

Privacy Issues and Handwriting Analysis in Personnel Selection

By Sheila Lowe

The U.S. Department of Justice reports that in 2004, more than 500 workplace homicides occurred—an incredible number when one realizes that it represents about 10% of the total on-the-job deaths for that year. We hear in the media on an almost-daily basis about cases of disgruntled employees, or former employees, bringing weapons to the workplace and venting their lethal anger and frustration on supervisors and others.

Whether violent or not, a bad employee, once hired, is very difficult to get rid of. Some sources claim that the cost of replacing an hourly wage worker is as much as 75% of their annual wage. The costs of replacing a salaried employee is far greater—*double* their salary—150%! With costs like these, along with the sharp increase in workplace violence over the past few years, hiring and retaining the best employees from the outset becomes more urgent than ever before, and a growing number of employers and business owners are searching for reliable, legal ways to protect themselves and their staff.

One tool that many employers are turning to is handwriting analysis, or graphology (the generic term). A practice that has been around for more than a century, handwriting analysis is used in personnel selection by companies the world over. Researched and validated in the universities of Europe and the U.S., it has proven effective in a wide range of businesses in helping employers to avoid security risks and build a better staff.

Like body language, tone of voice, and facial expression, handwriting has been shown to be an expressive gesture that reveals information about the writer. As the trail of ink leaves the pen, it produces a frozen picture of personality that demonstrates past behavior and attitudes. While an applicant may be able to alter his body language or facial expression to make a better impression in the interview, his handwriting reveals the truth.

Certainly, handwriting cannot tell *everything* about the writer – personality is far too complex for that. But it can furnish the important fundamental information about an applicant's potentials and strengths that employers need to know. Analysts claim to reliably be able to determine whether an applicant is likely to be dependable, a team player, willing to take direction, well-organized, a self-starter. Or, on the other side of the coin, whether one who at first looks like the perfect employee is actually lazy, aggressive, quick-tempered, a retention risk, resistant to training and a troublemaker.

What about right to privacy?

One of the main issues raised in using handwriting analysis as a tool for screening a job applicant is the right to privacy. Some applicants feel that their handwriting is a private matter and for an employer to provide that handwriting to a professional analyst for analysis violates that right.

Several cases have arisen in the criminal context which deal with the right to privacy in the United States. For example, a person has no right to privacy for their likeness. That is, if a person walks down the street and their picture is taken, that action does not violate their right to privacy. This fact has received much fanfare of late with the paparazzi photographers who go to great lengths to obtain celebrity photographs.

Similarly, the sound of a person's voice is not protected. Although wire tapping and recording may be illegal if done over the telephone, recording the sound of a person's voice is not a violation of that person's right to privacy so long as the forum in which they use that voice is not intended to be private.

A person with an open living room bay window has no expectation of privacy with contents which were visible through that window inside their home. However, if that same person pulled the drapes and took reasonable steps to make sure that there were no spaces through which the interior contents of the dining room could be seen, a privacy right attaches. This "reasonable attempt" approach can be applied to analysis of handwriting samples.

An employer may ask an applicant to fill out an application in their own handwriting. There is no expectation of privacy from the applicant because the applicant believes that the application will be read by several people. Therefore, the actual physical appearance of the handwriting is not protected.

The U.S. Supreme Court is often quoted in several decisions regarding handwriting and privacy, one of which is the *United States v. Mara* 410 U.S. 19, 41 LW 4185 (1973). The court stated: "Handwriting, like speech, is repeatedly shown to the public and there is no more expectation of privacy in the physical characteristics of a person's script than there is in the tone of his voice."

Among the personal information that handwriting cannot conclusively reveal is age, gender, sexual orientation, race, nationality or religion—all protected areas. And, because the analyst rarely meets the person whose handwriting

ing is being analyzed, and no protected information is required for the analysis, the resulting report is unbiased and objective. A code number may even be substituted for a name to add another layer of privacy.

The competent handwriting professional will request from the client a good job description. Armed with pertinent information about job duties, the type of personality traits required to do the job effectively, and whether or not there will be supervisory duties, the analyst can report on the specific personality traits that are required for the job at hand. The report would not, for instance, discuss the writer's sex life, *unless that information were directly related to the job*. For example, if the applicant were seeking a job working in a school, but his handwriting revealed characteristics that have been consistently found in the handwritings of sexual offenders, the handwriting analyst would be obligated to report those findings to the client.

Other tips for staying legal

To remain cost-effective, most employers request an analysis only of the top one or two candidates for a position. In order to avoid claims of discrimination, however, it is wise to obtain a handwriting sample from all applicants, regardless of whether their handwriting will ultimately be analyzed or not.

The final report should go directly and only to the person(s) in the company who have a *need to know*. While this was a challenge when reports were faxed, it is relatively easy these days, as most people have Email and the report can be sent to their private address.

Obtaining the handwriting sample

The best sample is written on unlined 8 ½ x 11 paper and signed. Content is unimportant, although it should be original thought in essay form, rather than copied. Sometimes, an employer will ask the applicant to provide written answers to such neutral questions as, *why do you want to work for this company? What do you feel a manager owes his/her people? What are your greatest accomplishments?*

Although it is not legally required by the Privacy Act to inform the applicant that his or her handwriting will be analyzed, it is usually a good idea to be up-front about this. By providing the applicant with a form that bears the statement, "You will not be denied employment solely on the findings of the handwriting analysis," the employer obtains tacit consent to collect and analyze the applicant's handwriting.

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