United States law describes terrorism as “the use of threat or violence to intimidate or cause panic, especially as a means of affecting political conduct (18 USCA § 2331). The criminal acts involved in terrorism overlap laws about threatening, extortion, and murder. Types of terrorist act include domestic terrorism, illegal acts carried out against one’s own government and fellow citizens, international terrorism, illegal acts taking place outside the jurisdiction of the United States, and cyberterrorism, the use of computers to carry out illegal acts that create harm or fear. In 2018 the FBI Director pointed out that his agency was currently investigating about 5,000 terrorism cases in all fifty states and had made hundreds of arrests (Washington Post, October 10, 2018).

Successful investigations of terrorism usually follow three steps: (1) find reasons to suspect that a terrorist activity is happening or likely to happen; (2) collect evidence; (3) evaluate this evidence and decide whether it is useful for trial. When law enforcement agencies satisfy these procedures, they produce results that keep citizens safe from terrorists, but mistakes can ruin the lives of innocent people, deplete budget resources, and waste taxpayer’s money.

Law enforcement agencies often follow the above procedures and bring true terrorists to justice, but sometimes there are problems, especially when they locate the wrong suspects and misinterpret what they said. This chapter points out problems that an anti-terrorism unit had with its language evidence and demonstrates how linguistic analysis could have helped resolve a terrorism case.

How linguistic analysis can help

When the evidence consists of large amounts of continuous conversation, the analyst must account for the entire linguistic context in which language is used rather than relying on the purported “smoking guns” statements. For example, what may seem to be an agreement is meaningless if the language evidence does not make precisely clear what that agreement includes and whether the participants mutually understand what it specifies. The social context can be as important as the language context, especially when the speaker has limited language ability or lacks cognitive acuity.

Linguists address the language evidence by using their skills in phonetics, morphology and syntax to improve the accuracy of the government’s transcripts, by applying their skills in discourse analysis to identify and keep track of and properly attribute the speakers’ agendas, topics, themes, and schemas, by calling on their knowledge and skills about pragmatics and speech acts to identify and accurately distinguish the presence and felicitous use of participants’ requests, promises, agreements, denials, etc. But they also need the communicative skills of a good teacher to successfully express their findings in ways that jurors will understand. These linguistic contributions to a terrorism case are the same ones that the prosecution could have used in its own intelligence analysis. These tools are best utilized in an inverted pyramid sequence first addressing the largest context of language and proceeding through the smaller ones (Shuy 2013; 2014; 2016; 2017).
The Inverted Pyramid

**Speech Event**

**Schemas**

**Agendas**

**Speech Acts**

**Strategies**

**Grammar**

**Words**

Figure 1

**Speech events (what is being talked about)**
Analysis of the discourse begins with the largest structure of the conversation-- the speech event (Gumperz & Hymes 1972; Hymes 1974). The speech event is the largest and most indispensable conversational unit for it contextually frames the rest of the language found within it. Speech events are miniature social systems governed by norms of appropriateness that specify what is to be accomplished, how it is communicated, who can participate, and in what capacity (Gumperz 1998, 186). For example, if the speech event is announced as a discussion about religion, participants are expected to relate their experience and knowledge about that topic but not about other things such as football games or business transactions, which are defined as different speech events. Gumperz (1982, 9) referred to speech events as “unspoken conventions as to what counts as valid and what information may or may not be introduced.” He gave examples of job interviews, courtroom examinations, and business negotiations, adding that there were many more.

**Schemas (how participants think about what is being talked about)**
Most participants in conversations are consciously aware of what speech event they are in. It frames their schemas about how to talk about that speech event. They use their existing knowledge, attitudes, and ideas to interpret what they understand to be relevant to that speech event. Their own language reveals their schemas, but when they misperceive the speech event they are in, their erroneous schemas can lead them down a very wrong path.

**Agendas (what participants contribute to what is being talked about)**
The flow from speech events to schemas forms a bridge to the speakers’ agendas that are revealed by the topics they introduce and their responses to topics introduced by other participants in the
conversation. Agendas, the cognitive substance of conversations, can provide useful clues to participants’ motivations, predispositions, and intentions.

**Speech acts (how participants convey their contributions)**
As speakers present their agendas, they use speech acts (Austin 1962; Searle 1969). Meaning is communicated not only explicitly through grammar and lexicon, but also by speech acts that provide the explicit and inferred intent. Speech acts are speakers’ ways of getting things done with language, such as promising, admitting, advising, apologizing, agreeing, denying, offering, and reporting. Each speech act has its own felicity conditions and if, for example, an attempt to apologize does not meet these conditions, it fails as a felicitous speech act. In terrorism cases, it is important to examine the speech acts of agreeing, promising, offering, and denying.

