

(in press) In Candlin, Chris and Srikant Sarangi (eds.) Handbook of Applied Linguistics Berlin: Mouton de Gruyter

Applied Linguistics in the Legal Arena

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Abstract

Forensic linguistics is an integral part of applied linguistics. Those who do this work analyze statutes, legal procedures, courtroom language, and language used as evidence in criminal and civil court cases. One major difference from other types of applied linguistics is that there is no need to gather data because it is already provided. This means that the linguist has to work with data that already exists, using the major tools of linguistics, including phonetics, morphology, syntax, semantics, pragmatics, sociolinguistic variation, discourse analysis, language change, stylistics, lexicography, and graphemics. As in all applied linguistics, forensic linguists begin with the perspective of the legal context and audience and apply the appropriate linguistic tools to the legal issues. Linguists who testify at trials first have to meet certain legal standards in order to be accepted as experts. Throughout the process, the forensic linguist, like any applied linguist, has to teach lawyers, judges, and jurors the way linguistic analysis works in relation to the specific legal issues. The recent growth of forensic linguistics is a hopeful sign of the expansion of applied linguistics beyond its conventional focus on language learning, teaching and testing.

Keywords: forensic linguistics, courtroom language, written language evidence, spoken language evidence, ethics, teaching

1. Background

One of the odd things about applied linguistics is that it took the field so long to discover that the legal arena is a fertile area in which to apply linguistic knowledge. Even though law is primarily about language, very little of the interaction between linguistics and law occurred until the past

quarter century. Today, the interaction of linguistics and law, also known as forensic linguistics, is a flourishing and growing area of interest for both linguists and lawyers. A flurry of books and articles now represent the field, loosely held together by the International Association of Forensic Linguists and its journal, *The International Journal of Speech, Language and the Law*. Most contributions thus far have been from Europe and the United States, although interest in linguistics and law also is rising rapidly in the rest of the world, including Asia.

So why did it take so long for these two fields to begin to cross-pollinate? Both can share some of the blame but since lawyers were unaware of how linguists might offer help to them, most of the blame probably lies on the shoulders of linguists. Almost from the beginning, applied linguistics has placed its emphasis on educational issues, especially language learning, testing and teaching. Even today, these topics dominate applied linguistics conferences and journals. However, in addition to important issues in education, language is deeply involved in almost everything else in life, including such areas as law, medicine, advertising, politics, diplomacy, therapy, commerce, religion and bureaucracies. Linguists have held a rather myopic vision and they have not done a very good job of reaching out to these fields, offering our knowledge to them, or trying to see the world from the perspectives of other disciplines.

1.1 What forensic linguists do

First it is useful to try to describe what is meant by *forensic linguistics*. As with most recently developed fields, it has been surprisingly difficult to define it narrowly. All practitioners seem to agree that it is an area of applied linguistics that works in the legal arena but there has been considerably less consistent agreement about what this work involves. From all appearances, practitioners seem to define it from their own perspective and their own involvement. For example, those who do authorship identification sometimes see the field as dealing with syntax, style, and lexicon, while those who analyze tape-recorded conversations think of forensic linguistics as a form of discourse analysis. Both are essentially right but the field is obviously larger than either of these areas. In fact, they embrace all of the tool areas of linguistics. Although forensic linguistics is still emerging, it would appear that on the basis of current work in this area, forensic linguistics uses these tools in five major areas. The following briefly

describes these and cites some of the major book publications (not journal articles) in each.

1.1.1 Analysis of statutes and legal procedures

One important focus is the effort to help the legal system from a more law-internal perspective. Those forensic linguists (some of whom are also lawyers and law professors with advanced degrees in linguistics) use their linguistic insights to describe the language issues of laws, statutes, and legal practice (Kurzon 1986; Levi & Walker 1990; Gibbons 1994, 2003; Tiersma 1999; Solan and Tiersma 2005; Heydon 2005; Schane 2006; Rock 2007). Considerable work also has been done in untangling legalese and clarifying such matters as jury instructions (Charrow and Charrow 1979).

