

# Lies, True Lies, and Conscious Deception

## Police Officers and the Truth

Geoffrey P. Alpert

*University of South Carolina*

Jeffrey J. Noble, Esq.

*Irvine, California Police Department*

Police officers often tell lies; they act in ways that are deceptive, they manipulative people and situations, they coerce citizens, and are dishonest. They are taught, encouraged, and often rewarded for their deceptive practices. Officers often lie to suspects about witnesses and evidence, and they are deceitful when attempting to learn about criminal activity. Most of these actions are sanctioned, legal, and expected. Although they are allowed to be dishonest in certain circumstances, they are also required to be trustworthy, honest, and maintain the highest level of integrity. The purpose of this article is to explore situations when officers can be dishonest, some reasons that help us understand the dishonesty, and circumstances where lies may lead to unintended consequences such as false confessions. The authors conclude with a discussion of how police agencies can manage the lies that officers tell and the consequences for the officers, organizations, and the criminal justice system.

**Keywords:** *police deception; lies; investigations; ethics*

To perform their job effectively, police officers lie. They use deception, manipulation, and coercion to obtain important information from suspects. Police officers often tell those suspected of committing crimes that they possess physical evidence implicating the suspect when no such evidence exists. Officers tell suspects that they have witnesses who have identified or implicated the suspect when the witness either does not exist or when the witness never made any such statement. Officers will tell suspects that some type of lie-detecting technology such as a polygraph or voice stress analyzer has conclusively shown that the suspect was lying when the officer knows that the technology does not exist, does not work, did not indicate deception, or was inconclusive. Police officers will deceive by omission, conceal their identity, and even deny that they are police officers while attempting to gain evidence of the criminal actions of another. They will work to create a perception of safety in their communities knowing full well that dangerous crime exists. Indeed, officers engage in a wide range of deception limited only by their imaginations. Although some of these deceptive practices may be excusable or justifiable,

others may create ethical concerns and some are beyond the bounds of the law or ethical policing.

The police are allowed to be deceptive in certain circumstances, but they are also required to be trustworthy, honest, and maintain the highest level of integrity. Police officers are held to a higher standard than nonpolice as they represent the government as agents of the law and the criminal justice system. Often, their word and their "honesty" is taken over that of a civilian in legal proceedings, and judges will most frequently award a "tie," a "he said, she said," or a "swearing contest" to the officer. For example, when an officer gives a speeding ticket to an individual who protests the speed or driving, it is rare that a judge will rule that the civilian is telling the truth and the officer is telling a lie. Although officers are expected to tell the truth, and our system of criminal justice demands, and relies on it; there are transgressions, and officers have been caught stretching the truth without incident, and courts have ruled that some lies are appropriate but others are not. The purpose of this article is to explore situations when officers can lie, some reasons that help us understand the explanations given for the appropriateness and justification of the lies, and areas where lies may be lawful but may lead to unintended consequences such as false confessions. Our focus is on lies told during interrogations as well as administrative lies. We conclude with a discussion of how police agencies can manage the lies that officers tell and the consequences for the officers, organizations, and the criminal justice system.

In 1991, Hunt and Manning wrote, "Police, like many people in official capacities lie" (p. 51). Their insightful article informed us that lying is a valuable way for the police to manipulate people and situations, and officers are rewarded for their dishonesty: "Lying is a sanctioned practice" (p. 52). Beyond the police, it has been argued that deception in the workplace is functional and normal (Shulman, 2006), and that our criminal justice system is based on lies and untruths, and officials, including judges, looking the other way when the truth is inconvenient (Dershowitz, 1996, 1998). In his testimony to Congress, and his analysis of the O. J. Simpson trial, Dershowitz (1996, 1998) examined the work of police officers, defense attorneys, and prosecutors and concluded that all parties encourage or tolerate lying throughout the criminal process. His comments about the civil justice process are just as condemning. Although his "proof" may not be perfect, his arguments are compelling, and his comments about the lack of truthfulness and veracity ring true and raise enough issues and questions that they must be taken seriously. Although Dershowitz (1996, 1998) attacks our systems of justice, our focus in this article is on one aspect of justice: the police. In a law enforcement profession where officer credibility is critical, and agencies need to include some policy statement prohibiting lying (see Noble, 2003; Noble & Alpert, 2009), it is amazing that the practice not only continues but also flourishes.

As necessary and straightforward as the prohibition seems, there are underlying complexities that make it difficult if not impossible to manage and enforce. Lies are

not a fixed target. Deception exists on a continuum, from what is commonly called social lies or little white lies, where no consequences follow, to egregious misconduct that warrants dismissal or prosecution. Police administrators are faced with concerns at almost all points of the continuum. Lies during the interrogation process, although lawful, may present ethical challenges. Malicious lies require the fortitude to remove the officer from the organization. But the true challenge is deciding how to deal with deceptive conduct that falls in the middle of the continuum—not so egregious that termination is the only solution yet not far enough toward justifiable or excusable that the behavior can be ignored.

