

## **Chapter 2**

### **HISTORICAL, CULTURAL, AND LEGAL/ETHICAL CONSIDERATIONS**

#### **A HISTORICAL PERSPECTIVE**

- Antiquity to the Nineteenth Century
- The Twentieth Century
  - The measurement of intelligence
  - The measurement of personality
  - The academic and applied traditions

#### **CULTURE AND ASSESSMENT**

- Evolving Interest in Culture-Related Issues
- Some Issues Regarding Culture and Assessment
  - Verbal communication
  - Nonverbal communication and behavior
  - Standards of evaluation
- Tests and Group Membership
  - Psychology, tests, and public policy

#### **LEGAL AND ETHICAL CONSIDERATIONS**

- The Concerns of the Public
  - Legislation
  - Litigation
- The Concerns of the Profession
  - Test-user qualifications
  - Testing people with disabilities
  - Computerized test administration, scoring, and interpretation
- The Rights of Testtakers
  - The right of informed consent
  - The right to be informed of test findings
  - The right to privacy and confidentiality
  - The right to the least stigmatizing label

*Close-up: The Controversial Career of Henry Herbert Goddard*

*Everyday Psychometrics: Life-or-Death Psychological Assessment*

*Meet an Assessment Professional: Meet Dr. Nathaniel V. Mohatt*

*Self-Assessment*

## TERM TO LEARN

### **individualist culture** versus **collectivist culture**

#### **individualist culture**

*a culture in which value is placed on traits such as autonomy, self-reliance, independence, uniqueness, and competitiveness.*

#### **collectivist culture**

*a culture in which value is placed on traits such as conformity, cooperation, and striving towards group goals.*

#### **Some relevant reference citations:**

Houdmont, J., Zhou, J., & Hassard, J. (2011). Overtime and psychological well-being among Chinese office workers. *Occupational Medicine*, 61(4), 270-273

Smith, P. B., Torres, C. V., Hecker, J., et al. (2011). Individualism-collectivism and business context as predictors of behaviors in cross-national work settings: Incidence and outcomes. *International Journal of Intercultural Relations*, 35(4), 440-451.

Vinall, J., Riddell, R. P., & Greenberg, S. (2011). The influence of culture on maternal soothing behaviors and infant pain expression in the immunization context. *Pain Research & Management*, 16(4), 234-238.

#### **For class consideration**

Although a distinction between an individualist and collectivist culture is traditionally made, how meaningful is this distinction? To what extent are cultures viewed as “individualist” collectivist in nature? To what extent are cultures viewed as “collectivist” individualist in nature? What relevance does the individualist versus collectivist distinction have for psychological assessors?

## CLASS DISCUSSION QUESTIONS

*Here is a list of questions that may be used to stimulate class discussion, as well as critical and generative thinking, with regard to some of the material presented in this chapter of the text.*

1. A number of people are cited in the text as being influential in the development of modern day psychological testing and assessment. Who would you nominate as *most* influential and why?
2. What impact does culture have on the process of psychological assessment? On verbal communication? On nonverbal communications? What experiences can students share from their own personal experience?
3. In some countries, political dissidents are silenced on the basis of psychiatric tests indicating that they need to be hospitalized involuntarily. Could that happen in this country? What is the role of professional organizations and other parties to the assessment enterprise in making sure

that such abuses do not occur? In what other ways might it be possible to abuse psychological tests? Are students aware of any such abuses?

4. Initiate a class discussion regarding a scenario wherein a clinician in independent practice is treating a client who is self-referred for depression. During the course of therapy, the clinician learns that this client has recently tested positive for HIV AIDS. The client further reports that he has had a number of “one-night-stands” in which unprotected sex occurred with anonymous partners. What action should the clinician take?

5. Here is a bit of television trivia that you may want to share with your class as a popular culture “sidebar” to Henry Goddard’s book on the Kallikaks.

In August 1977, NBC premiered a new television series entitled *The Kallikaks*. Much like the CBS sitcom that preceded it, *The Beverly Hillbillies*, this new comedy featured a family coming from a rural environment (in this case, Appalachia) to California. Unlike the long-running CBS sitcom, however, *The Kallikaks* was cancelled after only five episodes.