1.1.2 Analysis of courtroom language

Some forensic linguists analyze the written and spoken use of language by judges and lawyers in legal procedures (Solan 1993; Matoesian 1993, 2001; Philips 1998; Cotterill 2002; Heffer 2005). Others examine the cross-cultural issues involved in the legal process, especially those who speak languages other than the one used in the courtroom and including those whose cultural differences from the courts provide serious problems for them in legal procedures (O'Barr 1982; Conley and O'Barr 1990, 1998; Stygall 1994). In some cases, extensive linguistic analysis of individual trials is the focus, as in Matoesian's (2001) treatment of the William Kennedy Smith trial, Robin Lakoff's analysis of the Thomas/Hill hearings (2000), Cotterill's (2003) examination of the O.J. Simpson trial, and Coulthard and Johnson's (2007) treatment of the Harold Shipman trial.

1.1.3 Analysis of written language evidence

Criminal cases in which the evidence is in the form of written threat messages, suicide notes, wills, or hate mail are probably the most common types of cases in which lawyers call on linguists for help (McMenamin 1993, 2002; Kniffka 1996; Olsson 2004). But written language evidence is also found in most civil cases, including those involving trademarks (Shuy 2002), product liability (Cushing 1994), and product liability hazard notices, contract disputes, discrimination, and deceptive trade practices (Shuy 2008).

1.1.4 Analysis of spoken language evidence

It is common for linguists with strong backgrounds in phonetics to be asked to work on cases involving identification of speakers (Baldwin and French 1990; Hollien 1990, 2001; Rose 2002). Tape recordings of conversations, business meetings, police interviews, child sexual abuse interviews, and other speech events provide data in many criminal and civil cases (Shuy 1993, 1998b, 2005) in which the quality of such recording is not always the best, requiring linguistically trained ears and sophisticated listening equipment to produce jury-ready transcripts before providing other types of linguistic analysis. Cases in which more than one language is spoken require linguists who are experts in both languages (Berk-Seligson 1990). Linguists are also involved in analyzing the interviews of child victims of sexual abuse (Walker 1999), of sexual crime (Cotterill 2007), and police interviews where deception is suspected (Shuy 1998a; Galasinski 2000).

1.1.5 Analysis of other areas

Much of the work done on the ambiguity and vagueness of laws, procedures, jury instructions and business contracts has an immediate relationship to other applied linguistics issues, such as the Plain English movement. Forensic linguists work with bureaucracies, such as the U.S. Social Security Administration and Medicare, helping them send out clear and understandable documents to their beneficiaries (Shuy 1998a). Likewise, analysis of the language of television advertising (Geiss 1982) illustrates how forensic linguistics is applied to the Federal Trade Commission regulations and how language works in the media (Bell 1991). Much of forensic linguistics also has a direct relationship to determining fair and effective police interrogation techniques (Shuy 1998a; Heydon 2005; Rock 2007), in how to assess threat messages (Solan & Tiersma 2005; Kniffka 2007), and in ways of analyzing undercover police tape recordings (Shuy 1993; 2005).

2. Forensic linguistics as applied linguistics

Now that forensic linguistics is coming into its own, it is timely to consider how working in this area is similar or different from other types of applied linguistics. On a broad scale, applied linguists address and try to help solve human problems, such as inequality, ignorance, and justice. Forensic linguists normally begin with language data, which is often difficult and time consuming to gather, then select the appropriate linguistic tools and

apply what they know about linguistic theory, research and practice to those human problems. Finally, applied linguists communicate their findings to those in other fields in ways that they can understand and use. In these respects applied linguists and forensic linguists work in the same ways. The remainder of this section deals with the way forensic linguists have been working to accomplish these applied linguistics tasks in the context of the legal arena.

2.1 Collecting data

In much of applied linguistics work, the linguist must first spend a great deal of time and effort collecting data appropriate to the applied task. In contrast, forensic linguists have most of the data gathered for them before they even begin their work. This is one major difference between forensic applied linguistics and virtually every other area of applied linguistics. The character of the language data used by forensic linguistics differs by types of cases.

2.1.1 Types of data in civil cases

In civil cases such as contract disputes, insurance policies, letters, memos, emails, articles, lectures, and speeches are provided as the evidence with which the linguist works. In trademark disputes, the names and slogans of the disputants are the primary data. In defamation cases, writings or speeches are where the work begins. In product liability cases, the data are usually the warning labels that linguists are called upon to analyze. In cases of deceptive trade practice, advertisements, letters and memos are the most common evidence.

