Chapter X: Disinformative Linguistics: Using Linguistic Science for Unethical Purposes

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Abstract

In the current era, the techniques of disinformation are wielded massively as linguistic weapons. Disinformation has gained widespread attention due to the large reach now possible, but it has always been with us. The ethical considerations in this chapter concern apparent occurrences of disinformative techniques in linguistic reports, which are typically crafted at a more artisanal scale than the industrial dimension of international disinformation campaigns. Disinformation at any dimension relies on logico-linguistic tricks, which violate communicative norms for unjust purposes. Forensic linguists cannot ethically use linguistic techniques to convince the court of improperly drawn conclusions about linguistic facts.

Disinformation is a quintessentially psycholinguistic endeavor. Certain linguistic and psychological principles govern human information coding and processing. Under ordinary circumstances, people expect communications to be honest and sincere. Disinformative methodology exploits normal expectations in order to make observers process dishonest assertions as sincere and truthful ones.

Disinformation is the intentional dissemination of ideas, concepts, and attitudes with no plausible justification in objective fact. Disinformative communications qualify as untruths or lies. Not all presenters of disinformation violate Searle's (1969) sincerity principle, however. Some believe that their assertions are true; in that sense, they are misinformed but not exactly liars. Intentional disinformers know, should know, or could discover the truth, but they actively lie about it for unethical purposes. Forensic linguistic reports relying on disinformative techniques disqualify themselves in a court of law. Such misuse of linguistic principles could also qualify as perjury, a criminal offense.

Introduction

A good deal of forensic linguistic work involves analyzing documents to determine the interpretation, if any, that is best supported by linguistic evidence. In forensic practice, of course, litigants already know which interpretation they desire; with any luck a forensic linguist operating competently and ethically will demonstrate that the desired interpretation is legitimate. Legitimacy can be ascribed only to rule-governed interpretations, however. A linguist's task is to identify the relevant rules and apply them without succumbing to pressure from clients. A legitimate interpretation is distinguished from opinion solely by the operation of the applicable rules of communication. Deception of any type is illegitimate, of course, because it depends on violations of those rules.

Language is the most complex of human behaviors, so it is naturally governed by vast numbers of rules, norms, and conventions, which operate simultaneously at many levels of analysis. These rules are not arbitrary: everyone unconsciously knows and follows them under baseline conditions. Despite the boggling variety and complexity of the rules, linguists can describe their operations and predict their outcomes with reasonable accuracy. Not all communicative phenomena can be explained by rules, of course, but are best understood as variable features with measurable likelihoods of occurrence for a given speaker in a given social setting and a particular level of formality (Labov 2006). The frequency of occurrence of a feature is another way of describing a rule governing that feature, so these patterns of variation are called frequency rules.

When speakers of a shared dialect converse, each party instantly evaluates the overall communicative adequacy of the other parties' statements at each conversational step. The typical response to another party's apparent rule violation is a correction or a request for clarification. People might be unable to explain the applicable rules, but they know them quite well, even without formal linguistic training. Similarly, healthy people competently perform the sequence of muscular movements, both voluntary and involuntary, needed to swallow food, yet cannot explain how they do that without choking. Just as otolaryngologists can explain the mechanics of swallowing, linguists are trained to identify the applicable rules of communicative sufficiency and can discuss them within coherent theoretical frameworks.

An utterance with exactly one legitimate interpretation is a successful communication to the extent that the meaning understood is reasonably close to the meaning intended. Communicative success occurs when speaker and listener follow identical rules. The rules include semantic, morphological, and syntactic rules governing how to fit concepts, words, and sentences together as well as pragmatic rules governing how to make each communicative contribution responsive to the physical, social, emotional, intellectual, and historical environment.

Successful communication, according to Grice (1989, 26-58), implies compliance with certain foundational principles or *maxims*, which essentially stipulate that natural human conversations follow unspoken guidelines related to the quality, quantity, relation, and manner of information exchanged. The baseline expectation for exchanges of information is that the participants will be reflexively truthful, informative to the right degree, relevant to current concerns, and clear to the intended audience in the actual circumstances. Successful communications occur only when speakers and listeners respect applicable communicative rules.

