

2

CHAPTER

Ethics Surrounding Interviewing

OBJECTIVES

Upon completion of this chapter, students should be able to

1. Understand the ethical issues and their ethical responsibility surrounding interviewing
2. Be able to develop their individual ethical standards
3. Understand the potential power of their role as interviewers and the potential consequences of interviews

Introduction

A skeleton shadow of a woman sat across from the interviewer. She would not make eye contact, but showed no emotions. Her infant was dead, allegedly from Sudden Infant Death Syndrome, but there were indications that the child may have died from neglect and abuse. The interviewer knew that it would be tempting to treat this woman with scorn and ridicule. Any person who would put his or her drug habit before an infant's needs did not have any self-respect and deserved to be treated with scorn.

Ethical behavior is based on knowing the difference between what is legal and what is moral. The interviewer is solely responsible for the interview methods employed; his or her conscience acts as the benchmark.

Regardless of the alleged offense or how unsavory the personality of the interviewee, the interviewer must adhere to ethical standards. The interviewer controls his or her behavior; it is not controlled by the interviewee, the criminal justice system, or the immediate situation.

This chapter provides examples of ethical and unethical behavior, but there is no ironclad rule that makes the decision simple. The interviewer should view his or her behavior as though it were to be published on the front page of a Sunday edition of the local newspaper. How proud would the interviewer be if the interviewer's supervisor, parents, and closest friends read in the paper about the methods he or she used during interviewing? If the interviewer begins to rationalize or justify techniques used, then more than likely the techniques are unethical. We rationalize to make ourselves

feel better about what we did. If we have to rationalize, then it stands to reason that what we did might be unethical.

Statements such as, “the end justifies the means,” should be examined closely. Interviewing is a prime area in which the means are as important as the end. If unethical means are used, then the end cannot be trusted to provide valid information. Information must be provided freely and voluntarily without compelling influence (*Miranda v Arizona*, 1966).

Following the due-process model, interviewers operate under the principles that the process of the law is more important than a conviction or catching a client. Under the due-process model, it is recognized that the coercive authority of the criminal justice system sometimes abuses, and must be balanced with, an individual’s rights (Peak, 2009). Even when students are not interested in becoming police officers, they should be well-versed in the U.S. Constitutional amendments and related case law. Individual rights should be protected by all criminal justice professionals.

EXERCISE 2.1

Importance of Ethics

Activity: The instructor facilitates a discussion with the students about the fluidity of ethics depending on their criminal justice role and the purpose of their interviews.

Purpose: To facilitate the understanding of the many different faces of ethical behavior.

1. What would be the difference between a police officer interviewing a suspect in which the consequences are loss of freedom and a professional interested in treating a court-deferred substance abuser? Does duty play a different role for the officer than for the treatment professional?
2. What are some of the ethical issues that a probation officer working with a client faces versus a juvenile court counselor working with a juvenile?

Ethical Standards

We described the principles of interviewing in Chapter 1. Ethical standards closely follow these principles. The interviewer begins with the understanding of the worth and dignity of every human being. Openness and nonjudgment must be maintained throughout the interview, treating each interviewee with fairness and impartiality irrespective of socioeconomic status, associates, race, religion, or physical appearance. On the other side of the same coin, interviews, decisions, and records should remain untainted by personal, financial, political, or any other type of improper influence.

Interviews are built on information gathered by all possible sources. The interviewer strives to obtain and verify additional information by methods and techniques that have the greatest probability of eliciting reliable and valid facts. It is becoming more evident that information obtained as a result of coercive techniques is inherently unreliable (Sear & Williamson, 1999). There is never a justifiable reason to suppress or falsify relevant information obtained in an interview.

Interviewing is hard work and should be established on thorough preparation. No excuse, including fatigue or disinterest, ethically permits taking shortcuts in an interview.