### **What Is Lying?**

A *lie* is any intentionally deceptive message communicated either verbally or in writing. Lying is a subset of the larger category of deception. Deception consists of any intention to trick others by communicating messages meant to mislead and to make the recipients believe what the agent (the person performing or committing the act) either knows or believes to be untrue. Deception involves more than spoken or written statements. It includes any intentional conduct that conveys a message to the listener—including omissions. For example, physical expressions such as a shoulder shrug, eye movement, or silence can be deceptive (Bok, 1999). Lies can be made by an individual officer, which is the focus of this article, or encouraged by organizations. Police departments encourage lying by permitting it to exist or promoting it. For example, if a call comes out at the end of an officer's shift and an officer informs dispatch that he or she is busy because he or she does not want to handle the call that will continue way past the shift change, the officer's lie is a burden on other officers and inappropriate. However, the managers may condone the behavior as they do not want to have to pay overtime to the officer.

More troubling than looking the other way at deceptive conduct that helps the organization maintain its budget, yet creates no harm to the community, are organizational tolerances and implicit support of individual officer lies that promote the organization. Consider officers who fail to take crime reports. After determining no insurance claim will be filed, these officers may convince a victim not to formally report a crime, suggesting that there is little likelihood that the offender will be identified or that the property will be recovered. Other officers may create the impression that they are documenting the crime but have no intention of actually completing the report. In both instances, the officers are motivated by laziness or incompetence. The actions of the officer who looks as if he or she is documenting the incident may appease the victim, but the result is the same. First, the lower numbers allow the organization to create an impression of addressing crime effectively. Second, these same numbers harm the community by creating a false picture of the nature and extent of crime.

Officers who lie as individuals often influence the organizational customs and culture, which include distrust and suspiciousness of citizens, and a strong loyalty to

fellow officers. Thus, police culture can best be illustrated by the linkages among values, traditions, and corporate strategy. Each of these components can explain the importance of deception and lying by police officers—to protect themselves and band together against the criminals. As the organization learns to accept the behavior, the culture of the department becomes accustomed to lying, and the longer it continues, the harder it is to end (see Crank, 2004). The issues of organizational meekness or encouragement are important and can influence the culture of the agency and individual officer deception. These types of deception come in many forms, and their range can be best understood on a continuum of intent.

## Deception Continuum

Deceptive conduct by the police is easier to assess when it is illustrated on a continuum. At one end of the continuum are the types of lies that may be considered acceptable. That end of the continuum contains excusable lies (lies made in jest or socially acceptable lies) and justifiable lies (lies that may be defensible based on the circumstances). The other end of the continuum contains intentional, malicious, and deceptive conduct that will take one of three forms:

- Deceptive action in a formal setting, such as testifying in court or during a an investigation;
- Failure to bring forward information involving criminal action by other officers, also known as observing the so-called code of silence; and
- Creation of false evidence that tends to implicate another in a criminal act.

Intentional, malicious, and deceptive conduct in any of these three areas will permanently destroy an officer's credibility. If an officer violates these standards, there should be no alternative in an employment context other than termination or permanent removal from any possible activity that requires a reliable truthful person.

Conduct that reveals an abuse of an officer's discretion is similarly placed at the unacceptable end of the continuum. Police officers have a wide range of discretionary decision-making power that is necessary to maintaining an effective and efficient police force. The concern is not that officers are entrusted with various powers; indeed, we entrust officers with an incredible amount of power to detain, search, and arrest, all without the approval of a magistrate. But the alarm sounds when officers abuse their powers in a capricious, arbitrary, and unfair manner. When officers inappropriately use deception to target a person or group, it is an abuse of power that requires serious attention from administrators.

The center of the continuum contains a wide range of lies and deceptive practices that may be acceptable or unacceptable depending on the circumstances. These middle continuum deceptive practices are more difficult to assess. Frequently, these middle continuum deception involve what may be termed "administrative lies." *Administrative*

*lies* are intentional acts of deception aimed to prevent some type of employment action rather than acts related to the officer's power as a police officer. For example, an officer may lie about completing a report or performing a minor task. Although such a transgression is not appropriate, it may or may not warrant the termination of the officer. Other examples become apparent when officers complete a variety of reports, including "use-of-force" or "response to suspect resistance" forms. Although it is well known that some officers use unnecessary and excessive force, it is unlikely that officers report that level of force on an official form (Alpert & Dunham, 2004). Furthermore, officers are not likely to admit they have been drinking on duty or fail to wear seatbelts (Kim, 1999). These omissions, incomplete reports, untruths, or lies are likely more prevalent than one would like to believe and may involve a wide variety of activities.

## **Acceptable Conduct**

### **Excusable Lies**

Excusable lies are acts of deception where there is no intent of harm and little likelihood that harm will actually occur. These acts encompass jokes, "white" lies, minor embellishments, and exaggerations. These acts are such common practice in human communication that deceptive conduct would be impossible to prevent entirely by any rule, law, policy, or manner of enforcement (Nyberg, 1993). From the social kindness of white lies to embellishments, exaggerations, and boastful behavior, the truth is concealed for a variety of reasons. The fact that we condone these activities is evident in the fact that we teach our children the art of deception at an early age (Bronson, 2008). Children learn from their parents, friends, television, books, and other sources how to deceive. They learn how to maintain a poker face, so they do not reveal information that could help observers. Young athletes learn skills necessary to survive, including a bluff, a deceptive move, a fake throw, or a way to disguise a change in direction with a head or body fake.

