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Review of *Creating Language Crimes: How Law Enforcement Uses (and Misuses) Language* By Roger W. Shuy

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FORENSIC LINGUISTICS AND THE UNDERCOVER
DISCOURSE BLUES¹

Creating Language Crimes: How Law Enforcement Uses (and Misuses) Language

By Roger W. Shuy

Oxford: Oxford University Press, 2005. Pp. xiv + 194.

Reviewed by

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As he states in his preface, Shuy draws on his 30+ years as a linguistics professor at Georgetown University and his 25+ years as an expert witness and legal consultant to create this text that spans the mundane and the riveting, the commonplace and the esoterica of forensic linguistics. In so doing, his book “describes twelve actual cases in which alleged crimes were actually created by the use of various conversational strategies employed by law enforcement and its representatives, where no such crime is actually indicated by the language evidence” (12). When we read the transcripts associated with these cases, we often find that the linguistic evidence exonerates the suspect and implicates bad behavior on the part of the investigators and cooperating witnesses. Divided into four sections, *Creating Language Crimes* addresses general legal and discourse concepts, explores linguistic elements of undercover work, and raises implications for police investigators, lawyers, and linguists alike.

Part 1, “Language Crimes, Conversational Strategies, and Language Power,” orients the reader to the contexts of police investigation strategies, a few discourse analysis basics, and eleven “conversational strategies” used in procuring evidence for the prosecution. Shuy defines language crimes as those illegal activities “accomplished only through talk . . . [:] bribery, solicitation to murder, sex solicitation, perjury,” and so on (6). Chapter 2 identifies the eleven conversational strategies that Shuy locates in the transcripts he has analyzed. These include, among others, the use of ambiguity (15), camouflaging the illegality (24), ignoring the target when he says no (26), and withholding crucial information from the target (27). Chapter 3 discusses power and the roles of speakers, claiming that “although there is no physical hitting or shoving going on, disguised or covert language power can produce a similar form of bullying” (35). This perspective of linguistic misbehavior effectively sets the stage for the remaining chapters, all of which explore linguistic bullying in the name of justice.

Part 2, “Uses by Cooperating Witnesses,” investigates seven cases in which undercover cooperating witnesses record conversations with targets or suspects to procure evidence for law enforcement officials against said

suspect. In general, these cooperating witnesses are themselves in trouble with the law, and they agree to get the goods on another suspect in exchange for leniency when their own trials begin. For example, chapter 6 recounts a stolen property case in which an admitted methamphetamine maker agrees to tape-record conversations with an alleged supplier of nasal decongestant in order to help convict both the supplier and one of his employees. The conversational strategies discussed are interrupting, overlapping, lying, not taking no for an answer, and representing illegality differently to separate targets (59).

Part 3, "Uses by Law Enforcement Officers," turns to five cases in which agents of the law themselves use conversational strategies to nail the conviction rather than to understand the truth of the case. A particularly intriguing chapter, "An Undercover Policeman Uses Ambiguity, Hit and Run, Interrupting, Scripting, and Refusal to Take 'No' for an Answer in a Solicitation to Murder Case: *The Crown v. Mohammed Arshad*," involves not just an undercover officer covertly recording conversations but also fascinatingly complex moments of intercultural expectations and confusion. The suspect is a Pakistani man living in Scotland with his family, and when he finds out that one of his daughters is to marry a man without following traditional dating practices, he gets tangled up in a murder-for-hire plot. In his analysis, Shuy concludes that the Pakistani man did nothing wrong and that the undercover officer "instigated, controlled, and channeled" the murder plot with his use of conversational strategies (157). Unfortunately, despite Shuy's analysis, the jury convicted the suspect "of soliciting murder and sentenced [him] to seven years in prison" (157).

In part 4, "Conversational Strategies as Evidence," Shuy concludes the book by reflecting on diverse discourse strategies and the effects they have when used unfairly or with malicious intent. This final chapter further interrogates areas of inquiry regarding the power of conversational strategies in undercover police investigations by asking questions and providing answers. For example, "Why do targets get trapped by these commonplace [discourse] strategies?" (178); "Can linguistic analysis identify lying and deception?" (176); and—one of my personal favorites—"Why does it take a linguist to point out these things?" (173).

One general oversight of the book is that it examines linguistic strategies of more powerful persons but ignores those strategies of less powerful ones. For example, in chapter 5, a cooperating witness uses three strategies in order to get linguistic evidence from the suspect: retelling, scripting, and lying. In retelling, the cooperating witness tries to get the suspect to tell what happened—the successful retell often elicits powerful evidence against the suspect. When the witness fails in his retell attempt, he switches to a scripting strategy: he wants the suspect to give him words to "tell the police" (56).

Since the scripting strategy also fails, the witness resorts to lying to get the suspect to provide evidence for his conviction. Shuy extensively analyzes the witness's conversational strategies, but of the suspect he says only that he "appeared to ignore" some of what the witness engaged in (54) and that he "avoided responding" to the witness's initiations (56). A more informative take on the process is what Cushman (1998, xiv) might term "the underside of power," those "strategies and attitudes of individuals who neither wholly comply [with], nor wholly resist" their interlocutors (20). The relationship between the undercover witness/officer and the suspect is rocky territory, though, because of the "shared knowledge" gap (Shuy 15). In other words, suspects presumably do not know they are being recorded, so the analysis of their resistance strategies needs careful handling.

One localized weakness is chapter 13: the case of a rogue cop and his "investigation" into a sex ring. Shuy has much to say about the intelligence-gathering techniques used in the case; they are suspect at best and probably illegal in some instances. But he candidly admits that he has "no direct evidence of the way [the detective] abused the legal process with his conversational strategies" (134). This is the weakest chapter of the book, not because of the case itself or the narration, but simply because there is no linguistic data for analysis.

Overall, the text is a success. It is less technical than some of Shuy's earlier work, such as his 1998 book *The Language of Confession, Interrogation, and Deception*, in which we read of the importance of cohesion (55), sentence embedding (56), syllable counts (70), and intonation contours (71), all in the same chapter. Nevertheless, Shuy does indeed provide his readers with concrete instances of discourse and illustrates how discourse analysis may be widely applied in legal settings. *Creating Language Crimes* will easily fit into any undergraduate course on discourse analysis, and it will serve as an excellent primer for nonspecialists who wish to understand how the study of language and the practice of law enforcement and investigation converge.

Further, the book suggests future directions in forensic linguistics. First, when will forensic linguistics take its rightful place in law enforcement practices? Shuy implies this question in his book, and the answer seems elusive. Second, where else are language crimes created? One shining possibility includes possible controversial practices used by military intelligence officers in places like Guantanamo Bay, Cuba, and in the Abu Ghraib prison scandal in Iraq. To what tactics might intelligence agents resort in order to get "the bad guys"? Do they ever go too far with their linguistic practices? If so, what linguistic features might signal this overextension? The powerful applicability of discourse analysis once again evinces itself in Shuy's book, and these kinds of analyses undoubtedly serve civil rights in much-needed ways.

NOTE

1. With apologies to Tony Joe White and Tina Turner ("Undercover Agent for the Blues," *Foreign Affair*, Los Angeles, Calif.: Capitol Records, 1989).

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- Cushman, Ellen. 1998. *The Struggle and the Tools: Oral and Literate Strategies in an Inner City Community*. Albany: State Univ. of New York Press.
- Shuy, Roger W. 1998. *The Language of Confession, Interrogation, and Deception*. Thousand Oaks, Calif.: Sage.