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COMMENTARY

Personality assessment for work: Legal, I-O, and clinical perspective

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Personality tests are reliable and valid tools that can aid organizations in identifying suitable employees. They provide utility for maximizing organizational productivity and for avoiding claims of negligent hiring. When properly deployed, personality tests (both normal and abnormal/clinical) pose little threat of violating individuals' rights under the Americans with Disabilities Act (ADA) or other Equal Employment Opportunity–related laws and regulations. As evidenced by a dearth of successful legal challenges, even with increasing use of personality tests in recent years, organizations have become educated and sophisticated with regard to the ethical and legal use of such tests in employment settings. We predict this trend will continue, incorporating recent developments relating to contemporary models of psychopathology (Kotov et al., 2017; Markon, Krueger, & Watson, 2005), neurobiologically informed theoretical explanations of psychopathology (DeYoung & Krueger, 2018), and the alternative model of personality disorders (AMPD) included in the most recent edition of the American Psychiatric Association's (APA) *Diagnostic and Statistical Manual of Mental Disorders* (Fifth Edition; DSM-5).

Crying wolf

Melson-Silimon, Harris, Shoenfelt, Miller, and Carter (2019) correctly note that contemporary models of psychopathology recognize the dimensional nature of personality disorders. However, their concerns that using normal-range personality tests in occupational assessments could violate the ADA are unfounded and exaggerated. In this comment, we first correct the focal article's interpretive errors relating to the legal context. Second, we discuss the appropriate use of normal-range personality measures in HR systems. Third, we address the nature of mental disorder diagnosis and correct misconceptions about the role of personality tests in the diagnostic process. We conclude by highlighting the scientifically appropriate and legal use of normal-range and clinical personality measures in workplace assessments.

The legal perspective

New models of psychopathology do not change intention and use of normal-range personality measures and have little bearing on existing EEOC guidance.

Melson-Silimon et al. (2019) refer to Equal Employment Opportunity Commission (EEOC) Enforcement Guidance (2000) that clarifies when tests might be considered medical examinations

The third author of this commentary was involved in the DSM-5 development process as a member of the Personality and Personality Disorders Work Group and as the workgroup's text coordinator. His service on the Work Group ended in December 2012; this commentary reflects only the positions and opinions of its three authors as independent scholars.

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and thus prohibited under the ADA. The seven central points of EEOC guidance relate to the original development and use of the test(s) under consideration. Interpretation of these central criteria is not impacted by recent developments relating to the AMPD or other models of psychopathology because they do not change how normal-range personality tests have been developed or how they are used in employment decision making. Tests of normal personality, in the forms currently used in the majority of selection settings (see below), are (1) not administered by health care professionals; (2) not interpreted by health care professionals; (3) not designed to reveal an impairment of physical or mental health; (4) not invasive; (5) not measuring an employee's physiological responses to performing a task; (6) not normally given in a medical setting; and (7) not used with medical equipment. Having a better understanding of personality dimensionality and taxonomic structure of normal and abnormal personality does not change how normal-range personality tests have been designed or are used in organizations.

Traits and behaviors are not impairments, and not every impairment is a disability.

Recent enforcement guidance (EEOC, 2008) specifically states that "traits or behaviors are not, in themselves, mental impairments." Individual items on normal-range personality tests that inquire about certain behaviors or experiences (e.g., "I get stressed out easily") are not automatically considered indicators of mental impairments, even if they might be related to impairments for some candidates who answer them in the affirmative. The same is true for high levels of desirable traits, which the focal article states "can be maladaptive at extreme levels" (p. 12). The central question is whether a test was designed to—*and actually can*—measure the underlying trait at a level of precision where an impairment arises (normal-range personality tests cannot). Moreover, current EEOC guidance makes clear that not every impairment rises to the level of a disability under the ADA: "The determination that a particular individual has a substantially limiting impairment should be based on information about how the impairment affects that individual and not on generalizations about the condition" (EEOC, 2008).

Reviewed case law does not preclude the use of normal-range personality tests pre-offer or abnormal-range personality tests post-offer.

Among the four cases reviewed in the focal article, one pertained to the use of a normal-range personality test (*Thompson v. Borg-Warner Protective Services Corp.*, 1996), and three pertained to the use of abnormal-range (clinical) personality tests. The former was judged *not* to be a violation of the ADA and decided in favor of the defendant. The latter three (*Barnes v. Cochran*, 1997; *Karaker v. Rent-A-Center*, 2005; and *Soroka v. Dayton Hudson Corporation*, 1991) all involved the improper use of clinical personality tests or medical evaluations that were conducted before an offer of employment or promotion had been extended. None of these cases preclude the use of either type of personality test for purposes for which they have been developed or professionally endorsed.

Privacy rights need to be balanced with liability for negligent hiring.