According to Grice, when someone clearly violates a maxim—intentionally or not—other people become confused, suspicious, or amused. It is impossible for speakers—or listeners—to communicate cooperatively while intentionally violating the maxims, unless the violations are for comedic, rhetorical, poetic, or other artistic purposes. Cooperative communication is a two-way street, relying on rule-governed encoding of messages but also on rule-governed *de*coding of them. Under normal circumstances, competent users of a given dialect communicate in compliance with applicable grammatical rules. People misspeak occasionally and make grammatical errors that they quickly correct. But only people with artistic aspirations, language disorders, or questionable motives flout the maxims. As Ortoni and Gupta (2019, 149) note, a deceptive speaker "neither wants nor expects the hearer to recognize that one or more . . . maxims have been violated." In other words, a deceptive speaker "hopes that the hearer will erroneously assume that the speaker is being conversationally cooperative." That goal entails the use of strategies for deception.

Unlike ordinary communications, which are typically based on enormous amounts of unspoken context, high-stakes documents must explain many essential aspects of context that normally remain unstated. By comparison, ordinary communications can be successful without such manicured clarity because the context permits follow-up interactions among interlocutors and because listeners, as Grice points out, often know what the next most appropriate contribution to a conversation should be. High-stakes documents are designed to communicate effectively to the intended audience, especially when further clarification is impossible.

Interpretations of high-stakes texts compliant with logical, linguistic, and pragmatic principles are by definition legitimate, meaning compliant with applicable rules. Some sentences, in fact, can have more than one legitimate interpretation. Fanciful, wishful, and cynical interpretations are illegitimate in that they rely on violations of applicable rules or they deny (linguistic) reality in some way. Promoting an illegitimate interpretation is not necessarily unethical; it is unethical, and disinformative, to *knowingly* promote an illegitimate interpretation.

Uncommon interpretations are different from illegitimate ones, however. In uncommon but valid interpretations, linguistic structures lead directly by rule to the intended meaning; in invalid interpretations, some relevant rule must be broken to reach that meaning.

The term *legitimate* means compliant with applicable rules. That does not mean, however, that interpretations violating an out-of-context rule are necessarily illegitimate. Pragmatic rules, for example, outrank logical rules in certain communicative contexts. That is demonstrated by the fact that the sentence *I could care less* is regularly intended (and understood) to mean its denial, *I couldn't care less,* even by listeners who recognize a rule violation at the level of logical analysis.

High-stakes communications include formalized linguistic acts that bind speakers, writers, and signatories to the truthfulness of their assertions. These communicative acts are considered *performatives* because they not only describe an event but actually create it by the utterance of certain words, such as those for vows of marriage and citizenship (Austin 1975). When we communicate performatively, we attest to certain truths and principles, we engage ourselves to behave in a manner consistent with our promises, and we agree to be held to our literal word. "Literal" means by the letter, exactly as written, without unstated reservations. When reciting performatively, we use formally approved wordings designed to be specific about the rights and privileges accorded and the duties entailed.

Performatives are often fossilized in a standardized, even archaic form of language, not in casual vernaculars. In order to be maximally accessible to their audience, however, many high-stakes communications use a standardized version of a contemporary dialect and avoid archaisms. The important performative effects of contracts, attestations, and declarations—especially those made before a court of law—require a form of language that guarantees communicative success, at least within specific contexts and the intended readerships.

All forensic cases require experts to present a rule-governed, best-supported, or most likely interpretation of data. In forensic linguistic cases, the data can be sentences with meanings in dispute. In other cases, communications are analyzed to identify their most likely author. In each case, the linguist uses forensic tools and the theoretical tradition of linguistic science to craft appropriate argumentation.

Many contracts and high-stakes examinations are immunized from serious forensic challenges because they were crafted according to linguistic principles to achieve an unnatural level of clarity, pertinence, and efficiency, allowing exactly one legitimate interpretation in context. Such preventive linguistic interventions eliminate misunderstandings before they arise.

Opportunities to use forensic linguistic methods to resolve real-world communicative disputes entail weighty professional duties, often including the requirement to sign a performative declaration like this one upon submitting a report for a trademark case:

> The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements . . . may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true (28 U.S. Code §1746 - Unsworn declarations under penalty of perjury)

A linguist's decision to accept a forensic case implies fiduciary duties to the client's legitimate best interests, a legal duty to make good-faith, truthful assertions before the court, a professional duty of loyalty to the integrity of the science of linguistics, and even a personal duty to the linguist's own needs, goals, values, ethics, and sense of justice. In this chapter, ethical behavior for forensic linguists is defined as involving activities in which a linguist's professional and personal best interests are aligned with those of society in general. A linguist's professional

best interests in turn are ideally aligned with the goals of linguistic science, and the goals of linguistic science are aligned with the highest standards of scientific inquiry.