**Conversational strategies (how participants try to influence each other)**
Conversational strategies are techniques that speakers use to achieve the results they desire (Gumperz, 1982; Hansell and Ajirotutu, 1982; Tannen, 1994). It is common for speakers to employ various conversational strategies to help them reach their goals. Since the goal of police officers is to capture criminality on tape, they can be tempted to use various conversational strategies to achieve it more efficiently. When gathering language evidence, their strategies can include ambiguity, blocking the other person’s speech by interrupting or overlapping, using the hit and run strategy, contaminating or camouflaging illegal words, and by inaccurately restating or scripting the target about what to say next (Shuy 2005, 13-29). Their most commonly occurring strategy is using ambiguity that causes their contribution to appear to be about something that their targets perceive quite differently (Shuy 2017).

**Grammar and lexicon (how participants convey meaning in sentences)**
In criminal cases much attention is placed on individual words, phrases, and sentences in which alleged smoking gun evidence is thought to be found. Often this is a good place to find evidence of criminal intent, but when these words, phrases, and sentences are vague or ambiguous, they can refer to something different. Many problems of syntactic meaning derive from pronoun and deictic referencing and from unshared meanings of words. This is especially problematic when the targets are non-native speakers of English, are poorly educated, or are so overwhelmed with external problems that they pay little or no attention to what the agent is saying.

**Terrorist Case Example:**
I spent seven months consulting with the attorneys for Marwan El-Hindi, one of the three defendants in this case. Analysis of the language evidence provided a very different picture from the prosecution’s. It showed how the undercover agent capitalized on his target’s inability to listen carefully and understand his ambiguity, indirectness and hints. It also showed how the agent became discouraged by El-Hindi’s failure to understand the agent’s many encouragements to set up a terrorist training cell, after which the agent abandoned that scenario and created a new one in which he asked El-Hindi to copy certain videotapes from the Middle East and attach them in an email to him, an action that led to the conviction of all three targets. But upon careful examination, even this second scenario presented serious problems for the prosecution.

**Case background:**
Marwan El-Hindi, 44, was a naturalized U.S. citizen from Jordan now working as a self-employed businessman. Mohammad Amawi, 28, a dual citizen of the U.S. and Jordan, was a travel agent. Wassim Masloum, 26, a college student from Lebanon, was a legal permanent U.S.
resident. Although all three defendants were Muslims living in Toledo, they had never met until the agent brought them together. None of them had previous criminal records.

Darren Griffin, who the government hired to conduct the intelligence gathering, was an ex-Army Special Forces member and former drug user now experiencing financial difficulties. In the past he had served briefly as a consultant to the FBI, which then rehired him for this two-year assignment to try to discover terrorist activities in the Toledo Muslim community. At trial, Griffin testified that he was paid some $350,000 for his work on this case.

Griffin used the guise of owning his own private security business, which included training others for security work. His approach was to hang around Toledo mosques telling people that he was a recent convert to Islam and was disenchanted with U.S. foreign policy. He also told selected people (but not El-Hindi) that he’d like to do violence to the U.S. government. During his undercover role he grew a beard, wore Arabic clothing, and tried to appear to be an Islamic extremist. At a different mosque he told various people that he hated the president and wanted to train Muslims to carry out violent jihad. He made no progress at that mosque, however, and, ironically, several American Muslims there were so disturbed that they reported him to the FBI, which did nothing about it, of course, telling Griffin to move to a different mosque.

Griffin eventually found another mosque, where he first met the three defendants separately and tape-recorded their conversations. In February 2006 the three suspects were charged with conspiring to provide resources to kill U.S. troops serving in Iraq. Amawi was also charged with threatening President Bush, based on his severe verbal criticisms. All three targets were charged with cyberterrorism because they had shared with Griffin some videotapes of Iraq war action that included the use of plastic explosives, rockets, and bombs. At the agent’s request, El-Hindi had made copies of videotapes of television programs they had watched together at his home. Masloum, who was present in only a couple of the recorded undercover conversations, was also charged with requesting the agent to train him to carry out violent jihad in the Middle East.

Motivations and intentions
Griffin created two scenarios to elicit the targets’ illegal motivation and intentions. First, he tried to elicit their desire to establish a training cell that would prepare them and others for violent jihad. When this effort failed, Griffin’s second scenario was to engage them in electronic jihad.

Amawi, a travel agent and devout Muslim, had recently visited his native Jordan, where he learned about what his friends and relatives thought of the Iraq war. Clearly the brightest of the three suspects, Amawi was technologically competent enough to access television programs and internet resources about the Middle East conflict. The prosecution claimed that Amawi’s motivation was to engage in extremist jihad.

Masloum was an overweight college student who knew that he would soon have to fulfill his six-month military obligation in Lebanon. Based on the language evidence, his only noticeable motive was to get in good physical shape for his forthcoming military service. The prosecution claimed that Masloum’s motive was to receive military training from Griffin in order to commit violent jihad.

El-Hindi, also a devout Muslim, was a bumbling business entrepreneur, whose only income came from commissions for recruiting prospective medical students to attend several European medical schools. He was constantly attracted to other possible business ventures, none of which succeeded. A father of five children, he was in the process of a bitter divorce. The tapes
demonstrated El-Hindi’s deep concerns about the problems of poor Muslim and their children’s education in the US. Foremost of his lofty business schemes was to obtain a property where he could create a religiously oriented school. None of El-Hindi’s plans came close to success, but he was charged with electronic jihad because he had forwarded videotapes of the Middle East war to the agent.

