



## The Role of Forensic Linguistics in The Practice of Justice System

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### Abstract

This paper deals with the scientific field of Forensic Linguistics and its role in the Justice System. At the beginning of the paper the term of Forensic Linguistics is defined and its basic elements outlined. It is also explained who needs this scientific field and why. Besides that, it elaborates on the people and institutions having interest and benefit of this field. As lawyers and linguists, in this case, have to cooperate it is essential to explore the relationship between them and to discuss common problems that might arise in the process and, eventually, to explain how to overcome such difficulties. In order to complete the research on Forensic Linguistics, an important area of Forensic Linguistics must be mentioned – Forensic Phonetics, which refers to the analysis of speech through auditory and acoustic means and its application in the legal and criminal practice. This science deals with questions of speaker identification, resolution of disputed content of recordings, the process of setting up voice line-ups and ear line-ups and related topics. Finally, a section on Forensic Linguistics application in the practice of Justice System exemplifies how relationship between lawyers and linguists, that is, Law and Language is inseparable. The paper concludes that linguists and lawyers need to work more closely with each other in the interests of justice.

**Keywords:** Language, Forensic Linguistics, Law, linguists.

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## Introduction

Communication is the essence of human civilization; therefore, life would not be possible without this cognitive power. Even silence is a form of communication. Communication is a process, a series of events allowing the speaker to express their thoughts and emotion and the listener to understand them. Forensic Linguistics is the study, analysis and measurement of language in the context of crime, judicial procedure, or disputes in law, including the preparation and giving of written and oral evidence (Olsson, 2008). It is essentially the application of linguistics to legal issues. Civilization has been in ongoing progress and with evolution in civilization instances of criminal activities are also on the increase. Forensic Linguistics is a branch of applied linguistics.

Generally speaking, it is the interface between language, crime and law. Forensic linguists are asked to help a court answer one or both of two questions: “What does a given text say?” and “Who is its author?” In answering these questions linguists draw on knowledge and techniques derived from one or more of the sub-areas of descriptive linguistics: phonetics and phonology, semantics, pragmatics, discourse and text analysis (Coulthard, 1997).

The early years of Forensic Linguistics referred to two critical issues:

1. The need to discover the scope and effectiveness of Forensic Linguistics as a form of expert testimony within the court system.
2. The need to improve methodologies within Forensic Linguistics and to make these transparent to non-linguists. These issues are still ongoing. It is the application of linguistic knowledge to a particular social setting, namely the legal forum (from which the word ‘forensic’ is derived).

## Forensic Linguistics in Law Practice

To understand law, one must understand language. In the US legal system, everything is language: statutes, warrants, questions, testimony, contracts, decisions, confessions, etc. Even things that are not actually language are transmitted through language. The work of forensic linguists, spans everything from plagiarism, insurance contracts, trademarks and patents to court procedure, confessions, hate crimes and murder. There are principally three areas of application for linguists working in forensic contexts.

In many countries courts admit forensic evidence but have differing criteria. However, although it is often claimed that each human being uses language differently and that this difference can be observed as easily and as surely as a fingerprint, it is, in reality, impossible to compile a collection of markers which would stamp a particular speaker/writer as unique. The issues about the application of Forensic Linguistics in Law practice mean:

- understanding language of the written law,
- understanding language use in forensic and judicial processes, and
- the provision of linguistic evidence

The forensic linguist may quote observations from various researches undertaken in fields as diverse as language and memory studies, Conservation Analysis, Discourse Analysis, Theory of Grammar, Cognitive Linguistics etc.

The forensic linguist applies linguistic knowledge and techniques to the language implicated in legal cases or proceedings or private disputes between parties which may at a later stage result in legal action. The



forensic linguist is also concerned not with deciphering words, but rather with their interpretation (Coulthard, 1997).

Some well-known examples of the importance of Forensic Linguistics in the Law practice include an appeal against the conviction of Derek Bentley. Forensic linguistics contributed to the overturning of Derek Bentley's conviction for murder in 1998 although there were other non-linguistic issues. Nineteen-year-old Bentley, had been hanged in 1953 for his part in the murder of PC Sidney Miles. He had been convicted partly on the basis of his statement to police, allegedly transcribed verbatim from a spoken monologue. When the case was reopened, a forensic linguist found that the frequency and usage of the word "then" in police transcripts suggested the transcripts were not verbatim statements but had been partially authored by police interviewers; this and other evidence led to Bentley's posthumous pardon (Coulthard, 2000).

In an Australian case reported by Eagleson, a "farewell letter" had apparently been written by a woman prior to her disappearance. The letter was compared with a sample of her previous writing and that of her husband.

Eagleson came to the conclusion that the letter had been written by the husband of the missing woman, who subsequently confessed to having written it and to having killed his wife. The features analyzed included sentence breaks, marked themes, and deletion of prepositions (Eagleson, 1994).

