What is Forensic Linguistics?

The field of forensic linguistics has been growing in prominence in the past couple of decades. There is now a profession organization that bears this title (the International Association of Forensic Linguists), as well as the International Association of Forensic Phoneticians, which is closely related. There is at least one journal (the *International Journal of Speech, Language, and the Law*), formerly known as *Journal of Forensic Linguistics*, and there seem to be two or three conferences a year devoted to the topic. Programs in forensic linguistics are offered at several universities (mostly in the United Kingdom), and there are online courses of study either in existence or in the planning stages. Oddly, the scope of the term "forensic linguistics" remains somewhat vague.

Criminal Cases

At least in the United States, the term "forensic" (as in forensic science or forensic expert) refers most prominently to a person or methodolgy that helps solve crimes. Not surprisingly, forensic laboratories are generally run by law enforcement agencies.

For instance, the Vermont Forensic Laboratory does firearms and tool mark analysis (which includes firearms examination, ammunition examination, serial number restoration, toolmark comparison, etc.), serology (dealing with DNA evidence), a photography section (doing various photographic processing and analysis), a chemistry section (paint and fire debris analysis), and a drug section that analyzes substances thought to be drugs (see http://170.222.24.9/cjs/lab.html). Virtually all laboratories of this kind offer expert court testimony in their areas of expertise.

Consider also the description of the FBI laboratory on its website:

> As one of the largest and most comprehensive forensic laboratories in the world, the FBI Laboratory provides forensic and technical services to federal, state, and local law enforcement agencies at no expense to these agencies. Analyses of physical evidence ranging from blood and other biological materials to explosives, drugs, and firearms are conducted by the Laboratory, which also serves as a continual source of new scientific techniques. Laboratory examiners provide expert witness testimony in court cases regarding the results of forensic examinations, and specially-trained teams of Special Agent and support personnel assist domestic and international law enforcement agencies in large-scale investigations and disasters.

(source: http://www.fbi.gov/hq/lab/labhome.htm)

Similarly, in England the Forensic Science Service is a branch of the UK Home Office. Its mission is to "meet the needs of specific police investigations." It does so in the following ways:

- Property crime - providing support in the investigation of burglary, fraud, robbery, fire investigation, theft of vehicles and theft from vehicles offences.

- Serious crime - providing support in the investigation of murder, suspicious death, sexual offences and other serious offences against the person.

- Drugs - providing intelligence in the investigation of a range of drug-related offences including supply, possession, importation and exportation, production and cultivation.

- Road policing - providing support for drink and drug driving offences and accident investigation.

- Organised crime - providing support to police, HM Customs and Excise and the National Crime Squad including investigation of terrorism.

- International crime - providing support to the Foreign and Commonwealth Office, British Council and overseas law enforcement agencies.

- Hi-tech crime - providing support in the investigation of computer or electronic related crime and fraud.

- Commercial - providing drug-testing facilities for prisons and offering a paternity testing service.

(source: http://www.forensic.gov.uk/forensic_t/inside/about/index.htm)

To limit the forensic sciences to *solving* crimes would be too narrow, however, because forensic expertise can also be used by the defense in a criminal case. The defense may be able to offer its own expert to counter evidence introduced by the prosecution. Often such evidence is offered by independent laboratories or individual experts. In that case, the evidence usually does not solve a crime, but rather is offered to show that law enforcement's proposed solution to the crime is wrong.

Forensic linguists are involved in many areas that relate to crime, both solving crime and absolving people wrongly accused of committing crimes. Some of these areas of research and expertise include:

- voice identification (for instance, determining whether the voice on a threatening tape recording was that of the defendant; sometimes also called *forensic phonetics*)

- author identification (determining who wrote a particular text by comparing it to known writing samples of a suspect; sometimes also called forensic stylistics)

- discourse analysis (analyzing the structure of a writing or spoken utterance, often covertly recorded, to help determine issues such as who is introducing topics or whether a suspect is agreeing to engage in a criminal conspiracy)

- linguistic proficiency (did a suspect understand the Miranda warning or police caution?)

- dialectology (determining which dialect of a language a person speaks, usually to show that a defendant has a different dialect from that on an incriminating tape recording. As opposed to voice identification, which analyzes the acoustic qualities of the voice, dialectology uses linguistic features to accomplish similar goals)

- "linguistic origin analysis" (this is my term for the process of trying to determine what a person's native language is, often for purposes of granting or denying applications for political asylum. A more common term is "language analysis," but that term is overly broad, it seems to me. Note that linguistic origin analysis is very similar to what we might call forensic dialectology)

- "linguistic veracity analysis" (again, I think I may have invented this term, but it refers to various linguistically-inspired methods for determining whether a speaker or writer was being truthful)

These areas of research have varying degrees of acceptability or reliability within the field. Thus, voice identification, if done by a qualified phonetician who understands the limitations of the methodology and findings, is accepted as being relatively reliable (although whether it meets evidentiary standards of the courts is another issue, especially when the analysis is done by a technician based on machine analysis of the voice). See Peter Tiersma and Lawrence Solan, *The Linguist on the Witness Stand: Forensic Linguistics in American Courts*, 78 Language 221-39 (2002).

Author identification is a very interesting and potentially useful area, but it is hampered by the fact that documents in a forensic setting (ransom notes, threatening letters, etc.) are usually much too short to make a reliable identification. Moreover, which linguistic features are reliable indicators of authorship, and how reliable those features are, remains to be discovered. Research is ongoing, however, and the availability of large corpora of speech and writing samples suggests that the field may advance in the future (although the typically small size of the documents in most criminal cases will always be a problem). Moreover, it may be sufficiently reliable to eliminate someone as an author, or select an author from a small group of suspects.