The English police have moved their investigative procedures away from the U.S. practices of interrogating the suspect to more thorough interviewing of victims and witnesses. The English police are trained to search for the truth rather than to push for confessions. More thorough interviewing of victims and witnesses is likely to turn up better evidence, which in turn increases the likelihood of gaining valid information about the suspect (Bull & Milne, 2004). The English judicial system also examines closely whether or not the police behave fairly toward vulnerable suspects such as those with special needs or low intelligence (Sear & Williamson, 1999). This subject will be discussed in greater detail later in this chapter.

Deception in many cases is a prime example of unethical rather than illegal behavior. There are a number of court decisions in which police officers have used deception to extract a confession, although obvious deceptive actions such as false promises that mislead a suspect and lead to confessions (*Pyles v State*, 947 S.W.2d 754, as cited in Klotter, Walker & Hemmens, 2005) are considered by the courts as involuntary confessions and are not admissible (*State v Burdette*, 611 N.W.2d 615, 2000, as cited in Klotter et al., 2005).

State v Jackson (1983) provides an ethical rather than a legal question. In this case, the police interviewed Jackson, the suspect, multiple times. Jackson was not in custody, but rather requested to talk to the police. The police believed they had found the knife used in the murder. A knife matching the set from the victim's kitchen was found thrown in the bushes near the crime scene. There was no blood on the knife and no fingerprints. One of the detectives had an idea. He took an identical knife from the set still in the kitchen. He cut his thumb, drawing blood, and then pressed his bloody thumb to the recreated murder weapon.

During the next interview, Jackson again denied killing the victim. The detective jammed the substitute bloodied knife in front of Jackson's nose and yelled, "Then how do you explain your fingerprints on the murder weapon?" The detective also told Jackson that a witness had seen him run from the victim's apartment. That was a lie. The witness saw a man running down the street, not out of the apartment, and could not identify him. Jackson began to recount what his role in the victim's murder was.

Jackson was tried and convicted. The case went up on appeal.

The appellate court's decision ruled that Jackson's confession was admissible, despite the detective's deception. The court's decision, however,

included the reprimand “. . . the officers deceived and lied to the defendant. Such actions are not to be condoned by the courts . . .” (p. 21). So while the detectives’ deceptive actions were legal, their ethical behavior was questionable.

Deception is on the “slippery slope” toward unethical behavior. As an interviewer, detective, private investigator, or social worker begin to slide, it becomes more and more difficult to define what behavior is acceptable and what is not.

Validity of Confession Evidence

Although this book is restricted to interviewing and deals with interrogations in a limited fashion, many of the ethical issues surround pressuring individuals to confess to acts they may or may not have committed.

Folklore states that an innocent person would never confess to a crime that he or she has not committed. Because juries believe this folklore, confessions are one of the most powerful pieces of evidence that can be admitted into court (Gudjonsson, 1993). There is a growing body of literature, however, that has examined the vulnerabilities of people and the risk of false confessions. Innocent people, in fact, sometimes do confess to crimes they have not committed.

Although the incidence of false confessions is unknown, Leo (1996) discovered a disturbing number of documented cases in which defendants confessed, later retracted the confession, were convicted at trial, and then later exonerated by DNA or other forms of irrefutable physical evidence.

Researchers for The Innocence Project also have found that roughly a quarter of all DNA exoneration cases contained full or partial confessions, apparently false (Leo, 1996). Probably one of the most famous cases was the Central Park Jogger. In 1989, Trisha Meili, left for dead after being raped and beaten in New York’s Central Park, had no memory of the attack against her. After confessing to the police, five teenagers were convicted of her attack and sentenced to 7 to 11 years in prison. Nineteen years later, the convictions were thrown out after a convicted serial rapist and murderer, Matias Reyes, told prison officers that he alone attacked Meili. DNA testing confirmed his statement. Five young, innocent boys spent much of their lives in prison due to their vulnerabilities that led to false confessions.

Dr. S. M. Kassin (1997) describes three types of false confessions. They are voluntary, coerced-compliant, and coerced-internalized.

