

Step One Survey® Research Report



Step One Survey II[®]
Research Report

Version 1.0

WILEY

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Chapter 1: Construction of the Step One Survey II®

Developing the Step One Survey II

The Background of Honesty Testing

Honesty testing, a multimillion-dollar industry (Tompson, 1981), is designed to curb employee theft which has been reported to cost organizations as much as \$40 billion per year (Gorman, 1989). Originally, these types of instruments were developed as an alternative to the polygraph, the use of which was limited by the Employee Polygraph Protection Act signed into law on June 29, 1988.

Honesty tests have undergone much evolution over the years with psychological testing practices becoming the focus of new test development. The Step One Survey II® (SOS) is the latest test developed that measures constructs demonstrated to relate to reliable and honest behavior.

The SOS is a two-part survey designed for pre-employment selection. Part One consists of direct admission questions. These are essential inquiries that could be asked during an interview but which some interviewers might be uncomfortable asking. Part Two surveys attitudes toward integrity, drug use, reliability, and work ethics. But, before we can cover the details related to the SOS in Chapter 2 of this Technical Manual, a review of honesty testing in general would prove useful.

Historically speaking, honesty tests fall into two distinct groups. Sackett et al. (1989) labeled these types as overt integrity tests and personality-based measures.

Overt Integrity Tests

Overt integrity tests are represented in the marketplace by the Stanton, Reid Report, Personnel Selection Inventory, Wilkerson Audit, Phase II, and others. As a group, they mix admission and theft-type items targeted to reveal unacceptable attitudes toward workplace theft and similar forms of dishonesty in the workplace. With the exception of the Wilkerson Audit, there is no attempt to disguise the purpose of the test. All except the Reid Report include a lie scale to detect “faking good.” These tests were developed as an alternative to the polygraph examination.

Personality-based Measures

Personality-based measures are represented in the marketplace by the Milby Profile, Personal Outlook Inventory, and others. As a group, they tend to use standard personality test items like those first published as scales on the CPI, MMPI, or 16PF mixed with theft items such as those used on overt integrity tests. The rationale is to soften the honesty items and thus disguise them. In general, the composition of the personality-based test items provides information on performance, tenure, reliability, interpersonal cooperation, and drug avoidance. Some purport to reveal hostility toward authority, thrill seeking attitudes, conscientiousness, and confusion due to vocational

identity, social insensitivity, non-conformance, irresponsibility, self-restraint, and acceptance of convention. They all include a lie scale to detect “faking good.”

Validity

Sackett and Harris (1984) reviewed 41 validation studies and grouped the different validation strategies used into five categories: polygraph comparisons, future behavior (predictive validity), theft admissions, shrinkage reduction, and comparisons of contrasted groups. Results of the five studies, cited in Sackett and Harris (1984) and Sackett, et al. (1989) indicated that honesty tests significantly differentiate between honest and dishonest people. When honesty testing is used prior to employment, employers are attempting to detect potentially dishonest candidates. Therefore, honesty tests should be administered to job applicants only as part of the selection process and the SOS must never be used with people who are currently employed by your organization. As with all test reviews, the specific results of validity analyses must be applied to the test being considered by the consumer. See page 11 of this manual to review the results of our analysis of the SOS.

Reliability

Quality honesty tests must be reliable. Their high reliability coefficients compare very well with reliability of other tests in the ability domain (Gatewood & Field, 1987). According to Gatewood and Field (1987),

reliabilities for these tests, taking subscales and overall scales into consideration, range from .64 to .94, and mechanical and clerical ability tests have yielded similar reliabilities (.72 to .90). Because personality-based, paper-and-pencil honesty tests are broader in focus (Sackett et al., 1989), they have less reliable internal consistency coefficients. It is, therefore, not surprising that their overall reliability (.74) is less than overt paper-and-pencil honesty tests (.86). As with all test reviews, the specific results of reliability analyses must be applied to the test being considered by the consumer. See page 11 of this manual to review the results of our analysis of the SOS.

