reputation has great value in setting the stage for negotiations or
ringing a partner into negotiations. So what might be perceived as
"reputation in one context could be an asset in another.

Use you are always building your reputation, your decision about
do at the negotiating table affects more than the negotiation at
Negotiation reputations are built over time; each round of negotia-
tions affects the reputation you take into the next one. When choosing tac-

A negotiation, managers must estimate not only the impact of
stic on the outcome of this particular negotiation but also the impact
tactic and its effect on reputation. This impact might vary depend-
the industry and the norms. For example, our Silicon Valley entre-
rpr noted, "It is critical to get to a big win-win, because each outcome
they to determine your own reputation going forward." In other in-
hes, having a reputation for being tough may be the desired asset. Un-
nding the impact of reputation on future negotiations can help
ers select the appropriate trade-offs between choosing tactics this
and developing their reputations in the future.

CHAPTER 11

DECEPTION IN NEGOTIATIONS

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Can you detect a lie? One study found that 28 percent of negotiators
lied about a common interest issue during negotiations, while an-
other study found that 100 percent of negotiators either failed to re-
veal a problem or actively lied about it during negotiations if they
were not directly asked about the issue.

I thank Richard Shell and Robert Gunther for helpful comments.
Truth is the most valuable thing we have. Let us economize it.

— Mark Twain

During the course of negotiations, people often misrepresent information to gain at least a temporary advantage. For example, a seller may fabricate the existence of another interested buyer or a buyer may misrepresent the price and availability of an item from a different vendor. The author explores different types of lies, their impact on negotiations and decision making, and the inherent difficulty negotiators face in detecting falsehoods. The chapter concludes with prescriptions for contending with the use of deception by others and for managing the use of deception within your organization.

In 1994, Textron was in labor contract negotiations with the United Automobile Workers Union (UAW). Both prior to and during the negotiations, the UAW asked Textron about its intentions to subcontract work with nonunion workers. Textron assured the UAW that they had no plans to subcontract work, and the parties reached an agreement. Shortly after the contract was signed, Textron unveiled plans to subcontract work. In actuality, Textron’s management had developed plans to subcontract work prior to the negotiation. This intention was substantiated by internal company documents, and the UAW subsequently sued Textron for negotiating in bad faith. The UAW lost the lawsuit. The court determined that if the issue of subcontracting was critical to the UAW, they should have included a clause regarding subcontracting in the contract.\(^1\)

Managers often have incentives to lie, and in the Textron case, management derived, at least in the short run, benefits from telling a lie. How can negotiators avoid falling victim to the use of deception by others?

At the individual level, when are people more or less likely to lie in negotiations? In one case, attorney Richard Bonczek had worked at DuPont for 24 years. He was interested in leaving DuPont and interviewed with Carter-Wallace for a position in their legal department. As the interview process progressed, he negotiated for his position title, salary, and benefits. Ultimately, Carter-Wallace extended Bonczek an offer “contingent on the completion of reference checks.” Upon receiving the offer letter, Bonczek resigned from his job at DuPont. When Carter-Wallace initiated a background check, however, they learned that Bonczek had misrepresented both his title and his salary at DuPont. Carter-Wallace then withdrew its offer, leaving Bonczek unemployed.\(^2\) (Bonczek subsequently filed a lawsuit against Carter-Wallace and lost.)

In companies, how does organizational culture encourage or discourage deception? A 1992 investigation by California state regulators concluded that Sears automotive employees performed unnecessary repairs 90 percent of the time. The California regulators discovered that the company had given automotive service advisors aggressive goals for selling parts and services. These findings prompted Sears’ chairman Edward Brennan to announce that the “goal-setting process for service advisors created an environment where mistakes did occur” and that they would be “dumping the sales system, effective immediately.”\(^3\)

Deception of some kind is an inherent part of human interaction. We tend to be overconfident in our ability to detect deception and often prefer not to consider the possibility that we are being deceived as we negotiate and make important decisions. This chapter examines the potential for deception and some ways to avoid it and manage it within your organization. Why do people decide to deceive? How common is deception? Why is deception so hard to detect?