A voluntary false confession is offered without external pressure from the police. Quite often people will confess to crimes that are highly publicized. They desire fame, recognition, or self-punishment. For instance, when Charles Lindbergh’s baby was kidnapped, 200 people went to the police and confessed. Because of Charles Lindbergh’s famed nonstop flight from New York to Paris in the single-engine monoplane, Spirit of St. Louis, these 200 people had a distorted fantasy that by confessing they would achieve fame.

None of them had kidnapped or murdered baby Charles Lindbergh, Jr. (FBI History, n.d.)

On the other hand, coerced-compliant false confessions occur for instrumental purposes. Individuals in these circumstances confess to escape or to avoid harsh interrogation. They are made to believe that the short-term benefits of confessing outweigh the long-term costs. This is particularly true if their perception of the strength of the evidence is quite high.

Individuals who are predisposed to exhibit compliance may be particularly vulnerable. For example, Dr. Kassir (1997) describes a case in Great Britain in which a 17-year-old was arrested for murder despite the absence of any physical evidence implicating the youth. After being interrogated for 14 hours by five detectives, the boy was exhausted and felt powerless to bring the interrogation to an end. He confessed. After a night's rest, just one day later, he retracted his confession.

Even more worrisome to the criminal justice community are cases of coerced-internalized false confessions in which the individuals actually believe they committed crimes. Individuals who can be coerced to the point of believing they committed the crime tend to possess poor memories, high levels of anxiety, low self-esteem, and lack of assertiveness. Their suggestibility scores increase with sleep deprivation.

Dr. Kassir (1997) describes Peter Reilly, an 18-year-old, who found his mother dead and called the police. During the interrogation, Peter was polygraphed and then told that he failed the polygraph test. Transcripts of the interrogation reveal that Reilly went from denial, to confusion, to self-doubt, and finally, to confession. Peter signed a full written confession. Two years later, independent evidence revealed that Reilly could not have committed the murder.

Thomas Sawyer was accused of raping and murdering a neighbor. Sawyer was interrogated for 16 hours. During the interrogation, Sawyer was told that his hair was found on the woman's body, although that was not the case. Sawyer moved from adamantly denying the accusations to believing he committed the crime, but lost his memory as the result of an alcoholic blackout. Sawyer even altered his story to match the crime scene. After denying for hours, Sawyer confessed, concluding that, with all of the evidence pointing toward him (fabricated), he must have killed his neighbor (Kassir, 1997).

The primary factors that often lead to individuals confessing to crimes they did not commit are their vulnerability and the presentation of false evidence (rigged polygraph or forensic tests). Vulnerability factors are youth, lack of experience with the criminal justice system, lack of intelligence needed to comprehend the interviewer's techniques or the consequences of a conviction for the offense, fatigue, isolation, and intoxication from alcohol or drugs.

While falsely telling a suspect that he or she failed a polygraph was at one time common, what is becoming more common is the police telling a suspect that the analysis of physical evidence places him or her at the crime scene, or that the weapon used has been found and incriminates him or her.

Eye witnesses then often “appear,” claiming to have seen the defendant at the crime scene.

Dr. Kassin (1997) conducted a lab experiment using college students as subjects. Kassin wanted to discover if presentation of false evidence leads individuals, who are vulnerable, to confess to acts they did not commit, to internalize (or believe) their confession, and to make up details to support their false confession.

During the experiment, students were instructed to type letters as quickly as possible. “Don’t press the ALT key,” the researcher told them. After 60 seconds, the students’ computers supposedly crashed. The students were accused of hitting the ALT key.

After the students were prodded to sign a confession stating they hit the ALT key, they met another associate outside the lab door who asked, “What happened?” After the students told the associate, they were brought back into the lab and asked to reconstruct when and how they hit the ALT key. Vulnerability was manipulated by varying the speed of the typing requirement and the presentation of false incriminating evidence. The associate falsely told half of the students that he or she saw the students hit the ALT key.

Overall, 69% of the students signed a statement confessing to hitting the ALT key; of these, 28% internalized the guilt, and 9% created details to match their confession.

When students were allowed to type at a slower pace, and there was no associate who stated he or she had seen the act, 35% of the students signed a confession, but none internalized or made up information to support the confession. When the students were pressured to type quickly, all of them signed a confession; 65% believed they had hit the key, and of those students, 35% made up information.

