

## **Case 15**

Due to the popularity of police dramas on television, the public has become aware of the deceptive practices employed in police interrogations. Indeed, according to Jerome Skolnick, Professor of Law and Director of the Center for the Study of Law and Society, "Deception is considered by police--and courts as well--to be as natural to detecting as pouncing is to a cat." In particular, it is common practice for police detectives to lie to a suspect, leading them to believe that they have incriminating evidence against her. For example, in one case an interrogating detective asked the suspect to write down something she had just said. He then told her that he had placed a powder on the pen, visible only under infrared light, which indicates whether or not there are "blow back" marks on a person's hand from firing a gun. The detective then asked the woman whether she would consent to having the pen examined. She consented, and an evidence technician then entered the room, examined the pen, and announced that it had "blow back" marks on it. All of this was pure deception undertaken to make the suspect believe the police had evidence, which, in fact, they did not have.

Other deceptive techniques are also frequently used. For instance, police detectives will often attempt to lead suspects to believe that they empathize with the suspect and that they would like to help them, but can only do so if they know the truth. A more specific application of this strategy is to lead suspects to believe that in order to be treated leniently for their offense they have a brief window of opportunity to confess and cooperate, otherwise their prospects of leniency worsen.

All of the above interrogation strategies are deceptive because they communicate or imply (in one fashion or another) false information - about the nature and amount of evidence the police have, about the true motives of the interrogators and about the nature of the relationship between the interrogators and the suspect. Because of this, some commentators have argued that confessions that are gotten through such deceptive means are not voluntary, and therefore, should not be admissible as evidence.

However, the law enforcement profession defends the use of deception during interrogations, insisting that an innocent person would not confess to a crime she did not commit. Hence, they contend, the practice only produces confessions from those who are guilty of a crime. Moreover, before suspects speak to detectives, they are routinely apprised of their "Miranda rights." *Miranda v. Arizona* 384 U.S. 436 (1966) held that arrested persons must be informed of their right to remain silent, must be warned that any statement they make may be used against them in a court of law, and must be informed of the right to legal representation, and that such representation will be provided if they cannot afford it. Hence, if a suspect continues to speak after she is informed of her rights, she does so with the awareness that her statements may be used against her.

Nevertheless, police officers can shape that way in which suspects respond to the Miranda warnings. Specifically, the monotone, perfunctory way in which the Miranda

warnings are delivered is specifically intended to communicate to the suspect that the warning is unimportant, simply a bureaucratic hoop to jump through.

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