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### Forensics and Applied Linguistics

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#### Abstract

Forensic linguistics, as a relatively newer scientific discipline, can be said to include the recognition of the human voice and the written characteristics of a particular language, but also to deal with interpretations of expressed meaning in laws and legal writings. These are issues that are extremely important for resolving certain court litigations.

**Keywords:** Linguistics; Forensics; Phonetics; Courts

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#### Introduction

Research in the field of second language acquisition (SLA) is broad, in large part due to its interdisciplinary nature [1]. Those working in linguistics, anthropology, education, and other areas all have contributed to our understanding of how individuals learn a second language. Although the end goal shared by second language acquisition researchers is one of knowledge, the particulars vary. In the broadest sense, general or theoretical linguists attempt to provide general principles and commonalities among languages, linguistic anthropologists question how cultural beliefs and practices are manifested in the language we use, psycholinguists delve into the intricate processes of the human brain, and educators have the learner primarily in mind and look at ways to improve the educational experience. These are only a smattering of the vast foci found in language research. Although each field operates under differing visions, beliefs, and interests, all can be considered subjects of

linguistics, the study of language. One of the newest emerging fields of linguistic research is forensic linguistics, the study of language within a legal or judicial setting. Forensic linguistics is also interdisciplinary in nature in that it draws on applicable research strands found within the broader linguistic arena.

A linguistic inquiry that is related to the judicial realm can be considered a forensic linguistics case. Even though it is the legal setting that defines this new genre of forensic linguistics, it is the specifics of the case under investigation that influences the theoretical approach taken by the researcher. As language is so complex, it is beneficial to consider any suitable framework available to researchers. Even a subject-specific field such as forensic linguistics can be broken down into smaller components. For example, having a second language speaker at the center of the inquiry adds an entirely new dimension to the situation. Since most non-native speakers do not express themselves in the same manner as native speakers do, full consideration should be given to understanding the meaning behind

what they say. Interpreting their speech literally can lead to real misunderstandings. Obviously, this can prove detrimental in legal cases. Therefore, this present endeavor adds to the cases studied by forensic linguists and, one hopes, can be useful to other researchers interested in the intersection between language and the law.

### **Forensic Linguistics**

Forensic Linguistics is the study of language within a legal context [1]. Texts, both spoken and written, form the basis of the study, analysis, and measurement of language. Generally speaking, linguistic questions regarding crime, judicial matters, and legal disputes constitute most forensic linguistic cases. Forensic Linguistics investigates those involved both on an individual level (police officers, judges, suspects) and an institutional one (jury panels, written laws, or the court system). Additionally, situational context is a key factor in classifying a forensic linguistic case as such. Although framed within a legal context, forensic linguistics incorporates elements from multiple disciplines, including anthropology, sociology, psychology, law, and others. However, since all forensic linguistic cases have language as the common element, linguistics serves as the connecting thread between the disciplines. Linguistics explores multiple aspects of language in order to develop a greater understanding of how we communicate. This includes both what we say and how we say it. The following discussion identifies how linguistics - as a general field - can be broken down into smaller sub-components. Moreover, it demonstrates how these elements are found in forensic linguistic analyses. Forensic linguistics is an emerging field that evaluates questioned utterances, related to what people say and how they say it [2]. For example, forensic linguistics can be used to identify a region where a person is from, to determine the author of a document or determine if two documents were written by the same person, and to clarify the meaning of statements made in court or to law enforcement officials. Linguists also work with questioned

document examiners and voice recognition experts. One of their most common tasks is in the area of speaker or author identification, comparison, authentication, and analysis. Some authors consider forensic stylistics to be a separate specialty focusing on the style of speech (oral or written) characteristic of a group or individual.

