THE LANGUAGE OF CONFESSION, INTERROGATION, AND DECEPTION

Roger W. Shuy

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THE LANGUAGE OF CONFESSION, INTERROGATION, AND DECEPTION

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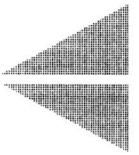
Series Editor's Introduction



The first book in the **Sage Empirical Linguistics Series** featured quantitative analysis, one of the possible avenues by which empirical analysis of language can be pursued. This book takes another path, qualitative analysis through case studies. While Roger Shuy does not count occurrences of linguistic features, he is no less interested in "the actual utterances of real people as the basis for study," the announced focus for the series.

And what case studies Shuy presents. They make for gripping reading. The facts of the legal cases are there, and the details of interrogation and confession. We learn that interrogations and confessions do not occur in two-minute segments—the impression that some readers may have gotten from popular television offerings—but instead as part of a process bound up with detective work and subject to every kind of social and legal pressure. Most of all, we learn that the interplay of language in interrogation and confession has its own drama that is every bit as intriguing as the drama of detection and trial. Shuy's detailed analysis of the discourse of interrogation and confession demonstrates that neither suspects nor law officers can afford to think that words mean just what they say. The condition of the speakers, whether they are asking or answering the questions, has much to do with the meanings of statements as those meanings are intended and inferred. The conditions under which statements are made also have much to do with their meaning.

We as readers can act the part of the proverbial fly on the wall, not for the events of hard-boiled detective fiction but now for the high stakes of real cases being decided on the basis of what people have actually said. And the verdicts are not always what disinterested analysis of the discourse suggests.

Forensic linguistics, here practiced by one of the founders of the field, is no less linguistic because it is also forensic, just as there is no less medicine in forensic medicine than in other medical specialties. Because the stakes are so high, there is all the more reason that linguists (and others) should apply every available method in the field to try to find the equity in confessions and interrogations. This Shuy does, whether by remarking on cultural differences in communication in the Panini case, or the sequence of question topics in the Jerue case, to name just two. From the welter of approaches in the different cases, general trends do emerge, both for linguists and for interrogators: linguistic analysis suggests practical consequences in law enforcement. Here is empirical linguistics at its best, not only in study of actual speech but in service to just treatment of actual speakers.

—William A. Kretzschmar, Jr.
University of Georgia

To all those who have endured my fascination with this subject during the past few years, especially my wife, Jana Staton; my children, Tim, Joel, and Katie; and my graduate students at Georgetown University. All helped me hone and refine these thoughts. To them all I am deeply grateful.

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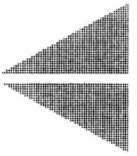

Confession Event

The therapeutic effect of confession was drilled into me when I was a little boy. My mother attended an independent Bible church and made sure the basic tenets of Fundamentalist Christianity permeated my life. The theology of forgiveness required a preceding confession in the harsh reality of that world because unless we were forgiven, we faced a pretty dim prospect in the next life. The three-step process was to confess, be forgiven, and avoid punishment.

For the kinds of sins perpetrated by boys in the course of daily living, this process worked pretty well. I did something bad, confessed it to God in prayer, and felt a whole lot better about my chances of avoiding the eternal damnation of hell's fire. Whatever one may think of the theology, psychologically it was probably sound.

Somehow, my mother wasn't particularly concerned about my confessing my bad deeds to her personally. Maybe she didn't really want to know that her only son was capable of being bad. Maybe she thought that such actions would reflect poorly on her mothering skills. Because she didn't require this, I didn't share with her the dark secrets that I confessed to God. I let her think I was the perfect little gentleman that she expected, and we both avoided embarrassment that way.

The point here is that confessing one's sins to God is quite different from the act of confession that is useful in everyday interaction. One major difference is that when we commit evil acts against our fellow humans, we cannot expect to be forgiven easily or to have our slate wiped clean, with no retribution. I used to try to imagine the worst sin possible and how God would deal with someone who confessed it. Would God forgive a murderer, for

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example? Could a person who took the life of another ever expect to reach Heaven? Were the Ten Commandments examples of exceptions to the total forgiveness rule? Coveting another man's wife was of particular concern to me at that time—for hormonal reasons, of course.