Adverse Impact

Adverse impact studies, reviewed by Sackett and Harris (1984) and Sackett et al. (1989) reported no discrimination against protected groups in their samples. In fact, some studies reported results in favor of females and African-Americans. Only age had a significant impact on test performance in their studies. Generally speaking, applicants in their teens or early twenties were more likely to score poorly on honesty tests. As with all test reviews, the specific results of adverse impact analyses must be applied to the test being considered by the consumer.

Conceptual Concerns

Comparisons with polygraph judgments should be dismissed out-of-hand (Sackett et al., 1984). A criterion in which results are so flawed as to be outlawed by

the federal government for pre-employment use cannot serve as a meaningful basis for validation of any instrument. In other words, it is not appropriate to compare an honesty test like the SOS, or any psychometrically-based test, with polygraph tests if only because the polygraph is not considered a valid measure of honesty for selection processes in the business setting.

Predicting how human beings will act in the future is a difficult task. No one can be sure what or why another person thinks in certain patterns. Past behavior may predict future behavior, but the relationship is by no means perfect, nor should one expect it to be. It is only a clue for determining how an individual will act and react on the job. This is the reason that employers check past employer recommendations, run background checks and contact personal references before making a hiring decision.

It is assumed by the employer that if complimentary reports are received from these sources, then the same types of behavior(s) will take place on the job if and when the individual is hired by the company. The honesty test is therefore an integral part of the selection process, providing additional information directly from the applicant that may help in determining whether the motivations and opinions stated reflect a quality of character that has been proven to relate to the attitudes of fairness, respect, safety, and responsibility.

The Step One Survey[®] (the original SOS-O)

To understand the SOS, one must investigate its roots in the original Step One Survey[®]. The objective of the original SOS-O (released in 1996) was to add another dimension to the investigative phase of the hiring process with information as to an applicant's attitudes in the areas of integrity, substance abuse, reliability, and work ethic. These constructs may be defined as "ways of thinking on the part of the applicant that cannot be directly or practically observed by the interviewer." Just as with employer recommendations, background checks, and personal references, the only criterion available is past behavior(s).

The challenge in developing the SOS was to identify individuals whose past behavior(s) in the targeted areas were deemed unacceptable by their employers and society in general. Many other studies have used incarcerated convicts as a standard (Sackett et.al., 1984). The reported flaw in this methodology is that those incarcerated with no chance for release would not take the exercise seriously. Those close to release may try to "fake good" to enhance their chances for parole.

The Study

The designers of the Step One Survey chose the methodology of Contrasting Groups for the validity study. Parolees formulated the group to represent past behaviors unacceptable in society and the workplace. This controlled for the long-term convict and, because

participants had already been paroled, it also controlled for those who may try to “fake good” to get released from prison.

To represent past behaviors acceptable by society and the workplace, a population of employees rated as “ideal” by their supervisors was chosen. Participants had to have been on the job for at least one year and rated as superior in the four targeted areas (integrity, substance abuse, reliability, and work ethic).

A questionnaire was created containing items with high content and face validity to be administered to the two populations. It was determined that since past studies using items originally appearing on the CPI, MMPI, and 16PF resulted in lower reliability scores, such items would not be used in this study. Instead, items were designed asking the opinions of the participants about different issues pertinent to the targeted areas. A Distortion scale was also added to help detect “faking-good,” or answering in such a way as to over-represent one’s capability for “model” behavior.

Arrangements were made with the Texas Department of Criminal Justice Institutional Division to administer the new instrument to over 200 convicted criminals as they were released from prison. Age, ethnicity, sex, and offense information was gathered for EEOC purposes. Their offenses grouped generally as 50% theft, 35% substance abuse, 5% other (kidnapping, murder, weapons offenses, etc.), and 10% unknown. At the same time, arrangements were made to administer the exact

same instrument to current employees of a major retailer. This population comprised over 400 employees.

As with the parolee sample, age, ethnicity, and sex information for the current employee sample was gathered for EEOC purposes. Once all instruments from both populations were received, the data were forwarded to Dr. Earl McCallon and Dr. Randy Schumacker at the University of North Texas. They were instructed to complete a Construct and Concurrent Validation Study in tandem with Reliability, Adverse Impact, and Standardization Studies.