The interests of particular clients, however, are not necessarily aligned with those of a just society, let alone linguistic science. In the real world, some clients are actually incorrect, misinformed, cynical, criminal, or immoral. Nevertheless, the ethical imperative of the forensic linguist remains unchanged. When available data cannot support a client's desired outcome, the ethical and professional response from a forensic scientist is to straightforwardly inform the client without twisting or suppressing data to produce apparent support for the desired outcome. The overarching ethical principle appears simple: argue for cases when the positions are supported by linguistics, and decline cases when the positions cannot be supported. As Ainsworth (2022) mentions, however, it is often impossible for researchers to determine which route is appropriate until after they have become fully engaged with the legal team and have examined the relevant linguistic information. Once that step is reached, there are two ethical choices for the linguist: withdraw from the case gracefully or explain (preferably orally) why the client's proposed position is untenable. As this chapter explains, however, some practitioners select neither of those ethical paths. Instead, they choose a third, unethical option: disinformative linguistics.

Ethical Reasoning

The purpose of expert witness reports is to present evidence from which conclusions of some consequence can be drawn. As high-stakes documents presented to a court of law, these reports must meet high standards of good-faith argumentation.

The term *logical reasoning* would seem redundant if all reasoning complied with fact-based logic. It does not. The term *reasoning* means only the process of adducing explanations for a set of phenomena. Some explanations have fatal flaws that make no logical sense upon close examination, though they might satisfy casual observers. Some flawed methods of argumentation have been categorized since antiquity as logical fallacies: the typical ways that reasoning can go astray, by logical error or by intentional design (Pirie, 2006).

Reasoning can go astray even when the reasoner tries to argue in good faith. People are vulnerable to accept flawed reasoning that redounds to the benefit of positions they already espouse, which sometimes results in the paradoxical phenomenon of self-deception (Beier, 2019). Lawyers, of course, are trained not only to recognize deceptive argumentation but also to keep their own arguments on an impeccably logical track. Despite this training, however, even the most ethical and careful of lawyers might overlook deceptive maneuvers in technical reports when the maneuvers rely on technical knowledge or manipulations of technical terms.

The goal of linguistic science is to examine communicative phenomena and draw conclusions about the rules that govern them and the patterns that explain them. Published linguistic studies consist of data collection, data analyses, and comments concerning theoretical implications; they contain sequences of reasoning, but rarely a scent of fallacy, deception, or polemics. Discourse structures of persuasion are uncommon in linguistic studies because the purpose is to explain, not to convince, let alone deceptively. Litigants commission expert reports solely to convince the court of the correctness of their position; forensic linguists can ethically help them to discover—not create—the linguistic facts that serve their purpose.

Fact-based logical reasoning is concerned with the criteria for determining whether an argument's conclusion has been demonstrated, supported, weakened, or undermined. Logical analysis of argumentation exposes erroneous patterns of reasoning that could be used to achieve unfair benefit. Authors of misleading texts often use confusing and obtuse argumentation to

convince others that their position is correct, reliable, unbiased, and irrefutable. A key to this subterfuge is the skillful employment of logical fallacies. As the next segment demonstrates, intentional distortions of language are not only encountered in informal communications, they also occur in formal high-stakes documents presented to courts of law. Forensic linguistic reports are no exception. Forensic linguists might be tempted to resort to disinformative tactics when they find themselves contracted to argue for a linguistically untenable position. That would be an unethical choice if embraced knowingly. However, some clients might deliberately mislead a consulting linguist. Forensic experts can be financially coddled by clients who design a comfortable bubble of disinformation to skew their perception. A forensic linguist's most ethical path is to avoid such conceptual entrapments, which entails an unbiased evaluation of each client's narratives and motivations. Each case is a test of character, for both client and linguist.

The Path of Disinformation

Disinformative linguistics is an attempt to support an interpretive position despite the lack of sufficient appropriate linguistic evidence. In disinformative practice, the apparent absence of pertinent evidence is ignored, and the reader's attention is sidetracked by dishonest techniques and misleading argumentation. Disinformative linguistics differs from misinformed linguistics by the linguist's intention. A misinformed linguist argues in good faith but makes honest mistakes of analysis. It is possible, for example, for a linguist to perform an authorship identification study using analytical tools in a technically correct way. However, if pertinent sociolinguistic facts are misunderstood or overlooked, the subsequent analysis could be flawed from the outset. When that occurs, the resulting report will be inaccurate, misleading, or misguided, but not by cynical design. Such cases involve ill-informed, but not disinformative, practice.