2.1.2 Types of data in criminal cases

Criminal cases also provide linguists with the data to be analyzed. Undercover sting operations, fraudulent business practices, and sexual misconduct cases commonly provide tape-recorded conversations or email exchanges as the linguists' starting points. Cases of fraud and price fixing may offer both written and spoken data for analysis.

2.1.3 Advantages and disadvantages of these kinds of data

Unlike other applied linguistics research, the linguist is not responsible for assembling this written and spoken language database. The downside, of

course, is that this evidence data is often not exactly what one would find ideal in a well-structured research project. However, in some cases it is possible to use electronic searches to augment the database with comparison evidence. For example, one can search electronic databases for trademark usage and advertisements to find data to compare with that in the trademark case at hand. One also can locate other documents that use the same or similar language, and one can even gather additional tape recordings or written texts of the client's language use to show that the patterns are the same or different. But even when the data corpus is extended, the forensic linguist is primarily bound to the language evidence in the law case and it cannot be ignored or changed.

This data limitation can prove troublesome, especially, for example, when linguists try to show similarities or differences in authorship identification cases. Many threat messages are very brief, yielding very few instances of language clues to an individual's style, gender, age, grammar, ethnicity, education, social status, or other background factors. This is one aspect that severely limits what the linguist can contribute at trial toward resolution of authorship controversies. On the other hand, such analysis can prove to be very useful to law enforcement in narrowing down lists of suspects. Although the linguistic analysis may not be adequate to prove guilt or innocence at trial, law enforcement officers sometimes have used it to narrow down suspect lists or to extract confessions from perpetrators.

In contrast, some cases may provide so much language data that the linguist can be overwhelmed with it. For example, in undercover sting operations, law enforcement agencies sometimes tape-record hundreds of hours of conversation between dozens of suspects, making the process of simply keeping track of themes and topics difficult to manage, especially within the narrow time limits of the case. In business fraud cases there may be thousands of pages of contracts, regulations, memos, deposition testimony, legal briefs, judicial rulings, and other documents to review and analyze. The linguist's task in such cases is to organize, select relevant passages, and assist the lawyers (and juries) to understand the data's trends and structure.

Whether the size of the database is small or large, linguists have to work with what the court cases give them and within the time limitations set by the court. With the exception of comparison corpus extension data that forensic linguists can sometimes gather, the evidence in the case normally dictates the universe of data to be used.

For researchers who have, in the past, spent months or even years gathering data in sociolinguistic and applied linguistic research projects, the fact that the data are handed them on a platter in law cases can come as something of a relief. One is not responsible for finding better evidence data. It is the *only* evidence and one has to make do with it. Based on that data one must always be vigilant to avoid making claims that this evidence does not substantiate.

3. Marshalling linguistic theory, research and knowledge

As noted above, there are many types of law cases, each with their own particular language analysis needs. The competent linguist comes to each case with a full tool bag of analytical procedures. These tools include phonetics, phonology, morphology, syntax, semantics, pragmatics, speech acts, discourse analysis, sociolinguistics, lexicography, and knowledge of the processes of language change. And, in certain cases, the knowledge of languages other than English is required. First and foremost, forensic linguistics requires linguists to be trained and competent in all aspects of their field.

It is unwise, if not unethical, for linguists to agree to work on a case if they are deficient or weak in the tools needed to resolve it. Although linguists must be well trained in all of the above tools, one or more of them may be their linguistic specialization and this can help determine which cases they can feel comfortable enough to accept and which cases to leave for other experts. Phoneticians tend to specialize in speaker identification cases. Syntacticians and semanticists tend to take cases in which the structure and meaning of language is of foremost importance, such as trademark, contract, and defamation disputes. Discourse analysts tend to prefer cases in which the evidence consists of longer passages, such as conversations and longer written texts.

Some cases, such as speaker identification, call for knowledge and skills in of phonetics because it is often the sounds of language that can lead to matching individuals with talk. Other cases require application of knowledge of morphology and syntax, especially, for example, in contract disputes. Whatever the specialization preference, however, linguists inevitably call on virtually all the tools in their tool bag because, for example, doing syntax involves some phonology, doing semantics involves some syntax, and doing sociolinguistics involves most of these tools. Discourse analysis requires the

most tools of all because the structure of discourse includes the sounds, grammar, and meanings found within it. In short, the applied linguist who works in the legal arena must know what the best-trained linguists know about their field.