The cast of *The Kallikaks* was as follows:

Jasper T. Kallikak: David Huddleston

Venus Kallikak: Edie McClurg

Junior Kallikak: Patrick J. Peterson

Bobbi Lou Kallikak: Bonnie Ebsen (who, by the way, was the real-life daughter of “Jed Clampett” on *The Beverly Hillbillies*, actor Buddy Ebsen).

## IN-CLASS DEMONSTRATIONS

### 1. Bring something to class

**Bring to class for discussion test-related reference materials such as:**

#### (a) the *Standards*

Bring to class the latest edition of the *Standards for Educational and Psychological Testing* and discuss selected topics such as standards pertaining to professional behavior.

#### (b) the *APA Ethical Standards*

Bring to class the latest edition of *Ethical Standards of Psychologists* (published by the American Psychological Association) and discuss selected topics exemplifying what constitutes ethical use of tests;

#### (c) the ethical standards of another professional organization

Bring to class the latest edition of the published ethical guidelines of a specialty group within psychology or education such as the guidelines published by the National Association of School Psychologist or those published by the Association for Counseling and Development. Discuss sample principles from these documents and have students relate their own experiences with tests and the assessment process that would either be consistent or inconsistent with the samples cited.

#### (d) a sample culture-specific test

Bring to class a sample “culture-specific tests” such as the Black Intelligence Test of Cultural Homogeneity (Williams, 1975) or the Cultural/Regional Uppercrust Savvy Test (Herlihy, 1977).

After reading aloud some items to the class, discuss students' impressions. What are the pros and cons of using "culture-specific tests" in schools? in industry and organizations? in other settings such as clinics?

**2. Bring someone to class.**

**Bring someone such as**

**(a) a person who immigrated to the United States**

With regard to the discussion of psychological testing at Ellis Island, assign students the task of identifying someone who is able and willing to share recollections of parents or grandparents immigrating to this country. The instructor may wish to pre-interview this individual in person or by means of a phone call to assess the appropriateness of having this person address the class with these recollections.

**(b) a faculty member from the Department of History**

Invite a history department faculty member (from your university or a neighboring one) who can shed additional light on historical aspects of testing and assessment from antiquity to modern times.

**(c) a faculty member from the Department of Ethnic Studies**

Invite an Ethnic Studies faculty member (from your university or a neighboring one) from a department dealing with ethnic studies. Ask this faculty member to present to the class on the subject of "Culture and Psychological Assessment."

**(d) a faculty member from a law school**

Invite a faculty member affiliated with your university or a law school nearby. Ask this faculty member to present to the class either a general overview of law and psychological assessment, or a more specific presentation (such as "Psychological Assessment in the Era of *Daubert*").

**(e) a lawyer who practices civil law**

Invite a local, practicing attorney with experience litigating civil cases that have involved issues of psychological assessment.

**(f) a lawyer who practices criminal law**

Invite a local, practicing attorney with experience litigating criminal cases that have involved issues of psychological assessment.

**(g) a special education official**

Invite a special education official such as a due process hearing officer to discuss the implications of state and federal law for testing and assessment practices. Ask this person to discuss firsthand experiences, if any, with any of the legislation or litigation cited in this chapter.

**(h) a personnel director**

Invite a corporate personnel director to class to discuss the implications of recent court decisions on employment selection procedures and the field of human resources in general.

**(i) the director of the office of students with disabilities**

Invite a university coordinator of disability concerns or the director of the office of students with disabilities to discuss legislation and litigation cited in the text in relation to testing and assessment in practice.

**(j) a representative from a local hospice**

Invite a representative from a local hospice to discuss his or her perspective on the Oregon Death with Dignity Act. Ask your guest speaker how the Oregon law corresponds with the philosophy of the hospice movement.