Normal-range personality test questions do not reach the same threshold of invasiveness as actual medical procedures (such as the drawing of blood, urine, or breath) or even questions found on medical history questionnaires (e.g., medication use). Melson-Silimon et al.'s (2019) review of the *Soroka v. Dayton Hudson Corporation* case relating to privacy rights has no connection to the ADA, but it is based on right to privacy considerations in state law.

The applicability of this case to properly implemented normal-range personality testing is very limited. First, the test used in this case was not a normal-range personality test, and thus it

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provides a poor comparison for the majority of tests used in pre-employment, select-in scenarios. Second, the items of the 1943 edition of the MMPI that were cited as invasive are not found on current versions of the same test—and certainly not on normal-range personality tests. Third, and most importantly, the defendant in this case made other, even more elementary mistakes in using personality tests for hiring purposes, which provided the basis for plaintiffs to sue under California law—failing to conduct a job analysis. Using *any* psychological assessment tool (be it a personality test, cognitive ability test, or an in-person interview) without first establishing job requirements and specifications is an egregious professional error, independent of whether the tool poses a potential threat under EEOC-related laws and regulations. Job analysis provides a basis for establishing job relatedness, which was relevant in this case, as the plaintiff alleged that questions on the MMPI were invasive *and* not job related.

In other cases, the courts have upheld the use of personality tests in employment decision making, noting that the privacy rights of the individual must be balanced with rights of other employees, the public, and legal responsibilities of the employer to avoid negligent hiring. In *McKenna v. Fargo* (1978), the court found that the city had significant interest to identify applicants who were not suitable for firefighter jobs and that this justified even intrusive test questions (Shaffer & Schmidt, 1999). Of course, the balance of the organizational interest versus applicant privacy consideration will shift even further in the presence of job analyses that demonstrate the link between personality traits and essential functions of the job; in cases where test questions are significantly less invasive than those found on outdated measures of psychopathology; and in occupational settings where the consequences of negligent hiring are even more significant (e.g., pilots, law enforcement officers; see Butcher, Front, & Ones, 2018).

The I-O psychology perspective

Personality measures can be used in both select-in and screen-out applications.

Melson-Silimon et al.'s (2019) discussion of how and why normal-range personality measures could potentially run afoul of the ADA is based on a fundamental assumption that is unsupported and mischaracterizes how these tests are commonly used: "Because I-O psychologists generally utilize a 'bottom-up' approach with personality tests, such that low standing on desirable traits and high standing on undesirable traits are used to 'select out' applicants (Carrigan, 2007), we assume this type of selection here" (p. 124). The source for this assumption cited in the focal article (Carrigan, 2007) actually does not address the issue of select-in versus screen-out uses of personality measures. Although it briefly notes the historical use of screen-out approaches prior to World War II, the majority of that article actually addresses and endorses the use of pre-employment tests "with the intent of selecting the most qualified applicants from among applicant pools" (Carrigan, 2007, p. 39) to "forecast an applicant's likelihood to succeed on the job" (p. 40). This characterization is consistent with the observations of the present authors—based on several decades' experience with personality measures in work settings—of how normal-range personality measures are typically used. When used in employee selection, these tests are much more likely to be used with "select-in" rather than "screen-out" approaches.

When organizations attempt to identify job relevant personality characteristics among applicants (e.g., conscientiousness, stress tolerance), high-scoring individuals are selected for employment. In talent management systems, relevant personality characteristics (e.g., ambition, interpersonal sensitivity) are measured to identify individuals with high potential. Organizations that utilize developmental approaches relying on strengths and positive psychology (cf. Asplund, Lopez, Hodges, & Harter, 2007; Peterson & Seligman, 2004) also focus on high scores on desirable traits. The same is true for predicting leadership, entrepreneurship, or innovation. Before and during employment, applications of normal-range personality measures aim to identify the best or the most suitable,

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highlighting differences among higher scoring individuals. The purpose and capability of normal-range personality inventories does not include flagging impaired or disordered individuals.

Of course, some organizations also *screen out* for job relevant personality characteristics (e.g., irresponsibility, dishonesty). In pre-employment screening, job-related measures such as integrity tests or normal-range conscientiousness scales can be utilized. As EEOC guidance makes clear, integrity tests and normal-range conscientiousness-type measures are appropriate for pre-offer screening purposes. Screening out may also call for assessing job-relevant personality pathology, especially for public safety and high stakes jobs. In that case, an assessment strategy that includes abnormal-range personality measures (e.g., negative affect, disinhibition) is appropriate after a conditional job offer. In sum, understanding how personality measures are typically deployed in organizations is essential for providing guidance on appropriate use of normal- and abnormal-range personality measures.

Normal-range personality measures are not curvilinearly related to job performance.