**The Honest Truth about Lying**

Are people lying to you in negotiations? There is a very good chance that they are. One study found that 28 percent of negotiators lied about a common interest issue during negotiations,\(^4\) while another study found that 100 percent of negotiators either failed to reveal a problem or actively lied about it during negotiations if they were not directly asked about the issue.\(^5\)

People are generally more comfortable telling lies of omission, by not revealing information, than lies of commission, by actively misrepresenting information. Some ethicists argue that lies of omission and lies of commission are morally equivalent if the outcomes and the liar’s intentions are the same.\(^6\) As a practical matter, however, the intentionality of omissions is difficult to judge, and the law typically holds negotiators more responsible for lies of commission than lies of omission.\(^7\)

**The Subject of Lies**

In addition to distinguishing between lies of omission and lies of commission, lies also can be classified according to the type of information
misrepresented. Broadly speaking, negotiators can misrepresent their reservation price, their interests, their intentions, and material facts:

- **Reservation prices.** Lies about reservation prices are very common. So common in fact, that negotiators should never rely on the claims their negotiation partners make regarding their bottom line or reservation price. The law echoes this sentiment, and lies concerning one's "bottom line" do not usually constitute fraud.

- **Interests.** Negotiators also frequently misrepresent their interests and intentions. For example, a negotiator may misrepresent a common interest as a conflicting interest to extract concessions. In many cases, negotiators have compatible interests that are difficult for both parties to recognize. A buyer and a seller may both prefer an earlier closing date for the sale of a property. After a seller expresses her preference for an earlier closing date, however, a strategic buyer might misrepresent his interest, and claim that a later closing date would be more convenient for him, but that he could accommodate the seller if she made other concessions.

- **Intentions.** Negotiators can also bluff about their intentions. This tactic was used successfully by David Cohen, the deputy mayor of Philadelphia, during labor negotiations with most of the city's blue-collar workforce in 1992. The city of Philadelphia had engaged District Council 33, the union that represented most of the city's workforce, in a contentious and protracted negotiation. The city had asked the union to make significant wage concessions. During the negotiations, Cohen solicited and received several bids for privatizing trash collection. Though Cohen never intended to privatize trash collection, he knew that this issue was important to the union and that he could "concede" this issue in exchange for other concessions. In the final hours of negotiations, the city and union negotiators reached an agreement—the unions agreed to wage concessions and the city conceded the issue of privatizing trash collection.

- **Material facts.** Lies about material facts are almost always more serious. Most negotiators consider lies about material facts to be unacceptable. These lies constitute fraud whenever a negotiator makes a "knowing misrepresentation of a material fact on which the victim relies that causes damage." Not all lies about material facts fit this definition. For example, a home buyer is obligated to exercise reasonable prudence and hire a title search firm rather than rely on the verbal assurances of a seller when a seller states that she has "good title" to her home.

Lies have also been categorized according to the object of the lie. Lies can be told about oneself (e.g., "I have substantial experience handling an order of this size"), about the target (e.g., "You look great in that suit"), about another person (e.g., "Your partner is trying to steal your business"), or about an object or event (e.g., "This contract is likely to generate a substantial number of referrals").

Finally, we can distinguish between lies according to whether the primary motivation of the lie is to promote one's own interests (self-oriented lies) or to promote someone else's interest (other-oriented lies). Other-oriented lies are often used to make others feel at ease. A negotiator may claim that "now is a great time to meet" or "we would be happy to meet that request," when in fact the opposite is true.

Many lies, such as other-oriented lies, can actually facilitate the communication process. In this chapter I focus on self-oriented lies about material facts, intentions, and interests that can harm the negotiation process.

### Deciding to Lie

Why do people decide to lie and how are lies incorporated into the decision process? One might look at the decision through a simple cost-benefit framework. As the benefits of lying rise and the costs of lying fall, negotiators become more likely to lie. Consistent with this model, one experiment found a direct link between incentives and deception; subjects who were offered a larger incentive to misrepresent a forecast were more likely to lie.

This cost-benefit calculation, however, is far from straightforward. While the benefits of deception are often apparent, assessing the expected costs of deception is more complicated. First, a negotiator must estimate the probability that the deception will be detected. These estimates may be biased in a number of ways. For example, a negotiator who has been
successful using deception in the past may be overconfident in her ability
to use deception in the future.

Second, a negotiator must estimate the costs of detected deception. These
can include both legal and reputation costs. In high-profile and repeated ne-
gotiations these costs can be quite high. In other cases, however, these costs
can be surprisingly low. For example, in some industries, repeated inter-
action is low and negotiators can operate effectively with a tarnished re-
putation. House negotiations are almost always a single-shot transaction
between a buyer and a seller. In these cases, a buyer may bluff and declare
$300,000 to be her “firm and final price” with relative impunity. If the seller
responds by claiming that his last offer of $310,000 is his final price, the
buyer can capitulate and pay $310,000. In this case, the buyer loses credi-
bility with the seller, and the seller would reasonably discount any future
claim she might make regarding her “firm and final price.” However, since
the buyer and seller are unlikely to interact with one another in the future,
this loss of credibility is not very important for the buyer.