**(k) the coordinator of multicultural programs or bilingual education**

Invite a coordinator of multicultural or bilingual education at your university (or a neighboring university) who is involved in determining the primary language of students. Ask this individual to discuss from her or his own perspective the cultural issues that may affect psychological assessment of an individual with English as a second language. What other issues involving verbal and nonverbal communication does this guest feel are important for psychological assessors to keep in mind during assessment? What does this guest feel about the use of translators in psychological assessment?

## **IN-CLASS ROLE-PLAY AND DEBATE EXERCISES**

### **1. Role-Play: Employment Interview**

In teams of two, one student role-plays Employer and the other student role-plays job applicant. The job being applied for is a Research Assistant to a Professor who is very involved in the teaching and practice of psychological testing and assessment. All students who play the Employer ask the usual types of questions one might expect (for example, “Why do you think you are the best candidate for this position?”) The “twist” comes with each of the job applicants.

Each one of them will argue for the use of a different alternative to the interview as the tool of assessment by which they can be assessed. In other words, each will be interviewed, but they will use the interview to argue for the use of another tool to assess them. So, for example, one student might argue that the case study approach would be better suited to assess his qualifications for the position. Another student might argue that behavioral observation might be best tool, etc. Class members who do not play a role comprise the panel that determines which applicant is hired.

### **2. Debate Exercises**

All students are given advance notice to prepare for a debate on a specific topic and then assigned roles in that debate.

**(a) Debate: Henry Goddard: Hero or Villain**

The class is divided into three groups who all do their own research on Henry Goddard. One group is assigned the task of arguing that he was hero. Another group is assigned the task of arguing that he was a “villain” in that he did more harm than good. The third group serves as the audience for the debate and provides its own feedback and conclusions after the debate.

**(b) Debate: Ethical Issues in Assessment**

Two students take adversarial positions on an ethics case and argue the merits of their positions in front of the “Board of Ethics” (the rest of the class). Real-life ethics cases are drawn from any source such as APA publications or the *Code of Fair Testing Practices*

**(c) Debate: “Death with Dignity”**

This exercise builds on Chapter 2’s *Everyday Psychometrics* box entitled “Life or Death Psychological Assessment.” It is designed to stimulate class discussion on the controversial topic of “death with dignity competency evaluations.” The class is divided into three groups: (1) Pro-Death with Dignity (2) Con-Death with Dignity and (3) a Panel of Judges. A member of the Panel of Judges moderates the debate between the Pro- and Con- groups. All members of the Pro- and Con- groups contribute to the debate with informed opinions on the matter. In the end,

the Panel of Judges renders an informed “verdict” as to whether the Pros or the Cons made the more compelling arguments.

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### **OUT-OF-CLASS LEARNING EXPERIENCES**

#### **1. Take a field trip.**

**Take a field trip as a class to:**

##### **(a) a courtroom to be a spectator at a civil proceeding**

Visit a local courtroom to attend a trial involving a civil matter such as an involuntary commitment hearing or a lawsuit involving a claim of emotional distress. Contact the court clerk’s office in advance to learn when such proceedings have been placed on the court calendar;

##### **(b) a courtroom to be a spectator at a criminal proceeding**

Visit a local courtroom to attend a trial involving a criminal matter such as a “not guilty by reason of insanity” defense or any criminal matter where psychologists have been called upon to present an expert opinion. Contact the court clerk’s office in advance to learn when such proceedings have been placed on the court calendar; or

##### **(c) a local business or corporate entity**

Visit a local business or organization that uses psychological test to hear firsthand about the tests they use and how they use them with specific reference to diversity issues in employment.

### **SUGGESTED ASSIGNMENTS**

#### **1. Critical Thinking Exercises**

##### **(a) Critical evaluation of testing at Ellis Island.**

Using information from the text as well as other sources, critically evaluate turn-of-the-century psychological testing of immigrants to Ellis Island. In what ways could the procedures that were in place been improved?

##### **(b) Improving published standards for test use.**

Using information from the text as well as an original document of a professional organization (such as APA or NASP or some other organization), develop some suggestions for improving the published standards.