Study Results

As previously stated, personality-based honesty tests are broader in focus (Sackett et al., 1989) and report less reliable internal consistency coefficients while overt honesty tests such as Stanton, Reid Report, Personnel Selection Inventory, Wilkerson Audit, Phase II, and others consistently result in high internal consistency reliability. The Step One Survey[®] internal consistency reliability estimates calculated for each scale ranged from .84 to .87, comparable to overt honesty tests.

The Step One Survey also successfully differentiated between the two groups. Using a nine-point stanine scale in which a score of one is low and a score of nine is high, over half of the parolees scored one on the Integrity scale. On the other three scales, 40% of parolees scored three or less. Over 75% of the employee group scored four or higher on all scales. Table 1.1 illustrates these results.

Table 1.1

Distribution of SOS-O stanine scores for norm group and parolee group.

Stanine	Integrity		Substance Abuse		Reliability		Work Ethic	
	Norming Group	Parolees	Norming Group	Parolees	Norming Group	Parolees	Norming Group	Parolees
	Cumulative %		Cumulative %		Cumulative %		Cumulative %	
1	4.4	53.3	4.4	4.8	3.9	6.7	4.4	18.1
2	10.5	68.1	10.2	12.9	9.2	23.8	9.2	30.0
3	19.7	77.6	21.4	40.5	19.5	41.4	20.7	41.0
4	39.4	90.0	38.9	65.7	38.9	67.6	37.2	63.3
5	56.7	95.2	57.2	76.2	55.5	79.5	59.1	81.4
6	75.7	97.6	73.7	82.4	77.1	92.4	76.9	90.0
7	86.9	98.1	85.9	90.0	89.1	95.2	89.3	94.8
8	90.8	98.6	94.9	97.1	95.1	97.6	95.4	97.6
9	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Design of the Final Instrument

To accomplish the purposes of the Step One Survey[®], it was decided to divide the instrument into two sections. The first section had 45 items and sought information on self-reported behaviors and direct admissions while the second section of 80 items focused upon behaviorally-based attitudes. Together they combined self-admission questions, interview questions, personality-based questions, and distortion questions. Because the sections complimented each other, it was important for the user to consider the results from both sections in the decision-making process.

Section I of the Original SOS-O Test Booklet

One of the most useful groups of items included in overt honesty tests are those that ask for the applicant to self-report on past behavior(s). These are referred to as admissions questions. A second concept included on many personality-based honesty tests is the use of interview questions. Because the purpose of the Step One Survey was to help the interviewer in the investigative hiring process, a decision was made to mix these two types of questions into a separate section to precede the psychometric items. Identified as Section I, it consisted of 45 items appearing on the final instrument.

Examples:

SOS-O Question: When did you start work at your current (or last) position?

- A. 0 - 2 months ago
- B. 3 - 5 months ago
- C. 6 - 11 months ago
- D. 1-3 years ago
- E. Over 3 years ago
- F. This will be my first job

SOS-O Question: Have you ever filed a medical claim even though you knew you were not sick or injured?

- A. Yes
- B. Can't remember
- C. No

Since the purpose of the Step One Survey® was to furnish the interviewer with more information in order to make a better quality decision, the report gave suggested verbal interview questions based on the answers to the items in Section I.

Section II of the Original SOS-O Test Booklet

Section II contained 80 items. It measured behaviorally-based attitudes towards Integrity, Substance Abuse, Reliability, and Work Ethic. Since this can be defined as the psychometric portion of the Step One Survey, it was logical to conduct validation and reliability studies and these were completed at the University of North Texas.

Examples of these attitude-measuring items include:

- A. Sloppy company security causes some people to steal.
- B. A person doesn't have a drug problem if all he/she does is smoke illegal substances on weekends.
- C. If you have a good excuse, it's okay not to show up to work.
- D. Loyalty to a company is a thing of the past.