Deception concerning trivial matters, often told to spare another's feelings, may also be excusable. These white lies are meant not for any personal gain but rather for social courtesy. Not every social situation calls for the whole truth. How do I look? What do you think? and What a cute baby? Sometimes benign statements or tactful silence are the most appropriate responses to some situations.

Lies made in jest, although sometimes callous and hurtful, do not affect an officer's credibility unless they are in such bad taste that they call into question the person's judgment in general. Officers frequently embellish and exaggerate the misfortunes of others in conversations with each other. A sense of humor, even where some deception is involved, helps responsible people cope with stress and grim circumstances (see Davis, 1995). Although deceptive humor is sometimes an

acceptable practice, it is not a shield to the disciplinary process. When jokes become malicious lies that intentionally harm others, they must be investigated and if found harmful, discipline must be imposed. Police managers should not strive to create such a sterile workplace that humor is forbidden; they would succeed only in making themselves objects of derision and ridicule. Police leaders should seek to establish and enforce reasonable standards.

## Justifiable Lies

Police officers frequently engage in deceptive conduct to perform their duties. Officers perform secretly in undercover operations seeking to gain evidence on the targets of their investigations. While undercover, they may lie about their identity, their past acts, or their plans of criminal activity. Police officers use unmarked cars and some police agencies have even created fake silhouettes of police cars to deceive motorists into decreasing their speed. Police departments around the country have embraced the *Broken Windows* theory that by addressing quality of life crimes, they can create a perception of safety and thereby actually decrease crime (Kelling & Coles, 1996). Although an effective deterrent that many studies have shown may actually reduce more serious crime, it is nonetheless deceptive in that community members may believe that certain areas are safe based on their individualized perception, created deceptively by the police, only to be victimized by the area's reality.

But perhaps most interesting, and ethically difficult, is that officers routinely lie to those suspected of committing crimes during interrogations in an attempt to elicit the truth. These acts of manipulation and deception are not only taught and encouraged but also they are lawful and permitted by the courts. Inasmuch as these acts of deception are lawful, they fall on the acceptable side of the continuum. There is, however, a legitimate concern that certain types of deceptive practices may cause an innocent person to falsely confess, that by accepting some types of deceptive practices as legitimate that the police may fashion a belief that all deception is acceptable, and a public perception that police officers are not trustworthy (Crank, 2004).

The courts have held that trickery and deceit may be used by the police to elicit a confession as long as their actions do not "shock the conscience" of the court, or be the type of action that would induce an innocent person to confess (Inbau, Reid, Buckley, & Jayne, 2004). Such a holding is reasonable in that it is counterintuitive that anyone other someone who had been physically tortured or who is mentally ill would confess to a crime that they did not commit (Leo, 2008). After all, why else would someone confess to a crime and subject themselves to a criminal record, fine, imprisonment, or even the death penalty? Yet with the advent of DNA testing in the mid-1990s, there have been more than 50 documented cases of wrongful conviction based on the confession of an innocent person who was neither tortured nor mentally ill (Innocence Project, 2008).

The use of torture or deprivation has given way to modern interrogation techniques that rely on psychological coercive methods. The modern officer will isolate the suspect and attempt to persuade him that there is no alternative other than to confess, that the officer wants to help, and that the suspect would be better off by confessing—none of which is true (Leo, 2008). These techniques are thought to be a necessary part of policing to overcome a suspect's will not to incriminate himself or herself. These techniques are very effective, but they have also led to at least some false confessions by persuasion of a person who has no memory of the crime, or coercion by the use of promises or threats. This type of psychological coercion appears to have its greatest impact on the highly suggestible or compliant individuals, such as the mentally retarded or cognitively impaired, juveniles, or the mentally ill (Leo, 2008).

The key to determining if the confession was voluntary and valid lies in the words of the interrogator and the words of the suspect. By reviewing the actual statements, one can determine if the interrogator was overly suggestive, whether the suspect or the interrogator actually voiced the corroborating information, and whether any promises or threats were made.

## **Unacceptable Conduct**

### **Malicious Lies**

Although lies justified by necessity, lies told in jest, and white lies may be acceptable forms of deception in law enforcement, malicious lies are not. Malice on the part of the communicator includes both lies told for personal gain and lies that exceed the limits of legitimacy. The problem of police falsification was so common that the Mollen commission (Mollen, 1994) created a new word, "testilying," to explain the problem (see Capers, 2008). For example, a police officer may be tempted to testify falsely to imprison a criminal. The public might approve of the officer's intention to remove a criminal from society, and the officer may validate his or her behavior by believing that he or she is engaging in a greater good. In this case, the ends are justified by the means. Carl Klockars (1980) referred to this dilemma as the Dirty Harry problem, and asked rhetorically "when and to what extent does the morally good end warrant or justify an ethically, politically, or legally dangerous means to its achievement?" (p. 34).