The laboratory experiment was conducted on individuals who did not meet the criteria of being vulnerable. They were college students who were not using drugs or alcohol or facing the possibility of losing their freedom. Still, given stressful conditions and false accusations, they confessed to acts they did not commit. Many of the students actually believed they had hit the key and confabulated details. How much easier it is, then, for people in authority such as police officers or probation officers to convince vulnerable people that they committed criminal acts.

Dr. Kassin followed his initial study with an examination of individuals who waive their rights (2005). In *Miranda v Arizona* (1966), the U.S. Supreme Court ruled that the police must inform suspects in custody of their Constitutional right to remain silent and to have an attorney.

Dr. Kassin concluded that individuals who do not have prior felony records, juveniles, and innocent people are most likely to waive their Miranda rights and to talk to police officers without an attorney present. On the other hand, Dr. Kassin found that suspects who are actually guilty believe if they insist on their rights to silence and an attorney, the police will think they are guilty.

Innocent suspects waive their rights because they are innocent and have naïve faith that their true thoughts, emotions, and other inner symptoms can

be seen by others. So, even with the protection of their rights to silence and to an attorney, many people elect to talk to the police, increasing the possibility of false confessions. The officers may present what appears to be such overwhelming evidence that they believe the individual is guilty and that the individual is thrust into a state of despair. Then, the officers minimize the seriousness or the consequences of the crime, provide moral justification or opportunities for face-saving, and make confession seem like an advantageous means of escape. Although the officers do not make any promises to the individual, they state they will tell the prosecutor that the individual was cooperative.

Interviewers should always remember that confessions can only be considered valid if they are given freely and voluntarily, if they are not tainted by an illegal arrest or search, if the interviewees are provided counsel if they desire it, and if they are given Miranda warnings if held in custodial conditions.

EXERCISE 2.2

Applied Ethics

Activity: Consider inviting professionals to share their real-life ethical dilemmas.

Purpose: To introduce students to the realistic struggles of remaining ethical in difficult situations.

Explain to the students the professional's job. Before the guest professional comes to class, brainstorm with the students some of the ethical issues surrounding interviewing they believe the professional faces. What are some of the questions the students would like to ask the professional? It is recommended that the questions be sent to the professional before the class presentation so he or she has time to think about them. Ethical issues are threatening, and it takes a stable, well-centered person to be willing to discuss issues he or she has faced.

Ethical Tools

Entire courses are taught on ethics in criminal justice, and criminal justice professionals should be encouraged to participate in them. These courses help professionals, and more specifically interviewers, think through independent moral decisions based on sound logic and good reasoning and not just what feels right or the opinions of their peers.

Robert Pring (1990) discusses the need to introduce moral logic as a series of steps:

1. Establish the goal of the moral or ethical deliberation
2. Establish the means to attain the goal
3. Establish the action, which naturally follows

So for example, (1) the detective wants to reveal the facts of a specific crime; (2) the detective knows the physical evidence, and complete, valid interviews of the victims and witnesses are required to reveal the facts of the crime; and (3) the detective must conduct a thorough, prepared interview in conjunction with a thorough discovery and analysis of the evidence.

While interviewers can have other goals (e.g., get a confession), ethically the interviewers need to consider the moral value beyond the action. For example, is a confession really the goal or is the goal conducting a thorough investigation that includes well-prepared interviews of all related parties that culminate in statements that corroborate each other and the evidence?

Criminal justice professionals also must consider duty-oriented moralities—acting exactly as duty dictates (Pring, 1990). Most criminal justice professionals are required to take an oath to uphold the law. It then becomes important for every professional to decide how strictly he or she will follow his or her oath, especially when it conflicts with other moral goals he or she may desire to achieve. For example, probation officers may have the duty to report every infraction clients make, but the officers know they would spend all of their time writing up most of their clients.

Is there a better way to reach certain goals with their clients? The question then becomes, how do criminal justice professionals reconcile their duty with other goals?

