

The Truth about Lying: What Should We Teach About Lying and Deception in Negotiations: An Experiential Approach¹

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ABSTRACT

The teaching of negotiations poses a particular dilemma for business schools in the area of ethics. It is normally accepted that negotiations often involve deception if not outright lying. Yet such behavior in other aspects of business activities is appropriately condemned. While fraud is illegal in all aspects of business including negotiation, ethical standards we might ideally like our businesses to adhere to are unrealistic in the area of negotiations. This paper suggests that business schools would do well to confront this dilemma; we should convey an honest and realistic notion of the role of lying in human behavior in general and negotiations in particular. We suggest two experiential situations that effectively confront this issue by triggering the complex behaviors that occur in negotiations. This allows an honest discussion of the topic which results from a visceral of lying and being lied to. Furthermore, the exercises allow each student to confront his or her responses to situations in which lying may result in short-term gain as well as their responses to others in the same situation.

Keywords: negotiation, lying, truthfulness, ethics, deception, "Tragedy of the Commons"

INTRODUCTION

"The tendency to tell lies is a natural tendency...spontaneous and universal." Jean Piaget

"Lying is not exceptional; it is normal, and more often spontaneous and unconscious than cynical and coldly analytical. Our minds and bodies secrete deceit." David Livingstone Smith,

"At every level, from brute camouflage to poetic vision, the linguistic capacity to conceal, misinform, leave ambiguous, hypothesize, invent, is indispensable to the equilibrium of human consciousness." George Steiner

With each major scandal in the business world, there is a lot of hand wringing about business men and women, and the schools that educate our business leaders. For example, the past year has seen the exposure of Volkswagen's deception involving a massive program to cheat on diesel emissions tests; the company installed software "defeat devices" that would switch to a separate "clean" mode when the emissions tests were being administered and then back to a "dirty" mode under regular driving conditions. While the extent of the deception is still not known, it likely involved hundreds of engineers and managers including those quite high up. We can expect to see this situation become a standard case study of corporate malfeasance showing the ethical and financial costs of lying and deception. Similarly, Wells Fargo bank recently fired 5300 mostly low wage workers for improper sales tactics indicating a pervasive culture in the company that encouraged and pressured employees into at best questionable and more likely illegal activities. Senator Elizabeth Warren, called the CEO "gutless" expressing the frustration of many Americans angered over the lack of accountability of upper management, none of whom suffered any serious consequences.

These incidents involve lying and deception on a "macro" level (organizational culture) as well as lying and deception on a "micro" level involving countless individual acts of lying and deception.

Business schools are asked to "solve" this problem, turn out more "ethical" men and women, reduce the kinds of incidents cited above. These incidents will trigger calls for new courses in ethics and "social responsibility," but after decades of these courses, there is scant empirical evidence and certainly little anecdotal evidence that there has been any noticeable effect resulting from these efforts. (Gavett, 2013). Perhaps part of the reason is the naive and simplistic approaches to the topics of lying and deception.

It is not the objective of this paper to focus on the "macro" issue of truthfulness in business, but rather to focus on the issue in one important and ubiquitous aspect of business; i.e. negotiations, where lying and deception is often considered acceptable and even encouraged. We must figure out ways to teach about ethical behavior yet acknowledge the legitimate reality of lying and deception in many realms of organizational behavior.

LYING: WHY AND HOW WE DO IT

Lying appears to be a deeply embedded feature of our humanity. Evolutionary biologists suggest that lying is a byproduct of our ability to empathize, the ability to understand what might be going on in another's mind as well as recognizing other minds apart from ours. We are able to anticipate how others might respond. Such a skill might have evolved because individuals and groups that have this ability would likely increase their chances of survival. (Pinker, 2007) Lying and deception are a natural byproduct of this empathy. Other species deceive (particularly other primates) but the human ability to develop complex spoken language dramatically increases the opportunities to deceive. Like many deeply embedded human propensities, there are potential benefits and potential costs to lying; otherwise humans would do it all the time, and we don't.

It should not be surprising that deceit and lying is often an important part of negotiations. One observer of negotiations stated: *"on one hand the negotiator must be fair and truthful; on the other hand he must mislead his opponent. Like the poker player, a negotiator hopes that his opponent will overestimate the value of his hand...The critical difference between those who are successful negotiators and those who are not lies in this capacity both to mislead and not to be misled.* (White, 1980) Of course this is true in human communications in general. Lying and deception can yield substantial benefits to the individual negotiator but there are real and potential costs as well. Individuals known to be untrustworthy find it difficult to find useful negotiating partners going forward and find it very difficult to identify crucial common interests and joint gain.