**Linguistic analysis**
The tape-recorded language evidence in this case was analyzed according to the sequence suggested by the inverted pyramid approach (Figure 1).

**Speech events**
The meetings of Griffin and El-Hindi consisted of five major speech events:

1. **Religion, introduced by Griffin**
   Griffin’s first meeting with El-Hindi made clear that this speech event was a discussion about religion. El-Hindi was happy to assume the role of his spiritual mentor as he tried to explain Islam. He responded to Griffin’s recurring introduction of this speech event throughout their conversations but Griffin paid little attention to this religious information.

2. **Building an Islamic school, introduced by El-Hindi**
   While they talked about the Islamic faith, El-Hindi switched the speech event to the need for a local school for Muslim children, telling Griffin about his own small children and expressing his desire for a school where children could acquire normal education while learning about Islam. Griffin said he could provide physical training at this school. Throughout, Griffin vaguely tried to convert his offer physical education to that of weapons training while El-Hindi interpreted this as training Muslim Americans how to defend themselves when attacked.

3. **Establishing a training program, introduced by Griffin**
   Griffin tried many times to get El-Hindi to invite other Muslims to his home for “training”. His hidden goal was for it to become terrorist cell that could lead to a violent jihad. This idea went nowhere and Griffin’s effort went unfulfilled. El-Hindi’s responses show that he considered Griffin’s training to be physical education for the proposed school and exercise for men who needed to lose weight to get in shape.

4. **Raising money for the proposed Islamic school, introduced by El-Hindi**
   El-Hindi suggested various ill-conceived ideas for raising money for his proposed school for Muslim children. Griffin then reinterpreted these speech events as plans to create a terrorist cell to support violent jihad.

5. **A dinner party, introduced by Griffin**
   Griffin finally suggested that it would be good for the three men to meet with him for a social event. El-Hindi volunteered to invite them all to his home for the speech event of a dinner party. While they ate and talked, Griffin suggested that they watch television programs and videotapes of the war in the Middle East. Griffin then converted this speech event into what the prosecution called “electronic jihad,” by asking El-Hindi to send him copies of those tapes.

The first four speech events were recycled frequently throughout the first 13 meetings, producing no language evidence that El-Hindi understood what Griffin was trying to do. Griffin ignored El-Hindi’s speech event of religion, but tried to convert El-Hindi’s speech event of raising money to build a school into a place that would train people for violent jihad. The prosecutor considered Griffin’s speech event of the dinner party successful enough to charge the targets with an electronic version of terrorism.

**Schemas**
Undercover operations like this often produce conflicting schemas about what is going on. There is no doubt that Griffin’s schema was that El-Hindi was a terrorist and that he could capture him planning or executing violent jihad. El-Hindi’s schemas, very different from Griffin’s, stemmed from his very different perception of all five of these speech events.

Griffin used his purported interest in religion as his schema for developing a relationship with the targets that could lead them to commit a crime. He reinterpreted El-Hindi’s schema about a Muslim school as an opportunity to build a terrorist cell. Griffin’s schema that the dinner party would create an opportunity for him to get El-Hindi to engage in electronic jihad was far different from El-Hindi’s schema that it was only a pleasant social event.

Agendas
Once the speech events and their attendant schemas were established, the participants revealed their agendas through their topic and responses to the topics of the other participants.

The agent’s agenda
Government agents are encouraged to follow what can be summarized as a three-step process in their efforts to elicit evidence of criminal intentions and activities (Gudjonsson 1992, 8-10; Shuy 2005, 7-9):
1. Let the suspects talk freely and expose their own agendas, thereby self-generating their own evidence of guilt. If this step doesn’t succeed, go to step two.
2. Produce hints and indirectness about the targets’ agendas that can encourage them to clearly express their illegal predisposition and thereby expose their culpability. But if the suspects still don’t say anything that suggests their guilt, go to step three.
3. Represent your own agenda, clearly and unambiguously to indicate the illegality of the proposal. This step is a requirement listed in the FBI’s guidelines for agents carrying out undercover operations (Heymann 1984).

Analysis of these conversations indicates that Griffin never got beyond step 2. He let El-Hindi talk freely on a multitude of topics (step 1), none of which were relevant to Griffin’s investigation. El-Hindi provided no language evidence that he ever tumbled to Griffin’s frequent use of indirectness and hints (step 2) and Griffin never unambiguously expressed the illegality of his agenda (step 3).

El-Hindi’s agenda
El-Hindi’s agenda was revealed by his topics of religion, his divorce, his children, his plans for a Muslim school, helping poor people and orphans, Muslims accosted on the street, his physical condition, and finding financial support for a school. El-Hindi introduced no inculpatory topics but stayed firmly within a legally benign agenda. In none of the 13 tapes did El-Hindi respond positively to Griffin’s hints and vague efforts that promoted violent jihad.