Similarly, presenting false evidence intended to harm a suspect or engaging in the so-called "code of silence" where an officer fails to come forward with information on the serious misconduct of another officer is intentional malicious misconduct. Not only is this conduct an affront to the values of policing but also under the *Brady v. Maryland* (1963) decision, that requires the police department to disclose these dishonest acts of officers, the officer would be rendered useless as a witness. In these

instances, there is no alternative other than to terminate an officer who has breached his or her trust to the organization and to the community.

It is important to understand that motive or intentions can be mixed, so that a person may deceive to pursue some worthwhile utilitarian goal (such as public safety) and at the same time have a malicious disregard for the rights of the suspect and for the laws, policies, and limits that apply to policing. This willingness to betray basic principles of honesty attacks the very public safety that the person believes himself or herself to be pursuing. A police officer who by malicious disregard goes beyond the limits of legitimacy is a threat to the public safety. He or she could be capable of violating anybody's rights—poisoning the idea of public safety.

### **Abuse of Discretion**

Police officers abuse their power when they engage in certain types of deception. Officers similarly abuse their power when they inappropriately abuse their discretion. The nature of police work demands that a significant level of discretionary decision making be placed in the hands of what are most often the least trained and the least seasoned officers in the organization. These officers, unlike professionals in other fields, typically work by themselves in a field environment where access to a supervisor is limited and seldom immediately available. Yet these officers routinely make decisions that have a tremendous impact on an individual's personal liberties. The officer has the discretion to decide to detain, arrest, and/or use force to gain compliance.

Discretionary decision making is an inherent part of police work. There is simply no reasonable alternative to granting significant discretionary abilities to police officers. It would be neither practical nor prudent to attempt to establish a policy or procedure to address every possible situation that an officer may face. Police officers are expected to properly assess situations and to exercise judgment as to when and how they should use their power. The ability to make responsible choices based on training and experience is the distinguishing feature that makes a police officer a professional.

Every day hundreds of thousands of police officers make decisions that affect a vast number of people. For the most part, these decisions are made with care and are appropriate for the situation facing the officer. Police managers are also aware that some officers will make mistakes and others will intentionally abuse their authority. Furthermore, some officers believe that if there is no rule specifying acceptable behavior for a particular situation, that they cannot be questioned on the decision-making process or the actions they take. However, this belief is simply not true. The idea of discretion is that you have choices—not that they cannot be reviewed. Discretionary decision making is indeed subject to review, and abuses of discretion may have both legal and disciplinary consequences.

When discussing discretionary decision making, there is a significant difference between mistakes and abuse of power. Mistakes in the decision-making process lead to poor conclusions. Although such decisions are improper, they can be remedied by



taking action to reverse the consequences of the decision and by providing training to an officer to increase the likelihood of more reasonable decisions and conclusions in the future. The key to determining if an officer mistakenly applied discretion is whether an officer acted in good faith and relied on reasonable criteria.

In 2004, the Baltimore Police Department engaged in a practice that illustrates the hazards of police discretion when the decision-making process is based on improper criteria. The practice, which was unofficially condoned by department leaders, encouraged officers to negotiate the release of individuals arrested for drug crimes or petty offenses if the arrestee could recover and turn in a gun to the officer (Ludwig and Cook, 2003; National Research Council, 2005). When questioned about arrestees trading guns for freedom, a department commander stated that the program's goals were a worthwhile and beneficial effort to take crime guns off the streets.

Taking guns off the streets in an attempt to reduce violent crime is certainly a worthwhile goal. But the tactics employed by the Baltimore Police Department effectively subverted the justice system by not filing criminal complaints on arrestees in cases where the arrestee was able to buy his or her freedom by producing a handgun and delivering it to the police. This type of ends-justify-the-means decision making is more than merely problematic; it undermines the ability of the community to feel that they are being treated fairly. Klockars might well think that Harry Callahan were chief of a department making those decisions!

Michael Josephson (2005) of the Josephson Institute of Ethics developed an outline of criteria to determine if an officer abused his or her authority. These criteria are useful in the analysis of abuse of discretion allegations.

### **Proper Criteria**

- officer believes that a warning will be an effective deterrent;
- the offender is apologetic or remorseful;
- seriousness of the conduct;
- mental health status;
- use of weapons, violence, or threat of violence;
- repeat offender; and
- high probability that the conduct will continue if affirmative action is not taken.

### **Improper Criteria**

- race, ethnicity, or gender;
- appearance (enforcing laws broken by unkempt individuals while ignoring similar behavior by attractive offenders);
- wealth;
- type of vehicle;
- political reasons;
- officer laziness (to avoid work, visibility, overtime, or court);

- ends-justify-the-means thinking;
- employment of offender (police officer, firefighter, judge, or city council member).

Officers who abuse their discretion by relying on improper criteria are doing so in a malicious intentional way or as a form of noble cause corruption. These officers know that their decision making is improper and their abuse of discretion and deceit is as powerful and improper as a malicious lie. The use of appropriate criteria and the avoidance of improper criteria are critical components of an officer's discretionary decision-making model. This foundation may not prevent good-faith mistakes, but good-faith efforts to make decisions on reasonable criteria will likely earn the trust of the community.