We should emphasize that almost all of our important negotiations involve people with whom we have an on-going relationship. This is true of our personal negotiations with family and friends as well as our professional lives with superiors, subordinates, co-workers, clients, customers, and suppliers. It is one thing to lie in a situation where you will never see the other person again, but the potential consequences of lying take on added serious potential costs when we are involving people with whom we have long term relationships.

Most important negotiations involve some degree of deceit. As educators of negotiations, we need to generate an honest discussion of the role lying and deception play in negotiations and how negotiators might effectively defend against lying and deceit. Students of negotiations (or organizational behavior) need to understand the basis and nature of lying and deceit, as well as their limited skills in both carrying out or detecting lies or deceit. Finally students need to improve their skills, particularly in detecting deception and dealing with people who practice this approach to negotiation. Teachers in this field would be misleading to act as if all lying and deceit is unethical. Students need to be able to arm themselves; they need to understand the role of lying and deceit, understand ways of detecting and reacting to it, and need opportunities to practice these skills.

This paper will focus on two exercises designed to test students' ability to detect lying and the resulting discussion of how to increase skills in detecting deceit. It is suggested that experiential exercises provide a more impactful and realistic way to address the issue of lying compared to the "social responsibility" approach commonly used in business schools.

IS LYING LEGAL IN NEGOTIATING: WHAT DOES CASE LAW TELL US

Virtually all negotiators engage in some deception. When asked "what is your bottom line," most either lie or don't answer the question. We often inflate our first offer far in excess of what we plan to settle for. We introduce proxy issues claiming they are important when they aren't in order to exact concessions. We bluff or lie about our interests.

G. Richard Shell has a comprehensive discussion of this topic highlighting the following Court decision:

"In a business transaction both sides presumably try to get the best deal. That is the essence of bargaining and the free market. No legal rule bounds the run of business interest. So one cannot characterize self-interest as bad faith. No particular demand in negotiations could be termed dishonest, even if it seemed outrageous to the other party. The proper recourse is to walk away from the bargaining table, not sue for "bad faith" in negotiations" (US Court of Appeals, 1988)

Shell goes on to state that this conclusion assumes no fraud (misrepresentation of a material fact on which the victim reasonably relies and which causes damage.) (Shell, 1991)

DETECTING LIES...AN ARMS RACE

Not only do we humans lie frequently, but we work hard at detecting deceit on the part of others. Extensive literature and research exists on this topic (Smith, 2004). Many techniques for detecting deceit are suggested in the popular literature. (See Appendix 1). Examples of what someone should look for in detecting lying include such indicators as a person looking away, avoiding eye contact, touching the head, stuttering, pauses, or a higher voice pitch. However, it appears that we aren't any better at detecting liars than we are at telling lies. There is no evidence to suggest that these so called indicators of lying are valid, particularly when dealing with good liars. Some technologies such as the polygraph, or more current technologies such as thermal imaging and brain fingerprinting are promising, but these aren't available to the average individual in a negotiating situation.

Paul Ekman (1992), in widely publicized research, claims that when people lie, they involuntarily display fleeting facial expressions that give away their deception and that we can be trained to detect these signals. But many doubt that many of us lay people could be trained to detect these signals. Perhaps in the future some new technologies (e.g. voice stress analyzers, MRI, thermal imaging technology) might prove practical, but none has so far. Appendix 2 suggests advice for protecting against deception

In light of this, we negotiators need to be ready for deception; we need to figure out how to detect lies and how to protect ourselves, but research has shown that in general, we aren't very good at detecting lies. Even trained professionals seem to do only slightly better than untrained people.

HOW CAN WE TEACH ABOUT ETHICS YET ACCEPT BEING "CASUAL" ABOUT THE TRUTH?

This is the dilemma. There would certainly be disagreement about answering such a question but it is safe to say that how one acts in a negotiation will be affected by the context and culture. Situations carry implicit rules. It is acceptable to bluff in poker but it is not acceptable to outright cheat. Different cultures may influence the degree to which bluffing or misrepresentation is deemed acceptable.