4. Applying linguistics to the human problems of law

The goal of applying linguistics to law may seem no different from the goal of applying linguistics to assist with human problems involved in the language education of children or in helping medical practitioners communicate effectively with their patients in order to achieve good health. But one difference is that educational and medical applications of linguistics deal with people who are at least somewhat motivated to learn in a context which often is not as immediately traumatic as the courtroom. The clients of forensic linguists are emotionally embroiled in intense legal battles with each other over issues of justice and fairness. Linguists cannot accomplish justice and fairness for law, of course, but they can aid in the legal process when the issues involve language.

4.1 Matching cases with linguistic tools

In forensic linguistics work the law case itself is primary. In order to show the relevance of linguistic expertise to lawyers, linguists have to begin with lawyers where they are and to consider their perspectives on their types of law cases. This is similar to other types of applied linguistics, where it also is necessary to begin with the learners where they are. The following list shows some of the major types of law cases and the major linguistic tools that are commonly most relevant in them.

<u>Case type (lawyer's perspective)</u>	<u>Tools (linguist's perspective)</u>
Authorship identification	stylistics, syntax, discourse, lexicography, sociolinguistics
Speaker identification	phonetics, phonology, syntax, sociolinguistics
Trademark disputes	phonetics, phonology, semantics, syntax, lexicography

Product liability	syntax, semantics, discourse analysis
Discrimination	semantics, discourse analysis, sociolinguistics
Copyright infringement	syntax, semantics, discourse analysis
Child sexual abuse	phonetics, morphology, syntax, language acquisition, semantics
Adult sexual misconduct	semantics, syntax, sociolinguistics
Defamation	semantics, sociolinguistics, discourse analysis, syntax
Criminal offenses	all linguistic tools

The key for linguists is to start with the left column, where the lawyer is, and figure out which linguistic tool can help that case most. Since many lawyers often do not know about the tools of linguists, we cannot expect them, for example, to seek out a semanticist simply because they have a product liability case. Their tendency is to flail about rather blindly for someone who can deal with the language in a case.

Obviously, there are likely to be additions and subtractions in each of the above listed tools, depending on the nature and data of each individual case. One point here, however, is to show that many tools can be relevant to each type of case and that the forensic linguist must be well versed and well prepared in all of them. The other point is that lawyers cannot be expected to know what these tools are or which linguistic tool can help them. Linguists have to begin with the lawyer's perspective of the problem, which is often the case type.

5. Communicating linguistics to lawyers, judges and juries

A major problem in all types of applied linguistics is to communicate specialized and technical knowledge to people who do not have such knowledge or, even worse, may even have false ideas that need to be overcome (Rieber and Stewart 1990). Forensic linguists are, therefore,

teachers at virtually all levels of their work. First, they teach the lawyers with whom they work about the ways that linguistic analysis can help their cases. Eventually, they will also have to teach the opposing lawyers about their analysis. Next, they teach the Courts about what they plan to say at trial. Finally, they teach the jury about their findings in the case. These are equivalent to three different applied linguistics audiences, each with different beginning points and different expectations, motivations, and needs.

Intelligent lawyers learn new things in virtually every case they take on. They call on linguists because they think they might have something to tell them that will help them with their cases, making them highly motivated learners from the outset. As a result, teaching lawyers about language can be the easiest part of the forensic linguist's teaching task. But problems can arise when lawyers hold misguided or incomplete notions about linguistics that need to be corrected or amplified. However, there is a serious teaching complication since the experts not only teach linguistics to the lawyers they work with but at a later point they also have to teach the opposing lawyers, judges, and eventually the juries.

Lawyers talk about "preparing the witness" but in much of the work here it is actually the linguists who are preparing the lawyers. To be sure, lawyers prepare witnesses about court procedures and what is allowable and not allowable. Sometimes they also prepare the witnesses in strategies of testifying. But it is the linguist who prepares lawyers in the questions they can ask that will elicit the linguistic testimony clearly and appropriately. In many cases, linguists actually write out the series of questions that lawyers can ask them in their direct examinations.

In most jurisdictions, linguistic experts in civil cases are first asked to write a report. In the US there is an additional consideration, because the laws of discovery can require some experts, including linguists, to turn over all notes and drafts of their work to the opposing side if requested to do so. This severely handicaps the communication in writing between linguist and lawyer, especially when long distances are involved, because this communication has to be done by telephone or face-to-face in order to prevent the potential discovery of preliminary drafts. As in most research, the linguist may go down some blind alleys in the early stages, make errors of various types, misunderstand some of the facts of the case, and other

matters. Revealing this to the other side can sometimes be embarrassing at best.