Unethical reports, however, are not merely factually or methodologically deficient. They are structured to inveigle the reader with deceptive techniques like untruthful implicatures (Meibauer, 2019) as well as logical fallacies. Reliance on fallacious arguments violates an expert's professional obligation to tell the truth. Such practices are not only unethical, they could constitute professional malpractice, let alone malfeasance. It is imperative to call attention to disingenuous practices that can cause perceptual and conceptual distortions in the minds of judges and jurors. Despite the preeminence of their decision-making duties, triers of fact might not detect deceptive tactics in complex argumentation about esoteric topics. Judges observe the principle of cooperative communication and assume that experts do too.

Readers legitimately expect high-stakes documents to communicate without syntactic, semantic, or pragmatic garden-pathing (Patson et al., 2006). When pertinent ambiguities occur, cooperative readers indulgently expect them to be unintentional—a matter more of incompetence than disinformative trickery (Turner and Horn, 2018). In one case, a high-stakes professional licensure renewal survey contained misleading structures that (unintentionally) entrapped a good-faith respondent in apparent lies. The relevant authority withdrew its accusation after I exposed the survey's serious communicative flaws. Not all high-stakes documents are constructed as if the respondents' professional lives depended on their clarity. Such failings are typically negligent oversights, not malfeasance.

Technical errors occur and editorial mistakes slip in, but pervasive disinformative maneuvers suggest intentionality. As Shuy (2010, 36) mentions, the recycling of topics (or in this case fallacies) substantiates that the writer intended to communicate in just that way. Fallacious argumentation presented by experts is designed to take unjust advantage and qualifies as scientific dishonesty (Nylenna et al., 1999). Linguists presenting truthful, pertinent evidence within well-formed arguments do not require fallacies.

Forensic Linguistic Support for a Malefactor

I never imagined that a client for one of my defamation cases would eventually be charged, arrested, convicted, and sentenced to many years in prison. The judge said in court that the defendant's corrupt activities created very substantial financial losses to the public. I realized too late that this client, a lawyer himself, had brought his lawsuit in a cynical attempt to identify and harass employees who wrote negative employer reviews on an online forum warning job seekers not to work for his law firm. The attributes asserted about the plaintiff were clearly negative, and the linguistic facts were ostensibly damning: if everything the anonymous critics had asserted about him were *false*, then this would have been an excellent defamation case. However, practically everything the plaintiffs had asserted about my client turned out to be true. As a linguist operating in good faith, I evaluated the linguistic facts at issue in light of the legal criteria for defamation. I relied on the information provided by the lawyers and assumed that they had fact-checked the situation. That was the last time I made that mistake.

In defamation cases, as in most cases, it is helpful to know who, if anyone, is speaking a good-faith version of the truth, and who, if anyone, is lying. It is advisable to avoid working for liars once they are identified. Unfortunately, that is sometimes impossible, rendering the job of forensic linguists ethically precarious. By contrast, lawyers are required to provide the best possible case for their clients, even habitual liars. It is challenging, often perhaps impossible, to provide diligent, appropriate professional services to individuals who are actively involved in disinformative activities. For forensic linguistic experts, that difficulty is greatly magnified because disinformation is the antithesis of language science.

In retrospect, I should have recognized the possibility that some firms might neglect their own due diligence to determine the truth about potential clients. I *did* ask my client-lawyers if there were any possibility that the allegations against the plaintiff were true. They dismissed the defendants as disgruntled former employees. Acting under the assumption that my client was truthful, I proceeded to examine the evidence. The defendants publicly insulted the plaintiff with vibrant images and metaphors. They characterized the plaintiff as a "true bottom feeder" and a "predator." They characterized his law firm as a "gulag," "an insane asylum," "a sweat shop," "a laughing stock," "a hell hole," and "a sinking ship." They also made unadorned assertions that the plaintiff had broken the law and was "unethical," "irrational," "crazy," and a "con." My report presented analyses showing that many of the comments were communicated through syntactic structures typically used for assertions of fact and semantic structures typically used to communicate attributes injurious to a person's reputation.

Shortly before I completed my report, another lawyer asked me to write a rebuttal for the same case. I responded that I had a conflict. It would be hard, I mused, for the rebuttal linguist to impeach the clear linguistic evidence of defamation pursuant to the relevant law, but I looked forward to the rebuttal.

The rebuttal arrived several days before I received news of a momentous event: the plaintiff had fled the country with assets stolen from his law firm's clients. The plaintiff's actions had already proved that the rebuttal was correct in that there were no grounds for defamation. The defendants had told the truth when they called him a con man. The plaintiff promptly abandoned his ill-starred defamation suit, eventually becoming a criminal defendant himself.