Applicants taking the test would mark their agreement or disagreement for each item, the accumulation of which generated raw scores for analysis by the test engine.

Distortion Scale of the Original SOS-O

Because the final instrument was designed to be used with job applicants, it was important to include some way to determine if the applicant was revealing his or her true feelings and not what he or she considered the "correct" answer. Therefore, a scale labeled Distortion was incorporated throughout the instrument.

If the applicant responded positively to a majority of items on this scale, the accumulated results could be considered an indication of the applicant's intention to demonstrate a higher than realistic impression of a virtuous (and by implication, idealistic) demeanor. This impression is often referred to as "looking good," which implies an effort on the applicant's part to express a "perfect" image on the test. This Distortion scale also

looked for inconsistencies in the applicant's response pattern.

The Distortion scale was designed to detect obvious untruths and/or inconsistencies in the applicant's responses on Section II of the survey. If the score obtained on this scale suggested a distortion problem, the user was asked to weigh carefully the accuracy of the applicant's responses.

The Step One Survey[®] Today

Now that the background that deals with the original version of the Step One Survey[®] has been reviewed, a comprehensive study of the SOS is appropriate. The decisions that lead to the development of the original SOS have influenced the priorities involved in the development of the SOS and shall be referred to often in Chapter 2 of this Research Report.

Before that begins, however, a few more discussion points have been addressed that apply to both the original and the current versions of the Step One Survey.

Discussion

There may be a question as to why parolees were used as one of the contrasting groups because they are a subgroup that may not actually represent applicants seen by employers. Another concern might be that all the Step One Survey does is segregate and isolate this subgroup from "normal" applicants, not discerning who

will steal from the employer if hired. Some thoughts on these issues follow:

Parolees were chosen to represent a group of individuals whose past behavior(s) indicate patterns of thinking unacceptable by society or in the workplace, by virtue of their criminal records. Even those asking the questions would agree that in all probability there are numerous individuals in our society who have not been convicted or gone to prison even though they think in the same anti-social patterns. Unfortunately, there is no way to differentiate these applicants from those with so-called “normal” attitudes since the interviewer cannot tell which applicants think in these unacceptable patterns. Therefore, using a group known to have these types of attitudes establishes a needed baseline for comparison. Using the parolees’ group scores as a baseline does not keep an individual parolee, who does not think in these unacceptable patterns, from obtaining a high score on any of the Step One Survey® scales. We are dealing with trends of behavior here and the idea is to differentiate between the trends for two contrasting groups of assessment-takers.

It was not the intended purpose of the Step One Survey to make an absolute judgment about applicants who will steal if hired by the user-company. No honesty test instrument can make that claim. In fact, no one can be totally accurate about

what another person will do in any given situation because no one can tell what another person is truly feeling or thinking at any given time. The purpose of the SOS-O (and its successor the SOS) is to help the interviewer by furnishing valuable information as to how an applicant thinks in four targeted areas. Test results are only a part of the hiring decision. There are no cut-off scores and no pass-fail scores. The final decision, after reviewing test results, remains with the interviewer.

It is suggested that the user weigh test results as only one-third (33%) of the decision process. The balance is suggested to be evenly divided between history (resume, references, background checks, physicals, etc.) and interview results. This combination gives the user a balanced and comprehensive view of the applicant.

Chapter 2: Current Psychometric Properties of the SOS

Current Norm Sample

Data from the total population of 236,666 working adults who have taken the SOS in its current form were collected between April 1st 2017 thru June 30th 2020. The statistical analyses of these data are presented here.

Table 2.1.