## **Middle of the Continuum Conduct**

As noted earlier, the problem for administrators is not the conduct at the ends of the continuum. Acceptable conduct requires no action and unacceptable conduct requires immediate intervention. But when conduct falls between the two extremes, decisions about discipline become more difficult. Consider the following example:

A supervisor asks an officer whether a particular report has been completed. The report itself is of very little consequence, and the question was prompted by a routine administrative action rather than any specific employee concern. The officer has not submitted the report but quickly replies that the report was submitted. The officer then immediately completes the report and turns it in before the supervisor can discover the lie.

In this example, the officer was dishonest. He was asked a direct question by a supervisor and he lied. This misconduct is neither justifiable nor excusable. The question was not posed as part of a formal process, the officer was not engaging in an action to protect another officer, and the conduct in question did not place a community member at risk.

Is the conduct sufficiently deceptive to be punished by termination? There is a strong argument for termination in this case. After all, the officer was asked a direct question by a supervisor about a work-related subject, and the officer responded untruthfully. The difficulty for managers is balancing the necessity to have officers who are beyond reproach against the fact that all officers are human beings who sometimes make mistakes. The officer's response may best be described as a spontaneous unthinking reaction to avoid a minor reprimand from a superior. Several factors should be considered in making a final determination. Is the officer remorseful? Does the officer recognize the error? Does the officer have an otherwise acceptable record with the department? and Was the underlying issue important enough to indicate potential serious consequences from the officer's behavior?

Consider this example:

A dispatcher asks an officer if he is available for a call. The officer radios that he is out of service and unavailable, when in fact he does not want to receive a call because it is near the end of his shift. Based on the officer's statement, the dispatcher assigns the calls to another officer.

As in the last scenario, the officer's conduct is neither justifiable nor excusable. Once again, a determination must be made about whether the conduct is serious enough to warrant termination. This type of intentional deceptive misconduct, which can be termed "administrative deception," creates dilemmas for police management.

## Understanding Lies

Perhaps the number one lie in police work is "I don't recall." This is a classic case of deception by omission that can take several forms. First, officers can forget that an incident took place. Second, they can forget parts of the incident. Because of radio broadcasts, computer records, and testimony of other officers and witnesses, it is not likely that an officer will be able to forget an incident totally. However, if an officer is going to hide something, it is more likely that he or she will "strategically" lie to justify an action or to "win" a controversy. In this situation, officers may tell the truth about the incident but conveniently forget one issue that happens to be the critical part. For example, an officer who witnesses another officer use force on a resisting suspect may recall the specific events leading up to the final frame, but may not recall how the suspect received a serious injury. On one hand, the involved officer may explain in his or her report or to an internal affairs investigator that the suspect was fighting and when he or she was tackled, his or her head hit the pavement, causing serious injuries. The suspect, on the other hand, may claim that the officer slammed his or her head on the concrete by pulling his or her hair after he or she had quit resisting. Clearly, one of the parties is lying and independent witness statements will go a long way in convincing the investigators which version is likely to have happened (see Alpert & Dunham, 2004). Although it is obvious that these discrepancies exist, and we know that suspects lie to avoid responsibility and punishment, it is not as easy to figure out why officers lie, beyond the same reasons given for the suspects.

Using a theoretical approach designed to explain individual police officer's biased responses to minority citizens, we offer reasons why officers may become accustomed to deceiving citizens and lying. Our approach is based on social psychological research on social conditioning that results in the internal justification for deceit and lies (see Smith & Alpert, 2007).

## Unconscious Approval

Social psychologists have long sought to measure how and why people respond to stimuli. Specifically, cognitive theorists recognize that learning includes acquiring or reorganizing information or observations. Furthermore, the relative power of learning varies according to the degree of familiarity, success, and approval one receives from patterned responses (Brehm, Kassin, & Fein, 2002; Good & Brophy, 1990). In other words, experiences, scripts, or cognitive schema develop as shorthand for entering events into categories of memory. This process may start as simple and loosely organized experiences but can evolve into systematic and complex relationships. For example, children learn to lie from their parents and learn from the authority figures to accept lies (Bronson, 2008). Other research findings provide evidence that these schemas developed by children and adults form a mental model that plays a key role in predicting a person's responses to other individuals, places, and things in future encounters or events (Brehm et al., 2002; Bower, Black, & Turner, 1979). Once formed, persons, places, or situations that have familiar characteristics or properties will activate these cognitive schemas and result in familiar responses (Vrij, 2000). For example, it is likely that familiar behaviors or responses will be triggered when one is involved in a situation that has been successful in the past when a given response has been successful. A learned pattern of behavior is an expected response to a stressful or ambiguous situation. Once a person has identified a specific response that has been successful or "victorious," future behavioral patterns will be predicted on the previously developed schema. In other words, unless police officers who have told lies in the past with no negative consequences can "learn" to be truthful, and acquire and accumulate antideceptive attitudes and beliefs, it is likely that the deception and lies will continue and possibly grow in frequency and seriousness (DePaulo et al., 2003).