A final cost negotiators may bear for telling lies is the potential for feel-
ing guilt or remorse. The degree of guilt is subject to a great deal of indi-
vidual variation. In general, the expected costs of telling lies in negotia-
tions are higher when the target is more likely to detect the deception, the
target is more likely to be vengeful, the relationship is repeated, and the vis-
ibility of deception is high.

Further, the framing of outcomes in terms of gains or losses can influence
the perceived costs of using deception. For example, suppose a management
team is engaged in salary negotiations with a union. The union states an
initial demand for a 10 percent wage increase and the management team
flatly rejects their demand. Suppose that after protracted negotiations, both
sides agree to a 4 percent wage increase. In this case, the 4 percent increase
can be viewed by the union as either a 4 percent gain relative to their cur-
rent wage or a 6 percent loss relative to their initial demand of 10 percent.
The current wage rate or the 10 percent increase serve as reference points
in this example.

Several other reference points may exist, such as last year’s wage increase,
the rate of inflation, or the percentage increase other unions received. In
general, any negotiation can be viewed in terms of gains (e.g., maximizing
profits) or losses (e.g., minimizing costs), and different reference points
can be cued relatively easily.

What makes the gain/loss distinction important is the way in which gains
and losses are evaluated. People are more willing to take risks in the
domain of losses than in the domain of gains. This “risk shift” may in-
crease a negotiator’s propensity to lie since the decision to use deception is
often a risky choice. Compared to outcomes negotiators attain from telling
the truth, negotiators typically attain better outcomes from successful de-
ception and worse outcomes from unsuccessful deception.

Loss aversion may also influence a negotiator’s propensity to lie. For ex-
ample, most people consider the pain of losing $100 to be greater than the
pleasure of gaining $100. Over the domain of losses, negotiators may work
particularly hard to reduce losses or break even. While this additional effort
can be constructive, it also may lead negotiators to cut corners. (Schoe-
maker and Russo discuss framing issues in more detail in Chapter 8.)

Justifying the Use of Deception

In addition to the difficulty of weighing the costs and benefits of decep-
tion, many negotiators will buffer themselves from the emotional costs by
finding a justification for their use of deception. Although guilt and re-
emorse may restrain negotiators from lying in egregious situations, most
people readily justify their own use of deception, and work to avoid feel-
ing guilt and remorse both prior to and after using deception.

Some negotiators justify their own use of deception in terms of self-
defense, on the grounds that they were lied to in the past or that they may
be lied to in the future. For example, in a car purchase negotiation, buy-
ers often preemptively suspect that sales agents will employ unethical tact-
ics, and consequently employ unethical tactics themselves. This cycle of
suspicion and deception can build upon itself. In a study involving in-
centives for deception, people with larger incentives were not only more likely
to lie themselves but also were more likely to expect others to lie as well.

Negotiators are also more likely to justify their distortion of information
when that information is not known with certainty. For example, some
values, such as the amount of another offer, are known more precisely than
others, such as the estimated cost of renovating a property. Sellers have in-
centives both to understate the cost of necessary renovations to a property
and to overstate the value of another offer. In general, however, negota-
tors are more likely to bias the values they report for elastic (uncertain or
ambiguous) values, such as renovations, than for inelastic values, such as the amount of another offer.

**GUARDING AGAINST DECEPTION**

If deception is so prevalent in negotiations, how do you guard against it? One option is to be more vigilant in identifying signs of deception. Table 11.1 lists a number of diagnostic cues that indicate deception. This list, however, warrants three important caveats. First, none of these cues is perfectly correlated with deception. Second, despite the abundance of available cues, most people are not very good at detecting lies, and third, most people are overconfident in their ability to detect deception.

As Table 11.1 suggests, most deception cues are nonverbal. In fact, people who are good lie detectors tend to focus on a number of nonverbal cues such as facial expressions. Consequently, negotiators attempting to detect deception should focus on nonverbal behaviors and listen carefully to how things are said in addition to what is said.