SOS current norm sample distribution (N=236,666)

Gender	Frequency	Percent
Male	129,421	54.7
Female	90,663	38.3
Transgender Female	19	0
Transgender Male	18	0
Non-binary/Third Gender	9	0
Prefer not to identify	110	0
Prefer to self-describe	8	0
Missing	16,418	6.9
Ethnicity	Frequency	Percent
Asian or Pacific Islander	3,445	1.5
Black (not of Hispanic origin)	26,520	11.2
Hispanic	12,173	5.1
White (not of Hispanic origin)	61,989	26.2
American Indian or Alaskan Native	1,113	0.5
Other	3,441	1.5
Missing	127,985	54.1
Age Range	Frequency	Percent
0 - 39	68,017	28.7
40+	21,654	9.1
Missing	146,995	62.1

Descriptive Statistics

Table 2.2

SOS attitude scale raw score descriptive statistics (N=236,666)

	Minimum	Maximum	Mean	Std. Error	Std. Deviation
Integrity	23	75	71.4	.008	4.0
Substance Abuse	27.5	75	70.8	.008	4.1
Reliability	35	95	82.8	.014	6.9
Work Ethic	37	105	93.7	.016	7.6

Description of Statistical Methodology

First, Cronbach’s Alpha internal consistency coefficients were computed to assess the reliability of each scale, which are shown in Table 2.3.

Table 2.3
Alpha coefficients for SOS scales

SOS Scale	Cronbach's Alpha
Integrity	.812
Substance Abuse	.725
Reliability	.766
Work Ethic	.795

The second series of analyses consisted of impact studies for the age, ethnicity, and gender variables. These procedures were performed on each scale on the SOS instrument with our norming sample.

Once the above analyses had been performed, norms were calculated using our sample of currently employed individuals in the workforce. Raw scores were converted to stanine scores. The parolee group’s performance was then determined and compared to the norming sample. It was hypothesized that the relative performance of the parolee group would be lower than that of the norming group.

Statistical Results

Table 2.4 presents the results of comparing average raw scores for male and female subjects in the norming

sample on each of the four scales. Cohen's *d* effect size analysis for the differences between Male and Female raw scores was conducted for each of the four scales, to determine the level of difference between them in a practical sense. Cohen (1988) tells us that a Cohen's *d* value between 0.0 - 0.2 indicates no practical effect of the difference in the two means being compared between the genders. As shown in Table 2.4, Cohen's *d* ranges between .071 and .131, indicating no practical difference in the average scores between the two groups on any of the four scales. This is apparent even at a glance, as the mean raw scores for Males and Females are within 1 raw score point out of a possible 75 - 105 raw score points for each scale.

Table 2.4

Raw score comparison by gender for norming group

Scale/Gender	N	Mean	SD	Cohen's <i>d</i>
Integrity				
Male	129,421	71.3	4.0	.131
Female	90,663	71.8	3.6	
Substance Abuse				
Male	129,421	70.8	4.1	.076
Female	90,663	71.1	3.8	
Reliability				
Male	129,421	82.6	7.0	.150
Female	90,663	83.6	6.3	
Work Ethic				
Male	129,421	93.9	7.3	.071
Female	90,663	94.4	6.8	

Table 2.5 presents an analysis of average raw score differences between four ethnic groups in the norming sample. These were the only groups with sufficient representation in the sample for statistical analysis purposes. The analyses indicated no practical differences among the groups on the four scales. This is indicated by small values of eta squared (η^2), an effect size analysis for the difference between ethnicity groups' raw scores on the four scales. Cohen (1988) suggests that eta squared values between .000 - .010 indicate no practical effect of the difference in the means being compared among the ethnicity groups and .010 - .039 as a small effect. Therefore, the differences in raw scores means between ethnicity groups are practically non-existent to very small, ranging within 1 - 5 raw scores points of each other out of a possible 75 - 105 raw score points for each scale.

Table 2.5*Raw score comparison by ethnicity for norming group*

Scale/Ethnicity	N	Mean	SD	η^2
Integrity				
White (not of Hispanic origin)	61,989	71.6	3.6	.008
Black (not of Hispanic origin)	26,520	71.1	4.3	
Hispanic	12,173	71.1	4.0	
Asian or Pacific Islander	3,445	70.0	5.0	
Substance Abuse				
White (not of Hispanic origin)	61,989	71.3	3.6	.019
Black (not of Hispanic origin)	26,520	70.3	4.4	
Hispanic	12,173	70.3	4.2	
Asian or Pacific Islander	3,445	69.4	4.9	
Reliability				
White (not of Hispanic origin)	61,989	83.9	5.7	.025
Black (not of Hispanic origin)	26,520	82.5	7.1	
Hispanic	12,173	82.1	6.7	
Asian or Pacific Islander	3,445	79.5	7.7	
Work Ethic				
White (not of Hispanic origin)	61,989	94.6	6.5	.021
Black (not of Hispanic origin)	26,520	93.8	7.4	
Hispanic	12,173	93.0	7.3	
Asian or Pacific Islander	3,445	89.5	9.0	