The role of stored information in decision making has been the subject of research on social cognition. The accessibility of information, its history, or the ease with which it can be recalled is a strong predictor of how people act toward others (Sherman, Judd, & Park, 1989; Tversky & Kahneman, 1973). The body of literature on social cognition suggests that responses to situations are learned behaviors that develop after repetitive activities. This learned behavior can act as organizational scripts for social memory and thus guide actions in future encounters (Noseworthy & Lott, 1984). For example, if police officers use deceptive practices and "lie" repetitively with nonnegative results, they will likely develop cognitive scripts that link deception and success. If officers are taught to be deceptive in one aspect of their work, it makes sense that when possible, the success will be transferred to other aspects of work (DePaulo et al., 2003). Over a period of time, it is likely that the police will process new situations through the filter of existing schemas and successes that become easier to recall because of the large number of times the use of deception and lying is successful and easy to do. On a more practical level, many

recruits who enter police work wanting to be honest learn to lie in the academy, observe their training officers make changes in reports, reduce the seriousness of crime statistics in certain areas, and augment the information of warrants (Hunt & Manning, 1991). Finally, many of these same young officers begin to mirror the experiences of their mentors. In other words, they learn to lie, are not sanctioned for it, and come to believe it makes their work easier and less complicated. After a while, it becomes a learned behavior and one of the common tools of the job.

### **Specifying a Reason for Lying**

Our approach begins with the notion that police officers view themselves as crime fighters—soldiers in a “war” on crime. Beyond the “winning the war” mentality, police work provides a rich environment for the ends-justify-the-means mentality. Because the police maintain social control, officers must routinely be in contact with those who break the law. Through learned and reinforced behavior, police officers are at high risk for developing a pattern and practice of deception and lying that goes beyond what is “normal” and acceptable. There exists a growing and persuasive body of literature suggests that such behavior is likely an unconscious reaction (Graham & Lowery, 2004; Greenwald & Banaji, 1995).

We propose that such *unconscious* behavior is the most plausible explanation for the widespread lying that occurs among police officers. Skolnick (1982) has informed us:

I cannot here reconcile such inconsistencies, nor am I writing to lobby the Supreme Court. But I would like to conclude by suggesting that apparent inconsistency makes law look more like a game than a rational system for enforcing justice. Because of this appearance of inconsistency, police are not likely to take the stated rules of the game seriously and are encouraged to operate by their own codes, including those which affirm the necessity for lying wherever it seems justified by the ends. (p. 54)

### **Conclusions/Recommendations**

Most deceptive police practices are unlikely to stop and indeed, there is no legitimate cause that would support discontinuing undercover operations, operatives lying about their true identity, using unmarked cars, or even creating the perception of safety in absence of a safe and secure environment. Similarly, it is unlikely that the police or the courts will change their views on the use of deception to seek the truth during an interrogation. But there are steps that should be taken to ensure that officers do not slip from acceptable deception into intentional malicious deceptive misconduct. First, officers should be trained as to the possible consequences of deceptive interrogation practices, how to avoid these practices, and how to elicit a

truthful confession. Second, the police should receive training on the understanding and recognition of lies and particularly of officers' unconscious approval of deceptive conduct. Finally, chief executives need to take a strong role to communicate, demonstrate, and uphold the values of professional law enforcement and be willing to separate employees from the organization who behave in a manner contrary to these high-ethical standards.

## Interrogations

The advent of DNA analysis has conclusively shown that at least some individuals falsely confess to crimes and that deceptive psychologically coercive interrogation techniques particularly as they are imposed on vulnerable groups are a factor in the false confession. Because interrogations of suspects by officers intentionally occur in isolation and because the determination of inappropriate interrogation practices such as promises, threats, or the intentional or unintentional conveyance of corroborating information to the suspect, stem to stern recordings of all interrogations of serious crimes should be mandated.

The benefits of videotaping include the following:

- provides transparency to the interview process,
- allows the detective to have greater focus on the suspect rather than on note taking,
- provides evidence that the detectives did not coerce the suspect to make admissions or to confess, and
- allows the jury to make a credibility assessment of the suspect as they were being interrogated (Cronin et al., 2007).

The recording of interrogations allows police supervisors and management along with others in the criminal justice system to evaluate the reliability of the confession. The context of any confession or statements made that can be observed in a video tape provides the best method to understand how the information was obtained or "volunteered." This evaluation would consider (a) whether the confession contains nonpublic information that can be independently verified, would be known only by the true perpetrator or an accomplice, and cannot likely be guessed by chance; (b) whether the confession led the police to new evidence about the crime; and (c) whether the suspect's postadmission narrative fits the crime facts and other objective evidence (Leo, 2008).

Some police officials have voiced concerns that include the following:

- reluctance to reveal investigative tactics (such as lying),
- a belief that recording will inhibit the suspect's cooperation,
- questions of legality,
- concerns of costs, and

- a belief that recordings might make detectives overly reliant on technology (Cronin et al, 2007; Leo, 2008).