In most law cases lawyers expect the scholars they call upon to be experts. This means that a forensic linguist normally needs to have obtained a doctor's degree in linguistics. In addition, lawyers expect their experts to have standing in their own fields. This means that other linguists also should be able to recognize a level of expertise that comes from their publishing academic articles and books. The reason that these standards are very high for a forensic linguist resides in the legal process itself. When lawyers request a linguist's services, they anticipate an eventual trial in which the expert is determined by the courts to be a highly qualified expert. Even though less qualified linguists might be able to come up with a useful linguistic analysis that would aid the lawyers, they may never be able to give testimony if they do not satisfy the requirement of being an expert.

Different jurisdictions within and across national boundaries have somewhat different standards that define what it means to be admissible as an expert. In the United Kingdom and many other countries, admissibility is rather loosely defined, with focus on the qualification of the experts themselves but not on the theory or methodologies they use. This was a little different in the USA where until 1993 the Frye test (*Frye v. United States*) was the standard measure of general acceptability. Like other countries, it required experts to be recognized in their fields but, in addition, *Frye* required evidence that the proposed testimony would be relevant to the issue in dispute and that the scientific theory or techniques proposed were accepted by the relevant scientific community (Solan and Tiersma 2005, 28-32). This general acceptability test was upgraded by a new standard set in 1993 (*Daubert v. Merrell Dow Pharmaceuticals, Inc.*). This new reliability (rather than acceptability) assessment was soon adopted by all US federal court proceedings and by many state courts as well. *Daubert* contains four factors:

Factor 1: Whether the theory or technique has been tested and therefore found to be sound.

Factor 2: Whether it has been subjected to peer review and publication.

Factor 3: Whether there is a high known or potential rate of error and whether there are standards controlling the technique's operation.

Factor 4: Whether the theory or technique enjoys general acceptance within the relevant scientific community.

It is obvious, therefore, that in the USA at least, being considered an expert in forensic linguistics requires not only a PhD or equivalent and recognized stature in one's field, but also enough knowledge of the theory, research and techniques in that field to enable one to meet the recent *Daubert* standards. There is good reason to suspect that some version of this US standard eventually will be adopted by other countries and jurisdictions as well. Since the judge is the gatekeeper here, it is often necessary to teach the Court a great deal about linguistics.

Linguists have at least two opportunities to teach judges about what linguistics has to say in their cases. In U.S. jurisdictions, lawyers with whom linguists work may first submit (written or oral) an offer of proof outlining the gist of the linguists' proposed contribution. If the forensic linguists have done a good job preparing the lawyers, the lawyers can describe the linguistic contributions accurately and effectively. Once this test is passed, the judge may get another opportunity to rule on the linguists' possible contributions during the *voir dire* (questioning) of the prospective expert witnesses at trial. This usually takes place after the lawyer who one works with has "qualified" the linguist first. This procedure brings out all the expert's academic and experiential good qualities and outlines which aspects of linguistics are relevant to the case. Then, the other side's lawyer gets a chance to *voir dire* the linguist, often trying to show that the linguist does not qualify as an expert, that linguistics is not a suitable discipline, and that whatever the linguist might have to say is not germane to the case at hand.

This experience is all for the judge's benefit, for it is the judge who must then make the decision about whether or not to permit the linguist's testimony at trial. Forensic linguists labor under a number of constraints that are uncommon in other types of applied linguistics work. They are challenged about their expertise, the relevance of their field, and what they are about to say in court. Even more difficult is that all of this happens in a very brief time with a limited opportunity to explain anything. Therefore, the linguist's preparation of the lawyer has to be concise and, as in all applied linguistics, suited to the judge's frame of reference. There is no margin for error but if the linguists are clearly experts in their field, this hurdle may be easy to overcome. Most witnesses have little trouble explaining the

acceptability and status of linguistics in the academic community. The issue of relevance of linguistic analysis to the case can be troublesome, however. This must be thought out carefully in advance, with special care taken to show only the use of linguistics to the specific data. The possibility of being admitted to testify diminishes considerably if the linguist wanders outside the four corners of linguistic analysis. Judges' most common objections to proposed linguistic testimony are:

- (1) that the testimony will go beyond the scope of linguistics;
- (2) that the testimony will usurp the function of the jury;
- (3) that the testimony is unnecessary because the proposed testimony could have just as easily been made by the lawyer.

