

***An Immigrant's Run-in with the Law: A Forensic
Linguistic Analysis. Kristina Beckman (2007)***

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Reviewed by Ann Wennerstrom

In *An Immigrant's Run-in with the Law: A Forensic Linguistic Analysis*, author Kristina Beckman argues convincingly that linguistic analysis can be a powerful tool when immigrants with limited English are accused of crimes. Central to the book is the compelling story of LK, a Chinese immigrant convicted of illegal practices in weapons sales. Although forensic linguistics was not admissible evidence in the trial, Beckman gained access to the transcripts of a 'sting' operation, used by undercover agents to prosecute LK, and analyzed them in-depth to demonstrate how much more key information a forensic linguistic analysis would have provided.

LK is described as a citizen of the U.S. who immigrated in 1982 from China via Hong Kong. Through connections with his brother, LK became the proprietor of Gong's Market, a struggling small business in Tucson, Arizona. Among the wares sold in his store were a variety of arms and ammunition, some of which showed up later at crime scenes. After tracing the weapons found at the scenes of certain crimes back to Gong's Market, the U.S. Bureau of Alcohol, Firearms, and Tobacco decided to investigate LK's policies in gun sales to determine whether he intentionally sold guns to criminals without the requisite screening. Posing as gun buyers, members of the Bureau and other confidential informants bought guns from Gong's Market while surreptitiously tape recording the transactions. The transcriptions of these lengthy recordings are included in an appendix to the volume and form the basis for the analysis conducted by Beckman.

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LK's English language ability was crucial to the case, in which the prosecution was required to show that LK intentionally sold weapons without properly checking the background of the buyers. This background check required sophisticated English skills in order to ask a series of questions of the buyers, to understand the replies, and to fill out a detailed government form, yet LK testified that he had never studied English, never read in English, had little education, often needed an interpreter, and even took his driving test in Chinese. He also requested an interpreter at his trial. Despite these obvious language deficiencies, a more detailed forensic linguistic analysis of his language proficiency was not considered admissible evidence at trial. Beckman's method was to conduct an analysis of the transcripts of the allegedly illicit sales collected by the Bureau as though they were to be used as evidence in order to show how a linguistic analysis might have changed the outcome of the case.

The book is organized into five chapters. Chapter 1 introduces the topic of forensic linguistics and presents an overview of the case, the methods, the research questions, and the analysis. Chapter 2 provides a review of the literature on how forensic linguistics has been used in the past, including a broad array of applications – as, for example, analysis of confessions, bribes, interrogation techniques, Miranda warnings, and silencing of witnesses in cross-cultural settings. The chapter emphasizes the breadth of forensic linguistics, which encompasses not only phonetic and syntactic analysis but also discourse and even sociolinguistic analysis.

Chapter 3 outlines the theoretical framework for Beckman's analysis of second language proficiency. She reviews the literature on communicative competence, presenting several widely accepted models in order to trace the historical development of this line of scholarship: Canale and Swain 1980, Bachman 1990, Bachman and Palmer 1996, and Savignon 1997. From these, Beckman distills the main competencies that she considers necessary for a full understanding of a non-native speaker's ability to communicate proficiently. The chapter also reviews the SPEAK and ACTFL standardized language tests, which are consistent with the communicative competence approach. The point of the chapter is that phonological and syntactic ability alone are insufficient measures of language competence. One must also assess functional, strategic, discourse, and sociolinguistic competences. In other words, a responsible forensic analyst must adopt a holistic definition of language.

Chapter 4 is the most interesting chapter in the book, containing the analysis of the gun sales encounters with LK as tape recorded by the undercover agents. Beckman analyzes the texts in detail, using the communicative competence models discussed in Chapter 3 to assess the level of LK's language in his interactions with the agents. Additionally, she scores LK's language on the ACTFL and SPEAK tests. Finally, she analyzes the written forms that LK must fill out for their level of difficulty, using the Flesch Readability Formula and Chall et al.'s (1996) rubric for science texts.

Beckman shows herself to be a talented conversation analyst. For example, she points out that LK has a fairly sophisticated vocabulary about gun use, using terms such as ‘44 magnum’, ‘AB-10’, ‘M11’ as well as industry-specific product and manufacturer information. Such lexical competence might suggest a high level of linguistic ability. However, in the context of the conversation, LK’s functional and strategic competences are lacking as he supplies single words and phrases with little explanatory context and uses a strategy of mere repetition to facilitate understanding. In the following excerpt, for example, LK repeats ‘no more’ several times without fleshing out his meaning to satisfy the customer’s curiosity:

Excerpt

Agent: How about when are you going to get some of those nines [type of gun]? When are you going to get the ones that you say you are out of?

LK: 89? [type of gun]

Agent: Yeah.

LK: No more.

Agent: You going to get those in?

LK: No more.

Agent: No more.

LK: No more.

Agent: You can’t even order them?

LK: No. No more. They don’t make no more . . . (p. 93–94)

Beckman later uses this same exchange to make a further point (p. 147), i.e., that the agent begins to simplify his own grammar, echoing LK’s ‘no more’. She takes this as another indicator of LK’s low proficiency level since it shows the native speaker agent’s on-the-spot assessment of and adjustment to LK’s English level in the conversation.

Beckman’s approach achieves a strong triangulation for her analysis. By choosing a variety of techniques that support each other, each analysis reinforces the conclusion, summarized in Chapter 5: LK’s language level is low-intermediate, and he likely did not understand the legal requirements for the gun sales nor the required forms, which were written at a college graduate level of readability. Therefore, LK most likely could not have intentionally sold guns to criminals without sufficient background checks, as accused and convicted. Ergo, forensic linguistic evidence might have saved the day for justice in the case.

Another implication of the book, largely understated by Beckman herself, deserves attention. Forensic linguistics as a nascent field is currently struggling

for legitimacy in the eyes of judges and law enforcement personnel who might decide to exclude such analyses. This struggle has contributed to a tension in the field as to the 'best' approaches or 'correct' methods for achieving the most consistent, accurate, or reliable results. Beckman's work makes a strong case for a 'bag-of-tricks' approach to analysis. Rather than attempting to identify exactly the language test or the model of language competence, she opts for using a variety of methods in order to compound the linguistic evidence. As she states, 'Because the nature of forensic linguistics is so dynamic and multi-faceted, it is beneficial to turn to a variety of approaches simultaneously' (p. 15). Beckman advises against 'pigeonholing oneself in a single approach' (p. 4) and prefers the richness gained by a combination of techniques. This is achieved admirably in the details of her analysis.

Beckman's book makes an important contribution to the field of forensic linguistics by providing a strong model of methodology and application drawn from well-accepted second language research. Useful charts, tables, and transcripts found throughout the volume will be appreciated by readers. Nor does it hurt that the 'cloak-and-dagger' context of undercover agents and weapons sales creates a bit of suspense for the reader.

In Anglo-Saxon common law, 'intentionality' is a key component in criminal jurisprudence. Courts must consider not only the outcome and severity of a criminal act, but also the actor's 'scientor' or knowledge of what he was doing and whether he intended the consequences. It is a long-accepted tradition to exempt from punishment those who do not intend the harmful results of their acts. As Beckman's analysis makes clear, LK's level of English was the critical element in the argument for his lack of intent to commit a crime. One can only hope that in a country such as the United States, where people with limited English struggle to obtain equal access to justice, forensic methods that assist individuals like LK can become more widely accepted in the courts.

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