There is no evidence that a recording will have a chilling effect on the willingness of a suspect to submit to interrogation by refusing to talk, becoming silent during the interrogation, or to not make admissions (Leo, 2008). Indeed, there are several jurisdictions that now mandate recordings for serious crimes (e.g., Alaska, Minnesota, Illinois, District of Columbia, Maine, New Mexico, Wisconsin, and North Carolina), and there is no evidence that would suggest that these jurisdictions or the many other agencies in other jurisdictions that record interrogations have had a decrease in confessions because of recording. Interestingly, a similar “chilling effect” argument was posited after the *Miranda* decision was announced. Where a tape recorder may possibly be viewed as a warning not to talk, the *Miranda* decision was specifically designed to be a red flag encouraging those suspected of crimes to seek advice of counsel. Yet *Miranda* warnings have generally been ineffective, and it is doubtful that the presence of a tape recorder could somehow convey a stronger message than the direct statements mandated by *Miranda*.

## Training

Police training is generally pragmatic—rules are explained and procedures are outlined. Philosophical discussion of the rules or procedures seldom plays a meaningful role in police training. Police officers should be taught not to lie, or at least if they do, to do so in a manner that is legal, ethical, and not harmful. It is easy to imagine that an officer who is taught to deceive for a worthy purpose might extend their knowledge beyond what is permitted. Therefore, police training should contain discussion and a thorough overview of the concerns of deceptive practices and their limits.

All officers should receive training in police-induced false confessions. Interrogators should be able to recognize groups of people who may be susceptible to suggestive interrogation techniques, what causes an innocent person to confess falsely, and through this improved training, how to be more effective at eliciting truthful confessions (Leo, 2008).

Another important step for all police officers is ongoing ethics and ethical decision-making training. Many police academies have incorporated ethics training into their curriculum. These introductory courses provide the student with basic concepts that one would hope all police officers would inculcate as they enter a career in law enforcement. But as these students attend one course on how to be an ethical officer, they attend subsequent courses teaching them how to deceive to achieve the noble means of removing criminals from the streets. These deceptive techniques are further expanded as the new officers enter their field-training program where they work one-on-one with a training officer. Under this intense and isolated training environment that occurs away from supervision, young officers may be indoctrinated

to types of deceptive conduct never imagined by police management. It is for these reasons that character training based on commonly held values, such as respect, responsibility, fairness, honesty, and justice be mandated as ongoing professional training for all officers (Callahan, 2004). Finally, this training must be more than merely asking officers to do the right thing. The training must be supported by an organizational culture that views character and values as the cornerstone of professionalism.

## **Discipline**

Our final recommendation requires that chief administrators make the tough decisions that are commensurate with their position. There is simply no alternative to terminating an employee who has engaged in intentional, malicious, and deceptive conduct. As we have discussed, if an employee perjures herself or himself in court, during an internal affairs investigation, or if they fail to bring forward information involving criminal activity of other officers (code of silence) or if they create false evidence that tends to implicate another in a criminal act, including an affidavit for a warrant, that officer's employment must immediately cease.

## **A Final Comment**

It is the responsibility of all chief executives to develop an organizational values statement and organizational culture that is consistent with the police officers' code of ethics. These guiding documents, supported by the words and actions of the command staff, form the foundation for all discipline meted out by the organization. Additionally, an employee should not only be directed to a specific policy section identifying their misconduct but also their actions should be identified as a violation of the department's stated values.

Police officers are sufficiently sophisticated and educated to know, understand, and recognize the difference between accepted deception and deception that is neither socially nor lawfully acceptable. Organizations cannot either implicitly or explicitly allow intentional deceptive misconduct by developing or allowing internal standards, at any level in the organization, which condones such behavior. On one hand, organizations must recognize the likelihood that officers will learn how to lie and be comfortable telling lies. They must plan to train and educate officers to avoid improper behavior. On the other hand, officers must learn the consequence of telling lies; that they are held to a high standard, and that their acceptance in the community is based on honesty and integrity. If an officer believes he or she can operate by his or her own rules, get away without recalling all of the facts, and believe that the ends justify the means, then criminal justice becomes more of a game than a system or even a method.



As Hunt and Manning (1991) warned us more than a decade ago, as officers become accustomed to lying and the organization allows and encourages the behavior, both the officers and the organization will begin to believe their lies and policing becomes more isolated, loses public trust and credibility. This direction must change if policing is to gain back the respect it needs and deserves.