Though my report and its rebuttal immediately became legally moot and irrelevant, I treat rebuttals as my peer-reviewed report cards. I am always eager to learn from them. The rebuttal for this case, however, seemed superficial, consisting of 11 pages, compared to my report's 86 pages of detailed analyses, most of which the rebuttal ignored or distorted. In fact,

the rebuttal employed disinformative techniques to mask its lack of pertinent evidence. My analysis led to the conclusion that the defendants' statements would be clearly defamatory under the assumption that the statements were false. The rebuttal argued that the statements did not qualify as defamatory because they were pragmatically appropriate expressions of free speech: the defendants' assertions were mere opinions, thus not provably false, and were expressed in a forum created for the dissemination of opinions. Many of the defendants' comments, however, were clearly fact-assertive with reputation-destroying attributes. Employing the fallacy of suppressed evidence, the rebuttal simply ignored those assertions of fact, focusing on the metaphors and rhetorical flourishes.

The rebuttal then presented a quotation that conflated the relevant state's legal definition of defamation with nonauthoritative commentary about metaphorical language. The actual code does not make the assertions that the rebuttal implied. Readers who took the rebuttal at its literal word without checking the original text of each reference could come away with the mistaken notion that materials containing metaphors, hyperbole, or other rhetorical devices can never qualify as defamatory. That maneuver employed the fallacy of presenting irrelevant material as if it were useful to an argument, plus a type of selective or distorted quotation that McClone and Baryshevtsev (2019) identify as lying. That might have been dismissed as a careless mistake, but the rebuttal continued with an argument that used the fallacy of equivocation: illegitimately changing the meaning of a key term within an argument.

My report made this (Gricean) point:

> Successful communications are defined as those following the cooperative principle. This refers to a tacit communicative contract specifying that speakers and writers endeavor to be clear, truthful, relevant, and appropriately informative and that listeners and readers have a legitimate right to assume that speakers and writers are so endeavoring.

The rebuttal responded:

> The speech event self-defines the contributed reviews as containing both possible criticism and praise. Complaints and other negative opinions are an integral part of the stated purpose of this website. Contrary to [the] discussion [above], therefore, the cooperative principle does not require the writers to be cooperative with the persons or companies about which they write their reviews.

That is not just a *non sequitur* and crafty distortion of Grice's model; it looks like a wholly false representation concocted to create confusion. Grice never defined (and I never redefined) *cooperative communication* to mean being charitable or kind to people who are the *topic* of a conversation. (It is cooperative to speak truthfully about them, yes.)

Grice was concerned with the reasonable and legitimate expectations that *participants* in a conversation have about an interlocutor's appropriate contributions at each point in a conversation and the inferences drawn when someone violates a maxim. The rebuttal shifted the discussion to a convenient misinterpretation of Grice's position, thereby sowing confusion around professional terminology nowhere in contention—all without proof. It is difficult to conceive that a professional linguist truly believes that distorted version of cooperative communication.

I had cited Grice's framework primarily to explain that the defendants' defamatory comments were particularly *successful* through their clear, unambiguous wording. The rebuttal's comment above was not only incorrect, it addressed a tangential point as if it were the main point. That disinformative ploy introduced the inflation of conflict fallacy; that is, suggesting, especially through equivocation, mislabeling, and misattribution, that experts in a field are in such disagreement about basic knowledge and terminology that the entire field cannot be trusted to provide useful evidence.

The rebuttal correctly noted that the defendants' negative comments were situationally appropriate. The question was not whether the setting was right, however; it was perfect. The question likewise was not whether the comments were kind or vicious. The pertinent questions were (1) whether any comments qualified as assertions (some did), (2) whether those assertions were reputation-injurious and widely published (they clearly were), and (3) whether those assertions were false (no, they were true).

The first two questions define the linguist's proper domain. Linguists are not engaged to investigate the truth of defamatory statements, only whether they satisfy certain *linguistic* criteria. The proper role of the rebuttal was to show somehow that my *linguistic* evidence failed to meet the criteria.

The rebuttal linguist and I apparently agreed that a linguist's proper contribution was *not* to investigate the factual truth of the allegations, just their communicative structures.

The rebuttal argued on the side of justice for blameless defendants; ironically, it relied on disinformative confusions, to the detriment of the field of forensic linguistics. My support for the now-incarcerated plaintiff was hardly the field's finest hour either, yet I tried to provide scientifically sound, logical analyses.