Analysis of documents or speech involves study of the types of words used, word choice (for example pop, soda, or Coke to describe a carbonated beverage), grammar, accent or dialect, spelling, error patterns, and sentence structure. Statistical analysis and comparison to general usage patterns are employed to assess where a speaker might have come from or where he or she might live. Similarly, if a will is suddenly changed on the eve of a person's death, linguists can compare known writings of the person with the will to see if the questioned writing follows the same pattern as that of the new will. Perhaps a person always misspells certain words, such as there's when they mean theirs. If a document appears in which the word is spelled correctly, that would be suspicious. Many of these types of analyses are used as investigative tools more than in courtroom testimony directly. For example, linguistic analysis alone would not be able to prove that the author of a threatening letter lived in a certain region, but knowing that it is likely could prove a great help to investigators. Another area of forensic linguistics is discourse analysis, which evaluates courtroom transcriptions or other legal statements such as confessions for accuracy, perception, intent, and meaning. For example, the exclamation "drop it!" might refer to a weapon or to a request for someone to drop a topic of conversation, depending on the context. When the phrase is written, it is not clear which was meant unless the rest of the conversation can be used as context. How such a statement was meant and how it was interpreted could be critical. Discourse analysis can also be important when translations are involved since the translators must often use their judgment to select words or phrases in one language to express the meaning of another. For example,

two translators can take the same statement and derive two different translations with differences that might seem subtle in one language but substantial in the other. Word selection, sentence construction, and other linguistic elements become critical in conveying meaning.

The application of linguistic methods to legal questions is only one sense in which Forensic Linguistics is an application of a science, in that various linguistic theories may be applied to the analysis of the language samples in an inquiry [3]. Thus, the forensic linguist may quote observations from research undertaken in fields as diverse as language and memory studies, Conversation Analysis, Discourse Analysis, theory of grammar, Cognitive Linguistics, Speech Act Theory, etc. The reason for this reliance on a broad spectrum of linguistic fields is understandable: the data the linguist receives for analysis may require that something is said about how the average person remembers language, how conversations are constructed, the kinds of moves speakers or writers make in the course of a conversation or a written text, or they may need to explain to a court some aspects of phrase or sentence structure.

### **Sociolinguistics**

Sociolinguistics is concerned with language in society and studies how language varies according to its users and the uses to which it is put [4]. Users and usage are shaped by the variables of gender, ethnicity, age, geographical location, education, and profession and these variables combine and interact, rather than being discrete, but they also actively perform and ‘enregister’ these linguistic facets in everyday life. Because legal interaction takes place in specialised social settings rich in combinations of these and other variables, sociolinguistic theory is important for forensic linguistics. Think, for example, of the differences that might occur between a lawyer’s language in their consultation with a client, compared with a chat with their daughter on the phone.

Language not only differs at the level of the group (sociolect, dialect, genderlect), but also at the level of the individual (idiolect), a concept which is also important for forensic linguists in terms of authorship attribution: determining who wrote a text. The forensic linguist approaches the problem of questioned authorship from the theoretical position that every native speaker has their own distinct and individual version of the language they speak and write, their own idiolect, and the assumption that this idiolect will manifest itself through distinctive and idiosyncratic choices in speech and writing. Every speaker has a very large active vocabulary built up over many years, which will differ from the vocabularies others have similarly built up – these differences will be manifested not only in terms of the actual items available, but also through preferences for selecting certain items rather than others. Thus, whereas in principle any speaker can use any word at any time, in fact they tend to make typical and individuating co-selections of preferred words. This implies that it should be possible to devise a method of linguistic fingerprinting, in other words that the linguistic ‘impressions’ created by a given speaker should be usable, just like a signature, to identify them. So far, however, practice is a long way behind theory, and no one has even begun to speculate about how much and what kind of data would be needed to uniquely characterise an idiolect, nor how the data, once collected, would be analysed and stored. Indeed work on the very much simpler task of identifying the linguistic characteristics or ‘fingerprints’ of single genres is still in its infancy.

### **Interview and Statement**

Police interviews are goal-focused events, the primary aim of which is ‘to obtain accurate and reliable accounts from victims, witnesses or suspects about matters under police investigation’ and the collection and synthesis of evidence into a written statement for use in any subsequent court hearing [4]. Statements can be taken from suspects and witnesses, but, whoever they are from, the written statements

frequently have more evidential value than the spoken interviews on which they are based. Interviews with suspects are converted into a written text for court cases (known as a ROTI or record of taped interview); this becomes an 'evidential object' in the courtroom. Statements or interview records can, therefore, literally speak for the witness. Any statements that are undisputed are simply read out in court and accepted as primary evidence, thus sparing the witness(es) from making a personal appearance and also saving the time of the court.

