

Lying by Officers

Relatively little has been written about lying and law enforcement. Virtually no quantifiable data has been produced from research on this topic. For the most part it is necessary to look toward the work of who most people would consider to be the utmost authority on the subject, Sissela Bok. Bok's books, titled *Lying*, (1978) and *Secrets*, (1991) have become the source that most utilize when the issue arises.

Bok notes that people have many reasons for lying. Some do it to avoid hurting the feelings of another, while others are merely trying to impress someone or don't want to appear ignorant. As a result, some philosophers and moralist remain adamantly opposed to lying, while others tend to allow for the totality of the circumstances before passing judgment.

Bok has also categorized lies into two conceptual domains: those intended to deceive and those of abstract truth or falsity.¹ For the purposes of studying the code of silence, the abstract will be set aside, as we concentrate solely on lies made with the intention to deceive or mislead people.

The primary means that a liar uses to convey the dishonest message, such as talking or writing, is generally irrelevant. The intent and specific techniques on the other hand, are important. People who lie will use "filters" to manipulate and fool others and even themselves, according to Bok. Filters comprise a wide assortment of variations of the lie. Common examples are distorting the facts to look good, twisting the truth to tell someone what they want to hear or playing on the prejudice of a person. They alter the way both the sender and receiver experience

¹ Sissila Bok, *Lying*, Pantheon Books, 1978, as reviewed in Souryal, Sam S., *Ethics in Criminal Justice*, Anderson Publishing Co., Cincinnati, OH., 1992, 194-198.

the lie.² Liars can also use filters like telling themselves that what they are saying isn't really hurting anyone or intentionally replacing the facts with a new, self-serving version because it is emotionally painful to admit the truth. It is very probable that officers who participate in the code of silence do this, rather than acknowledge to themselves that they have betrayed their profession and organization.

When citizens no longer trust their law enforcement agency or the employees in a police department cannot trust each other, the organization for all practical purposes ceases to have effective social relations and interaction. If employees or the public can't trust officers because they have developed a reputation as liars, confidence, trust and the ability to carry out even the most basic responsibilities is lost. It was Samuel Johnson who stated, "The devils themselves do not lie to one another, since the society of Hell could not subsist without truth any more than others."³ A high degree of veracity is crucial for any type of personal or professional relationship. Trust becomes the atmosphere in which veracity thrives. When trust within a workplace is lost due to lies and deceit, the organization or those who lead it, will usually self-destruct.⁴

The subject of lying has an obvious direct relationship to the code of silence. The code cannot manifest itself without officers using some form of deception or outright lying. Giving considerable thought to this subject stirs emotions that range from fascination to frustration and outrage. It is both ironic and important to note that even though the vast numbers of officers in America are decent, honest, honorable individuals most will not come

² Ibid., 195.

³ Sissila Bok, *Lying*, Pantheon Books, 1978, as reviewed in Souryal, Sam S., *Ethics in Criminal Justice*, Anderson Publishing Co., Cincinnati, OH., 1992, 197.

⁴ Sam S. Souryal, *Ethics in Criminal Justice*, Anderson Publishing Co., Cincinnati, OH., 1992, 194-199.

forward to tell the truth about the few that are disgracing them and their badge. In fact, some risk being fired and throw away their self-respect to lie for a corrupt officer.⁵

Perjury by police officers is usually intended and orchestrated to justify the illegal conduct of officers or enhance weak criminal cases.⁶ Some criminologists believe that officers who commit perjury are motivated by the pressure of administrators to make more arrests or to protect informants. Certainly this is true to some extent, yet I suggest their motivation is usually much more direct and self-serving. They are typically trying to hide misconduct they committed without being pressured to do so and with no desire to help anyone else. Kant was right when he said if someone deliberately sets out to deceive, then it is a lie, even if it is being told to a person who doesn't deserve the truth.⁷

Like the code of silence, the subject of lying has only recently come to be scrutinized and openly discussed. Joseph McNamara, the former chief of the San Jose Police Department and current research fellow at the Hoover Institute in California, comments on the fact that perjured testimony in court has become so common in some precincts of the New York City Police Department that it is referred to as "testilying." Similar circumstances in the Los Angeles Police Department prompts the concerned officers to be referred to as being a member of the "Liars Club."⁸ The face of police corruption has changed in several ways. What officers now lie about has now evolved into something much more sinister than that of previous decades. In the past,

⁵ Kevin Gilmartin and Jack Harris, "*The Continuum of Compromise*," *Police Chief Magazine*, October, 1997, 36-39.

⁶ Martin Greenberg, "*The Control of Police Conduct: A Key Issue for Security Executives*," *Journal of Security Administration*, in *Policing in the Community*, Champion and Rush, 1997.

