What does *THAT* have to do with being a cop?

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Physical Fitness Tests

- Gender Norms? Neutral?
- Title VII
- ADA
- Validation

Psych Exams
Veteran Preference
Language Skills
Education

HIRING

IN-SERVICE
Physical Fitness Tests

• Gender-Age Norms or Gender Neutral?
• Title VII
• ADA
• Standards of Proof
• Test Analysis
• Validation
• In-Service Officers
Title VII

• Adjusting standards or scores to accommodate age and/or gender differences violates Title VII.

• Standard with disparate impact unlawful unless consistent with business necessity and is job related.
Minimum Qualifications Test


- Plaintiffs challenged screening test requiring applicants to run 1.5 miles in 12 minutes.
**Lanning (cont.)**

- **Holding:** Business necessity requires proof that cut-off score measures minimum qualifications necessary for successful performance of job.
  - *Lanning I* rev’d; district ct. ordered to apply above test and make findings and conclusions.
  - *Lanning II:* Sufficient evidence (including expert testimony) supported conclusion that 1.5 mile/12 minute test measured minimum job qualifications for a successful transit officer.
Some POPAT Requirements include scaling walls, but...
Correlation to walls officers encounter in the field may be difficult.
Gender-Age Norms

• Test results adjusted to accommodate age and gender differences.

• Used to determine general physical fitness
Gender Neutral

- Same Job = Same Standard
- Minimal physical requirements for police officer position
Disparate Impact

- Prima facie case established by statistics showing disparate impact on protected group.
- **Defenses:**
  - Did not cause disparate impact
  - Plaintiff’s statistics wrong; offer own statistics
  - Admit disparate impact but argue job-related and business necessity
Disparate Impact: gender neutral tests


  - Holding: Physical agility test (PAT) had disparate impact on female applicants and was neither job related for position of entry-level police officer nor consistent with business necessity.
Disparate Impact (cont.)

(1) 19 officers performing standard-setting exercise did not show that PAT's 90-second passing score established minimum level necessary to perform successfully as police officer;

(2) city did not prove PAT’s 90-second cutoff score was consistent with business necessity.
Standards of Proof & Validation

• Manifest relationship
• Close Approximation
• Minimum qualification
• Public Safety

• Criterion-related
• Content
• Construct
• State Standards
Standards of Proof

• (1) Manifest Relationship Test
  – Most widely used
  – Court will uphold if test carries out legitimate business purpose

• (2) Close Approximation Test
  – Content of test correlates to job behaviors
Standards of Proof (cont.)

• (3) **Minimum Qualifications Test**
  – Used in Lanning I/strictest standard
  – Cutoff score measures minimum qualifications necessary for successful job performance

• (4) **Spurlock Public Safety Doctrine Test**
  – Test accounts for safety concerns
  – Not used since Civil Rights Act of 1991 passed
Test Validation

EEOC approves three validation tests:

(1) Criterion-Related Validity Study
   --Performance test statistically related to job performance

(2) Content Validation Study
   --Test content adequately matched to job description

(3) Construct Validity Study
   --Test measures particular job characteristic
   AND
   --Characteristic is related to job performance
Use of Experts

- Important for establishing validity of tests
- Most influential when experts trained in SIOP *Standards* and/or *Principles*
- **BEWARE**: Test users liable if test invalid, not the test creator
Job Task Analysis

- Important for supporting the validity of any tests
- Has to be done on a continuous basis to account for any changes in the job requirements
Physical Fitness and In-Service

“I do my job just fine; I can’t pass those physical tests; whatcha gonna do, fire me?” –Off. Kris Kreme
Physical Fitness In-Service

- Grandfathering
- Fitness vs. Wellness
- Mandatory vs. Voluntary
- Military Model
- Discipline issues & impacts

ADA; age discrimination; ADA accommodations for new hires based on accommodations for veterans
Educational Requirements

• What does a degree mean really?
• Does a degree requirement measure or accurately predict the performance the agency wants?
• What about cognitive, reading and writing tests?
Language Skills

• Measurement?

• Use in field?

• Hiring preference vs. compensation adjustment program
Veteran Preference

Legal, but…

Does Deployment = Successful Employment
Psychological Examinations

• State - mandated
• What is tested?
• Is test culturally or racially biased?