

19.4 Co-workers in the Field: Who Owns What?

Field linguists depend on the good graces and assistance of speakers of the languages they study in order to conduct their research (see Newman and Ratliff 2001: esp. 2–4). The question is: what copyright interests do these people have in their contributions to the linguistic study, and what must linguists do to ensure that they have all the legal rights necessary to use the materials fully, to publish books and articles based on the research, and to archive basic data for use at a later time and by other scholars? Let us separate out five categories of native speakers involved in the fieldwork phase of a research project, with the understanding that one person often fills more than one role and that the roles themselves inevitably overlap with one another. I shall call these people (1) informants, (2) subjects, (3) text providers, (4) assistants, and (5) consultants.

19.4.1

Linguistic informants (often referred to euphemistically by the semantically inaccurate term ‘consultant’) are people who provide natural samples of their language and raw data about the language, involving things ranging from simple translation equivalents to transformational-manipulative processes to grammaticality judgements. The informant could be someone whose contribution is limited to a one-time ad hoc description of the names of musical instruments and their parts or someone who works with the linguist over an extended period of time. To the extent that the informant is providing facts about the language and examples thereof, i.e. is helping to amass facts, the informant has no copyright interest in or legal rights to the work. Copyright protects the expression of facts and ideas, not facts and ideas in and of themselves. As a matter of politeness and professional courtesy, the linguist ought to acknowledge the informant's contributions and give credit where credit is due, but this is divorced from intellectual property issues. From a copyright point of view, the linguist is free to utilize all of the data that he obtained from the informant, analyse them, put them in archives, publish them in scholarly articles or commercial trade books, etc., all without worrying about intellectual property rights that the informant might have.

19.4.2

Subjects are people whom the linguist studies by such means as sociolinguistic observation or phonetic/psycholinguistic experiment. If the linguist sprays ↴ someone's mouth with chocolate powder to make a palatogram, that person is a subject; if the linguist measures teenage students' reactions to colour charts in relation to their colour terminology, those students are subjects; and if the linguist sits quietly in the waiting room of a driver's licence bureau carefully jotting down observations regarding the frequency, manner, and situation of language shifting among the workers behind the counter and the many multilingual individuals coming in and out, those people are subjects. These subjects have no copyright claims on the notes and other materials that the linguist has amassed. If the linguist were to make an audio recording of the people's speech or to videotape their social and linguistic interactions, copyright issues still would not arise. The linguist still would have full control over the materials and full freedom to use them for her scholarly purposes. There very well could be privacy issues, especially where videos or photos are concerned, and the research would have to take into account rules and agreements with and obligations to the researcher's Institutional Review Board that handles Human Subjects Review, but copyright wouldn't present a problem.

19.4.3