In general negotiations, one is not expected to reveal strength or intentions prematurely. But discretion in making claims and statements should not be confused with misrepresentation. In general in our culture our "rules" forbid and should penalize outright lying, false claims, bribing an opponent, stealing secrets or threatening an opponent. While there may be a fine line distinguishing legitimate and illegitimate practice in disclosing the facts, there is a line and again we are distinguishing between the careful planning of when and how to reveal facts vs. outright lying. (Shell, 1991)

At some point, the courts acknowledge the principle of caveat auditor ("let the listener beware"). For example exaggerations in advertisements (called "puffing") are forgiven (e.g. "this unit has a superb view"). Negotiations also involve often not giving out information that the other side would ideally like to know. Are we under an obligation to give out all the information we have? In extreme nondisclosure situations the courts might frown on this, but in most situations full disclosure is not required. Similarly, being evasive is not usually punished. This, of course, can change. There may be cases moving forward in which what is now acceptable will become illegal. This is not to suggest that we should teach our students to just "obey the law" rather than to engender a sense of right and wrong.

Shell (1991) suggests the following guidelines:

- never condone outright lying or gross misrepresentation
- be aware of the importance of avoiding deliberate misrepresentation or exaggeration
- try to stay away from the ethical no-man's land

Certainly some lies as in outright fraud are illegal. Shell goes on to define common law fraud:

- False representation of a material fact
- Knowledge or belief as to its falsity
- An intent to induce the other party to rely on the representation
- Justifiable reliance by the injured party
- Damage or injury to the innocent party

Skilled negotiators know how to avoid premature disclosure without lying. They use such techniques as saying truths but saying little, or following up a question with a question to deflect the first question.

The suggests we should be very careful in our negotiations, but certainly many negotiations involve attempts to mislead; we can't really expect full disclosure in negotiations any more than in a flea market. This suggests there is a very fine line between what might be deemed ethical and what might be unethical and people would disagree about where this line is. It is unrealistic to suggest that we could suggest this murky view of negotiation ethics any clearer.

WHAT SHOULD WE TEACHING ABOUT LYING AND NEGOTIATIONS?

All this leaves the negotiation teacher with a dilemma. We certainly need to encourage our students to be ethical and trustworthy negotiators, but what does this mean? We can certainly teach about models of ethical behavior; we can model ethical behavior in negotiation. We can cite countless examples of consequences of lying in the business world. Yet, it would be misleading to ignore the strategic role of lying and deception in negotiations. Negotiations usually involve managing perceptions and impressions; This can often involve some deception in ways few of us would condemn. Even those we would consider highly ethical negotiators are careful about what information to disclose and when. This is likely to certainly have the potential for deception.

Consider a negotiator who never gives false information; however, by carefully managing the timing of when and what information to give out he can significantly she can significantly affect the perception of the other party, often to her expected advantage. For example a job applicant with no other offers may tell a recruiter when asked about competing offers may say (and honestly believe). "I expect to receive offers soon." This may be the truth and is designed to affect perceptions. But it is deceitful to some degree. It also does not directly answer the question. Few of us would condemn this act of deceit.

Carefully crafted and managed experiential exercises provide an opportunity for students to confront the negotiator's core dilemma: should I cooperate or compete and how to react to the other's actions. In addition the exercises allows the students to gain insight into their skills in detecting lying in others.

Below are two powerful exercises that encourage students to explore the following issues in depth.

- The role of lying and deception in negotiation
- How they individual tend to react to ambiguous situations with costs and benefits for both cooperation and competition
- Identify what each student tends to look at in trying to detect deception; what tends to give people away
- Non-verbal communication as it relates to lying
- Provides a platform for discussing current knowledge about how and whether lying can be detected emphasizing that most of us are very poor at detecting lying
- Discuss the ethics of lying and deception in negotiation
- Identify steps that can be taken to protect ourselves against deception

WIN AS MUCH AS YOU CAN (PFEFFER, 2007)³

The exercise allows each student to explore his or her reaction to a situation in which lying can result in short-term gain and to experience a very visceral response of others if he or she does lie. Similarly, the exercise allows each student to experience their reaction to others put in the same situation; i. e. to experience their reaction to others who lie and deceive. Finally, each student can practice skills in the ability to detect lying or at least identify some of their blind spots.