⁷ Joycelyn M. Pollock, *Ethics in Crime and Justice*, Wadsworth Publishing Co., CA., 1994, 20.

⁸ Joseph D. McNamara, "*Law Enforcement News*," *John Jay college of Criminal Justice*, City University of New York, January 15, 2000, 8.

law enforcement scandals typically involved officers taking pay offs so that those committing crimes could continue to do so. Today's corrupt cop has eliminated the criminal so he can make more money. In other words, he is often the one selling the drugs, doing the robberies or committing the burglaries.⁹ Much more is often at stake when the lie is said or written.

McNamara, after studying thousands of scandals, has concluded that America's drug and the incredible amounts of money that can be made literally overnight, has resulted in more serious police corruption. His research reveals that contemporary law enforcement scandals have three important traits in common. First, the code of silence usually disguised the crimes for years. Second, exposure of the scandal virtually always originates from a person outside the organization. Lastly, those who expose the scandal have turned to the Federal Government to help.¹⁰

While it is vital to understand the causes and dynamics of lying within law enforcement, of more importance is what can be done to diminish the frequency and severity of the lack of veracity. Lt. Josh Phillips of the Fayetteville Police Department, Fayetteville, North Carolina, confided an experience that demonstrates how supervisors have the potential to prevent officers from lying. Phillips had a conversation with a newly promoted sergeant who admitted that as a young patrol officer he was confronted in a department hallway about a minor indiscretion and he immediately denied it. He then was asked to write "the statement," and as he agonized over the statement he wanted to tell the truth but didn't.¹¹

⁹ Ibid., 8.

¹⁰ Ibid., 8-9

¹¹ Josh Phillips, "A New Look at Telling the Truth," The Ethics Journal, International Association of Ethics Trainers, April, 2000, 39.

He subsequently was suspended for the lie, when the original accusation wouldn't have resulted in any time off. He recognizes that he is responsible for the lie but now believes that if his sergeant had just spent some time with him, in private, he probably would have told the truth.

It seems then that the key to establishing the truth early on in internal investigations falls heavily on the sergeant, or first-line supervisor. If the accused officer trusts the sergeant, and if the sergeant does what he/she can to create an environment conducive to truth telling, then more truth telling will be the result. Some key ingredients for creating this type of environment are:

Trust: communicating to the officer both in voice, words, and body language that none of us are above making mistakes. That the supervisor is not out to “hang” the officer or to make more out of the incident than it is.

Clarity: it should be clear to the officer that while there is no desire on the part of the supervisor to make more out of the incident than it is, the issue must be resolved. In other words, it is not going to go away based on a quick denial.

Atmosphere: the supervisor should, as much as is in their power, strive to create an atmosphere that lends itself to openness and honesty. Considerations should include privacy, lack of distractions and interruptions, and time. In other words, an environment in which the supervisor would be comfortable with if he were in the same situation.

Obstacles: the supervisor should minimize any obstacles to the officers being candid. Opening phrases such as “you really didn't do this did you?” or “did you really...” should be avoided.¹²

Police legal advisor Carl Milazzo notes that there are legal consequences for administrators not properly managing untruthful officers. He offers several proactive steps that may reduce the potential for an organizational tolerance of untruthfulness. Common issues tend to surface when police managers discuss integrity. They are: relatively insignificant lies, internal investigations, use of the polygraph and terminations overturned by appointed boards.

The approach taken to manage routine internal investigations and complaints is important. It is possible to make the approach in an environment where the officer immediately reacts because of the public setting or a leading question without thinking. Once committed to the lie, they may feel more comfortable riding the downward spiral instead of admitting they lied.

¹² Ibid., 40.

Internal policies associated with lying should offer clear guidance and accountability. Make it clear that lying is a termination offense the first time it happens. Specifically state in the rules that any untruthfulness may result in discipline up to and including termination for the first occurrence.

Publicity related to officers who are alleged or have been found guilty of lying can have a profound impact on the department. Officers can receive great public sympathy when they are being terminated, because even the most evil officer performs a heroic duty. Politically appointed review boards tend to swing to one extreme or the other, with little balance or relevant experience in both police work or police management. It may be helpful to explain the legal basis for the law enforcement priority on truthfulness. It may be helpful to publicly reinforce the need for ethical behavior and the steps your agency takes to ensure integrity. Be careful not to publicly educate the defense bar on the law or your own personnel investigations.¹³

¹³ Carl Milazzo, *The Implications of Untruthfulness*, a paper presented at the International Association of Chiefs of Police Conference, October, 2000.