What would *I* have done if I actually could have rebutted my own report? That is impossible to say, but an ethical path would have been to acknowledge that the data clearly satisfy the linguistic criteria for defamation. The next step would be to advise the legal team that the plaintiff wins the linguistic argument with no contest, *but only if we assume the defendants are lying*. The defendants *seemed* to be telling the truth. It might not be a linguist's role to verify that truth, but not every defamation case needs to be a make-work project for forensic linguists. There was never any need for a linguistic rebuttal for that particular case, just further investigation into the corruption the defendants allegedly witnessed at the plaintiff's law firm. That truth, if demonstrated, would have served the defendants better than intentionally befuddled linguistic argumentation.

Honest differences of opinion are common in forensic science. Often a case is so complex that two linguists could argue for conflicting positions without misrepresenting science, committing methodological errors, or acting unethically. There are cases so complex that entirely different conclusions could be reached, depending on the analytical method. In such cases, two opposing sides could understandably and ethically argue their points. However, if experts rely on sophistry rather than science to present their argumentation, they risk sabotaging their careers and damaging the entire field. The role of forensic linguistics is to present relevant linguistic facts, not to win arguments at any cost.

Good-faith Service for Bad-faith Actors

In the case presented above, I argued in good faith, following linguistic evidence exactly where it led. But was that ethical? Unbiased, competent linguistic analysis is a prerequisite for the

ethical practice of forensic linguistics. I tried to meet that criterion, but was that enough? Are linguists ethically obligated to dig for the truth of a situation, and does omitting that step render further work unethical? How long are we ethically obligated to dig? Can the digging occur during the linguistic analysis or should it be completed first? No one, linguists included, will ever grasp the full truth of certain situations. Sometimes the best a linguist can do is the requested linguistic analysis, letting the facts of the situation fall where they may in a court of law. The importance of these questions extends beyond abstract debates. The way one answers these questions has real-world consequences.

Malefactors hide behind cynical linguistic representations. Linguists are in the best possible position to detect and identify discrepancies at all levels of the grammar between linguistic representations and consensus reality. To perform effectively, linguists must assess the pragmatic reality, which often includes the litigants' conversations and narratives. Those narratives, if elicited in communicatively cooperative environments, can provide contexts that inform an interpretation of the linguistic facts available for the case. That would certainly help, in some cases, to define the idiolects of relevant individuals—the specific rules, tendencies, preferences, and idiosyncrasies governing their use of language.

It seems counterintuitive to isolate forensic linguists from the individuals whose communicative patterns are at issue, but that is what occurs in many defamation cases. Linguists are instructed to consider limited sets of documents without consulting the individual's other known communications, let alone engaging with alleged victims. If an alleged perpetrator has a history of disseminating falsehoods, the person's contested communications could exhibit traces of the same patterns. Such corroborating evidence can be helpful in evaluating a case. With that in mind, Poynter (1997) provides this advice: "Do your best to get all the facts, whether they support your case or not. You want to see the entire file on the case" (58). Poynter admits there are discovery implications to providing certain documents to expert witnesses: "One reason your client-attorney might hold back information is because the other side might find it in your file. Your files are open, the attorney's are not" (58).

It is sometimes challenging for linguists to obtain the information they need, but ethics demands that they try—with due caution. Expert witnesses might damage their scientific independence by having direct contact with litigants. Sometimes that occurs from the outset, as when a litigant directly contacts the expert to request services. A common question at deposition is whether the witness has ever met the litigants. Whether the answer is yes or no, it should be followed by "I based my conclusions solely on linguistic evidence."

Good-faith Service for Unpopular Entities

Ethical considerations do not necessarily preclude linguists from helping entities that tend to cause people distress while performing their lawful work. Debt collection agencies, for example, are typically detested by those reluctant to pay their debts, yet they can operate legally in the US within a set of codified boundaries. Collection agencies help to reduce losses for companies with "uncollectible" accounts receivable by buying the right to pursue those debts. Expert witness work for businesses operating in compliance with relevant laws does not entail a violation of ethical responsibilities.

With that rationale, I agreed to take a debt collector as a client. The case concerned the standard wording that collection agencies must include in letters to debtors with long-term delinquency. *Time-barred debt* is a financial term of art for debt so old that collection companies are no longer permitted to sue the debtor to collect. (In the US, statutes of limitation vary from an indulgent three years in Alaska to ten years in Rhode Island.) A debtor with time-barred debt is not relieved of the debt, however. While time-barred debts remain unpaid, collection companies may continue to request payment and make unfavorable credit reports, but cannot sue the debtor. An old debt loses its time-barred status, however, if the debtor admits

responsibility for the debt by word or deed. Such an "act of recognition" of the debt restarts the clock in that regard, and the agency once again may sue the debtor for the entire unpaid balance.