Conflicting agendas
Since El-Hindi’s agenda did not implicate himself, Griffin’s agenda required him to reinterpret El-Hindi’s agendas into creating a corporation to accept grants, providing weapons training, and watching videos and internet programs about war in the Middle East. Although there are many instances demonstrating their conflicting agendas, the following are a representative sample.

1. Conflict about creating an organization:
Griffin considered El-Hindi his “money man” and encouraged him to get grants to create an organization that could provide resources for the training program that Griffin wanted to create. Griffin tried hard to make it look like this organization would become a terrorist cell, but when El-Hindi reported that he was having a lawyer set up a legal non-profit organization, Griffin was shocked:
El-Hindi: Before I check on the grants, we have to establish the, uh, non-profit organization. I will call it in, God willing… I will tell the lawyer what exactly we need for the non-profit organization that we planning.

Griffin: What lawyer?

El-Hindi: There’s a lawyer, the one who does my corporation.

After hearing this, Griffin quickly changed the subject. A legal corporation would not fit his plans. El-Hindi did nothing more about this until two months later when he reintroduced this topic.

El-Hindi: You have to submit all tax papers then. Before, it was only you submit the federal ID number and that’s it.

Griffin: You have to submit your taxes?

El-Hindi: You have to submit the actual paper, the certificate and everything. Now you have to submit; before, just the tax number and they would tell us. I think you have at least three officers for a small organization.

As before, Griffin changed the topic as rapidly as possible.

A bit later El-Hindi saw a request from Egyptian police to create a training program for their officers. Griffin tried to get El-Hindi to explain what else they could do there while they ran the program:

Griffin: You were saying that you were going to set up an organization over there and all that.

El-Hindi: Orphanages. Not only orphans but very poor, way below poverty.

El-Hindi made it clear that his agenda was to apply for a legal nonprofit organization to do charity work while they did the police training. Once again, Griffin quickly changed the subject.

(2) Conflict about creating a school with a mosque:
El-Hindi’s frequent topic concerned creating a school for local Muslim children. Griffin kept trying to convert El-Hindi’s agenda into a terrorist cell where he could conduct weapons training. El-Hindi, clearly oblivious to Griffin’s efforts, stayed firmly with his own agenda that this would be a school for kids with part of it serving as a mosque located on the site of a building that had been a private elementary school but was now was for sale:

El-Hindi: I took Ameer with me to see if, if we can uh, close a deal on buying the building and convert it into a mosque over there… We could get grants to teach the children how to swim, right?… So this building we could get, God be praised, even for day care.

Griffin: If we had a building, it’d be perfect because we could do it at night. There’s no prying eyes and all that good stuff, so we’ll see.

El-Hindi: It’s a private building, I mean. They’re going to come and search?
Griffin: No, no. That’s not it.

El-Hindi: And we’re not gonna be doing something illegal anyway.

Griffin: No, no. We can’t shoot or any of that other good stuff.

El-Hindi: Well, it’s just training.

Despite Griffin’s expressions, “do it at night,” “prying eyes,” and “other good stuff,” El-Hindi continued to express his belief that what they were planning was perfectly legal and that Griffin’s “training” would be for physical education including swimming, since that building also had a swimming pool.

During their next conversation a month later, El-Hindi recycled his school agenda to Griffin, this time inviting him to bring his own children to it.

El-Hindi: I would like to set up a salafi school over here, for the kids, Koran memorization and Hadith memorization. You can bring your kids to it. It’s going to be one of the best in the United States. I wanna get a school, God willing, we need a place.

El-Hindi continued to recycle his agenda of building a school while he remained deaf to Griffin’s hints about using it for questionable purposes.

One of the important contributions a linguist can make in a case like this is to mark, organize, and keep track of the agendas of the speakers because these are relatively clear indicators of their motivations, predispositions, and intentions.

**Speech Acts**

Speech acts support the speakers’ agendas. In criminal cases the most salient speech acts are offering, promising, agreeing, and denying or disagreeing.

**Offering**, also commonly found in business contracts, commits the speaker to a course of action if that offer is accepted. To be felicitous, offers must be mutually understood. Griffin ambiguously offered El-Hindi his skills in training throughout their first 12 conversations. El-Hindi’s 37 specific responses to Griffin’s offers of training indicated that he understood this training to be for learning the Koran, physical fitness, self-protection, recreation, getting grants, becoming a translator, and helping train the Egyptian police. The agent’s offers of illegal uses failed because his speech acts were infelicitous.

**Promising** is a speaker’s commitment to bring about a proposition in the future that is in the best interest of the hearer. A felicitous promise takes place only when the promise is mutually understood by the speaker and the hearer. Otherwise it can be considered a lure created to induce the listener to take an action that can result in that person’s harm.

El-Hindi’s language never came close to promising to train children or adults for extremist jihad. In contrast, on several occasions he argued against the violent jihad carried out by others. Griffin never told El-Hindi explicitly that his promised training program was to prepare for extremist jihad. Instead, he vaguely and ambiguously mentioned “training,” probably in the hope that later listeners could think he meant training to carry out jihad. Government agents commonly use deceptive ambiguity, as illustrated in Shuy (2017).
Agreeing is an expression of a speaker’s intent to support or bring about a current proposition. A felicitous agreement takes place only when there is a mutual understanding between the speaker and hearer about what is being agreed. El-Hindi agreed with Griffin’s idea to include “training” in his proposed school for Muslim children, but at no point in these conversations did El-Hindi agree that this training was for doing anything illegal.