When preparing to interview, the interviewer must think about the moral goals that must be achieved and by what means. There is also the need to think about the duties of the profession and how strictly they should be followed if there are conflicts between the interviewer's moral goals and the duties of the profession.

Confidentiality

The diversity of agencies in the criminal justice system does not allow for a general statement about confidentiality that covers all situations.

Krishna Samantrai (1996) details the importance of confidentiality in health and human services. While limited in disclosures of child abuse or threats of harm, the workers have an ethical obligation to preserve confidentiality about the client's personal lives. Part of that ethical obligation in health and human services, as well as other agencies, is the need to inform the client what can and cannot be kept confidential. While there may be some incidents in which certain aspects of the client's information are shared with other professionals, it is never discussed in casual or social settings or with other clients.

The goals of law-enforcement interviews are usually crime-related rather than helping-oriented; however, wherever possible, confidentiality is still of ethical concern. Suspects in custody are detailed their rights, but victims and witnesses need to know what information will be shared with other

professionals. It is unprofessional and unethical for detectives to discuss specific cases over a beer with friends.

Conclusion

Interviewers shoulder a heavy burden to be ethical because they possess great authority and power. They are, in fact, the physical representative of the city, county, state, and federal government, regardless of the agency they work for.

Each interview conducted should be completed with the goal to gather information, but not at the expense of the individual's self-esteem.

Research has shown that people can be made to confess to crimes they did not commit. Therefore, it is critical that interviewers prepare extensively so they are familiar with the individual and the case.

All criminal justice professionals, and specifically interviewers, need to decide what the moral goals of the interview, specifically, and their profession, generally, are. These goals need to be reconciled with the performance of their duty. The public must have confidence in the criminal justice professional's integrity and professional standards.

A guiding rule before acting in a questionable manner is, if the interviewer's spouse, parent, or other family member read about the action in the newspaper or heard it broadcast on radio or television, would the interviewer feel pride, or shame? No professional ever wants to open the morning paper and see his or her name connected with a scandal.

EXERCISE 2.3

Practicing Ethics

Activity: The instructor divides the class into small groups and gives each an ethical interviewing dilemma. The small group discusses all the moral dimensions of the problem and how they would deal with it. One person reports to the entire group.

Purpose: To discuss ethical issues during interviewing that the students may face when employed by the criminal justice system.

1. As a child protective service worker, you are expected to investigate cases of child abuse and neglect. You receive a complaint from a neighbor of Sally Jones who states that she hears Sally's baby crying day and night. Further questioning of the neighbor does not provide additional information, except that the neighbor says that Sally is young, unmarried, and has no business having a baby. You decide to walk next door to Sally's house unannounced. A young, tired girl comes to the door. Behind her you can see a very dirty house, but you do not hear the baby. Without considering legal implications,

what are some of the ethical issues that you need to consider at this point? What solution will serve the social and moral good?

2. You are a probation officer who has an overwhelming caseload. You have one client who always shows up late for appointments, has not been able to find a job, and smells suspiciously like alcohol. He has a few probation violations, but none sufficient to be sent to prison. You know your job is to try to help your clients become productive citizens, but you are beginning to think if this client does not care, why should you? What are some of the ethical issues you should consider before this client comes in (probably late) for his appointment with you? What do you do? What solution(s) will serve the social and public moral good?
3. You and your fellow police officer are patrolling a neighborhood known to have a high level of drug traffic. You see a group of young boys hanging out in an empty lot. Your partner says, "Hey, Paulo is part of that group over there. I bet if we call him over and start acting real friendly and maybe hand him a few dollars, he will get burned big time by his buddies." What are some of the ethical issues you should consider? What is the moral goal? What are the means to get to the goal? What do you do?
4. You are the detective investigating the murder of a young boy. You are sure that John Brown is the perpetrator, but no physical evidence has been found to connect him to the crime scene or to the body. You decide to tell John Brown that somebody saw him with the young boy the evening of the murder. What are some of the ethical issues you should consider? Are there specific social and public goals to consider? What is the overriding moral goal?
5. You are partnered with a police detective who is interrogating a man for sexual assault. The man states that he met the victim at a night club. After dancing and drinking together, he gave her a ride home. He states that he dropped her off at her door, and that was the last he saw of her until he was arrested for sexual assault. The detective says to the suspect, "Look, John. I know how it is. This nice looking woman spends all evening with you, rubbing up against you, and letting you buy her drinks. And then, she gets you to take her home. What does she expect? What a tease! I don't blame you at all. I would have done the same. You can tell me. She invited you in, but then after consenting, she got scared that her boyfriend would find out so she called it rape! Isn't that the way it happened, John?"