## References

- Alpert, G., & Dunham, R. (2004). *Understanding police use of force: Officers, suspects, and reciprocity*. New York: Cambridge University Press.
- Bok, S. (1999). *Lying: Moral choices in public and private life*. New York: Vintage.
- Brady v. Maryland, 373 U.S. 83 (1963).
- Brehm, S., Kassir, S., & Fein, S. (2002). *Social psychology* (5th ed.). Boston: Houghton Mifflin.
- Bronson, P. (2008, February 18). Learning to lie. *New York Magazine*. Retrieved on October 27, 2008, from <http://nymag.com/news/features/43893/>
- Callahan, D. (2004). *The cheating culture*. Orlando, FL: Harcourt Books.
- Capers, B. (2008). Crime, legitimacy, and testifying. *Indiana Law Journal*, 83, 835-880.
- Crank, J. P. (2004). *Understanding police culture* (2nd ed.). Cincinnati, OH: Anderson.
- Cronin, J. M., Murphy, G. R., Spahr, L. L., Toliver, J. I., & Weger, R. E. (2006). *Promoting effective homicide investigations*. Washington, DC: Police Executive Research Forum.
- Davis, M. (1995). The sociology of humor: A stillborn field? *Sociological Forum*, 10, 327-339.
- DePaulo, B. M., Lindsay, J. J., Malone, B. E., Muhlenbruck, L., Charlton, K., & Cooper, H. (2003). Cues to deception. *Psychological Bulletin*, 129, 74-118.
- Dershowitz, A. (1998). *Testimony in front of the house of representatives judiciary committee*. USGPO: Washington, DC.
- Dershowitz, A. M. (1996). *Reasonable doubts: The criminal justice system and the O. J. Simpson case*. New York: Simon & Schuster.
- Good, T., & Brophy, J. (1990). *Educational psychology: A realistic approach*. White Plains, NY: Longman.
- Greenwald, A. G., & Banaji, M. R. (1995). Implicit social cognition: Attitudes, self-esteem, and stereotypes. *Psychological Review*, 102, 4-27.
- Graham, S., & Lowery, B. S. (2004). Priming unconscious racial stereotypes about adolescent offenders. *Law and Human Behavior*, 28(5), 483-504.
- Hunt, J., & Manning, P. K. (1991). The social context of police lying. *Symbolic Interaction*, 14, 51-70.
- Inbau, F. E., Reid, J. E., Buckley, J. P., & Jayne, B. C. (2004). *Criminal interrogation and confessions* (4th ed.). Sudbury, MA: Jones and Bartlett.
- Innocence Project. (2008). *False confessions*. Retrieved on October 27, 2008, from <http://www.innocenceproject.org/understand/False-Confessions.php>
- Josephson, M. (2005). *Preserving the public trust*. Los Angeles, CA: Josephson Institute of Ethics.
- Kelling, G. L., & Coles, C. M. (1996). *Fixing broken windows: Restoring order and reducing crime in our communities*. New York: Simon & Schuster.
- Kim, K. (1999). Lie factor in traffic safety: Comparison of police and hospital reporting of seat belt and alcohol use in Hawaii. *Journal Transportation Research Record*, 1665, 141-146.
- Klockars, C. 1980. The Dirty Harry Problem. *The ANNALS of the American Academy of Political and Social Science* 452: 33-47.
- Leo, R. A. (2008). *Police interrogation and American justice*. Cambridge, MA: Harvard University Press.
- Ludwig, J. & P. Cook. 2003. *Evaluating Gun Policy: Effects on Crime and Violence*. Washington, DC: Brookings Institution Press, 2003.

- Mollen, M. (1994). *Commission to investigate allegations of police corruption and the anti-corruption practices of the police department* (Commission Report 36). City of New York.
- National Research Council. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. *Firearms and violence: a critical review*, Washington, DC: The National Academies Press, 2005.
- Noble, J. 2003. Police Officer Truthfulness and the Brady decision. *The Police Chief* 70: 92-101.
- Noble, J. and G. Alpert. (2009). *Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight*. Long Grove, IL: Waveland Press.
- Noseworthy, C. M., & Lott, A. J. (1984). The cognitive organization of gender-stereotypic categories. *Personality and Social Psychology Bulletin*, 10, 474-81.
- Nyberg, D. (1993). *The varnished truth, truth telling and deceiving in ordinary life*. Chicago, IL: University of Chicago Press.
- Sherman, S., Judd, C. M., & Park, B. (1989). Social cognition. *Annual Review of Psychology* 40: 281-326.
- Shulman, D. (2006). *From hire to liar: The role of deception workplace*. Ithica, NY: Cornell University Press.
- Skolnick, J. (1982). Deception by police. *Criminal Justice Ethics*, 1, 40-54.
- Smith, M. R., & Alpert, G. P. (2007). Explaining police bias: A theory of social conditioning and illusory correlation. *Criminal Justice and Behavior*, 34, 1262-1283.
- Tversky, A. & Kahneman, D. (1973). Availability: A heuristic for judging frequency and probability. *Cognitive Psychology* 5: 207-32
- Vrij, A. (2000). *Detecting lies and deceit: The psychology of lying and the implications for professional practice*. London: John Wiley.

**Geoffrey P. Alpert** is a professor of criminology and criminal justice at the University of South Carolina. He has been studying high-risk police activities for more than 25 years. He has published widely in professional and academic journals, and has written more than 15 books on criminal justice issues.

**Jeffrey J. Noble, Esq.** is a commander with the Irvine Police Department located in southern California. He was in charge of Internal Affairs for more than 4 years. He currently manages the police resources for the area of Irvine that includes the following: University of California at Irvine, Concordia University, and the business community adjacent to John Wayne airport.