The focal article questions the usefulness of personality assessments by stating: "recent studies suggest that even high levels of 'desirable' traits like high conscientiousness can be maladaptive at extreme levels" (p. 124), and " . . . at its extremes, conscientiousness reflects obsessive-compulsive tendencies . . . that reduce the likelihood of these positive outcomes, including multiple dimensions of job performance (Carter et al., 2014; Le et al., 2011)" (p. 127). This characterization of research on potential nonlinear relations in the personality domain, especially around generalizably valid conscientiousness measures, is very selective and troubling.[1]

The linearity of conscientiousness–work behavior relations has been documented in many more samples than the two sources cited in the focal article. Robie and Ryan (1999) found no evidence of nonlinearity for conscientiousness–job performance relations (five samples). Walmsley (2013; Walmsley, Sackett, & Nichols, 2018) examined 123 validity studies and reported a "general lack of meaningful curvilinear effects for each Big Five scale in relation to overall job performance" (p. ii). For conscientiousness, the quadratic term provided only small incremental validity over the linear term for overall-, intrapersonal-, interpersonal-, leadership-, and work skill performance (ΔR^2 was .034, .032, .032, .027, and .031, respectively). The most recent examination (Nickel, Roberts, & Chernyshenko, 2019; four samples), concluded that high conscientiousness had no detrimental effects on health, well-being, job satisfaction, citizenship behaviors, or counterproductivity. This work also illuminates the unusual findings of the Carter et al. (2014) study cited by the focal article, which seem to relate to the use of an ad hoc, de facto abnormal-range conscientiousness measure.[2] The accumulated evidence to date is

[1] The authors' selective referencing of the literature extends to other issues they discuss as well. The review of validity information for integrity tests, which is used to highlight the supposed dilemma that overt (i.e., more clear purpose, job-related) tests are better predictors than personality-based ones, is narrow, focusing on a single analysis of absenteeism as the criterion. In fact, overt integrity tests predict job performance across criteria with about the same validity as personality-based integrity tests (operational validities of .33 and .35, respectively; Ones, Viswesvaran, & Schmidt, 1993). In the prediction of broad, externally detected counterproductive work behaviors, overt integrity tests perform somewhat better than personality-based ones (.39 versus .29; Ones et al., 1993). Other than selective citation, there is no dilemma here.

[2] Specifically, Carter et al. (2014) obtained the highest validity for classical test theory scored conscientiousness items predicting task performance as well as counterproductive work behaviors. The quadratic term's incremental improvement over the linear term was $\Delta R^2 = .005$ and .000 for task performance and $\Delta R^2 = .006$ and .004 for counterproductive work behaviors in their two samples, respectively. Carter et al.'s scoring of their conscientiousness items, using the generalized graded unfolding item response theory model (GGUM), transformed their ad hoc conscientiousness measure to have much greater test information at extreme score levels (i.e., 2 SDs above the mean) while minimizing test information in the range of scores that contains most test takers (+/− 1 SD, or 68% of test takers). Thus, Carter et al.'s ad hoc selected conscientiousness items paired with GGUM-scoring created a de facto abnormal conscientiousness scale. Interestingly, although the criterion-related validity of GGUM scored conscientiousness scales were lower than their classical test theory-scored (normal) counterparts, GGUM-scored scales provided a quadratic term associated with incremental validity in predicting task performance

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in line with the psychometrically informed expectation that normal-range conscientiousness and other personality trait scales do not assess the abnormal ranges of the respective constructs well and consequently are not related to decrements in desirable or increases in undesirable work behaviors. There is no downside to scoring high on conscientiousness. There is no downside to selecting high-scoring individuals in selection or talent management programs when normal-range conscientiousness measures are used.

The clinical perspective

Melson-Silimon et al. (2019) are correct in noting that psychiatric manuals used to define mental disorders are moving toward greater recognition of the contributions of personality science to conceptualizing personality disorders, and other mental disorders as well. In the course of their discussion, the authors reference the Personality Disorders sections from the current editions of the APA's *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5; APA, 2013) and the *International Classification of Diseases* (ICD-11; WHO, 2018).

In the case of DSM-5, one of the authors of this commentary (Krueger) served as a member of the Personality Disorders workgroup and as the workgroup's text coordinator. Through a series of complex political events, the DSM-5 ended up reprinting the DSM-IV Personality Disorders section, along with an "Alternative Model of PDs" (AMPD; see Zachar, Krueger, & Kendler, 2016, for a narrative history of the relevant events). Although the DSM-IV categorical personality disorders remain "technically official," the AMPD has been the target of extensive recent research, as referred to in the focal article.