Proper planning and teaching should enable the linguist to avoid the first objection and stay within the scope of linguistics. If the temptation is to delve even slightly into psychology or some other related area, it should be avoided.

The second objection is critical. There is often a temptation for the linguist to join with the lawyers that one works with but this should be avoided at all costs. Linguists should be objective and stay at arms from advocacy at all times and never give the slightest hint of an opinion about guilt or innocence in criminal cases or about who is right or wrong in civil cases. Although linguists can aid greatly in the legal arena, the ultimate issues are always to be left to the jury or to the judge in the case of a bench trial.

The third objection can be the toughest to overcome. One of the paradoxes of applied linguistics in the legal context is that the linguist has to look like, to sound like, and to be an expert while, at the same time, communicating technical knowledge in ways that laypersons can understand. The requirement to simplify can easily backfire, making the expertise appear to be unneeded. Although in most cases the lawyer would never even have thought about what the linguist has to offer, when the analysis is explained in layperson's terms it can appear to be so obvious that the judge may say that the lawyers could have said it completely by themselves and without the assistance of a linguist.

Once linguists succeed in teaching applied linguistics to the lawyers they work with, to the opposing lawyer, and to the judge, the final task of teaching the jury begins. So far, there have been three different styles of

teaching to three different audiences. Lawyers they work with are predisposed to learn and are highly motivated. The opposing lawyers are predisposed to not learn and are full of objections and challenges. The judges usually want to learn but are often unwilling to take the time to do it. They require crisp summaries and strong evidence in small packages.

Juries are usually willing to learn. In many cases they have been bored by the slow pace and predictability of the trial. Linguistics is something new to most of them. Most know little about it or have false conceptions of it. Teaching them is much like teaching an introductory linguistics course to undergraduates. One cannot take a lot of time teaching but if the examples speak to the jurors' own experiences and if technical terms are avoided (or at least are explained in ways jurors can understand), jurors can be very receptive students.

The linguist's common problem is trying to teach more than is required. There is only one opportunity—not like classroom teaching where there is always a second session or even a follow-up semester on the topic. Teaching a jury is different from teaching a class because linguist expert witnesses are usually advised not to have notes with them on the witness stand. The reasoning comes from the fact that opposing lawyers have the right to inspect all notes that witnesses have with them and partly because witnesses are thought to be more competent without notes to guide their testimony.

Simple visual-aid charts usually help, largely because people remember what they see better than what they hear. For example, if the issue is one of comparing vowels or consonants, it can be instructive for juries to be shown a side view, cutaway drawing of the human head showing the oral and nasal cavities, along with the nose, mouth, tongue and upper teeth. Most have never seen such a chart, have never thought about how sounds are made, and are fascinated by it. By teaching such simple phonetics to the jury, linguists can make their points about differences between speakers in voice identification cases. In cases involving the analysis of conversations, linguists can use charts which can be used to show how their own transcripts of conversations are more accurate than those of the opposition.

Sometimes, the charts used to illustrate linguistic phenomena can be extremely simple. For example, in a case in which the prosecution claimed that a suspect said, "I would take a bribe, wouldn't you," the chart used by

the linguist was no more than the words accompanied by marks to indicate 8 syllabic beats and a short pause. The tape was extremely hard to hear and it would have stretched the jury's believability to say simply that the government got it wrong. Instead, the linguist asked the jury to listen to two playings of the tape and to count "the beats and to notice where the slight pause comes." Two versions were charted for the jury, the prosecution's and the defense's, as follows:

First, the prosecution's version:

	I	would	take	a	bribe	would	n't	you?
Beat #	1	2	3	4	5	6	7	8
Pause					X			

Then, the defense's version:

	I	would	n't	take	a	bribe	would	you?
Beat #	1	2	3	4	5	6	7	8
Pause						X		

As with many difficult-to-hear tapes, contracted verb forms, like the "n't" in this case, are difficult to hear. But the jury did not need to be able to hear the words distinctly. All they had to do here was to find the place where the pause occurred. Once they heard that there were 6 beats before the final two syllables, they knew that the defense version was accurate and the prosecution's version had transported "wouldn't" from the front of the sentence to the end.

