

# Playing the Game - Talk is Not Cheap in a Court of Law

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February 17, 2015

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- To give some light on the notion of cheap talk, consider the following example:
  - Both A and B are in New York city, and they will receive a payoff of 1 if they meet up and 0 if not
  - A (the sender) is either at the Empire State Building or at the Chrysler Building. There are two types of message she can send to her friend (the receiver): “I am at the Empire State Building”, or “I am at the Chrysler Building”
  - The game has two PBNE, one separating strategy has the sender send “I am at the Empire State Building” or “I am at the Chrysler Building” when she is really at the sending place, while the receiver goes to the place that the sender announced
  - The other separating PBNE is that the sender sends “I am at the Empire State Building” when she is actually at the Chrysler Building, and vice versa, while the receiver goes to the opposite place that the sender announced

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- In a cheap talk game the messages are just arbitrary symbols and lack of literal meaning, and they only gain content as part of an equilibrium
- One social situation where the literal meaning of the words matters is a court of law, and as a result, messages are no longer cheap talk
  - Suppose a suspect testifies whether or not he was at the scene of a crime at a particular time. The suspect is of two types: he was at the scene and he was not
  - On the witness' stand, the cost of saying "I was not there" differs between the types. The type who was there runs the risk of perjury with the associated penalty, while the type who was not there has not such cost
- Contrary to the cheap talk game, in a court of law the cost does vary and so it is a signaling game

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- Just as saying “I was not there” can be informative, saying nothing can also be informative
- Silence can speak volumes!
- However, in spite of the informativeness of silence, the U.S. Supreme Court ruled in *Miranda v. Arizona* (1966) that a judge and jury cannot draw any inferences from silence

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- An interesting question is whether the “right to remain silent” serves to promote justice
- Many scholars have weighed in on this issue and one has used a game theoretic analysis to argue that the right to remain silent benefits the innocent
- First consider a system in which the right to remain silent does not exist and all innocent people speak up to defend themselves. In such a world it would be optimal for the guilty to also speak up
- So while in speaking up, the guilty run the risk of being caught in a lie and thereby providing evidence of their guilt, remaining silent would also be certain evidence of one’s guilt because the innocent always speak
- In lacking of the right to remain silent, the guilty will speak, potentially making it difficult to distinguish them from the innocent

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- Next, consider a system in which there is a right to remain silent
- Now, the guilty may choose to remain silent because a negative inference is not allowed to be drawn, while speaking up runs the risk of being caught in a lie
- The implication then is that if a suspect does not remain silent, it can be taken as a signal that he or she is innocent, which makes it less likely that the innocent will be wrongly convicted
- The innocent benefits from the right to remain silent, even though it is only the guilty who use it!