

CLINICAL
REFLECTION

Confessions of a liar-detector: I can tell if you're malingering, but I can't tell why

Derek K. Tracy

Derek Tracy is a consultant psychiatrist and clinical director at Oxleas NHS Foundation Trust, London. He is a senior lecturer at the Institute of Psychiatry, Psychology & Neuroscience, King's College London, and sits on the editorial board of the *British Journal of Psychiatry*.
Correspondence Dr Derek K. Tracy, Queen Mary's Hospital, Froggnal Avenue, Sidcup, London DA14 6LT, UK. Email: derek.tracy@nhs.net

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SUMMARY

Malingering is the intentional feigning of illness for external gain. The author has written several papers on the epidemiology, assessment, testing and reporting of this. However, practice in this field can raise considerable challenges, not least the inability to determine *motivation* for lying, and potential damage from 'false positives', where individuals fabricate some aspects of their testimony, yet still have underlying psychiatric problems. This brief article lays out the author's reflections on this complex area.

DECLARATION OF INTEREST

None.

*Did that play of mine send out
Certain men the English shot?*
W. B. Yeats, 'The man and the echo', 1938

Please allow me to introduce myself: my job is to tell if you're a liar. At least, that's my job some of the time. However, in such situations, you won't actually know that; I'll be introduced as a special psychiatrist with unique skills that are important in your case, and I will be as sweet as pie. I'll listen, I'll empathise – or at least sympathise – but all the time I'll be analysing if you are lying to me.

Malingering – lying for gain. Why do people lie to doctors? Let us count the ways, for we have all seen – or at least suspected – this, right? Seeking compensation after suffering trauma (no win, no fee – call toll-free today!), trying to avoid a custodial sentence, getting out of military service, or supporting an asylum claim. What about the time when you called in sick to work, but... you weren't really sick? Primary care colleagues usually have the best tall tales to tell; anecdotes best discretely shared over some good Irish whiskey. It's endless, it's eternal and it's so terribly human: my favourite historical example is Roman physician Galen's record of a case of feigned colic by one of his patients trying to avoid a meeting. I've done that; indeed, I'd recommend it for about 40% of meetings in the NHS.

^a The brief details on this individual have been changed to preserve anonymity; however, the principles and outcome of the case are accurate.

Who you gonna call? Dr Malingering

I came by this side trade circuitously. I was interested primarily in neurocognitive assessments, but doing them over time I came to suspect that some people were, well, swinging the lead. I looked for professional guidance on this, found little, and – as I'm just a bit like that – I set off and wrote some papers on the topic (Tracy 2014, 2017; Rix 2017). Before I know it, I've earned the Kevorkian-esque sobriquet of Dr Malingeringer; a little too Bond-villain for my liking, but far better than The Malingering Doctor (this latter species being rather more common than you might like to believe).

And so, I get called in when other doctors feel there's something peculiar and, well, their patient may be spoofing. My papers give an overview of the dark secrets and methods of malingering assessment, but their very nature forbids explicit description: it's self-evidently on a need-to-know basis, and the individual won't even be aware they're being examined for lying. But I'll admit that the Eagles lyrics remains true: 'You can't hide your lyin' eyes, And your smile is a thin disguise'. I'm relatively skilled at this: 'more human than human'? Like a contemporary Blade Runner interrogating replicants, I'll sniff out untruth. When I'm finished, the individual will think they've met a charming and helpful doctor: both of those appellations are of course true, but whether or not I'm helpful to *them* depends on how honest they are with me.

What would you do when your back's against the wall?

And then, a couple of years ago, I assessed an individual who shattered my confidence. A Caribbean man in his early 30s^a was facing deportation, despite claiming that this would endanger his life through retaliatory gang violence. The UK Border Agency (UKBA), in the etiquette of these matters, 'challenged the veracity of his testimony'. *Enter the Dragon*, and Dr Malingeringer is called as an independent expert. The man gave me an account of being kidnapped and subjected to several days'

assault as part of a drug deal gone wrong. I've seen *Cops* (Bad boys, bad boys, Whatcha gonna do...), but I know no more about Trinidadian gang culture than you probably do, though at face value the story was at least consistent. Clinically, he was symptomatic for secondary post-traumatic stress disorder (PTSD) and scored positive on scales for this. Then I applied two malingering tests: he didn't just fail them, he did an Olympian triple jump over the cut-offs. He was a (pretty outrageous) liar, and I had caught him in the act. There was no plausible alternative explanation; the man was (badly) fabricating aspects of his testimony in front of me as I smiled at him and recorded what he said.