Shuy justifies (Shuy, 2005) that the police sometimes abuse different communicative strategies, for example to extort the confession. Police officers usually use "police speak", which is easy to detect. It indicates to efficient and compact set of phrases, compressed wording in an impersonal, official style, with precise interpretation of time and place, as well as precise descriptions of objects, such as weapons. The most common expression used by police officers is "I then + verb" as in "I then threw the weapon into the river". The alteration by the police of a defendant's utterances, which may include damaging remarks, relates to "verballing"<sup>204</sup>. This illegal practice may be done in order to match a defendant to a certain racial profile (Olsson, 2009).

### **Forensic Phonetics**

How does one become a specialist in forensic phonetics? In practice there is no usual path, due to the fact that the forensic application of phonetic sciences is a relatively recent development and involves a variety of disciplines. Therefore, the experts in this particular field may have gone through phonetic training with varying emphases. What is certain is that they all have a particular interest in languages and speech.

Phonetic techniques are primarily used in the analysis of the voice as applied in criminal investigation. This comprises technical voice comparisons, lay voice recognition, transcription of spoken language, speech signal enhancement, and the authentication of recordings. Forensic phoneticians conduct speaker identifications, resolve disputed content recordings, and transcribe spoken texts.

### **The Interface Between Linguists and Lawyers**

This section gives an overview of the issues linguists deal with when interacting with the legal system. Forensic linguists have given expert evidence in a wide variety of cases, including abuse of process, where police statements were found to be too similar to have been independently produced by police officers; the authorship of hate mail; the authorship of letters to an Internet child pornography service etc.



Although lawyers are frequently viewed as wordy, linguists may claim that lawyers lack the knowledge of linguistics. On the other hand, lawyers can equally insist on linguists being ignorant of the law. This situation may cause tensions and some serious problems between lawyers and linguists with lawyers questioning the need for linguistic testimony in the court system and occasionally requiring to exclude it. Despite facing difficulties many lawyers and linguists have learned to work with each other. On the occasion when the evidence is injurious to the party the lawyer is representing, the linguist must experience various lawyerly strategies to suppress that evidence. The linguist will usually attempt to be cooperative, but linguist and lawyer may conflict about what cooperative means in practice in a given instance. The lawyer will in all probability ask: “Why aren’t you cooperating with the court?” In this situation the linguist is careful that the lawyer is attempting to direct the discourse away from the evidence. To the linguist, cooperation here means that lawyer and linguist cooperate to uncover the truth (Olsson, 2004).

In court judges often refer to dictionaries for the meaning of words which occur in legislation. However, this approach has been criticized. Generally speaking, linguists view dictionaries as imprecise and limited. Meanings are probably best not taken from a dictionary, but from experimentation and observation of how words are used. It is generally agreed that words have a core meaning and a number of ‘fuzzy’ meanings (Goddard, 1996). While the core meaning is probably well understood by ‘most’ people, it is as the word approaches the boundaries of its semantic envelope that difficulties arise.

Lawyers are nowadays obliged to use words in a meaning as close to ordinary language as possible. (Eades, 2008), for example, examines the social consequences of courtroom talk through detailed investigation of the cross-examination of three Australian Aboriginal boys in the case against six police officers charged with their abduction. She discovered that yes/no questions are not considered coercive in Australian Aboriginal interactions, but rather are understood as an invitation to explain or elaborate. Further, the difference in cultural meaning referring to silence can also impact judgments in the courtroom: whereas silences longer than a few seconds are hardly tolerated in Western English-speaking societies, Eades’ courtroom data reports common Aboriginal silence up to 23 seconds. Tag questions can also be a source of misunderstanding in testimony to be interpreted. Whereas negative tag questions in English require a negative answer to deny an accusation (e.g., “You took the money, didn’t you?” “No, I didn’t.”), tag questions in many other languages can be answered either negatively or affirmatively with relatively no alteration in meaning (Eades, 2008).



### **Conclusion**

Language and communication are fundamental to human evolution. Forensic Linguistics offers wide range of techniques of forensic analysis of speech acts and literary texts to benefit the identification of criminals and suspects. This science is becoming increasingly important in relation to the law, and it is one area where research leads to advances that are increasingly used to solve crimes (AHRC, 2009). Sometimes the main issue for a Forensic Linguist is to explain and unfold some questionable and ambiguous sections or sentences in the contract (Shuy, 2007). By meeting scientific forensic criteria and presenting convincing linguistic evidence in court, forensic linguists can contribute to pronouncing someone innocent or guilty. When it comes to linguists giving evidence in court, it is clear that lawyers and linguists have different goals. The job of the lawyer is to convince or persuade the jury that the defendant is guilty or innocent. The job of the linguist is to present an opinion and to explain that opinion. It is now seen as imperative among linguists that both they and legal professionals work towards a better understanding of each other's perspective. It is linguists' task to ensure that they overcome the gap and any problem that occurs. Lawyers and linguists must work more closely with each other and in the interests of justice. Were this discipline more involved in legal processes, it would benefit the law system. This signifies that it needs to be studied and researched more.



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