The issue in this case was not the reasonableness of a law designed to protect the rights of both creditors and debtors and to prevent abuse by either party. The point of contention in the litigation was that the plaintiff's debt apparently lost time-barred status because the debtor had done something qualifying as an act of recognition. Here is the relevant paragraph from the actual time-barred debt letter:

> The law limits how long you can be sued on debt. Because of the age of your debt [the agency] will not sue you for it. If you do not pay the debt, [the agency] may report or continue to report it to the credit reporting agencies as unpaid. This is a communication from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.
>
> (Consumer Financial Protection Board 2020, 8)

US debt collection agencies are required to use those sentences. The only difference is that some states require *cannot sue* rather than *will not sue*. In the relevant state for this case, the law specifies the phrase *will not sue*. The plaintiff misunderstood (or paid insufficient attention to) the somewhat counterintuitive message in the time-barred debt notification. It remained unclear just why, but the plaintiff responded in some way (like paying a token amount of the debt) that triggered reclassification of the debt to not-time-barred status.

That act of recognition was not in the plaintiff's best interest, but it was not an error of the collection agency, which can lawfully encourage debtors to pay their debts regardless of the age of those debts. The agency issued a standard, legally compliant notification using the precise wording that the US Consumer Financial Protection Board (CFPB) recommended as user-friendly and accessible. That recommended wording was based on a careful, formal survey and statistical analysis.

The plaintiff's linguist presented the following argument:

> [The *will not* word choice] allows for an interpretation that although the company states that they will not sue, they may change their mind in the future. This usage of *will not* implies that the current inclination of the company is to not sue the consumer. An inclination, however, can easily change.

It is a pragmatic error to apply a meaning appropriate only in casual communications to a high-stakes context requiring formal communication. In the formal register of contracts, a statement that a party *will not* perform an action indicates the party's commitment to a future state of affairs in which that action is precluded from occurrence. There is no ambiguity in that statement. It is written to be interpreted literally, as stated, and there is no warrant to apply a casual interpretation of the modal verb *will* indicating a nonbinding intention.

A professional debt collection letter is a genre of high-stakes document presenting relevant statements of financial and legal facts, not inclinations, opinions, or expressions of whimsy. International and domestic finance depends on parties being held to their literal word for their written commitments. In this context, the *will* modal auxiliary verb is regularly, and legitimately, interpreted as a commitment, not as an inclination that a writer might not feel like fulfilling at some future time. This is a description of what happens in such communications, not what should happen.

After my rebuttal was submitted, the plaintiff's complaint was withdrawn immediately. In this case, the plaintiff's linguist seemed inadequately knowledgeable about the formal

register of high-stakes documents. Arguing for mistaken notions is not necessarily unethical; it is unethical to argue for positions that one knows to be incorrect.

Some people fall into debt through no fault of their own; their indebtedness could seem unfair. This case revolved solely around cooperative communication and the legitimate interpretation of high-stakes texts. The origin and fairness of the plaintiff's indebtedness were legally—and ethically—irrelevant.

Linguistic Certainty

The forensic linguist's challenge is often to determine the meaning of sentences in context (Borg, 2004). Linguists can rank-order proposed interpretations according to their congruence with communicative rules of the relevant dialect. The rules are based on the totality of linguistic research, plus corpus investigations (Coulthard, 2013). Communicative principles identify legitimate pragmatic expectations (Grice, 1975, 1989). A self-evident yet instructive guiding principle that promotes responsible language policy is as follows: "An interpretation satisfying all relevant linguistic, logical, and pragmatic rules is a valid interpretation, regardless of the speaker's intention." (Habick and Cook, 2022) That foundational principle of linguistic interpretation is true *a priori* because it is basically tautological. This is an important point in the discussion of linguistic certainty in high-stakes documents.

Linguists can design sentences to have exactly one legitimate interpretation in context. There often *can* be certainty in linguistic judgments, especially when contextual and dialectal parameters are tightly controlled and when readers recognize their duty to interpret high-stakes documents cooperatively, not cynically. Interpretations requiring at least one pertinent rule violation are ranked impossible (invalid)—at least for a specified dialect and register. Interpretations compliant with relevant rules are classified as irrefutably valid, or uncommon yet still valid. Some unlikely interpretations can be entirely legitimate (rule-governed) logically, linguistically, and pragmatically (Atlas 2005).

