

Another example where neither physical injury nor emotional trauma is necessarily involved is found in personality testing.³⁶ It requires no Cassandra to predict lawsuits by parents, and a spate of restrictive legislation,³⁷ if those who administer these tests in schools—even for the most legitimate of scientific purposes—do not show a sensitive appreciation for both individual and group claims to a private personality.

The lesson is plain. Unless the advances of science are used with discrimination by scientists engaged in behavioral research—as well as by other professions, by industry and by government—the constructive and productive uses of these advances may be drastically and unnecessarily restricted by a fearful community.³⁸

IV. THE NEED FOR EQUILIBRIUM

Obviously, as Samuel Messick wrote recently:

Absolute rules forbidding the use of [personality tests] . . . because they delve into contents beyond the bounds of decent inquiry would be an intolerable limitation both to scientific freedom and to professional freedom.³⁹

It should be equally obvious—yet it may not be⁴⁰—that absolute rules permitting professional license, in the name of scientific research, to probe beyond

36. Lee J. Cronbach, one of the nation's outstanding authorities on psychological testing, in his book, *Essentials of Psychological Testing* (2d ed. 1960) observes:

Any test is an invasion of privacy for the subject who does not wish to reveal himself to the psychologist. While this problem may be encountered in testing knowledge and intelligence of persons who have left school, the personality test is much more often regarded as a violation of the subject's rights. Every man has two personalities: the role he plays in his social interactions and his "true self". In a culture where open expression of emotion is discouraged and a taboo is placed on aggressive feelings, for example, there is certain to be some discrepancy between these two personalities. The personality test obtains its most significant information by probing deeply into feelings and attitudes which the individual normally conceals. One test purports to assess whether an adolescent boy resents authority. Another tries to determine whether a mother really loves her child. A third has a score indicating the strength of sexual needs. These, and virtually all measures of personality, seek information on areas which the subject has every reason to regard as private, in normal social intercourse. He is willing to admit the psychologist into these private areas only if he sees the relevance of the questions to the attainment of his goals in working with the psychologist. The psychologist is not "invading privacy" where he is freely admitted and where he has a genuine need for the information obtained.

Id. at 459-60.

37. See S. REP. No. 553, 88th Cong., 1st Sess. 41 (1963) for the legislative proposal (H.R. 4955) of Representative Ashbrook of Ohio. In New York, Assemblyman Russo introduced a bill in 1964 (A.I. 1701) to preclude the testing of a school child without the consent of a parent or guardian.

38. In addition to the restrictions that may be imposed on the uses of science and technology, there should also be considered the prospect of legal liability for any injury that may be suffered from their use. See Rheingold, *supra* note 27; Comment, *Legal Implications of Psychological Research with Human Subjects*, 1960 DUKE L.J. 265. See also note 65 *infra* for statutes which make eavesdropping—including eavesdropping by behavioral scientists in the course of research—a crime.

39. Messick, *Personality Measurement and the Ethics of Assessment*, 20 AMERICAN PSYCHOLOGIST 136, 140 (1965).

40. See a not unrelated discussion in WEST, *THE NEW MEANING OF TREASON* 158-61 (1965).