El-Hindi also agreed with Griffin’s suggestion to host a dinner party at his home, where Griffin videotaped the meeting with a camera hidden in his watch. The video was of poor quality but its clearer audio made it possible to determine who was present and who was not during their conversation that evening. If any participants made allegedly damaging statements when El-Hindi was not present or out of hearing range, he was unlikely to hear them. When he was present, the conversation was mostly about legally benign topics such as Islamic religious practices and his own marriage and divorce problems. After dinner, they moved to an adjoining room as they watched videotapes from the Middle East. Some showed violent scenes of explosions and a U.S. marine being killed at a checkpoint in Iraq. The targets located the examples Griffin requested, played them, and then at Griffin’s request, downloaded them for him. The act of sending these tapes to Griffin’s home produced the government’s charge that they had committed “electronic jihad.”

Denying and disagreeing are expressions that a speaker does not accept a proposition made by another speaker. A denial or disagreement is felicitous only when the speaker and receiver mutually understand that which is denied or disagreed.

El-Hindi’s disagreement with Griffin was central to his defense. His language often made clear that he didn’t understand or hear propositions that he might actually disagree with. Since Griffin frequently spoke ambiguously and hinted at illegality without specifically saying it, El-Hindi’s responses suggested that he didn’t properly infer the intention of Griffin’s meanings. But even when Griffin tried to be specific, El-Hindi demonstrated that he didn’t understand. The following is one example:

Griffin: There’s definitely stuff to teach kids. You know, it’s basic stuff, as far as weapons training. Weapons training is basic.

El-Hindi: I was in good relation with Ji’atan Academy and he trained in karate.

The on-going topic here was the possibility that they could rent or buy the Ji’atan Academy’s school building then for sale. This academy had taught children karate. Here, El-Hindi interpreted Griffin’s expression, “weapons training,” as karate instruction for self-defense. Although some listeners might catch Griffin’s hint that their proposed school for children would include weapons training, the on-going topic was about the physical education that Griffin might provide for the school. El-Hindi either misunderstood Griffin’s meaning of “weapons training” or disagreed with it by reminding him that he was referring to a different type of physical education training for self-defense.

Griffin’s disagreements with El-Hindi were many. Since the agent considered El-Hindi his “money man,” he kept trying to get El-Hindi to set up a corporation to provide resources for the training programs Griffin wanted to create. The prosecution made much of El-Hindi’s word, “organization,” claiming that its purpose was to be a terrorist cell. But when El-Hindi reported that he had gone to a lawyer to set up a legal non-profit organization, Griffin reacted with shock:

El-Hindi: Before I check on the grants, we have to establish the, uh,
non-profit organization. I will call it in, God willing, and see what they, I will tell the lawyer what exactly we need for the non-profit organization that we planning.

Griffin: What lawyer?

El-Hindi: There’s a lawyer, the one who does my corporation.

Following this legal procedure was not what Griffin wanted to hear. He must have realized that El-Hindi was tacitly disagreeing him, so he quickly changed the subject.

Two months passed before they talked about this corporation again:

El-Hindi: You have to submit all tax papers then. Before, it was only you submit the federal ID number and that’s it.

Griffin: You have to submit your taxes?

El-Hindi: You have to submit the actual paper, the certificate and everything. Now you have to submit. Before, just the tax number and they would tell us. I think you have at least three officers for a small organization.

Once again, Griffin quickly changed the subject.

El-Hindi did not budge in spite of Griffin’s attempts to disagree with his agenda. He followed the legal procedures for applying for a legal nonprofit organization to do charity work. Even though Griffin was vague about his own agenda, El-Hindi tacitly disagreed with it.

El-Hindi frequently recycled his agenda of creating a school for Muslim children while Griffin tried to convert this into a place to conduct weapons training. El-Hindi either missed Griffin’s point or tacitly disagreed with it, sticking firmly to his idea for that school. As we noted above, at one point they talked about a local school property that was for sale:

El-Hindi: I took Ameer with me to see if, if we can uh, close a deal on buying the building and convert it into a mosque over there….So this building we could get, God be praised, even for day care.

Griffin: If we had a building, it’d be perfect because we could do it at night. There’s no prying eyes and all that good stuff, so we’ll see.

El-Hindi: It’s a private building, I mean. They’re going to come and search?

Griffin: No, no. That’s not it.

El-Hindi: And we’re not gonna be doing something illegal anyway.

Griffin: No, no. We can’t shoot or any of that other good stuff.

El-Hindi: Well, it’s just training.
El-Hindi couldn’t understand why anyone would want to come and search and he explicitly denied that he wanted to do anything illegal. From what he understood about Griffin’s physical training, there was no reason for him to be concerned about “prying eyes.”

