



# LEGAL DEFENSE TRUST TRAINING BULLETIN

*MICHAEL P. STONE, GENERAL COUNSEL*

6215 River Crest Drive, Suite A, Riverside, CA 92507

Phone (909) 653-5152 Fax (909) 656-0854

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## TRUTH OR CONSEQUENCES? THE PATH TO CAREER DESTRUCTION

Truth, honesty and veracity are character traits that we all agree are essential qualities in law enforcement candidates. Police agencies would not think of hiring an applicant who had demonstrated a lack of honesty, either in his or her background, or in the application process itself. Any of us who might be called upon to describe the most important attribute necessary to law enforcement officers would list personal integrity first.

Why is it then, when everyone recognizes that honesty and truthfulness are indispensable to continued career vitality, too many of our colleagues, when put to the test, fail, and are surprised to learn that they will not retain their positions?

Thirty-two years ago, I was sworn in as a police officer in a San Francisco Bay Area suburb. It was no different then. Credibility was something, even back in those years, that was simply not to be compromised. And since then, nothing in this profession has changed in a way that would de-emphasize or undercut the central prominence of truthfulness on the job. Indeed, as the notion of a police "code of silence" has become public concern, the focus on personal integrity and credibility becomes ever clearer.

Accordingly, we would expect to see a corresponding reduction in the number of cases where deputies and officers are charged with and disciplined for "false and misleading" statements. Unfortunately, this has not happened. I haven't seen statistics, but being exposed, day in and day out, to a wide spectrum of internal investigations in southern California, it strikes me that we have a serious problem confronting us: our members need, more than ever, to understand that there is no way back from material lies and false denials made during any official inquiry.

An important part of this understanding includes contemplation of the reasons why deception and attempts at it are not, and cannot be tolerated. A law enforcement officer is expected to speak that truth in a variety of duty-related contexts, including, of course, testifying. But just like any other witness, an officer who testifies or forswears an affidavit, automatically puts his or her own credibility in issue. When one's credibility is in issue, his or her *character* for truth, honesty, and veracity is also in issue. The most common way of attacking a person's character for truth, honesty and veracity is to show that the person has a poor reputation for these character traits. This is demonstrated most powerfully, by showing specific, identified instances of lying, misleading, or deception. It follows then, that a party who wishes to attack the veracity of a testifying officer, should be permitted to do so by proof that the officer has deceived, or tried to, in the past, in a duty-related matter. If the officer has violated his duty to speak the truth in the past, then his credibility under oath is seriously compromised.

Under recent interpretations of the *Brady* doctrine, prosecutors are arguably under a duty to disclose to the defense that an officer-witness has been deceptive in a duty-related incident. Police administrators are being urged to disclose these facts to the prosecutor. In certain cases of which I am personally aware, prosecutors have notified departments that they will not file cases from reporting officers who have deceived their supervisors in official matters. Such an officer will likely be deemed unfit, and subject to discharge, as a consequence.

Today, a police administrator, faced with an employee who has attempted deception, can be counted on to simply avoid the problem of the untruthful officer-

witness, and terminate the officer upon the *first* determination that he or she has lied. In connection with this, chiefs and sheriffs have applied phrases like "zero tolerance" and "you lie, you die" to this issue of officer veracity.

Let us be clear, *if one attempts to deceive in any duty-related context, one must also assume that termination will result.* Further, there will be no ability to secure public law enforcement employment ever again. It is as simple as that.

Why do officers lie? Sometimes, it is out of a desire to avoid, at any cost, admissions of misconduct. It is done with full knowledge of the consequences, and it is a deliberate effort to cover up wrongdoing. Clearly this demonstrates unfitness, standing alone.

In other, perhaps most cases, officers lie out of undue fear of the consequences, or out of ignorance, or in a sudden, knee-jerk response to an unanticipated question or inquiry. In these cases, time to reflect and persuasion will often dissuade the officer from going through with the lie. The problem is, usually there isn't the time or opportunity for reflection or persuasion, and unfortunately, the lie is spoken.

The reality is, however, it doesn't matter whether the lie results from premeditation, or is rather the influence of fear, ignorance or surprise. A lie is a lie.

There are some among us, unfortunately, who whenever and however they are put to the test, will fail it, because they lack the central character trait: integrity. There is nothing we can do for them. They don't belong in our ranks, and they need to be identified and eliminated.

But what do we do about fear, ignorance, and surprise, when there isn't time for reflection, consideration, consultation or persuasion? It takes this: each member must periodically contemplate the place of honesty and integrity in his or her profession, reaffirming that it simply cannot be compromised, recognizing that any failure to speak the truth will lead to career destruction, and committing to himself or herself that, in any circumstance where there is a duty to speak, it will only be the truth. In this way, just as we mentally prepare

ourselves for the sudden and unexpected incident on the street, we mentally prepare for the unexpected or stressful inquiry about something we have done, or have failed to do. Just as "muscle memory" aids the officer in the sudden deadly or violent confrontation, "ethical memory" will lead us in the right way when our actions are questioned. But just like shooting, defensive tactics, gun retention and all officer safety techniques, we must think about our integrity and honesty, practice it always, and commit to apply it when the circumstances are presented. We need to do this enough so that it is always the *automatic response*--then fear, ignorance and surprise will not exact such a heavy toll in police careers.

If you don't believe this, consider: how many of our comrades have lost their jobs because they lied in cases where the underlying misconduct, even if admitted, would not have resulted in termination? In my own experience, *most* terminations for lying are in this category. If you are still unpersuaded, know this: One should not seek out an ethical lawyer or representative for representation if one plans to lie--he or she will not participate, because *today's lie becomes tomorrow's perjury.* Believe this as if your career depended upon it, because it does.

Stay safe!

Michael P. Stone

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Pasadena Office  
600 South Lake Avenue, Suite 401  
Pasadena, California 91106  
office (626) 683-5600  
fax (626) 683-5656

Riverside County Office  
6215 River Crest Drive, Suite A  
Riverside, California 92507  
office (909) 653-5152 or (800) 655-4772  
fax (909) 656-0854