These questions in my young mind were examples of the difference between confessing sins to God (with concomitant forgiveness) and confessing crimes to other humans (with concomitant expectations of punishment). A suspect who confesses a crime to law enforcement officers cannot reasonably expect to be forgiven and be sent home with the admonition never to do it again. Although the spiritual world may forgive such a crime, the social world will not dismiss it lightly.

A second major difference between confessing to God and confessing to other humans lies in the murky area of competence. We are much more forgiving of ill deeds committed by children or by people with mental disabilities than we are of people who are assumed to be mature and mentally competent, one reason why the insanity defense has risen to such prominence. The competence distinction did not obtain in the spiritual confession process introduced in my youth. I believed that my sins were no different from those of adults in God's eyes. If theology works at all, it works across the board. In fact, if someone had told me that God would take into consideration the fact that I was only 10 years old and forgive me because of my age rather than because of my confession, I probably wouldn't have made the effort at all. This, of course, would have been counterproductive to the whole religious enterprise because the church was intent on building into me a lifelong fear that would have been defused if I were to realize that, as a child, I would get a free ride.

A third major difference between religious confession and social confession is found in the different methods of encouraging and probing a person to confess. Religion—my religion, at least—assumed that all humans were innately evil and would, with uncomfortable regularity, commit sins. We were taught that even saints, like the disciple Peter and the apostle Paul, failed regularly. There was no need to urge us to confess our sins; God knew what they were anyway. Instead, we got regular reminders to tell God "all about it," in terms as general as this. Social confession does not assume that the persons receiving the confession know what the sin was. We have to tell in detail, and as a result, we often engage in a lengthy probing event to bring it all out.

Law enforcement agencies have additional problems in this area because many, if not most, persons from whom they try to elicit confessions are unwilling to reveal all they have done. The focus of this book is on the

elicitation of confessions by the police and on how such confessions are interpreted. One might assume that a confession is a confession—nothing more, nothing less. But life is never that simple. Law enforcement is obliged to follow certain rules in obtaining a confession; otherwise, the event can be judged to be invalid. Because much of the language used in everyday interaction is less than precise, we can also predict that different listeners may understand words in different ways. The real world of police confessions, despite the training of interrogators, often yields confessions that do not signify what the police may think.

To a linguist steeped in the study of discourse, it seems odd that, in all the work on speech acts during the past decade or so, little mention is made of speech acts that transcend the artificial boundaries of a sentence. It is clear that complaining, for example, is a speech act in much the same way as warning or advising, yet because a complaint seems to require several sentences to produce felicitously (Shuy, 1988), it is ignored in the conventional speech act literature. Admitting and confessing fall victim to the same neglect even though the essential qualities of the more popularly treated, sentence-level speech acts are quite the same. Admitting, confessing, complaining, and undoubtedly others as well can be accomplished performatively or indirectly. Logical felicity conditions can be established. They do what speech act theorists since Searle (1969) have said speech acts do: They accomplish an act with words.

Perhaps their neglect stems from the analysts' inability or reluctance to suspend their sentence understanding long enough to perceive the appropriate discourse understanding. Thus, the following confession may seem to be nothing more than a series of asserted facts:

> Father, I have sinned. I lied to my mother about where I went last night. I drank far too much beer and got drunk. I sneaked into my house through a window so that my parents wouldn't hear me coming in the door.

On the surface, this text seems to be four sentences of reported facts. And indeed this is true. But the context of the words, signaled here only by the first word, *Father,* indicates that this is a confession before a priest. The speaker is admitting the bad things he has done. He is, in fact, confessing what he did, not just reporting it.

Speech acts can be popularly described as the way we use language to get things done. Some speech acts are of the pre-event type, such as making promises, advising, giving directives, warning, and requesting something.