There are a variety of exercises that allow students to experience highly ambiguous situations where decisions have to be made whether to cooperate or compete with a counterpart. These games could be considered variations of the "Tragedy of the Commons" dilemma. "Tragedy of the Commons" refers to a situation of 'private gain vs. public good, or when individuals acting in self-interest end up depleting a shared resource. In this exercise, groups or individuals must choose whether to act for individual or group benefit and must react to an "opponent" who is also making decisions. The game provides numerous opportunities for players to judge the truthfulness of others' declarations.

This is a typical variation of a Prisoner's Dilemma exercise and there are many versions. Prisoner's Dilemma are situations where an outcome depends on simultaneous decisions of two parties who must decide whether to

“cooperate” or “compete.” In the version I use, students are divided into groups of four; each member of this quartet is given a card with an “X” (compete) on one side and a “Y” (cooperate) on the other. There are ten rounds to the exercise; in each round, each participant in the quartet must at the same time place the card on the table with either the “X” or “Y” facing up. The payoff (see below) is based on the pattern of X’s and Y’s that are played among the four. There are bonus rounds (rounds 5, 8, and 10) where the outcome (positive and negative) is multiplied by 3,5,and 10 respectively. In other words, whatever score one gets on round 5 is multiplied by “3”, in round 8 by “5” etc. This exercise is done without talking except before bonus rounds where individuals can talk and negotiate about what has happened up to then and their intentions moving forward.

Below is the payoff matrix.

If all throw an “X”	Everyone loses \$1
If there are 3 “X’s” and 1 “Y”	“X’s win \$1 each and the “Y” loses \$3
If there are 2 X’s and 2 “Y’s”	Each” X” wins \$2 and each “Y” loses \$2
If there is 1 “X” and 3 “Ys”	X” wins \$3 and each “Y” loses \$1
If there are 4 “Ys”	Each “Y” wins \$1

A maximum of 100 points can be gained jointly by a quartet in the exercise. This maximum joint gain can only be obtained by the four cooperating (everyone throws a “Y” on all ten rounds). In this example, each of the four would gain 25 points. However, an individual by defecting (or freeloading) could gain more than 25 points although the group sum would suffer. This is a classic “tragedy of the commons” or prisoner’s dilemma—private gain vs. public good. As in most games of this type, an individual can gain the greatest score by convincing others in the quartet to “cooperate” and then become a defector. Groups can do quite well by all cooperating but there is always the risk that one or more will defect.

In this exercise those students who act deceptively end up viscerally experiencing their own feelings of such actions as well as the often very strong reactions of their fellow students. Their classmates are typically quite explicit in their response when lied to. This author has had the experience of meeting an ex-student ten years after this exercise who remembered every detail of the exercise and the name of the individual who deceived him. Despite my claiming that “it was just a game,” my ex-student stated “I will never trust that guy if I ever see him again.” Following the exercise, the results from each quartet are shared with the class and the issues cited above are discussed. This is an exercise that students will remember for years

FRIEND OR FOE: A TEST OF DETECTING LYING

This exercise directly focuses on students' ability to detect lying and as in the first exercise, will trigger a discussion of the role of lying and deception in negotiation as well as our skills in detecting lying. Finally, research on the topic of detecting lying can be shared to enrich the discussion.

The exercise, based on a DVD produced by Harvard Business School Publishing (2007) is very useful for directly involving students in a realistic discussion of lying and lying detection. The DVD allows students to view five sets of two non-actors (ten overall) in a “prisoner dilemma” situation. Pairs of game players face off to decide how to split a sum of money. If both decide to be “friend (cooperate),” they would split the earnings from round A. If both said “foe (compete),” neither win anything. If one declares “foe” and one declares “friend,” the person who said “foe” will win all of the money. This is a classic Prisoner’s Dilemma exercise. Each player is given a brief time to declare to his or her counterpart. Obviously, each will declare that they will cooperate or go “friend.” It is the brief declaration that the students observe and judge as to its truthfulness. The two players were partners in a previous round of the game show; they had jointly won the money that is at stake in this round.