Discourse analysis is a very broad field, and how acceptable its conclusions are depends on the methodology that is used and how any conclusions are described. Discourse analysist can provide helpful information by close analysis of a covert recording and, for instance, showing that the suspect's use of "I" rather than "we" might indicate noncomplicity in a conspiracy. Linguists have also pointed out that when a suspect is recorded as saying "yeah" or "uh-huh" in response to a suggestion, the suspect is not necessarily agreeing with the suggestion, but may simply be providing a feedback marker to indicate he has understood the utterance, as we routinely do in ordinary conversation. Courts have a mixed record in whether they allow discourse analysts to testify as experts, but even when not allowed to testify they may be useful to the lawyers in preparing a case.

Proficiency testing and dialectology are both time-tested and relatively noncontroversial areas of linguistics. Of course, because of the influence of mass media and population mobility, dialects are becoming less distinct than they once were, and people often mix dialect features. This is a serious problem with linguistic origin analysis. Determining a person's origin by means of his or her dialect or language is also complicated by the fact that many languages straddle a border or are spoken in multiple countries. It seems to me that in many cases it is possible to determine that a person is not, based on his language, from a specified country (which is usually critical to an asylum application), but such determinations must be made carefully by well-qualified experts who understand the limitations of the approach.

I am highly skeptical of efforts to determine, using linguistic methologies (such as type/token rations), whether a speaker or writer is being truthful. There are few, if any, reputable linguists who claim that this is currently possible with any degree of accuracy.

Aside from veracity analysis, it seems to me that all of these methodologies can play important roles in the criminal justice system, although it may not always be in the form of testimony in the courtroom. Where the question is if a suspect is the person speaking on a tape, or whether a suspect wrote a particular threatening note, or whether a person speaks the variety of English-based creole of Sierra Leone (and not the type of creole spoken in Nigeria), a well-trained linguist might be in a position to be of assistance to a jury. A forensic linguist is often able to say with relative confidence that it is *not* the voice of person X on a tape recording, or that person Y most likely did *not* author a particular document. This is simply a binary choice. On the other hand, it is far more problematic to say with sufficient reliability that it *is* the voice of person X or the writing of person Y, and not the voice or writing style of some other possible person (in a case where there could be thousands or even millions of other possible suspects).

Perhaps because it is much easier to eliminate someone as a suspect with a reasonable degree of confidence than it is to prove him or her guilty beyond a reasonable doubt, it is not surprising that most linguistic expertise in criminal cases has been for the defense, where reliability is less essential. Nonetheless, linguistic expertise can be useful to the government as well, especially at the investigatory stage. And because ongoing research is making forensic linguistic approaches more reliable, the field may be increasingly useful to investigators and prosecutors. Interestingly, both Germany and the Netherlands have linguists working for their criminal laboratories (the *Bundeskriminalamt* in Germany, and the *Nederlands Forensisch Instituut* in the Netherlands).

Civil Cases

Although most forensic expertise does indeed relate to criminal law, it seems to me that this characterization is also too narrow. Notice that one of the things that the Forensic Science Service does in the U.K. is to provide paternity testing services (for a fee). The website specifically notes that the services are available to lawyers. While paternity testing may involve a crime, it is also used a great deal in civil cases. Hence the adjective *forensic* can apply to civil cases as well.

Thus, we can define forensic sciences more inclusively as encompassing any branch of scientific or technical expertise that is useful in deciding cases. It is important at this point to distinguish *factual* from *legal* issues. Judges and lawyers are the experts on the law, so they will almost invariably object if an expert in another field tries to opine on the meaning of a statute or judicial opinion. On the other hand, it is specifically the job of the jury (or, in a bench trial, of the judge) to decide questions of fact. The role of experts in the legal process is to assist the jury or judge (the "factfinder") to make all factual determinations.

We have seen how forensic linguists can help make factual determinations in the criminal law. Linguists can also make similar contributions in civil cases. Although the use of the term *forensic linguist* in the context of criminal law is not particularly controversial, since forensics is so closely tied to criminal law, the term is somewhat less warmly embraced on the civil side, in my opinion. Linguists who testify in civil cases tend to consider themselves ordinary academics who hope their expertise can somehow be useful to the legal system, and do not necessarily consider themselves experts in "forensic linguistics." Others disagree and find the term useful. My own view is that someone who comes into court as a "linguist" may have somewhat greater credibility that someone who claims to be a "forensic linguist," since the former term suggests somewhat greater objectivity, and the latter suggests someone who is trying to specialize in, or promote, legal consulting and who may therefore be viewed somewhat more readily as a "hired gun."

Although I believe that linguists can sometimes play an important role in helping a judge or jury decide both criminal and civil factual issues, I do not consider myself to to be a forensic linguist. My interest is in the intersection and interaction of language and law. For my purposes, forensic linguistics, which strongly suggests helping solve criminal cases, is just too limited a term for what I do. In fact, I have tried to persuade the International Association of Forensic Linguists to change its name to something like International Language and Law Association, in the hope of broadening the appeal of the association to people who do not consider themselves to be forensic linguists. But my motion was soundly defeated.

Nonetheless, forensic linguistics is an interesting and growing specialty, especially in the UK. If you're interested in becoming a forensic linguist, my advice is to concentrate first on becoming the best linguist you can be. Then add the forensics.