El-Hindi also disagreed with Griffin clearly and strongly when they discussed the proposal for training Egyptian police:

Griffin: What are they taking applications for? For actual fighters?
El-Hindi: No, no. I didn’t see that…The way I understand it, they don’t need fighters. All they need is some push from the outside to educate people.

El-Hindi’s speech acts of agreeing and denying were consistent with his agenda of finding resources to build a school for Muslim children but were inconsistent with Griffin’s agenda of establishing a terrorist cell. Nor did Griffin’s infelicitous speech acts of offering and promising produce any inculpatory responses from El-Hindi.

**Conversational strategies**

It is common for participants to use various conversational strategies to bring about the results they want. In the case of undercover conversations, however, it is especially important to identify the conversational strategies used by agents as they use them to further their goal of capturing taped evidence of the target’s illegal predispositions and intentions. In such cases any conversational strategies El-Hindi may have used to influence Griffin to agree with his legal goals are not as relevant as those used by Griffin. Following are examples of the strategy of ambiguity:

• **Ambiguous uses of “training”**
Griffin frequently talked about “training” in his conversations with El-Hindi. Since my role in this case was to analyze only the conversations involving El-Hindi, I cannot vouch for the way agent Griffin used “training” to Amawi and Masloum when El-Hindi was not present with them. But it is clear that Griffin talked about “training” to El-Hindi almost every time he got a chance and there is no evidence that El-Hindi could have learned Griffin’s meaning of “training” from the other two targets.

Evidence that El-Hindi did not tumble to Griffin’s ambiguity is found in El-Hindi’s 37 specific references to “training:” for the Koran, for physical fitness, for self-protection, for recreation, for horses, for getting grants, and for becoming a translator. Not only did El-Hindi never agree to train for extremist jihad, he strongly and specifically argued against jihad several times during their discussions about Islam. That Griffin was consistently ambiguous strongly suggests that he intentionally used ambiguity to try to elicit incriminatory responses. El-Hindi was often so absorbed with his own agenda that it made it hard for Griffin to succeed. Although the prosecution claimed that Griffin had been clear and unambiguous that he meant training for terrorist purposes, El-Hindi’s responses clearly indicated the contrary. The following are examples:

• **Training for personal security**
Griffin often talked about “security,” purportedly suggesting that Muslims must be careful to avoid being caught while carrying out their training for extremist jihad. But El-Hindi’s own very different definitions of “security” were evident in his descriptions of the way he and other Muslim Americans had been detained at airports and attacked on the streets. For example, after El-Hindi had described his own experience of being mugged, Griffin continued:

    Griffin: The biggest thing is security, you know.
El-Hindi: That’s what I’m saying.

Griffin: We have to be extra careful because…they’re after Muslims.

Here Griffin’s created ambiguity with his word, “they’re.” Although the prosecution claimed that El-Hindi is agreeing with Griffin on his definition of security from being caught for doing something illegal, the context of this isolated clip of their conversation demonstrates that they had very different schemas about what security related to. Up to this point, Griffin’s uses of training were vague, but here he hints that they refers to the police. This effort went right past El-Hindi, who interpreted they as the people who attack on Muslims on the streets.

Next, Griffin, who claimed to have a day job as a security expert, introduced an attractive “VIP” idea.

Griffin: I’m gonna train some other guys…so we’ll, and uh, basically how we’re gonna do it, uh, I found out too is they could be my VIP protection team.

El-Hindi: This is something I want to get into too.

Although Griffin did not say what this protection team would protect, it flattered El-Hindi to be considered a VIP, because he was vain enough to consider himself one of the very important persons who would participate in the physical training Griffin would offer “some other guys.” This too was consistent with El-Hindi’s concern for the security of Muslims on the streets.

• Training for physical fitness
Griffin commonly used “training” to mean physical fitness. El-Hindi was aware that his middle-aged body was terribly out of shape.

Griffin: It’s like you’re gonna be in training too.

El-Hindi: I am. I am. I have to. I have to.

Apparently this opportunity to refer ambiguously to “training” once again was not lost on Griffin.

• Training for charitable acts
About halfway through their conversations, a close Arab friend of El-Hindi’s asked him to fly to Egypt to locate and bring home his two sons, who had squandered their college tuition money to fly to Cairo. Their parents feared the boys were going to get involved politically and possibly even join a jihad movement. Since El-Hindi’s brother was a physician living in Egypt, El-Hindi agreed to go and ask his brother to help him find the two young men. He and his brother quickly located them and brought them home. Griffin doubted El-Hindi’s reasons for making the trip and tried to make it look as though El-Hindi went to Egypt to organize a jihadist cell. After El-Hindi returned home, Griffin complained that the boys were not properly trained for jihad.

Griffin: They don’t have the training so what we gotta get across to them is you just goin’ over there to commit suicide. That’s not jihad. So we have to reel those boys in.

El-Hindi: I told them, “listen, you have some money. You really wanna benefit the people there?” They said, “yes.” I said, “let’s slaughter some animals and give to the poor
people. And then you are helping a lot of people.” I wanna give to the poor people. They get the reward. We’re going on a mission of change.

