

## **NONVERBAL COMMUNICATION**

### **Las Vegas Seminar**

by

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**and**

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I. Historically, the determination of deception has always been a challenge and quest.

a. Many techniques to expose the truth have been employed.

Medieval; hot poker on tongue  
Psychological stress evaluator  
Voice stress analyzer  
Retina scope/ocular lie detection  
Polygraph  
Paper and Pencil tests

Nonverbal communication  
Gestures  
Body language  
Statement analysis

b. All are physiologically and/or psychologically based methods for exposing the truth or a lie.

c. Today's topic will deal primarily with the last block of methods. Nonverbal communication, body language, gestures, clinical behavior, neurolinguistics, statement analysis.

- d. So, How accurate is the “Non-Trained Observer” at identifying deception?
- i. Depends on:
    1. Do you “think” you are “intuitive” or not?
    2. Seager and Wiseman then Bond & DePaulo studies which was one of the largest meta-analysis studies on the subject of “Accuracy of Deception Judgments.” The more we know about the art of how to identify lies, and the more experience we get (practice), the better we get at it.
- e. Lay understanding of basic physiological and psychology.
- i. For the most part, humans want to create a safe environment for themselves.
  - ii. Self-preservation is the key.
  - iii. Humans and animals react instinctively in many situations . . . fight/flight/freeze/lie.
- f. The psychology of the lie.
- i. Lying is normal . . . why? Survival deception is intrinsic in nature. Animals deceive to survive; even “Mother Nature” uses camouflage to protect a species; predator fish hide in coral reefs to find prey. (e.g. Koko)
  - ii. What happens when the stakes are raised, i.e. “the chocolate chip cookie caper?”
  - iii. Who lies? Psychologists tell us that many lies are told daily.
  - iv. The fear of detection causes bodily responses which are readily observable.
    1. Cardio vascular system is stimulated, face flush or blush.
    2. Body temperature changes. (Hands)
    3. Central nervous system is stimulated resulting in general nervous tension.
    4. Involuntary responses occur as part of the autonomic nervous system, also resulting in minute changes such as pupil dilation or constriction. (OCI 99.2%)
    5. Pulmonary or respiratory changes result from loss of oxygen intake.
- g. Cognitive Load and Example of how it works.
- i. Case in point, e.g. “on the expressway.”
  - ii. During a cross-examination, have you ever “frozen” a witness or deponent?
  - iii. Many deponents will speak with ambiguity and use estimates for time, space, distance, amounts, qualifications. Pronouns will be frequently used instead of proper names or exact references.

- Observing Body Language . . . Caveat not a science, rather an art. Improvement with practice just like any other discipline. 75% of communication is nonverbal.
- Establish the Person's baseline.

II. Observable characteristics (case example: assume a role).

a. Use four of your senses and create your sixth sense through experience. "I can teach you how to play, but I can't give you the feel for the game." . . . Jack Nicholas on the game of golf.

- i. Sight
- ii. Hearing
- iii. Smell
- iv. Touch

- Caveat: COVID . . . masks, face shields, distance are not helpful to "the observer."
- Video conferencing inhibits our nonverbal observation

b. Start with the handshake.

i. Temperature under stress, blood leaves the extremities; moisture, firm/loose, long hold/short hold, muscular grip, fingernails, callous, dry/chapped.

c. Slide presentation for body language and nonverbal communication is not possible through a virtual presentation, so we will use examples through my description and will use your "mind's eye" to visualize my description.

i. Head

1. "Read" the face.
2. Position.
3. Skin; texture, tone, blemishes, scars.
4. Pinocchio.
5. Eyebrows.
6. Eyes.
7. Mouth. Smile vs. frown; frown takes twice the number of muscles vs. smile. So, when you meet, observe how long a person maintains a smile.