What ethical issues has this detective caused? What do you think you should do? Would it make any difference if you were certain this man was the suspect? What are the moral goals? What means should you use to get to the goal? What actions should follow?

6. During the interview with one of your key witnesses, you realize that the time frame of what she is telling you does not support your case against the suspect. When you ask questions to clarify, she becomes confused. You consider whether you should include the witness' information in your report. What ethical issues should you consider? What do you do?
7. While still a student, you intern with the sexual assault unit of your local police department. Another student is interning also. In the intern class, the other intern begins discussing what a victim said. Because the case had made the news, it is clear who the intern is talking about. The instructor does not stop the intern. What ethical issues should you consider? What should you do?

ALLEN'S WORLD

The North Carolina Association of Private Investigators has some of the following rules in its Code of Ethics:

A private investigator is dedicated to a search for truth and the furtherance of his client's interest consistent therewith. This search for truth makes possible the establishment of the American ideals of fairness and justice for the benefit of the client in every case that the investigator works on. It should be the intention of every investigator to deal honestly, justly, and courteously with all persons and to practice his profession according to this Code of Ethics.

HE/SHE will make all his reporting based upon truth and fact. He/She will not disclose or relate or betray in any fashion that trust of confidence placed in him by either client, employer, or associate, without that person's consent. He/She will not suggest, condone, or participate in any fashion or degree, for any purpose whatsoever, in entrapment.

HE/SHE will not compete illegally with other investigators in the solicitation of work and not engage in the unauthorized practice of law (North Carolina Association of Private Investigators, n.d.).

As for me, I am concerned that my clients know what I can and cannot do for them. I believe ethically that potential clients should know what I will need to do to meet their requests. Then they ask me what it will cost. I estimate the price, but I also tell them what variables will play into the expenses and fees. I estimate maximum costs. I think it is wrong to reel them in by estimating low and then piling on junk fees.

I almost always take a retainer. If I do not use all of that money, I return the difference. Many private investigators (PIs) keep the entire retainer regardless of the work and/or expenses involved.

I often assist adopted children in finding their birth parents. Up front, I tell them the chances are 50–50. And, I reduce my fee for these cases as a way of making me feel that I am more than just a paid employee.

I meet with potential clients to discuss cases. I do not charge for these sessions if I do not take the case.

If I am working directly for the client, I provide continual updates and make recommendations as to when the work should stop. I want to spend my client's money as if it were mine. And by nature, I am a frugal person.

I encourage them to talk to an attorney before they hire me and possibly waste money. Why? Many clients who call me directly are desperate. They have talked to well-intentioned friends who gave them sage advice. Their friends' advice most often happens to be wrong and of no legal value. I want potential clients to hear directly from an attorney what will and will not help them legally. I do not want to waste my clients' resources.

Let the attorney explain the facts of life and, if possible, suggest an investigative route that might be legally beneficial.

For example, a client calls and asks me to find somebody. That person owes the client money. The client expects that when I find that scofflaw, he or she can take that debtor to court and collect the money owed the client. I can find that person, but the client is not likely to get the money owed to him or her. That is because in North Carolina, it is almost impossible to enforce a judgment. I often talk these clients out of throwing good money after bad.

I will not change the truth I find in my investigations. Attorney Tom Harrow, now deceased, once asked me to investigate an accident involving his client. The young man had been run over and was a paraplegic, confined to a wheelchair for eternity.