Nevertheless, in their article, Melson-Silimon et al. (2019) focused primarily on only one part of the AMPD, the part pertaining to personality traits that provide the specific features of an overall personality disorder diagnosis (Criterion B). The AMPD approach to personality disorder diagnosis relies primarily on two criteria, termed "Criterion A" and "Criterion B." Criterion A pertains to personality functioning, conceptualized in terms of self-concept and interpersonal functioning. Clinically significant deficits in personality functioning are the sine qua non of personality disorders in the AMPD. Criterion B reflects the structural organization of personality traits linked with the extensive literature in personality science, showing that personality variation is well-conceptualized in terms of five broad domains. Briefly, in the presence of clinically significant personality functioning deficits (i.e., Criterion A must be met), the content of the patient's personality disorder (Criterion B) is specified using traits that naturally organize themselves into the five domains familiar in personality science.

Rectifying the lopsided emphasis of the focal article (on Criterion B vs. on Criterion A, which is mentioned only once) is important in understanding why an increasing recognition of personality science in psychiatric nosology may not have a dramatic legal impact on personality testing in employment settings. Even in the presence of dimensional information about human functioning, psychiatric nosologies provide clinical guidance about diagnostic demarcations. This melding of dimensional information with guidelines for discrete judgements about clinical significance and diagnosis is an essential aspect of medicine in general, and psychiatric nosology

($\Delta R^2 = .010$ and .007) and counterproductive work behaviors ($\Delta R^2 = .021$ and .009 in the two samples, respectively). Nickel et al. (2018) also included GGUM-scored scales in their analyses, and their results were unlike Carter and colleagues' in that there was no evidence of curvilinearity. We suspect that the "well validated, reliable measures of conscientiousness" (p. 14) used by Nickel et al., even with GGUM scoring, continued to yield maximal information in the +/− 1 SD range of conscientiousness, which best captures normal variation in the trait. In contrast, Carter et al.'s ad hoc GGUM-scored conscientiousness measure best captured abnormal variation in the trait. As we have stated in our previous comment in this journal, "nonnormal maladaptive score distributions will achieve their maximal predictive validity when criteria are similarly non-normally distributed. Distributional mismatch between the maladaptive predictor measure and criterion (e.g., non-normally distributed predictor marginal distribution and normally distributed criterion marginal distribution) may result in nonlinear associations between the two" (Dilchert, Ones, & Krueger, 2014, p. 106).

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more specifically. For example, elevation in blood pressure provides dimensional information that is useful in making a clinical judgement about a diagnosis of hypertension. Dimensional blood pressure assessment is not conflated with a hypertension diagnosis per se.

Similar to other areas of clinical medicine, and also similar to the way personality disorders diagnosis is evolving, areas of the DSM that have shifted to greater recognition of the dimensional nature of human variation (e.g., autism and substance use disorder) rely on clinical judgement regarding diminished functioning in arriving at diagnostic determinations. Hence, although psychiatric nosology is making welcome moves to recognize personality science and corresponding evidence for continuous variation in personality, this recognition does not conflate clinical judgment and the diagnostic process with normative personality variation and models. This is also well-recognized in the proposed ICD–11 approach to personality disorders. The ICD–11 proposal (which, as of this writing, is likely to become official) focuses on an initial clinical judgment of overall severity in arriving at a personality disorder diagnosis (Tyrer, Mulder, Kim, & Crawford, 2019). If and only if overall severity is deemed clinically significant, details of the personality disorder are provided, using trait dimensions similar to those of the AMPD. In sum, as personality disorders nosology shifts to greater recognition of personality science, this recognition is being melded with a focus on overall functioning and severity in arriving at a diagnostic determination. In this way, dimensional models of normative personality are not directly conflated with the personality disorders diagnostic process.

Conclusion

In their focal article, Melson-Silimon et al. (2019) state that "current EEOC guidance and case law provide relatively clear boundaries for using pre-employment personality testing under ADA . . . " (p. 127). With this, we agree. The boundaries set by EEOC Enforcement Guidance are good and are unlikely to be overstepped with the proper use of normal-range and even abnormal-range personality tests as practiced in the majority of organizations today. The very few court cases addressing personality testing under the ADA are limited to improper use of abnormal-range (clinical) measures in pre-offer assessment situations.

Personality measures, both adaptive and maladaptive, predict job performance, workplace behaviors, and important outcomes (Barrick, Mount, & Judge, 2001; Gaddis & Foster, 2015; Hogan & Holland, 2003; O'Boyle Jr., Forsyth, Banks, & McDaniel, 2012, Ones et al., 2007; 2012). When appropriately deployed, both types of personality tests are not only useful but legal for organizational decision making. Job-related, normal-range personality measures can be used without fear of violating the ADA. The same is true for job-relevant clinical measures that can (and should) be used post-offer when supported by job analytic data and the nature of the job in question (e.g., public safety, aviation). Doing so would protect organizations, employees, and the public from harm.

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