Once again, El-Hindi gave no evidence of understanding Griffin’s encouragement to train the boys to perform jihad properly.

Shortly after their return, Griffin met with these two young men at an Arabic business convention held in a Chicago hotel. El-Hindi had set up a booth there to promote his business of enrolling students for European medical schools. Griffin videotaped his meeting with these boys privately, talking about weapons training and other pro-Arab topics. El-Hindi was not present when Griffin talked with the boys. Later, Griffin taped his conversation with El-Hindi about the boys. They both agreed that the boys were stupid and needed instruction about many things, including how to protect themselves.

El-Hindi: Listen, before we do anything, brother, you give them like a small thing and see if they hang onto it.

Griffin: They can’t because we’re talkin’ security here. We’re talkin’ my livelihood and everything…I’m puttin’ together a training program and I’ve already started training some of these brothers that are going, that, that need it. And they gotta protect theirself. We have to stay in communication though because this is serious, you know.

El-Hindi: Help the needy. Help the needy.

The prosecution tried to show that El-Hindi’s “help the needy” meant that the boys should join a terrorist cell. In contrast, El-Hindi was warning Griffin to take whatever life-skill training he might provide them slowly, while maintaining his topic that the boys should do charity work.

• Training for education and religion

Throughout their 13 conversations, El-Hindi’s major agenda was to find a suitable location to create a school where Muslim children could learn the Koran, along with a mosque with recreation facilities. Griffin offered to provide the physical education. On two separate occasions, a month apart, Griffin raised the ante by indicating that they could “mask” his training by making it look like something else. His first reference to masking was in their next to last conversation. El-Hindi was talking about a local school they could rent or buy:

El-Hindi: The first floor, make it like a prayer area, mosque and—

Griffin: And everything else training.

El-Hindi: Oh yeah.

Griffin: ‘Cause that’s how we could mask it.

El-Hindi: You will fall in love with that place. Two floors.

Griffin: You know, like you were sayin’ before, we’ll do the daycare and use the rest of the money for, you know, the training and everything.

El-Hindi: I got to get in shape quick.
It is difficult to know what if anything El-Hindi understood by Griffin’s “mask it,” but if the agent had wanted to be clear, he could have used a word that might be better understood by a non-native English speaker, such as “disguise,” “hide,” “conceal,” “cover up” or even the military word, “camouflage.” El-Hindi showed his lack of reaction to Griffin’s effort to suggest illegality by continuing his excitement about obtaining a building with an attached mosque and a recreation facility. El-Hindi’s “oh yeah” in response to Griffin’s use of “training” is consistent with his repeated desire to create a school for training children.

Since Griffin apparently realized that El-Hindi still had not understood his efforts to capture illegality, he repeated his use of “mask” almost a month later:

Griffin: My training and everything, it’s in the millions of dollars. You know who I work for so I’m getting in shape and getting ready and everything too.

El: Hindi: I need to get in shape too. Are we gonna have something for kids and adults or—

Griffin: If we mask it with uh, you know, the training.

El Hindi: For the kids?

Griffin: We can automatically do it for the adults too. We’ll cater it toward the kids and then, you know, we can always bring the uh, the adults along.

Here Griffin recycled his use of “training” to indicate physical training and El-Hindi appeared to understand it that way, mentioning that he also needs to get in shape. Then Griffin repeated his alleged smoking gun term, “mask it,” associating it with his proposed training. By asking if the training would be for the kids, El-Hindi’s response indicates that he clearly didn’t get Griffin’s hidden meaning. To El-Hindi, training meant education. Griffin’s use of the pronoun, “it,” in his “mask it” and “do it” were characteristically ambiguous.

• Training for an Egyptian police department

One of El-Hindi’s futile business ideas led him to think he was qualified to submit a bid in response to an Egyptian police department’s request for proposals to provide training for their officers. Part of this request was for bidders to supply horses, horse-trailers, trucks, and other equipment for the Egyptian police. Since El-Hindi wanted to bid on this proposal, he subsequently contacted several vehicle manufacturers about their prices for trucks and also called various breeders about the cost of horses.

El-Hindi: They will establish a whole program training for shooting, training for horses…a whole camp. Training for everything, even for swimming… It’s going to be a huge camp to train for horses, you know, horses, camels, martial arts and weapons.

The prosecution interpreted El-Hindi’s use of “camp” as evidence of his agreement with Griffin’s vague suggestions for creating a terrorist cell for weapons training. Even though this was a public Egyptian police-training project, El-Hindi’s reference to it as a “camp” encouraged the prosecution’s claim that he really intended to set up a camp to train for violent jihad.
Griffin used the conversational strategy of ambiguity many other times throughout their conversations. Even when it was clear that El-Hindi misunderstood Griffin’s hints, the agent made no effort to clarify. He found it more advantageous to let his ambiguous terms like “mask it” and “camp” appear to evidence that El-Hindi understood that his proposed new school would house a terrorist cell. Griffin’s other obvious conversational strategy was to withhold the critically important idea that his own goal was to create a terrorist cell. Griffin also used the common conversational strategy of ignoring El-Hindi’s direct and indirect disagreements with many of his ideas.

