

- White, M.; Cox, T.; Basehart, J. (1991). «Theoretical considerations of officer profanity and obscenity in formal contacts with citizens». In Barker, T.; Carter, D. (eds.) (1991). *Police Deviance*. Cincinnati (Ohio): Anderson Publishing. 275-291.
- Winters, A.; Duck, S. (2001). «'You ****!': Swearing as an aversive and a relational activity». In Kowalski, R.M. (ed.) (2001). *Behaving Badly: Aversive Behaviors in Interpersonal Relationships*. Washington D.C.: American Psychological Association. 59-77.
- Young, S. L. (2004). «'What the - - - is your problem?': Attribution theory and perceived reasons for profanity usage during conflict». *Communications Reports* 21. 338-347.

Listening to Silence: Interpretation and Transcription of Pause in Deposition¹

Tyler Kendall

Duke University and North Carolina State University

Abstract

Silence in speech is a critical part of expression, and pause realization, and the variation therein, can carry differences in both speaker-generated (subconsciously or consciously) and hearer-perceived meaning. While pause needs to receive further focus in linguistics generally, it is especially crucial that investigations under the category «Language and Law» deal with pause in an explicit and thorough way, since these analyses often have real-world implications. Although our understanding of the psychological and cognitive factors behind pause realization is still developing, studies focusing on pause have begun to yield important findings. In the forensic linguistic literature, a few scholars have fruitfully examined the role of pause in such areas as hearing testimony (Mendoza-Denton, 1995) and deposition (Walker, 1985). These studies have focused on the role of silence in the generation and interpretation of meaning. At the same time, there is evidence that pause varies in socially derived ways, beyond intentional (or subconscious) action. Campione and Véronis (2002) found that pause duration varies in statistically significant ways between languages. Recent research (Kendall, 2007) has found evidence that pause realization may vary along social axes (e.g., gender and/or ethnicity). In short, pause can convey speaker-generated meaning, but can also be misinterpreted by listeners based on cultural and social differences. These studies highlight the need to re-examine our thinking about and treatment of pause. In this paper, I focus on the importance of accurately transcribing pause. I compare pauses in the videotaped deposition of an expert witness with the treatment of those same pauses in the transcript prepared by a court reporter. I show how the practice of not indicating pause in the deposition transcription often creates opportunity for misinterpretations, and I argue that even simple changes to deposition transcription practices will result in better understanding.

1. Introduction

Silence plays an important role for interpreting speech events on two levels. On the one hand, pause realization — the locations and durations of speakers' pauses in speech — can influence hearers' impressions of their interlocutors and can, relatedly, give hearers indications as to speaker meaning. On the other hand, the

¹ I gratefully thank Ron Butters for his help on this paper, and for helping me attend the 2006 IAFL conference.

non-spoken components of communicative interaction crucially frame what is spoken and contextualize it. Communication is a multi-modal enterprise and non-spoken actions, whether they be non-verbal communicative gestures or simply actions and activities that accompany, or occur contemporaneously with, the speech, are important features of the speech event. Court reporters are tasked with accurately recording legal proceedings through the creation of *verbatim* transcripts (Walker, 1990). However, in order for transcripts to fully account for the events they represent, they must go beyond being *verbatim*, but at the same time maintain an objectiveness that avoids interpretativity on the part of the court reporter. As anyone who has transcribed speech before knows, this is an extremely difficult task.

As I explore in this paper, it is perhaps not *verbatimness* that is the crucial component of a useful transcript but *temporal accuracy*. In fact, I argue that — especially for speech situations such as videotaped depositions, where a transcript is made *in addition* to the creation of a recording — the focus on *verbatimness* by court reporters, court reporter organizations, and legal systems in general is unnecessary, at the same time as it is quite often impossible to achieve.

In this paper, I examine all of these issues by looking at the court reporter-generated transcript of a deposition of an expert witness in conjunction with the videotaped recording of that deposition.² Having both a transcript and a video record of the transcribed event allows us to evaluate the accuracy of the transcript in ways that we otherwise cannot. This comparison helps to elucidate the importance of pause and silence in legal discourse and their representation in transcription. I will also use this opportunity to comment on some court reporting conventions that, I will argue, obscure more than help represent the speech events that they attempt to capture.

2. The status of pause in forensic linguistics

Despite the importance of pause in interpreting legal spoken discourse, very few studies have examined pause explicitly or to any depth in the language and law literature.³ However, two papers stand out as dealing extensively with the role that pause plays for interpreting legal spoken discourse. Both focus specifically on the perception of speakers in legal contexts.

Norma Mendoza-Denton's (1995) paper on the Anita Hill-Clarence Thomas hearings provides a look at one important role of pause. She examines the «pragmatic level (of

² While this paper focuses on a deposition — a particular, pre-trial legal context of the American legal system, which may be of lesser interest to language and law practitioners outside of the U.S. — I believe that this discussion has important bearings on all sorts of legal speech events worldwide and the transcripts thereof, regardless of legal system.