Table 2.6 presents the results of an analysis of average scale scores by two age groups, 0 - 39, and 40+ years old. Cohen (1988) tells us that a Cohen's *d* value between 0.0 - 0.2 indicates no practical effect of the difference in the two means being compared between the age groups. As shown in Table 2.6, Cohen's *d* ranges between .076 and .160, indicating no practical difference in the average scores between the two groups on any of the four scales. This is apparent even at a glance, as the mean raw scores for the 0 - 39 years old and 40+ years old groups are within 1 raw score point out of a possible 75 - 105 raw score points for each scale.

Table 2.6

Raw score comparison by age range for norming group

Scale/Age Range	N	Mean	SD	Cohen's <i>d</i>
Integrity				
0 - 39	68,017	71.4	3.9	.101
40+	21,654	71.0	4.0	
Substance Abuse				
0 - 39	68,017	70.7	4.2	.076
40+	21,654	71.0	3.7	
Reliability				
0 - 39	68,017	82.9	6.6	.097
40+	21,654	83.5	5.8	
Work Ethic				
0 - 39	68,017	93.6	7.3	.160
40+	21,654	94.7	6.4	

The Distortion Scale

The Distortion scale of the SOS refers to the reliability of the results, not the honesty of the individual. A low score on this scale suggests that for some reason the applicant may have misrepresented their responses in the “look good” direction. This could possibly happen because of an attempt to portray a picture of how they would like to be seen, rather than an accurate picture of how they are.

When the Distortion score indicates a statistically rare response pattern, the user will be warned that results may not be valid for the individual and should not be used in the decision-making process. Even with this warning, the suggested interview questions found in the SOS report should be pursued in all cases where an individual continues to be considered for a position. When the applicant has openly admitted to a behavior, the discussion of that behavior may prove fruitful to the hiring process.

Summary

This report summarized the results of norming, reliability, validation, and impact studies for the Step One Survey II® (formerly known as the Step One Survey®). An earlier factor analysis study identified the four scales that encompass the basic constructs of the SOS. These scales were named Integrity, Substance Abuse, Reliability, and Work Ethic. The earlier study

also demonstrated the ability of the items on the scales to distinguish between a prison parolee sample and a sample of retail store candidates. Impact analyses using these scales also indicated no average score differences between gender and ethnicity groups. Significant mean differences were found among the age categories with subjects in the younger age group scoring, on average, lower on all four scales than the two older age categories.

The present study for the SOS used the original factor analysis data to identify the constructs used in this version of the test. Reliability estimates were calculated for each scale. The resulting internal consistency reliability estimates ranged from .725 to .812. Norms were then calculated using a sample of currently employed individuals in the workplace and a contrasting prison parolee group. Scores were studied using these norms. As might be expected, the parolee group scored significantly lower on all four scales.

Notes

Certain federal, state, and local laws allow some legal protections for applicants with criminal records. While federal law does not explicitly protect applicants from discrimination based on their criminal records, it does protect against discrimination based on protected categories. A blanket policy of excluding all applicants with a criminal record could screen out a disproportionate number of those in protected categories, which in turn could constitute illegal discrimination under certain circumstances.

Additionally, some state and local laws go further than the federal protections and bear more scrutiny. For example, some states have laws that forbid the use of criminal arrest history as a condition of employment.

As with many employment practices, the advice and guidance of local counsel is recommended before instituting any policy about the criminal history of any applicant.