#### **2. Generative Thinking Exercises**

##### **(a) “There ought to be a law!”**

Using the phrase “There ought to be a law...” introduce students to the sentence completion as a means of learning about respondents (and then proceed to learn about the class of respondent/students). Have students complete the phrase with reference to legislation they would like to see passed regarding psychological testing and assessment. Have students read aloud their responses and then discuss those responses as a class. In the discussion, raise questions such as, “Why might laws already on the books not be viewed as sufficient to protect the public?” and “Why might some laws already on the books be viewed as over-reaching?”

##### **(b) What qualifies someone to use psychological tests?**

What do students believe are the requirements necessary for one to be qualified to be a user of psychological tests? Are there different qualifications necessary in order to administer different types of tests? Students are assigned the task of listing the qualification necessary to administer:

- intelligence tests
- personality tests
- neuropsychological tests
- tests for personnel selection
- other psychological tests

### **3. Research-then Discuss Exercises**

#### **(a) Ethical Standards Related to Testing and Assessment around the World**

To supplement knowledge of legal, ethical, and cultural issues presented in the chapter, assign this article to be read by the entire class: “Ethics Standards Impacting Test Development and Use: A Review of 31 Ethics Codes Impacting Practices in 35 Countries” by Mark M. Leach and Thomas Oakland. Published in the *International Journal of Testing*, Volume 7, Issue 1, pages 71-88, (2007).

In this article, the authors examine 31 codes of ethics in 35 countries and compare them to ethical principles promulgated by the American Psychological Association. The assignment is for each student in the class to pick one of the 35 countries (each student to select a different country, if possible) profiled in article, and be prepared to represent that country in a roundtable discussion. The student may also be required to update the information found in Leach and Oakland (2007)

#### **(b) Focus on the Timeline**

The inside covers of the textbook contain a historical timeline. Each student in the class is assigned a different point in that timeline to expand upon on. In a roundtable discussion, each student has a few minutes to discuss historical events during their assigned time period.

### **4. Research-then-Report Exercises**

#### **(a) Standardization in the 1800s**

Have students write a report on the culture of the 1800s focusing on society’s seeming obsession with standardization. The report should make reference to standardization with respect to time (Greenwich time), building and industrial materials (which were necessary for the industrial revolution, the construction of machines, and mass-manufacturing). The report should conclude with how the times may have helped foster standardization as a desirable element of psychological testing and assessment.

#### **(b) “Necessity is the mother of invention.”**

The task here is to write an essay on how this statement applies to the development of psychological tests—particularly tests of intelligence and personality--in Europe and in America in the early part of the century.

### **5. Other Assignments and Exercises**

#### **(a) The Multicultural Panel on Cultural Differences and Psychological Assessment**

Organize a multicultural panel drawn from the faculty of the Psychology Department as well other departments. Speakers will address, individually and as a group, the general topic: “Cultural Differences and Psychological Testing and Assessment.”

#### **(b) Admission to University and Admission to University Programs Criteria**

The class into two groups of students, designated here as G1 and G2. G1's assignment is to contact the university/college admission office and inquire as to the criteria considered in making enrollment decisions. G2's assignment is to contact various department chairs to make inquiry regarding the factors considered in making decisions about admission to various graduate programs. A panel discussion is then held to discuss the findings including the common factors that emerged and the differential weight given to different factors. The discussion then is guided toward a consideration of why many multifaceted factors are important when making important decisions about applicants, and how this applies to psychological testing and assessment.

**(c) Personnel Decisions, Psychological Tests, and the Law**

Students are assigned the task of interviewing the personnel director (or I/O psychologist) for a local corporation. Their objective is to research the extent to which litigation such as *Griggs v. Duke Power Company* (1971), *Albemarle Paper Company v. Moody* (1976), *Allen v. District of Columbia* (1993) has influenced employee testing/selection procedures. They report back to the class by means of either an oral presentation or a written report.

**MEDIA RESOURCES**

**On the Web**

A noncomprehensive sampling of some of the material available on the World Wide Web.