Other speech acts are concurrent with their utterance, such as congratulating, thanking, or christening. Still other speech acts are of the post-event type, such as apologizing or confessing. Confessions look backward in time, a fact that, though obvious, brings with it certain constraints not realized by pre-event or simultaneous speech acts. For one thing, confessions require explicit and factual recall to the extent that pre-event and simultaneous speech acts do not.

A second distinguishing characteristic of the speech act of confession is that the confessor believes that what he or she did was wrong according to a recognized set of norms, that the confessor believes that the person to whom he or she is confessing also shares those norms, or that the person to whom the confession is given is in a position of authority over the confessor and that the confessor is aware that his or her confession correlates with some type of punishment.

A confession commits the confessor to the truth of what he or she says, whether or not it is ultimately determined to be true. As such, the speech act of confessing fits a category of speech acts called *commissives,* which commit the speaker to a certain course of action.

Confessing is usually associated with such areas as religion, law enforcement, prisoners of war, or therapy, what Sissela Bok (1983) refers to as *institutional confession.* Contrasting with institutional confessions are confessions that are more common to everyday existence: a child confessing to breaking a family rule, a gossip confessing minor infractions of behavior on the hope of eliciting even more dramatic ones from a conversation partner, a cook confessing to burning a roast, a teenager confessing to parents that the family car got scratched. Confessions report things that the confessor has done or thought and, as such, are a kind of narrative. They differ from standard narrative, however, in that confessions imply wrongdoing of some sort for which guilt and expiation are a desired end. For example, one does not confess to getting straight As on a report card or to being promoted to vice president, except perhaps facetiously.

Still another standard feature of confession is that it consists of what the speaker believes to be new information to the listener. It is infelicitous to confess what is already known, somewhat analogous to introducing the same topic over and over again in a conversation even after that topic has been resolved. Confessions, not having been previously disclosed, gain excitement and drama from this condition.

One form of religious confession in the Christian tradition is the testimony-time ritual often found in more evangelistic churches. Often, a midweek service consists largely of members retelling their past intimate sins, followed

by expressions of release and joy that come by accepting the light of God into their lives. Many religious writers have followed this procedure, found in classics written by John Bunyan, Saint Augustine, and many less literary books currently available in religious bookstores. Such confessions can provide exciting reading, often both shocking and dramatic. But, as Bok (1983) points out, such revelations can also be quite manipulative in the sense that, by showing how evil we have been in the past, we are actually making a statement about how good we are right now. The midweek church testimony meeting well typifies such manipulation. Having grown up in this tradition, I can recall as a child how embarrassing it was to have not had a really dramatic, debauched life to have given up for God. Because my own testimony was never very interesting, I could gain little status among my peers for having traveled any distance in my past deviations from God's will. Ike Brody, in contrast, one of the church's deacons, could testify gloriously about having been the town drunk for many sin-infested years until God turned his life around. Now *that* was a powerful testimony.

Perhaps the best-known confession in American history is the young George Washington's apocryphal, candid admission to his father that he had indeed cut down his father's prized cherry tree. Every schoolchild hears that the elder Washington immediately forgave his son for confessing the deed so honestly. One parental moral commonly taught is that we should always tell the truth. But the concomitant and usually ignored part of this equation is that, by confessing all, we will receive instant and complete amnesty.

The popularity of this folk moral is not wasted by law enforcement interrogators. Although they are limited by laws and regulations about suggesting that legal punishment will be less severe if the suspect will only confess all, they are not blocked in offering what Ekman (1985) refers to as *psychological amnesty*:

> . . . by implying the suspect need not feel ashamed of, or even responsible for, committing the crime. An interrogator may sympathetically explain that he finds it very understandable, that he might have done it himself had he been in the same situation. (p. 53)

In most criminal cases, the traditional benefits come too late to be of any value to the confessors. Their crimes are so heinous that confessing them detracts little or not at all from the punishment that awaits. Unlike the young George Washington, forgiveness and amnesty cannot be expected for anything but remission of their tortured state of mind.