Appendix A: Legal Opinion Letter

**NICHOLS, WOLFE, STAMPER, NALLY, FALLIS &
ROBERTSON, INC.**

ATTORNEYS-AT-LAW

OLD CITY HALL BUILDING. SUITE 400

124 EAST FOURTH STREET

TULSA, OKLAHOMA 74103-5010

(918) 584-5182

June 12, 1996

Mr. Jim Sirbasku

Profiles International, Inc.

5205 Lake Shore Drive

Waco, Texas 76710-1732

Re: The Step One Survey

Dear Mr. Sirbasku:

Pursuant to your request we have reviewed The Step One Survey ("Step One" herein) to determine if Step One violated any federal Equal Employment Opportunity laws. You asked our specific opinion on whether the questions posed, or the purpose of Step One, violated any federal Equal Employment Opportunity Laws, including Title VII of the Civil Rights Act of 1964 ("Title VII") and the Americans With Disabilities Act ("ADA"). This letter concerns the version of Step One as last revised in March 1996. That version of Step One is hereby incorporated into this letter by

reference and is considered to be an indispensable part of this letter. Our opinion is that Step One does not violate any federal Equal Employment Opportunity laws in the questions asked or in the purposes for which Step One is administered.

Step One is a paper and pencil examination to be completed by an applicant for employment with one of your client companies. Step One is divided into two (2) sections, with an applicant to complete both sections. Step One is intended to reveal a person's attitudes towards integrity, substance abuse, reliability and work ethic, and to contrast those attitudes to those of incarcerated felons.

Your clients are specifically advised that Step One is not a "pass/fail" test, and is not to be used as a "selection procedure" within the meaning of the Uniform Guidelines on Employee Selection Procedures, which means that Step One is not to be used as an exclusive basis for making an employment decision. Instead, it represents information on important attitudes of an applicant and should be considered in conjunction with all other information gathered in the application process. Any client which uses Step One as a pass/fail selection device is using Step One in a manner contrary to your instructions, and in a manner contrary to its intended purposes.

There is no general prohibition against the use of paper and pencil tests in the employment setting. Federal

law does prohibit the use of any pre-employment inquiry which is used to overtly discriminate on any basis proscribed by law, or which disproportionately screens out members of protected groups, unless such inquiries are justified by business necessity, are shown to be job-related, and no alternative which does not have a disparate impact is available. Since Step One is not to be used as the sole criterion in making a hiring decision, we see no way that it could screen out a disproportionate percentage of any protected group. Our review of Step One reveals no violation of federal Equal Employment Opportunity laws. That is:

(1) The questions in Step One reflect no obvious bias against any ethnicity, sex, religion, national origin, or age group, or against persons with a mental or physical disability. The answers to the questions on Step One will not reveal an applicant's ethnicity, sex, age, color, religion, national origin, or the existence of a disability protected by the ADA. In short, the questions, on their face, are appropriate and nondiscriminatory.

(2) The intended purposes for Step One are legitimate and nondiscriminatory. Employers have wholly legal and justifiable concern over an applicant's attitudes towards integrity, substance abuse, reliability and work ethic. Thus, the intended purposes of Step One, to determine an applicant's attitudes toward those important characteristics and to compare them with convicted felons, are appropriate and nondiscriminatory.

It is our conclusion that the use of Step One is not prohibited by Title VII, the ADA, or any other federal Equal Employment Opportunity law, and that there would be no valid claim by a rejected applicant against Profiles International simply because an employer had properly used Step One as part of its application process, and eventually rejected the applicant. However, because we cannot be assured that all of your clients will use Step One properly, we cannot warrant that no claim against an employer will ever be asserted or, if asserted, never will succeed.

We express no opinion on the accuracy or effectiveness of Step One in accurately judging the attitude of an applicant on the subjects tested. Also, while most state equal employment opportunity laws closely track federal statutes, there may be variances and thus we express no opinion concerning the compliance of Step One with the laws of the 50 states, or with the laws of any country other than the United States.

We hope this letter is a satisfactory response to your inquiry. Please contact the undersigned if you have any questions concerning this letter.

Sincerely,

Thomas D. Robertson

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