In undercover tape cases, charts are an efficient way to help the jury separate who said what to whom. Conventional transcription of speech takes the form of a play script, with speakers taking individual turns of talk. Placing the speech turns side by side separates different speakers more visually for jurors. The following is an example. A patient was trying to get her doctor to admit that he had sex with her during her recent visit to his office for an abortion. She begins by asking what she should tell her husband, who did not even know that she was pregnant:

Patient	Doctor
What do I say? What do I tell him?	Well, you might have miscarried you know.
What do you want me to tell him?	Well, just tell him that you started bleeding, you know.
He said I was talking to you yesterday.	You just tell him that you had a pain and that's why you were calling.
If he gets back to me, what do I do?	Okay, let me, I will call you back, okay?
What do you expect me to tell him?	You tell me.
When my husband leaves me, you will not be ready for me, is that right?	Why should I be?

At the time of the call, the doctor is busy with other patients and has no clue that the patient is tape-recording the call in the effort to elicit an apology from him for having sex with her and to get him to say that he will be her lover if she leaves her husband. There were five additional calls in which her strategy eventually backfired. The doctor had no idea what she was talking about and never offered a felicitous apology. He was acquitted at trial (Shuy 2005, 99-106).

Using charts during testimony also has the advantage of refreshing the linguist's memory when there are vast amounts of data to analyze in front of the jury. In criminal cases with many hours of tape-recorded conversation it is not easy to recall what was said by whom, to whom, and when. When the linguist and lawyer have prepared in advance of trial the sequence of

questions with corresponding charts, this approach can be of great assistance to both.

6. The future of applied linguistics in the legal arena

Predictions are always difficult to make, but it would appear that the application of linguistics in the field of law has a promising future. There are always lessons to be learned from past experience and the practice of forensic linguistics is no exception. First, like the field of linguistics on the whole, those who work in the area of language and law need to address and overcome the public's misperceptions about what linguistics is and what it can say. Secondly, like the more recently developed sub-field of sociolinguistics, forensic linguistics needs to continue to grow and mature. Third, like the sub-field of applied linguistics as it is currently practiced, forensic linguistics needs to identify more clearly the linguistic training that practitioners need to have in order for them to do this type of work.

A common lament among linguists of all types is that most non-linguists just do not have a clue about what the field of linguistics is. Are linguists the guardians of correct usage and grammar? Are they speakers of different languages? Are they analysts of the sounds, words, meaning, grammar, history, and discourse units of language, even in their native language? As all linguists know, being introduced as a "linguist" can be troublesome. In recent decades we do not seem to have seen much general improvement in this condition. Things are no different in the legal setting, where lawyers and judges, who themselves are experts at using language, often believe that they do not need help from anyone else about how it works in their law cases.

How can such misconceptions be overcome? Forensic linguistics has an advantage, perhaps, in that at least some of its leaders hold both linguistics and law degrees. This enables them to be considered "insiders" in the law field. They can speak the law's language, enabling them to be legitimized and heard. Meanwhile, forensic linguists without law degrees and status need to learn to frame their work using the perspective of lawyers and judges, starting with them where they are, not where linguists are, and carefully explaining technical terms and procedures in ways that are understandable.

It should also be mentioned that many in the media, like lawyers, also have misconceptions about language and linguistics, often reporting language errors as facts. The media that get it right (and there are some) need to be encouraged and the ones who produce linguistic nonsense should be responded to. But the temptation to remain above the fray, isolated in the ivory towers of academe, so common in the past, should be discouraged. Forensic linguistics attracts and invites media attention and the sooner linguists deal with it effectively, the quicker media accuracy will be likely to come.