The statement's story, which is in the voice of the institution, is 'dialogic' in that it bears traces of the underlying dialogue. It is 'another's speech in another language' or monologue transformed through dialogue into dialogic monologue. The interaction of talk and text is therefore a defining and crucial part of the development of a criminal case, from the first oral report, perhaps in a call to the police, through interviews with witnesses and suspects, written statements and notes on file, all the way to a court hearing. What all these genres have in common is a shared orientation, on the part of the institutional participant, to collecting evidential facts for legal decision-making, decisions such as: 'Is a crime taking place?', 'Do the facts constitute an offence?' 'Should the suspect be charged with an offence?' and later: 'Is the defendant guilty of that offence?'

### **Phonetics**

In addition, forensic speech scientists can help police forces with the transcription and interpretation of disputed recordings, and offer advice in the design of 'voice line-ups', also known as 'voice parades' [4]. These are similar to identity parades, but involve victims and witnesses who have heard, but not seen, the perpetrator of a crime. When the police arrest someone as a suspect in such a crime, recordings of the suspect's voice, along with a set of similar voices, are played to the witness, and the witness is asked whether they can identify the voice that they heard at the scene of the crime. Many court cases involve the provision and presentation of transcriptions of

tape or video-recorded evidence. The recording(s) concerned may be of people talking about future or past criminal activity, or of them actually committing a crime, as in the case of bomb threats, ransom demands, hoax emergency calls or negotiating the buying or selling of drugs. Very few of the transcriptions presented in court have been made by someone with a qualification in phonetics, although occasionally a forensic phonetician is called in, typically when there is a dispute over a small number of specific items, which could be single words or even a single phoneme. Such recordings can come from a variety of sources, including recorded face-to-face interactions, recorded telephone and emergency service calls or 'covert' undercover recordings made without the knowledge of the speaker(s), all of which can include voices of native and non-native speakers. The expert is tasked by either prosecution or defence to provide an accurate and reliable account of what was said in the recordings. However, any researcher or student who has transcribed recordings of any kind will know that this is not a straightforward task, but one that demands considerable time and effort, and one that presents many challenges, even to the trained ear of the professional linguist. Unlike with writing, the sounds produced in speech are continuous and non-discrete, often difficult to distinguish when uttered at speed and with particular stress and rhythm, even in the clearest of recordings.

### **Manipulation of Language**

Often, if not usually, law enforcement has good reason to suspect that a target is up to no good [5]. Until the police began to take advantage of recording devices, investigating crime in which the language used, was very difficult, often depending on the questionable memories and words of witnesses. In suspected white-collar, solicitation, and bribery/extortion cases, where actual language is the best evidence, undercover tape recordings are now made of conversations with the targets. In most, but not all, jurisdictions, tape recordings are also made of police interrogations with suspects. Unfortunately, it is rare that a tape recording is

made of the trial itself, which is normally preserved only through the written transcript prepared by a court reporter. Tape recordings guarantee the accuracy and verifiability of the actual words being used, eliminating the need to depend on the veracity of an accuser, a witness, or even a court reporter. The field of law is usually more comfortable dealing with the written word. Written trial transcripts can be reviewed for that particular kind of representation, absent the necessary omissions of the visual clues offered by videotape and the auditory signals of meaning offered by audiotape that might more clearly describe the way language is used in the courtroom. To complicate matters further, even when police interrogations are taped, they frequently do not include the entire interviewing process, often leaving out the conversation that led up to the eventual confession.

How can such manipulation of language evidence, whether intentional or unintentional, ever happen? First of all, the persons wearing the undercover mike, directing the police interrogation and questioning witnesses at trial begin their work with a distinct power advantage over those they talk with. They know the significance, even the minute connotations, of what is being asked and answered. In undercover conversations, when the targets think they are simply engaged in an everyday conversation, they are less on alert and are frequently less careful about how they say things. The persons doing the taping, in contrast, have the power to decide when to tape, who to tape, when to start the taping, when to stop, and even how to slant the conversation to serve their own ends. They also have the power to tape-record when the targets are not even present, when the targets are not listening, when they are preoccupied with something else, or when they are well out of hearing range. In the interrogation room and in the courtroom, targets may be more alert to the importance of what they say since the social relationship between participants is knowingly unequal, offering more power to the ones whose status in the social relationship is superordinate, or higher. Examples of this in everyday life

include the status of a teacher over a student, a physician over a patient, a boss over an employee, or a person buying a product over the person trying to sell it. Such relationships assign innate power to the superordinate over the subordinate. Evidence of such power is often revealed by features of the language used, such as who talks the most, who introduces the most topics, who asks the questions, and who makes the ultimate decisions about times and places of meetings.