Linguists can promote justice by demonstrating that an uncommon interpretation is valid and thus acceptable as a correct response. A coherent, responsible language policy for the construction of high-stakes documents (Habick and Cook, 2022) favors linguistic structures that narrow the distance between intended and interpreted meanings as well as structures that efficiently communicate those meanings (Levshina, 2023). These considerations are indispensable aspects of ethical product design.

The principles enshrined in professional codes of ethics imply the types of causes for which linguists *should* advocate (Hume, 1739). The real-world circumstances of each case, however, require evaluation before the side of social justice can be identified. Yes, forensic linguists should use linguistic data to illustrate truthful patterns in a way that facilitates social justice. But it is sometimes impossible to determine on which side, if any, social justice will sit. Moreover, justice might not always reside on the same side as dispassionate linguistic evidence (linguistic truth). Attitudes toward a client's cause, let alone pressure to increase billable hours, cannot be permitted to muddle linguistic judgment.

Linguists, of all professionals, are uniquely positioned to foil disinformation; they certainly have no business creating it. Linguistics is the science of the construction and transfer of meaning. Techniques intended to thwart cooperative transfers are thus quintessentially inappropriate tools for forensic linguistic reports. Their use to gain unfair advantage is professionally self-disqualifying. Disinformative techniques—even for socially irreproachable causes—pave, at best, an unjust road toward justice. Meticulous adherence to scientific principles in the collection and evaluation of evidence is a forensic linguist's surest course.

Questioning the goal-free evaluation of unidentified aerial phenomena

As Solan (2023, 350) points out, lawyers must be careful to avoid lying in court yet "are not required to be sincere in their attacks" against expert witnesses, even those who submitted

reports with sound, logically well-structured arguments. Indeed, many lawyers seem unafraid to dabble in false innuendo, as in *ad hominem* attacks to impugn the credibility of an expert.

A lawyer for the opposition in one of my cases, for example, asked during a Frye hearing if I knew that Michael Scriven not only writes about logic but also about UFOs. My report had cited Scriven's widely respected book *Reasoning* (1976). I truthfully answered *No*; I was unaware that Scriven sometimes used argumentation about flying saucers to illustrate flawed reasoning. I probably should have objected to the irrelevant innuendo, but the lawyer's rhetorical question caught me off-guard. The thinly veiled purpose of the lawyer's question was to make a link, however far-fetched, between my report and another author's (falsely implied) fascination with flying saucers. Revealingly, the opposition lawyers avoided direct discussion of all linguistic evidence in my report and offered no linguistic argumentation favoring their client's side of the case. Given that deficit, the lawyer deflected by discussing UFOs.

The adversarial system might be beneficial in keeping experts on their toes to avoid the reality and appearance of controversial associations and activities. Unscrupulous lawyers can and will allude to them—and reframe them as needed—to impugn the expert's character and credibility. Lawyers serve as officers of the court, however; they *do* have a primary ethical obligation to uphold the law. That means arguing fairly and on the point of the case at hand, not shifting the discussion to distracting irrelevancies. Lawyerly disinformative tactics, even if technically legal, undermine public trust in the system of justice as a whole.

Regardless of the lamentable rhetoric wielded with impunity by at least some lawyers, expert witnesses have an ethical duty to painstaking fairness in representing and evaluating their opponents' evidence, as well as their own. Forensic linguists, even those sporting law degrees, cannot ethically forward cynical interpretations and disinformative arguments to a judge. Yes, linguists practicing as expert witnesses must hold themselves to a higher standard—the standard fitting for all true experts—namely the duty to communicate competently and cooperatively in their professional work, and particularly in representations presented to a court of law.

Conclusion

It is imperative, both practically and ethically, for forensic linguists to be conversant in the cunning techniques of disinformative linguistics—not to deploy them, of course, but to recognize them *in vivo*. On the practical side, this awareness is helpful in composing rebuttals: the very presence of disinformative tricks in a report is an adverse credibility indicator. Disinformation suggests a position with an insufficient amount of legitimate linguistic support. On the ethical side, such awareness reminds practitioners of their duty to determine as early as possible for each engagement whether they can make informed, legitimate, and valid arguments for the client. If they cannot, then they should refrain from contorting reality and kicking sand in the eyes of the opposing side in unseemly efforts to bolster unsupportable linguistic claims.

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