<http://www.wku.edu/~sally.kuhlenschmidt/mttmln.htm>

Are you a history buff? Want to know much more about historical aspects of psychology and psychological assessments? If so, this link to one professor's site will be a "magic carpet" back through time (of sorts).

<http://www.testpublishers.org>

This is a link to the Association of Test Publishers. On this site, you will find, among other things, information legislation and litigation affecting psychological test publication.

<http://www.hhs.gov/ocr/hipaa>

<http://www.hhs.gov/ocr/privacy/>

[www.hhs.gov/ocr/hipaa/](http://www.hhs.gov/ocr/hipaa/)

These three websites provide more information on HIPPA

<http://www.apa.org/science/ttrr.html>

Provides a listing of the rights and responsibilities of testtakers.

<http://www.apa.org/science/FinalCode.pdf>

Code of Fair Testing Practices in Education

<http://www.apa.org/science/jctpweb.html>

Information on Joint Committee on Testing Practices

<http://www.SchoolResults.org>

Parents consult this website if they are interested in judging the quality of school or school district. It provides educational assessment data on schools, school districts, and states

nationwide. The data displayed is required to be publicly reported under the No Child Left Behind legislation.

<http://www.apa.org/science/standards.html>

Information on the Standards for Educational and Psychological Testing.

<http://www.ncme.org>

Official website for the National Council on Measurement in Education.

<http://www.aera.net/>

Official website for the American Educational Research Association (AERA).

<http://www.isbe.net/assessment/IAA.htm>

Maintained by the Illinois State Board of Education, this Web site provides examples of alternative assessment methods.

### **On DVD, VHS, CD, and Other Media**

*Body Language: Cultural Differences* (2007, DVD, 30 minutes, INS)

A useful introduction to cultural differences in terms of relatively simple variables such as eye contact and physical contact.

*The History of the Rorschach Inkblot Method* (DVD; no copyright date or running time listed; SPA).

Dr. Irving B. Weiner of the University of South Florida discusses not only the life and work of Hermann Rorschach but the efforts of several others (Samuel Beck, Bruno Klopfer, Marguerite Hertz, Zygmunt Piotrowski, David Rapaport, and Roy Schafer) to develop the Rorschach method.

*Culturally Alert Counseling* (6-DVD set, 2009, no running time stated, SAGE)

Presents skills and practices useful in interviewing and working with members of diverse populations.

*The Architecture of Doom* (1991, DVD, 2 hours, FRF)

The horror of eugenics taken to the extreme is evident in the ashes of the Nazi holocaust. There are many film resources available for in-class viewing or in-home assignment on this subject. One intensely interesting and powerful film in this regard is Peter Cohen's *The Architecture of Doom*. Building on the theme of Adolf Hitler as a frustrated artist and architect, this absorbing feature was hailed by *Variety* as "a masterpiece of scholarship and imagination." The running time is about 2 hours, so this may be a film to assign to interested students to view at home or in a group out of class. The DVD is probably available for free rental from a local public library.

*The Americans with Disabilities Act (ADA): New Access to the Workplace* (1991, VHS, 39 minutes, UMN). Explains the ADA, which bans discrimination against people with disabilities by employers. Dramatizes the handling of hiring and employment issues that may be encountered.

*Assessing Diverse Populations* (1997, VHS, 29 min, McK)

This program explores issues related to student diversity in assessment.

*Ethical Dilemmas Facing Psychologists* (1996, VHS, 40 minutes, MOU).

Five scenarios are presented covering multiple ethical issues including those involved in child custody evaluations and confidentiality. Examines choices to be made by psychologists under different scenarios.

*Reporting Results* (1994, VHS, 29 min, McK)

Surveys techniques used in schools to better communicate with parents, the media, and the community regarding student performance and expectations. Professor of Education Administration Mark Holmes talks about the need for educational accountability, parental input, and more creative assessment and evaluation methods. Research Professor Gareth Morgan addresses the pitfalls of relying too heavily on hard data as the sole indication of student success.

### **Other Media**

Check with your state education agency and local citizens with disabilities advocacy groups for other available media dealing with the issue of legal requirements for psychological evaluations.

### **REFERENCES**

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