### **Nonverbal Behavior**

Nonverbal behavior is communication without words including the nonlinguistic aspects of verbal behavior [6]. It is a form of human communication that holds critical considerations for the detection of deception. Nonverbal behavior as a mode of deliberate or nondeliberate communication is a very pervasive and powerful mode of communication. Nonlinguistic behavior is language, albeit language without words. Every form of social interaction incorporates nonverbal behavior as a defining dynamic. Many everyday situations, for example, engaging salespersons, management and personnel operations, and social situations with intimate others, involve nonverbal cues designed to effect deception. Nonverbal communication may not always be conscious or deliberate, but the actor through practice and experience can craft and modify expertise with nonverbal behavior. The instigation and effectiveness of deception is significantly influenced by deceiver motivation to manipulate receiver perception.

Nonlinguistic behavior is, therefore, an integral aspect of every human behavior and a very critical component of FDA (Forensic Distortion Analysis). Distortion analysis is a primary method in the forensic detection of deception. Analysis of distortion between verbal and nonverbal behavior is an important component of that method. The problem is that nonverbal behavior can be incredibly elusive. When nonverbal behavior occurs, it is generally not very apparent to the observer. In fact, nonverbal



behavior is so prevalent that it is often overlooked or ignored. For the knowing, alert, and sensitive observer, nonverbal behavior can be very useful in interpersonal interactions in general, and in the detection of deception in particular. Skill in detecting and accurately reading nonverbal behavior is the stock in trade of many politicians, carnival game operators, psychotherapists, religious leaders, and others. At the same time, nonverbal behavior is difficult to measure and for most people difficult to decode accurately in a reliable manner. As this chapter will demonstrate, nonverbal communication is subject to myriad independent variables that can, and do, synergistically interact with one another.

### **Courts**

The investigative and legal processes, from the discovery of a crime to the verdict of the court, should ultimately ensure that the guilty person is correctly identified and that the innocent are exonerated [7]. However, in many cases, the complexity, both of these processes and of the contributions to the debate, may lead to difficulties and challenges that act to impede and divert both scientific and legal arguments and which may lead to an unsatisfactory outcome. Central to this is an understanding of how the scientist's findings can be properly interpreted, evaluated and communicated to the court and how the court draws appropriate inferences from the expert opinion in reaching its decision on the ultimate issue. In doing so, the court must necessarily be satisfied that the science is valid and the evidence relevant to its deliberations. Although the concept of relevance has been enshrined in law across most jurisdictions for many years, in more recent times a debate has emerged across wider aspects of the presentation of scientific evidence to the court and the role of the scientist as an expert witness. There are many reasons for this, which include significant advances in scientific techniques, the need for investigators to deal with more complex and high-profile crimes, increasing attention to these concerns and the ongoing responses of the legal profession and lawmakers to those events.

The law provides for an expert witness to contribute both factual and opinion evidence to the court. Within the legal system, the judge is empowered to decide on whether any evidence is relevant to the case being debated. However, there is some diversification of rules and practice, which, in many jurisdictions, is largely driven by case law where so-called landmark judgments by courts of appeal clarify points of law, which then apply to subsequent cases. In this way, across Anglo-American and related jurisdictions in particular, the law governing the handling of scientific evidence by the courts has evolved, and continues to evolve, punctuated by changes to the law at a national level and other relevant activities by governments and agencies.

### **Conclusion**

Forensic linguistics represents the application of linguistic knowledge and methods in a forensic context. Forensic linguistics is a branch of applied linguistics. Areas of linguistic application in forensics are understanding spoken and written language, application of language in the judiciary, and establishing linguistic evidence. Since linguistic evidence is often the only evidence in individual litigations, forensic linguistics can be said to have an interdisciplinary character because it involves a number of experts from different fields in resolving a specific case. These can be not only police officers and judicial officials but also sociologists, economists, anthropologists, etc.

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