

of Federal employees, of private employees under industrial personnel security regulations, and of schoolchildren in federally financed research projects without truly informed parental consent, by the use of questions relating to religion, politics, personal thoughts or habits, private family matters, and sexual matters. Such legislation is essential. We cannot rely upon self-regulation by those men (in Justice Brandeis' gentle but devastating phrase) "of zeal, well-meaning, but without understanding."

Nor can we rely upon sensational assurances of changed test policies. The policy rescinded with fanfare during congressional investigation today can readily be quietly restored tomorrow.

Moreover, it is important that the Congress express our national public policy on this issue through legislation. I commented a while back to one of the proponents of psychological testing that only a professional Peeping Tom could compose and administer such a test. He replied with equanimity that it is not unlawful to be a Peeping Tom. I submit to you, Mr. Chairman, that it is time that these practices be declared unlawful, and the professional Peeping Toms be eliminated from positions of such high authority and such great power in our Government.

I am grateful to you for the opportunity to testify today.

Mr. ROSENTHAL. Thank you very much. I would say that you have a very potent statement and a very clear position. I wonder if I could break it down into two categories, though.

Unquestionably, based on your experience as a lawyer and law professor, you feel that the psychological tests are an invasion of privacy, and, for that reason alone, would be sufficient to eliminate them and legislate them out of business.

Mr. FREEDMAN. Yes, sir.

Mr. ROSENTHAL. Is it your opinion that they are inadequate for the purpose they pretend to meet, that they don't even qualify as a sound scientific means?

Mr. FREEDMAN. Absolutely, and I am speaking now also as one who, for over 10 or 11 years, has been involved as a consultant to the Educational Testing Service concerning, in part, psychological testing, and I am familiar with test validation and other means of checking out whether a test should be used before it is used to count.

For example, when we give the law school admission test, we do not use a question on that test for score until it has been given and checked against actual law school performance. It has never been done in Government service, that one of these tests has been given and then checked out against performance before it was used to screen people out. They are using these tests to screen people out without even knowing whether the test is valid for that purpose.

Mr. ROSENTHAL. To what do you attribute this enormous growth of the use of psychological testing?

Mr. FREEDMAN. I think part of the problem is the large volume of personnel problems and a desire to simplify these problems by giving a quick test, running it on a machine and getting a quick answer.

I think, however, we have also built a kind of idol of the scientist, and in this area it is totally unjustified.

Dr. Brayfield talks about people unqualified to give the test. I am not satisfied that those people who Dr. Brayfield would like to give the test are people with whom I would be satisfied as competent.