Just as there are two primary ways to lie—*concealing* and *falsifying* (Ekman 1985)—there are two parallel ways to confess—*revealing* and *self-aggrandizing.* Nor is the liar's common use of concealing foreign to confession. As with lying, concealment in confessing is preferred because it can be seen as less reprehensible. A common practice is to confess part of what was done, leaving out the most heinous or reprehensible acts that have been committed. Police interrogators of suspected criminals are quite familiar with such strategies, and their task is to build on these smaller admissions to get at the ultimate suspected crime. How they accomplish this is governed by regulations and laws to which they are bound, such as not promising leniency if the suspect will only confess and not threatening the suspect. The problem that law enforcement officers face in obtaining confessions is the subject of much of this book.

Some criminals confess to crimes, committed or not, as Ekman (1985) notes, "in order to be acknowledged and appreciated as having been clever enough to pull off a particular deceit" (p. 77). Such confessors are more concerned with their macho image and tough guy reputation than with the punishment that is bound to accrue. Criminologists claim that some people commit crimes more out of a perverted need to take great risks, to walk on the edge. The thrill of risk taking is well known in the psychology literature, and concealment of the risk just taken deprives the person of the recognition of this admired characteristic. Secretive crimes offer only a very narrow spectrum of potential admirers because crimes are, by definition, covert.

Because the confession event occurs primarily as part of a police interrogation, this book addresses confession as part of such interrogations. Equally salient to any understanding of a confession is the matter of truthfulness versus deception or lying. This book also addresses issues of deceptive language. The themes of interrogation strategies and veracity recur throughout the confession cases described here.

Considerable controversy seems to exist over what exactly a police interrogation is supposed to accomplish. One way to view the interrogation is to set it in the overall context of intelligence analysis. Harris (1976, p. 3) points out four major steps in the intelligence process:

1. Collecting
2. Evaluating what is collected
3. Analyzing for meaning
4. Reporting findings

The end product of intelligence analysis is an informed judgment. Harris (1976) defines it as "that activity whereby meaning, actual or suggested . . . is derived through organizing and systematically examining diverse information" (p. 30). He goes on to observe that the comparison of data is the critical step in analysis because, through such comparison, meaning is derived. The analyst makes a hypothesis, formulates a set of expectations, and compares actual observation with those expectations (p. 30). The analytical phase of intelligence analysis comes *after* the information has been largely collected. What characterizes effective intelligence analysis, however, is that *alternative* hypotheses are pursued, not just the hypothesis of the suspect's guilt. This pursuit is particularly crucial where only limited information is available, keeping in mind, as Harris notes, that "the business of intelligence is to probe allegations and suggestions of criminal activity rather than to build an evidentiary case" (p. 34).

The field of intelligence analysis, then, provides some important guidelines for conducting police interrogations and eliciting confessions. Andrews and Peterson (1990) provide a detailed description of these guidelines, many of which can be traced to the seminal work of Godfrey and Harris (1971), and as Marten (1990) points out, "[T]he intelligence process is no different from basic research: define the problem, collect the data, assess the data, collate and organize the data, analyze the data, and disseminate the data to the appropriate persons" (p. 3). Keeping these stages separate and clear is important because it is the interrogator's job to gather information in one task and to have it assessed carefully after it is accumulated. It is not the interrogator's job to analyze information while gathering it, although often hypotheses will suggest themselves at that time.

The police interrogation is but one of many types of human communication. People engage actively in different types of communication daily, such as conversations between friends or family and talk between buyers and sellers of goods and services. They also engage in more highly structured communication events, such as classroom interaction and doctor-patient communication, which come a bit closer to interrogation in structure.

One major difference between everyday conversation between friends and more structured talk events is that, in the latter, the status of the participants is unequal. The doctor, for example, has more status than the patient. The boss has more status than the employee. The teacher has more status than the student. With status comes power, and in conversation, power implies certain conversation rights. The powerful person can more readily introduce the topics, ask the questions, disagree, and give directives; the less powerful

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