**Lexicon and grammar**

Prosecutors commonly focus their attention on words and grammar because they often look like smoking gun evidence. Many of the examples of ambiguous grammar and lexicon were evidenced in Griffin’s conversational strategies, including his vague pronoun references, such “it” and “they’re after Muslims”, in his undefined nouns, such as “training” and “our project” and in his contextually confusing verbs such as “mask” and nouns such as “organization” and “camp”. These all failed as purported smoking guns when properly placed into their contexts.

**Internal evidence that the agent’s effort failed**

Although the best evidence supporting an indictment comes from targets’ own inculpatory statements, El-Hindi provided none. In contrast, the agent frequently admitted that he was getting nowhere. I prepared a chart of these for the defense to use when they cross-examined Griffin, including the following individual examples.

Griffin: But I mean like it’s like everything we have before, you know, we always say something, you know, we’re gonna do it but we don’t follow through. We got to stay focused. We have to move together.

Griffin: Just whatever grant stuff you got, if you say we gotta establish an organization, then fine, let’s do it. We gotta start marching with that, you know. So let’s do it, you know, ‘cause the time for talking is over. We, we, I have to move forward, so I want you with me, you know, when we do our projects.

Griffin: The time for talking, we have to move forward ‘cause we’re, you know, in the sand. We’re hardly moving.

Griffin: We all have to play our part. We can’t sit and talk any more ‘cause that’s what too many Muslim brothers are doing right now. They’re sitting and talking about it but they’re not helping the nation at all.

After two years of failing to establish El-Hindi’s predisposition and intent to build a terrorist cell, Griffin then resorted to his cyberterrorism scenario which, when analyzed carefully, provided him no clearer results. The taped evidence makes very clear that El-Hindi’s agenda, schema, speech acts, grammar and lexicon supported his goal of helping the poor and establishing a school for Muslim children, in sharp contrast with the agent’s efforts to create a terrorist cell.
Conclusions
Since the jury was not persuaded by the defense lawyers’ efforts to point out the analysis described here, they found all three defendants guilty of terrorism. While we can speculate about the apparent ineffectiveness of El-Hindi’s defense, the U.S. remains in a state of fear created by the terrorist acts of 9-11. FBI Director Christopher Wray reported that in 2018 his agency was currently investigating about 5,000 terrorism cases, a fifth of which involved homegrown violent extremists (*Washington Post*, October 10, 2018). Some are convinced that terrorist activity surrounds us daily and people of Middle Eastern descent remain the prime suspects. It was unfortunate for El-Hindi that he fit this broad profile.

This is not to say, however, that all terrorism cases are like this one, for many times the prosecution is justified. In El-Hindi’s case, however, we must reprise the questions about whether this investigation located the right suspects, properly identified their predispositions, intentions, and actions, and accurately determined what the language evidence provided.

Undercover agents are required to provide suspects with the *opportunity* to commit a crime, but must not mislead, coerce, take advantage of their weaknesses, or misinterpret the language evidence. Rather than starting with known suspects, Griffin trawled for Muslims in mosques and tried to induce them to commit crimes. El-Hindi’s background provided no evidence that he was the right suspect. He simply fit the agent’s preconceived cultural profile—a Muslim. I can’t say whether Amari and Masloum were rightfully suspects, because my retaining lawyers instructed me to not analyze the tapes in which these two defendants talked with Griffin outside of El-Hindi’s presence.

Three essential steps in the process of prosecutor’s intelligence analysis are (1) collect evidence; (2) evaluate it; (3) decide whether to indict (Harris 1976, 30). Agent Griffin collected the evidence. An accurate intelligence analysis would have shown that El-Hindi said nothing to demonstrate any illegal intentions during the first twelve conversations. As for the last scenario, El-Hindi’s language demonstrated that he was a distracted, naïve and gullible target who meekly and naively complied with Griffin’s request to forward copies of videotapes to Griffin’s home computer. The prosecutor’s intelligence analysis failed to see that Griffin manipulated El-Hindi and created only the appearance that he knowingly committed the crime of cyberterrorism.

The prosecutor gave no evidence that he realized the importance of the speech events, agendas, schemas, speech acts, and conversational strategies of the participants. If prosecutors can’t do this by themselves, linguists are available to help them. Unfortunately for El-Hindi, the judge ruled before this trial started that no linguistic testimony would be allowed.

The defense lawyers tried their best to communicate the above analysis, but apparently were not effective. This case demonstrates how prosecutions can go astray by basing their claims of guilt on ambiguous representations made by undercover agents and by failing to understand that the agent’s efforts to elicit inculpatory responses actually failed.
El-Hindi’s case illustrated all of these weaknesses in the government’s case. If the prosecutors had called on linguists to analyze these conversations before the case went to trial, it is likely that El-Hindi would never have been indicted. When they leave it to the defense to use linguistic analysis, there is always a possibility that the judge may not allow expert witnesses to offer testimony at trial, which is what happened in this case. El-Hindi was convicted and sentenced to 14 years in prison.

References