Before seeing the segments and after describing the exercise, students are asked to predict how many of the ten observed players the student accurately predicts as to their truthfulness. Students typically think they are “pretty good” at this and predict they will be accurate on six to eight out of the ten. It is made clear to the students that this is not a “scientific” test of their skills in lie detection; in real life we would likely have much more data on which to base a judgement of an individual’s truthfulness. Yet it is a very engaging method of talking about the topic. Results are shared in front of the class. I have given this to over fifty classes. Out of ten, the average is around 4.7 and I have never had a class with an average higher than 4.9. This, of course, means that students would do better

flipping a coin. Again, I want to state that this is not science. This same exercise has been given to hundreds including many in various aspects of law enforcement and intelligence (Wheeler, 2007). The results are similar. There will be a few students who score well above average (7 or 8). This could be luck or skill. There will also be some who score “1” or “2”. Those few who score “well” seem disproportionately to be international students, at least in this author's experience

OTHER RESOURCES ABOUT LYING AND DECEPTION

The “Friend or Foe” show referenced above was based on a British show called Golden Balls. There are two episodes available on Youtube that are particularly illustrative and useful. One episode presents an innovative approach for dealing with the potential for deceit and also provides an interesting segue to a discussion of game theory should the instructor wish to discuss that topic (<https://www.youtube.com/watch?v=S0qjK3TWZE8>)... The second (<https://www.youtube.com/watch?v=p3Uos2fzIJ0>) shows a very high stakes example and provides a compelling test of students' ability and confidence in detecting lying.

A humorous approach to this topic can be seen in the film, **The Invention of Lying** (2009). As the title suggests, writer and actor, Ricky Gervais, imagines a world in which there is no lying and of course, with no one lying, there is no ability to detect lying. The plot involves the first person to tell a lie and the results. Finally, Duke professor, Dan Ariely, has been studying the subject of lying for a number of years and among other publications, has produced a film, “Dishonesty: The Truth about Lies.”

BASIC LESSON FROM THE EXERCISES

Apparently most of us lie a lot. One study found that about 40% of the time the subjects lied about feelings, actions, plans and whereabouts. Lying seems to be normal, rather than the exception. Another study found that 60% of newly introduced people lie to one another within minutes; dating couples lie even more. Twenty-five percent of resumes contain significant lies. So it should be surprising that negotiations are full of lies and deceptions; it is difficult to imagine negotiations without some deception. Adler claims that “the critical difference between those who are successful negotiators and those who are not lies in this capacity both to mislead and not to be misled.” (Adler, 2007)

CONCLUSION

In confronting the issue of ethics in business negotiations, we would better serve students by generating an honest and realistic discussion of the role of lying and deceit in human behavior in general and negotiations specifically. Rather than discussing cases of corporate malfeasance and the few times where such activity is prosecuted, a better approach is to put students in a situation where they feel realistic pressure to act deceptively and to experience their feelings however they respond and to experience the reactions of others to their behavior. Finally, insofar as deception and lying are ubiquitous aspects of human behavior, we can help students understand current knowledge in how we detect lying and deception.

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APPENDIX 1: PURPORTED INDICATIONS (MYTHS?) OF LYING AND DECEPTION

- Expressions that don't match words, less
- What is stated and what is not stated
- Individual is too "rehearsed" as if giving a memorized speech
- Contradictions within the speech, inconsistencies
- Tension: sometimes the pitch of the voice elevates
- Some research suggests dilated pupils (DePaulo, 2003)
- Indications of guilt, over-compensation
- Microexpressions
- intuition

DePaulo (2003) along with other experts adds there are many myths about body language and that many of the behaviors cited above are not very predictive of lying and even if the above factors were true, very few of us would have the ability to accurately pick up these cues in real time.

APPENDIX 2: ADVICE FOR PROTECTING AGAINST DECEPTION

We can increase the chances of protecting ourselves by being humbly aware of our limitations in the area of lying detection:

1. Before bargaining begins,
 - research the background of your counterparts
 - set special ground rules for bargaining: some coaches recommend trying to sign a "pre-negotiation" agreement stating that the parties will commit themselves to using higher standards such as disclosing all material information, abstain from unreasonable delays; abstain from imposing hardships on the other
2. During Negotiation: Trust but verify and take notes
 - Look for potential signs of deception; is the person behaving very differently than before
 - Ask questions in different ways and ask the counterpart to "come clean"
 - Ask questions to which you already know the answer
 - Include claims as part of the final agreement and use contingency agreements for protection

Of course, the best way to increase the likelihood that others won't lie to us is to be trustworthy ourselves.