelines for the use of psychological tests in forensic contexts. Other criticisms appear misplaced, however, and the call for a whole sale ban on psychological testing in the forensic context is rejected.

The appropriate role of psychological testing in forensic assessment1 has been debated for a number of years, and is far from clear at present. Critics have described such assessment procedures as “controversial” and “of doubtful validity and applicability in relation to forensic issues” (Ziskin, 1981a, p. 225; see also Faust & Ziskin, 1988, 1989; Ziskin & Faust, 1988). The major goal of this article is to discuss the research and commentary critical of psychological testing.

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1 For the purposes of this paper, forensic assessment will refer to information produced by mental health professionals intended for application to legal issues.
generally, and in the context of forensic assessment specifically, and to apply this
discussion to the formulation of guidelines for the appropriate use of psycholog-
ical testing in the forensic context. Because this discussion will incorporate a
number of ethical issues, I will include the most recent versions of existing ethical
guidelines for forensic psychological assessment (Ethical Principles of Psycholo-

In the course of this discussion, psychological testing will be considered in its
broader sense. The focus will not be on particular instruments. Rather, the dis-
cussion will consider evidence relevant to a broad spectrum of tests, with the
resulting guidelines applicable to psychological testing in this larger sense.

Much of the following discussion will necessarily focus on psychological
assessment “in principle” rather than “in practice.” I have been able to locate
only one study providing empirical data on the normative uses of psychological
tests in forensic assessment. In this study (Keilin & Bloom, 1986), a national
survey was used to obtain information on the frequency with which 66 responding
psychologists used psychological testing in child custody evaluations: some 75.6%
reported using testing for the parents and 74.4% noted that they used psycholog-
ical tests with the children. One of the ironies of the psychological testing con-
troversy, however, is that ostensibly research-based criticism (e.g., Faust &
Ziskin, 1988) and responses (e.g., Fowler & Matarazzo, 1988) are made in the
absence of virtually any normative data on the uses and abuses of psychological
testing in the forensic context.

To do justice to this discussion, it will first be necessary to focus on the
forensic assessment context itself. It differs in some important respects from the
“therapeutic” contexts in which psychological testing is typically developed and
employed. These differences have important implications for the purposes of
mental health professionals’ involvement, which in turn may affect whether (and
what) psychological testing is used. Though there has been one previously pub-
lished attempt to provide guidelines for the use of psychological tests in court
(Blau, 1984), that effort relied heavily on the Standards for Educational and
Psychological Tests in effect at that time (APA, 1974) and did not address in
nature of legal decision making in any depth. The present article, by contrast, will
first offer a discussion of legal decision making, and then provide parameters for
the use of psychological tests in forensic assessment that are consistent with and
flow directly from the nature of the legal decision-making process.

The Nature of Forensic Decision Making

What should legal decision makers seek from mental health professionals?
Grisso’s (1986) “model of legal competencies” contains the following elements:
(a) functional abilities (abilities relevant for the legal competency in question), (b)

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2 To some extent, the forensic context discussed in this paper will focus more on criminal issues (e.g.,
trial competency, sanity at the time of the offense) than civil issues (e.g., personal injury litigation).
Though the considerations discussed herein are intended to apply to both areas, the reader interested
in a more detailed discussion of the application of psychological tests to child custody and personal
injury litigation should consult Matarazzo (1990).