This finding also suggests that different media, such as the telephone or e-mail, limit a negotiator's ability to detect deception. On the other hand, access to visual cues may also help deceivers tell lies. One study found that negotiators were actually more likely to misrepresent a common-interest issue via videoconference than via telephone. In this case, liars could access and update their beliefs about the target's gullibility with visual access better than they could without visual access. Consequently, visual access (via videoconferencing or in person) may enable negotiators to be more successful in telling certain types of lies.

Finally, even if both verbal and nonverbal cues are available, most people are not very adept at detecting deception. The best defense against deception is taking steps to reduce the likelihood that people will use deception in the first place. This can be done before, during, and after negotiations.

**Before Negotiating**

- **Prepare your questions.** First, negotiators should identify missing information and prepare to ask the same or similar questions multiple times. This repetition will reduce elastic justification and curtail lies

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**Table 11.1 Cues to Detect Lies**

<table>
<thead>
<tr>
<th>Vocabulary Cues</th>
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<tbody>
<tr>
<td>&quot;to tell the truth&quot;</td>
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<tr>
<td>&quot;let me be honest with you&quot;</td>
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</table>

<table>
<thead>
<tr>
<th>Verbal Cues</th>
<th></th>
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<tbody>
<tr>
<td>Use of more negative statements</td>
<td></td>
</tr>
<tr>
<td>Irrelevant information</td>
<td></td>
</tr>
<tr>
<td>Overgeneralized statements</td>
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</tr>
<tr>
<td>Fewer words in response to questions</td>
<td></td>
</tr>
<tr>
<td>Lack of spontaneity</td>
<td></td>
</tr>
<tr>
<td>More speech errors, grammatical errors, slips of the tongue</td>
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</tbody>
</table>

<table>
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<tr>
<th>Vocal Cues</th>
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<tbody>
<tr>
<td>Speech hesitations</td>
<td></td>
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<tr>
<td>Changes (usually elevation) in pitch</td>
<td></td>
</tr>
<tr>
<td>Reduced rate of speech</td>
<td></td>
</tr>
<tr>
<td>Longer response time to questions</td>
<td></td>
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<tr>
<td>Increased use of pause fillers (e.g., uh, er)</td>
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<table>
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<tr>
<th>Visual Cues</th>
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<tbody>
<tr>
<td>Less gesticulation, less head movement</td>
<td></td>
</tr>
<tr>
<td>Increased blinking</td>
<td></td>
</tr>
<tr>
<td>Increased use of self-adapters (nervous habits, e.g., scratching, twiddling)</td>
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</tr>
<tr>
<td>Pupil dilation</td>
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<tr>
<td>Flushing or blanching of the skin</td>
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<tr>
<td>Increased sweating</td>
<td></td>
</tr>
<tr>
<td>Changes in respiration</td>
<td></td>
</tr>
<tr>
<td>False smiles: asymmetrical, no movement around the eyes and forehead</td>
<td></td>
</tr>
<tr>
<td>Conflicts between emblems (e.g., head nod) and verbal statements (e.g., nod yes when responding no)</td>
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</tr>
</tbody>
</table>

Conflicting microexpressions (brief lapses in facial expression)

of omission. In many cases, carefully worded questions can yield valuable information—even from the way questions are deflected.

- **Evaluate motivations.** Negotiators should analyze their negotiation context and their negotiation partners. This analysis should include an evaluation of whether their negotiation partner is losing money, what their partner’s goals are, what incentives their partner faces in completing a transaction, and the importance to the partner of preserving his reputation. Changes in these factors are likely to increase or decrease the likelihood that people will use deception.

- **Increase costs of deception.** Negotiators should consider options for increasing their partner’s costs of using deception. For example, consider either transforming a single interaction into an opportunity for repeated business or involving a prominent third party, even nominally, in the transaction.

- **Consider the setting.** Before negotiations begin, consider the setting and communication medium. Most diagnostic cues for detecting deception are nonverbal, and different media such as face-to-face communication, videoconferencing, the telephone, and e-mail will influence whether or not negotiators will use deception.

- **Avoid overconfidence.** Finally, be vigilant. Spend time and resources checking important background information.

## During Negotiation

- **Establish trust.** Negotiators should work to establish a foundation for trust at the beginning of the negotiation process. Work to convince your negotiation partner that you will not use deception. This tactic will reduce the possibility that others will employ defensive justification.

- **Shift the frame.** Negotiators can adopt frames or points of reference in a number of ways. In some cases, reference-point adoption is very subtle. For example, a manager in a labor negotiation might implicitly adopt a loss frame if others communicate this frame. In general, the communication process can be used to influence reference-point adoption both prior to and during a negotiation.  