- ii. Shoulders
- iii. Elbows

iv. Hands/Arms

1. Hand(s) to eye(s). See no evil.
2. Hand(s) to mouth. Speak no evil.
3. Hand(s) to chin.
4. Hand(s) to ear. Hear no evil.
5. Hand(s) to nose. Smell no evil.
6. Hand(s) to hair.
7. Hand(s) to neck.
8. Hand(s) to forehead.
9. Hand(s) to throat/necklace.
10. Finger to chest.
11. Open hand to chest.
12. Tightly crossed.
13. Loosely crossed with open hands.
14. Lint picker, dress-smoother, pant-creaser.
15. Hands wiped on tissue/pants/handkerchief.
16. Hands on hips.

v. Gestures of the hand

1. Finger tapper; pen tapper; fingernail cleaner.
2. Jabs or points a finger at you.
3. Clenched fists around object; or fists with crossed arms.
4. Steepling.
5. Hands apart, palms up.

vi. Legs

1. Cross; re-cross; open cross/closed cross.

vii. Knees

1. Open.
2. Closed.
3. Movement side to side; up/down.

viii. Feet

1. Under chair.
2. From under chair to forward position.
3. One foot under leg.
4. Feet flat on floor.
  - a. Toes inward.
  - b. 18" apart.

5. Ankles crossed under chair.
6. Foot tapping.
7. Stomp.
8. Soccer ball kicker.
9. Sole of shoe facing.
10. Toe to ceiling/to floor.
11. Feet in your path.

a. Territorial rights.

0-18 inches	Intimate
18-36 inches	Personal
36 inches	Social

ix. Sitting in chair

1. Shoulders slumped slightly/relaxed.
2. Shoulders slumped greatly with bad posture appearing uncomfortable.
3. Shoulders slumped with hands at side or palms up.
4. Hands on knees leaning forward.
5. Elbows on knees, hands cupped under chin (worried).
6. Nervous sitter.
7. One elbow on knee; fist or hand under chin leaning forward (maybe thinking positively or negatively).
8. Sitting leaning toward door, or opening, or leaning toward another person.
9. Body at attention (interested, i.e. job applicant).

x. Miscellaneous

1. Respiration.
  - a. Sighs.
  - b. Rapid breathing.
  - c. Yawns.
2. Goosebumps.
3. Indigestion.
4. Odor.
  - a. Sweat rings under arms.
  - b. Beads of sweat on brow, temples, upper lip.
5. When your gesture is repeated by the person with whom you are talking, e.g. raised eyebrows with smile, or hand to scratch back of neck, or when person assumes your posture.

### III. Verbal Gestures and Communication

- a. What is not said is as important as what is said.

Question: Where is the dog? Answer: with Brittany. (Where is Brittany)  
(Brittany May be some place not expected)

Question: How long ago did that happen? Answer: a long time ago.

Question: Are you worried about something? Answer: Not really.

- b. How the statement is framed is critical.

- i. "I did not steal the/that diamond on Tuesday!"
- ii. "I was not in the/that bank when it was robbed."
- iii. "I did not have sexual relations with the/that woman."
- iv. "I did not have sexual relations with Jane."
- v. "I did not shake the/that baby."
- vi. "I did not shake my baby."

- In the above declarations, note the use of "that." Also, note the limitations of the statement. Note the personalization, or lack thereof.

- c. Potential liars stall the questioning.

- i. Repeat the question back to you to gain time.
- ii. Hesitate to decide if they should lie or tell the truth.
- iii. Slightly rephrase the question.
- iv. Ask for the question to be repeated.
- v. Wants the question clarified.
- vi. Coughs or clears throat before answering.
- vii. Asks for water, or takes a drink of beverage, coffee, or water.
- viii. Lapses in memory at the point of answer by saying:
  1. Can't recall.
  2. Doesn't think so.
  3. Qualifies the answer.
  4. Sighs.
  5. Stammers or starts a sentence then re-starts the same sentence.
  6. Laughs at inappropriate times.
  7. Starts sentence with honestly, truthfully, to the best of my knowledge.

- Caveat: In depositions, most attorneys advise clients to not offer information and advise clients if unclear on an answer defer to caution by stating the uncertainty or ambiguity due to memory or other factors.

- d. Voice Changes

- i. Pitch goes up.
- ii. Rate of speech increases to flood the listener with information; create smoke mirrors confuse the issue. (Highest intellect). Others will slow their rate of speech down in order to “buy time.”
- iii. Volume increases or decreases from person’s normal volume.

#### IV. Cluster Observation

- a. Never interpret gestures or nonverbal communication unless a pattern has developed.
- b. Only interpret gestures or nonverbal communication in clusters or groups in close time proximity to the target question.

#### V. Acknowledgements