Harrow saw \$\$\$\$ signs—big \$\$\$\$ signs.

My investigation showed that the young man was drunk. His blood-alcohol content exceeded the legal limit. He had passed out about 2 A.M. on a hump in the road. It was dark and raining, and he was wearing dark clothes. A car came over the hump and hit the young man.

I got a call from Harrow when he read my report. He wanted me to leave out a few facts. Like, did I have to say the victim was passed out, drunk, in the middle of the road?

Did I have to say it was raining, there were no street lights, and he was wearing dark clothes?

I told Harrow I could not, would not, change my report. Harrow did not take the case to trial. He never used me again.

Sad to say, there are PIs I know that willingly change reports to maintain the goodwill of the attorneys they work for—and to keep the cash register ringing. Private investigators are not bound by the same restrictions as the police. I do what my conscience allows me to do, my internal moral code, in getting information that helps my client. What are

my restraints? I have to worry how my methods will look in court if I have to testify or that the attorney or client I am working for might be offended.

One of my golden rules of ethics is that if someone has broken a law to gain an advantage against my client, then I have no legal or ethical restraints in getting the information I need. That is a rationalization that makes me feel good about what I do and allows me to represent my client most effectively. My rationalizing can easily be labeled utilitarian ethics or situational ethics by critics. The ends justify the means for me if I believe I am not hurting an innocent person. The key phrase is "innocent person."

When a financial officer embezzles money from the company I am representing, I feel justified in searching his or her financial records to see where the money is hidden. That embezzler is no longer an innocent person.

When trying to figure out if a husband is cheating on his wife, I feel justified in getting a record of his long distance calls and his cell phone calls to see who he has been calling.

I often tape record phone conversations and in-person conversations without telling the subject.

I can secretly get financial information. I will go through garbage, if it has been put out on the curb, public domain, looking for evidence.

I might wrongly tell a witness that another witness has contradicted his or her statements.

In one case I investigated, an employee stole a patented formula from his company for making marking crayons that could be erased without leaving a mark. He established a business to produce marking crayons and undercut his former employer. I went through his garbage and found molds for the crayons. I found prototype labels.

Not good enough, said the attorney who hired me. What do I do now?

I had a friend who worked in a tax office. I went to see my friend and asked if I could use his phone. I called the man who stole the patent.

"Is this Robert?" I asked. He said yes.

"My name is Allen Cowan, and I'm calling you from the Gaston County tax collector's office."

I told Robert he had to fill out forms so the tax assessor would know how to tax his business. I told Robert I would bring the forms to his office, but I needed to ask him some questions so I would know what forms to bring.

"Is your business wholesale or retail?"

"How many employees?"

"What type of equipment?"

And then, the only question I was interested in, "What is your product?"

Robert told me he was making marking crayons. My work was done. The attorney I worked for filed an injunction. (An *injunction* is a court

order telling someone to stop doing what they are doing. In this case, stop making marking crayons.) Robert was shut down. He never opened his business.

Ethical? If you read my words carefully, I never lied to Robert. I misled him, but I did not lie.

Here are some real phone calls I got that involve ethical issues. Do not laugh. I really got these calls. How would you, the reader, respond?

A potential client calls. He wants to hire me to follow him and then write a report that says he is not cheating on his wife. He tells me he will drive slowly, will tell me where he is going, and will let me take videos and still pictures. Would you take the case?

A potential client calls. Two days earlier, on Valentine's Day, his wife was driving his car. The cell phone rang, and a woman's voice said, "Thanks for the flowers. That was so sweet of you." The wife asked who was calling. When the female caller heard a female voice on the other end, the caller hung up. The potential client wanted me to trace the incoming cell phone call and tell his wife the caller had the wrong number. Do you take this case? Why or why not?

A potential client calls. Her house is haunted. "Can you come over and exorcise the ghosts?" Do you take this case? Why or why not?

I got a call from a pimp in Gastonia, North Carolina. One of his girls was hooking on the side and not paying him his "finder's fee." He wanted me to sleep with the woman, give him the time and date, what sexual act she performed, and how much I paid. He would then check to see if she gave him any money. Do you take this case? Why? Why not?