## After Negotiations

- **Manage your reputation.** Take a long-term perspective of negotiations. Develop relationships and a reputation for treating people fairly and honestly. In addition, consider developing a reputation for
penalizing dishonesty. Although developing these reputations can be costly in the short run, in repeated and high-profile cases they are likely to pay off in the long run.

- Don’t gloat. Finally, always be modest. Never gloat over unexpected gains, and never convey the impression that you have “won” a negotiation. Related to this advice, following a negotiation never reveal additional confidential information, such as the most that you would have been willing to pay. These revelations can fuel feelings of injustice and harm future relationships. Perceptions of fairness are fragile, and often enough people will remember losses and attempt to even the score next time.

MANAGING DECEPTION IN YOUR ORGANIZATION

It is not just your negotiating partners that may be susceptible to the use of deception. You and other negotiators on your side of the table also will be tempted to use deception. For most people, the advice never to lie is overly simplistic. But how do you keep the temptation to be deceptive from harming current negotiations and your long-term reputation?

To set a standard of being absolutely free of all lies of omission is unrealistic. Negotiators who honestly represent their bottom line or correct every mistaken impression their counterparts have, are likely to find themselves seriously disadvantaged. On the other hand, lying whenever it is convenient to do so is clearly not an acceptable alternative either (at least for legal if not moral reasons). As Shell suggests, aim high in setting your ethical standards, and apply your standards consistently throughout your negotiations. Previous scholars have suggested that negotiators consider Golden Rule questions such as “How would you feel if everyone behaved this way?” or “Would your mother approve of your behavior?”

In many cases, setting a standard is easier than adhering to it. Negotiators are often tempted to misapply their ethical standards. The short-term gains from deception can be large, and deception often succeeds. In the long run, however, your reputation and your conscious will be better served by consistent honesty.

As you negotiate or empower others to negotiate on your behalf, you should consider a number of factors that influence the deception decision process:

- Set goals carefully. As noted in the Sears automotive example at the opening of the chapter, setting aggressive goals may lead to more deceptive behavior. Managers, employees, and even athletes work harder when motivated by difficult, but realistic goals. Essentially, once goals are adopted people view any outcome short of the goal as a loss. Research has found that challenging goals motivate both constructive and unethical behavior—including lying and cheating. Negotiators with difficult goals are likely not only to bargain more contentiously, but also to bargain less ethically.

- Monitor decision making in the loss domain. Like goal setting, framing outcomes in terms of losses can motivate people to bargain more aggressively, and perhaps less ethically.

- Assess underlying uncertainty. In general, the more uncertain and ambiguous the information is, the more likely people are to communicate that information in a self-serving way. Consequently, negotiators should assess the underlying certainty with which information is known. Similarly, when negotiators fail to ask questions or ask ambiguous questions, they are much less likely to learn relevant facts. Direct, specific questions curtail deception.

- Pay attention to self-perceptions and norms. Self-perceptions and norms also guide the use of deception. Certain contexts such as the sale of a used car may cue different norms and expectations that facilitate the self-justification process. Creating a culture that clearly stresses the norms of honesty and fairness may help reduce the likelihood that negotiators will engage in unethical behavior.

- Prepare carefully. Many negotiators misapply their ethical standards because they are ill prepared. Many lies are “responsive” lies told under pressure. When confronted with a difficult or unexpected question, many negotiators become anxious and use deception. To avoid this predicament, you should prepare by anticipating difficult questions, by practicing replies, and by considering follow-up questions
you are likely to be asked. You do not need to answer every question, but take the time you need to respond when you do.

- *Look for justifications.* In addition, anticipate your own justification process, such as defensive and elastic justification, in your own use of deception. Evaluate your actions from a neutral perspective and encourage your employees to do so as well.

While we might wish all interactions to be completely open and honest, deception is an inherent part of human communication. There will always be missing information and differences in attitudes regarding what should or should not be revealed. Consequently, managers should take specific steps to curtail the use of deception by others, and consider guidelines for managing their own temptations to use deception.

CHAPTER 12

ELECTRONIC BARGAINING: THE PERILS OF E-MAIL AND THE PROMISE OF COMPUTER-ASSISTED NEGOTIATIONS

G. RICHARD SHELL
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The computer can sometimes come between negotiators—creating a variety of potential pitfalls—but computer programs also can offer powerful decision support to improve deal making.