

THIRD DEGREE COMMUNICATIONS, INC.

TRAINING BULLETIN: LEGAL UPDATE

LIAR!

By Charles Gillingham

The legal update page frequently considers the job that officers and investigators do. For instance, how often it must be that people look you in the eye and flat out lie?! It is clear that while such an occurrence must make one somewhat cynical—it also has an affect on the steps you can take in the field. In one published case, the court forbid the statement, “the truth will set you free,” from an officer to a suspect during a *Mirandized* interview. It is forbidden because the truth would likely incarcerate the suspect! Lies, can however, be taken into consideration during a contact to determine whether to detain or arrest a suspect.

When you write your offense report, explain that the suspect was clearly lying or being evasive and how it is you know the suspect wasn't being completely forthcoming. Your detailed offense report in this instance serves a couple of competing interests---it helps to refresh your recollection when called to testify, but it also sends a message to the reader that you understand the legal concepts behind detentions and will serve as notice that what you did was legal and proper.

CONSCIOUSNESS OF GUILT

Lies about material issues obviously tend to show a consciousness of guilt. Why lie, the theory goes, when the truth should be sufficient? It is more frequent, however, that a suspect will lie about other issues. A suspect might lie about his name, where he was coming from or going to, that he didn't know the person he was with. These lies have been found sufficient to detain and/or prolong an already underway detention.

When there is more than one person stopped, they will often give conflicting statements about where they are going or what they have been doing. While not enough by itself to detain, it is clear that statements such as these raise a strong suspicion of wrongdoing. Conflicting statements are clearly one of the factors that courts will look at to determine whether the detention is legal.

AMAZING LIES!

“The truth will not set you free.” Some amazing lies in published cases---and lies you have probably heard:

- a suspect is stopped and says he is going to his friend's house, but he doesn't know his friend's address or name
- a fleeing suspect says he has been out for a jog, but isn't sweating or breathing hard
- during a car stop the driver says he borrowed the car, but, not surprisingly doesn't know the owner's name.

Although not necessarily provable as lies, these types of statements will allow you to prolong a detention for investigative purposes.

JUST ADMIT IT!

Remember, admissions and confessions are not the same thing. An admission is an incriminating statement that does not cover all of the elements of an offense. Contacting a suspect who says "take me to jail," is nice, but not a confession. You still have work to do. Putting two suspects in the back of a patrol car, one of whom says to the other, "I told you we shouldn't have done it," gets us close to a conviction but we are still short of a confession.

An officer's job can be rewarding but extremely frustrating. Your legal update author speaks with officers all the time who relate stories of suspects being less than truthful with them. Beyond the cynicism that these contacts breed, you must remember to thoroughly document your contact with the suspect and the statements s/he made so that when called to testify, you may justify your legal detention or arrest.

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