A potential client called. She was engaged to a man. She suspects he is fooling around. He goes to a certain bar every Friday night. She wanted me to send in a female undercover operative, play coy, and see if her fiancée made any advances. Do you take this case? Why? Why not?

Here's the answer to the first example.

I did not take the case. The potential client wanted to use me to convince his wife he was being faithful. To me, that is unethical. You decide if you would take this case, keeping in mind you are losing an easy fee and that there are a lot of PIs out there who would, and one of them probably did, take this case.

As a reporter, I once snuck into a private meeting of developers who were going bankrupt. They did not want the public to find out. Nobody asked me who I was, or what I was doing there. I just walked in and sat down. The moderator said he knew reporters were in the audience. He asked any of us to leave. What did I do? I stayed and took notes secretly. When the meeting ended, I introduced myself to the moderator and said I had a few questions.

"You can talk to me," I said, "or I can print the article without any clarification." He talked.

When I got back to the newspaper office, I told my editor what transpired. Did I do the right thing by staying? "Hell yes," said Stan Brennan (now deceased). The next day's paper had a front-page article about the meeting and the bankruptcy speculation.

Here's my all-time favorite story involving ethics some might question.

Paul McDonald, an investigative news reporter who worked with me, had a PhD. We called him "Doc." One night, there had been a train wreck at the crossing near Atando Avenue. Victims were taken to three separate hospitals. Two of them had public relations people on hand to answer media inquiries. The third, however, had closed shop for the night.

Paul McDonald called the emergency room, and the call went something like this:

"This is Doctor McDonald calling. I'd like some information about victims of the train wreck." Remember, McDonald had a PhD and did have the title of doctor before his name.

The folks in the emergency room answered all of his questions. The next day's newspaper for which Doc worked had the only complete information about the number of victims and the extent of their injuries.

When I got to the office the next morning, I saw Paul in the editor's office amidst a group of official-looking, very serious people. When Paul came out of the office, I went over and asked him what was going on.

"Those people were from the hospital," he said. "They were complaining that I lied to them."

The editor reprimanded Doc in front of the hospital officials. Later, the editor called Doc back into the office and congratulated him.

Paul did not lie to the folks in the emergency room. They blamed him for getting information under false pretenses. When in fact, all they had to do to uncover the deception was ask a simple question, "Do you have privileges to practice here?" You, the reader, can do the mental gymnastics. Paul McDonald: Ethical? Or corrupt?

Older readers of this book might remember the *Chicago Sun-Times* exposé back in 1978.

At the time, building inspectors in Chicago were notorious for taking bribes. The *Sun-Times* bought an old tavern, went about rehabilitating it, and then actually opened it for business. They called it, fittingly, The Mirage. Staffers included *Sun-Times* reporters and photographers.

Beginning in late 1977, while the rehab was underway, many of the inspectors came in to inspect, and to solicit bribes to look the other way. When the tavern opened, the *Sun-Times* ran it for 4 months, gathering more evidence against the inspectors.

On January 8, 1978, the *Sun-Times* began a 25-day, front page series on the bribery and rampant corruption. Charges were filed. Inspectors went to jail.

At the time, I was on a fellowship at The University of Michigan studying law. There were 12 of us reporters in that National Endowment for Humanities group (a federally-funded program that paid selected reporters to go to school for a year). All 12 of the fellows agreed what a great series it was. Surely the *Sun-Times* would receive a Pulitzer for public-service reporting. How wrong we were. Ben Bradlee of the *Washington Post* and Eugene Patterson, editor at the *St. Petersburg Times*, lobbied against the award for the *Sun-Times*. They both said that any series based on deception should not be rewarded for the deception. The Pulitzer committee voted against honoring the *Sun-Times*, saying “truth-telling enterprises should not engage in such tactics” (Lisher, 2007).

Again, you, the reader, can do the mental gymnastics. The *Chicago-Sun Times*: Ethical? Or corrupt?