Whatever misconceptions about the field of linguistics exist, they can be multiplied when it comes to forensic linguistics. Assisting lawyers defend clients who are tax frauds, murderers, or child abusers leads easily to the misperception that forensic linguists are mere “hired guns.” Helping lawyers for one corporation extract money from another corporation can lead to the same accusation. This misconception about forensic linguistics grows naturally out of the adversarial nature of law. It is the work of defense attorneys, prosecutors, and lawyers on both sides of civil law cases to represent and advocate for their clients and positions. Forensic linguists are not advocates and they should never slip into such a role. They are outside, neutral analysts of the data in a given case. Their role is that alone. If their analysis helps the lawyers they work with, no matter which side, they are doing their jobs. If their analysis does not help these lawyers, there is little or no chance that they will be called to do anything more in that case. But even when this happens, most lawyers are grateful because the linguist has made an important contribution by showing the weaknesses of the lawyer’s case. The best way to overcome this misconception of the role of the forensic linguist is for them to be totally neutral and objective at all times, both in any reports written and in any testimony given at trial. Unfortunately, such action will not be likely to remove the accusation of favoritism by opposing lawyers, but it is hoped that this situation will improve as the field grows and as the true role of linguistics expert becomes better recognized.

By academic standards, forensic linguistics is still in its infancy. Lessons can be learned from other recently developed specializations, such as sociolinguistics, in which some thirty years of development took place before comprehensive introductions to the field were ready to be written. It takes a field a while to figure out its own dimensions and proper scope.

One sign of a new field's maturation process is evident when introductory textbooks on that subject begin to appear. At the time of this writing, six introductions to forensic linguistics had been published (McMenamin 2002; Gibbons 2003; Olsson 2004; Turell 2005; Kniffka 2007; Coulthard and Johnson 2007). All are valuable in their own ways but they tend to focus on specific aspects of the field. It is only natural for writers of introductory texts to see the field from their own vantage points and activity. New fields need maturation time and it is very difficult to capture everything important in the early stages.

6 Training programs

There appears to be considerable current discussion among practicing forensic linguists about how to go about training future forensic linguists to become competent in this field. Over past decades applied linguists have developed a spate of university training programs. Obviously this can be a good thing, since it is clearly useful for all linguists to know things about how linguistic theory and research can be applied to issues in education (where the majority of applied linguistics seems to take place). Whatever specialized or additional training is given to applied linguists, this should not be done in such a way that minimizes the basics of linguistic theory and research. Applied linguists are not (and should not be) marginal or second-class citizens. Some call it an even higher calling to know what all linguists know but, in addition, to be able to apply this to real-life problems and issues.

The development and growth of sociolinguistics, for example, has been a little different. Since the time it first began to emerge in university curricula in the 1960s, sociolinguistics has become an integral part of extant linguistics programs. In some cases, as at Georgetown, specialization in sociolinguistics was created within, and as an integral part of a linguistic department, but only with the assurance that the students also had a solid grounding in the major tools of linguistic theory and research. As William Labov argued from the onset, sociolinguistics is "real linguistics" that deals with actual language, using the theoretical knowledge of the field to do so.

So what does this signify for training in forensic linguistics? Some practitioners may argue that we need separate programs to train future forensic linguists. At the time of this writing, a few courses in forensic linguistics are offered at universities in the United Kingdom, Spain, and

America and there are even a few (usually summer) programs in this field. But should these grow to become academic majors? One would hope not, for forensic linguistics is first and primarily linguistics and it would be disastrous to lose this mooring.

It may be sobering to realize that most of the senior forensic linguists in the world (see the books cited throughout this chapter) have never taken a single course in forensic linguistics. They are linguists who happen to use linguistics theory and research on the data and problems of law cases. Some of them teach individual forensic linguistics courses in which they show students how to do this but there appears to be no need to call it a separate field of study. To be sure, there are things to learn about how to write reports and testify in law cases but hardly enough to justify actually courses in these things. Books and articles are available to guide the learner. At any rate, working closely with an attorney usually provides much of the information and skills required to do this work.

7. Conclusions

Since forensic linguistics began to arrive on the screen of applied linguistics, it has been developing at a rapid rate, dealing with linguistic aspects of statutory interpretation and legal procedures, courtroom language use, and the written and spoken language evidence of law cases. The relationship of language and law poses both some similar and some different issues for applied linguists. Sometimes the data are frustratingly sparse and sometimes overwhelmingly large, posing different challenges for the application of conventional linguistic tools. But one factor takes precedence: the forensic linguist must be, first of all, a well trained linguist who is able to preserve a neutral and objective stance in a field in which advocacy for one side or the other dominates the scene. Even the role, style, and content of teaching varies considerably with the “students” to be instructed (lawyers on opposite sides, judges, and juries). And many problems are yet to be resolved in forensic linguistic practice, primarily in the areas of public misperceptions, maturation, and ways to train future forensic linguists in this field.

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