I reported my findings in the way that doctors do and courts like, laying out the facts, being circumspect and sober in approach. There were two main possibilities: the obvious one – a liar lying, a man of low ethics or morals, or whatever you'd like to call it – proving correct the UKBA's assessment of his character. But there's a second option, and one I'd like you to really think about. Imagine you were that man, and the background story was true. You'd previously been subjected to 3 days' beating to the point you nearly died, and those involved still wanted to finish the job. You're a stranger in a strange land, suffering mental health complications and facing deportation. It's almost midnight, and the plane is on the tarmac with the propellers starting to rotate. Then, a call from the Governor's office – a reprieve. A white knight is to see you, at this late, late hour; convince him of your story and you can stay. What would you do? What would you say in a state of abject desperation?

One can divide the world into liars and truth tellers. There are seven billion in the former category, none in the latter. It is normal to lie, it is usual to lie, it is human and universal to lie, and it can be helpful and appropriate to lie. Because a man lied about some symptoms to stay in the UK, does it necessarily mean he didn't suffer torture and PTSD? No. But picture a court or immigration tribunal: an expert sagely reports that this individual has definite, significant, but unresolvable inconsistencies in his history, although it can't be determined why or which parts might nevertheless be true. How do you imagine that tends to resolve? Yup, the plane left at midnight, and he was on board.

I presented this case at a forensic conference, and an eminent professor asked me if, in the round, I believed that person had PTSD despite his apparent lies. I said that I did, but I couldn't say why or evidence this beyond a 'clinical feeling'; he argued that I should have come down more forcefully with that view, the expert opinion, in my report, and been less circumspect. At which point, an equally eminent Queen's Counsel interjected, laughing that

if one did so – and I quote directly – 'you're toast'. He put forth that to exceed the evidence would clearly betray one's bias and, against purpose, actually undermine one's testimony. Another delegate challenged me that doctors assessing malingering is immoral. It felt a Pyrrhic victory to get him to concede that 'amoral' was the word he was looking for.

Unknowns, both known and unknown

I can detect liars, or at least lying, but I can't determine motive – *why* are you lying? – and surely that's the important thing. Further, I can state if you're telling untruths, but conversely I can't confirm which parts are nevertheless true. It becomes too binary – are you a truth teller or a liar? – yet it's the nuance that matters; most of us are truth tellers and liars, often at the same time. Henry Fielding cautioned that 'it is possible for a man to convey a lie in the words of truth' (Fielding 1749). The world of malingering testing is liable to produce many false positives, but it's not currently possible to quantify this. There is also a fascinating, but Rumsfeldian, known unknown of the almost mythical false-negative malingerer: one sufficiently cued up on testing to know how to pass malingering tests and lie elsewhere. No good data exist on this, but it's the rationale for test secrecy. To extend the point further, there may even be an unknown unknown of whether some individuals suspect or know that I know they're lying: what are the opinions and viewpoints of 'true malingerers'? They clearly know they're fabricating: are they evaluating me as I evaluate them?

A few more ethical conundrums

In my articles I note the need to avoid terms such as 'malingerer' and 'liar', and the need to leave such decisions for the courts or triers of fact; the talk should be of 'typicality' and 'atypicality' with regard to a given proposed mental illness. But it's clear how they are liable to interpret this. And here are some final ethical conundrums for you, and ones that I'm not aware have yet been tested in court. For the reasons laid out earlier, no individual can be explicitly told they're undergoing a malingering test. However, if that's the case, have they validly consented to the procedure? And following on from this, how well will my argument that I am testing 'illness typicality' and not 'lying' *per se* stand up in court when the very tests used all contain the word 'malingering' in their titles? What if a defence barrister demands that my special secretive tests be exposed in all their detail for the court to consider?

Sympathy for the Devil

It's been said that people sleep peaceably in their beds at night only because rough men stand ready to do violence on their behalf. Some jobs are grim but necessary. Garbage gotta get collected, tax returns gotta get inspected, and a strained under-resourced healthcare system needs protecting from abuse. Evaluating malingering is a dirty but important business; it's certainly someone's business, I just grow less certain with time that it should be my business. But until I hang up my boots, if you meet me, have some courtesy, have some sympathy and some

taste, use all your well-learned politesse, or I'll lay your soul to waste. And don't tell me any lies.

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