



E11 Forensic Linguistic Expert Testimony in the Authentication of Language Evidence

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After attending this presentation, attendees will understand the relationship between forensic linguistic expert testimony, focused on author or voice identification of language evidence, and the underlying evidentiary considerations of authentication (e.g., Federal Rules of Evidence, Article IX) in the United States legal system.

This presentation will impact the forensic science community by providing a practical legal-scientific framework for understanding the expectations and limitations of implementing the linguistic analysis of language evidence.

In particular, focus on three related aspects of evidentiary jurisprudence which have been considerations in the inconsistent application of linguistics in the legal system: (1) the deference of the judiciary to the layperson's ability to determine if a document or recording is authentic, i.e., agree with what a particular party at trial purports a particular document or recording to be (e.g., Federal Rule of Evidence 901(a)), (2) the judiciary's ability to evaluate science generally (and linguistics specifically) in the acceptance, exclusion, or limitation of scientific expert testimony under standards of admissibility (e.g., the "general acceptance" standard of *Frye v. United States*, 293 F. 1013 (DC Cir 1923) or the "scientific sufficiency" standard of *Daubert v. Merrell Dowell Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)), and (3) in certain circumstances, the judiciary's acceptance of non-scientist professionals who base their testimony on experience or expertise in lieu of scientific training.

Evaluation of the role of linguistic science from this evidentiary and procedural point of view, at all levels of the legal system (investigation, pre-trial and trial), reveals that often key participants in the legal system (law enforcement, judges and lay jurors) possess common misconceptions about language and, consequently, lack adequate knowledge to accurately evaluate the sufficiency of linguistic science. This observation is despite the existence of linguistic research in author and voice identification which is empirically based and provides validated results that are consistent with the contemplation of scientific sufficiency under both *Frye* and *Daubert*.

While testimony by linguists has been successful in dispelling myths about language, educating judges and juries, and preventing use of language misconceptions for the securing of convictions, it is incumbent on linguistics as a field to proactively inform and educate all levels of the legal system and the forensic science community. To this end through a review of the evidentiary and procedural aspects of the United States legal system's, treatment of language evidence and the analysis of a number of recent case examples involving the application of linguistic testimony, the above points will be illustrated and provide a practical legal-scientific framework for understanding the expectations and limitations of implementing the linguistic analysis of language evidence.

Forensic Linguistics, Expert Testimony, Authentication