³ Of course, this is not to say that *silence* has not been examined in the language and law literature. Cotterill (2005), for example, provides an excellent examination of silence and the right to silence in the English criminal justice system. Meanwhile, many of Jaworski's projects (1993) have much to say about silence in legal contexts. This discussion, however, focuses on pause — silence at a more micro-level than is often discussed.

the hearings) beyond the semantics — a level not found in printed transcripts of the hearings but in the interactive unfolding of the television drama itself» (1995: 52) — and demonstrates that the senators conducting the hearings employed (statistically significant) longer pauses after Thomas' responses to questions than to Hill's, which helped to validate his statements and weaken Hill's.

While the Mendoza-Denton paper looks at the impact of pause on the perception of the legal speech event from the outside, Anne Graffam Walker's (1985) paper, «The Two Faces of Silence», examines pause within the legal context itself. It addresses the role that pauses play on lawyers' impressions of the witnesses they examine. For this research, Walker interviewed attorneys associated with 10 depositions in which she had been the court reporting transcriber. She asked these attorneys to recollect what they could of the witnesses based on the transcripts of the first five minutes of the deposition and asked them a series of questions about their recollection of the depositions, their impressions of the witnesses, and what cues they recalled using in forming their impressions of the witnesses (1985: 59-60). Walker found that «of all the variables in the flow factor (number of sentences per turn, number of words per sentence, speech rate, pause phenomena), pausing, or hesitancy, was the only feature to be commented on by attorneys (...) when they were asked for their impressions of the witness» (1985: 65).

These two language and law papers focus on the role pause plays on a hearer's *perception* of the speaker. The *production* aspect of pause formation has been examined from psycholinguistic perspectives and provides some insight into the importance of pause in legal contexts. While it's over thirty years old, S. R. Rochester's (1973) article titled «The Significance of Pauses in Spontaneous Speech» provides an excellent review of the psycholinguistic literature on pause from that period and a sense of early work on pause in general. He reviews among other things «the function of pauses for the speaker» (1973: 65) in the psycholinguistic literature, which focuses on questions of cognitive load (i.e. «task difficulty») and affective state (i.e. «anxiety»). While most of the studies reviewed by Rochester focus on the speaker «simply as a language generator which pauses either in the course of normal decision-making operations or because of disruptions in those operations» (1973: 74), a handful of studies are discussed that approach pause from a more social psychological perspective. Some of the relevant findings for language and law research are like the following: «Subjects scoring high in an audience sensitivity test paused more frequently when addressing an audience than did low scorers » (Rochester, 1973: 75); and, «pause frequency remained constant but duration increased when utterances of subjects scoring high in concern for approval (...) and extroversion (...) were compared with the vocalizations of low-scoring subjects» (Rochester, 1973: 75).

More recently Stanley Feldstein and his colleagues have undertaken a number of related projects, examining «conversation chronography» as they call it (Crown and Feldstein, 1985); this is, the timing of speech sounds and silences and the role that these timings have on «the impressions that interactants form of one another» (1985:

32). Their examinations have ranged from inquiries in to the level of accommodation between interlocutors (discussed in Crown and Feldstein, 1985) to the relationship between actual speech production and the stereotyped notions of speech timing by extroverts and introverts (Feldstein and Sloan, 1984). Importantly, a number of their experimental findings point to the formation of different impressions by hearers on aspects of pause depending on social attributes of the speakers, such as ethnicity (cf. Crown and Feldstein, 1985) and gender (Feldstein, Dohm and Crown, 1993).

So, while it is clear that pause has a cognitive, psycholinguistic component, it is also clear that pause has a social component outside of being the result of mental processes. Feldstein and his colleagues examined differences in the *perception* of speakers depending on social characteristics, but this social component can also be seen in terms of pause *production* when we look at cross-cultural differences in the communicative use of silence and pause. For example, at a macro-level, we see this qualitatively when we compare many of the contributions in Tannen and Saville-Troike's (1985) volume, *Perspectives on Silence*. Tannen's (1985) New York Jewish Conversational Style with its avoidance and negative view of silence contrasts starkly against «The Silent Finn» of Lehtonen and Sajavaara (1985).

At a purely quantitative level, Campione and Véronis (2002) compared pause duration across five languages (English, French, German, Italian, and Spanish) by analyzing approximately 6,000 pauses in about 5½ hours of recorded speech. They found that there are differences in pause length between languages (in particular, Spanish had a median pause duration of about 100 ms longer than the other languages – 587 ms vs. ~ 490 ms). My own recent research has quantitatively examined the durations of pauses in relation to social features (e.g., gender and ethnicity) for a variety of English speakers under different stylistic contexts in order to examine socialized aspects of pause production (Kendall, 2007). This work is still ongoing, but putative findings further indicate that there may in fact be differences in pause realization correlating with speakers' social variables.

3. Interpreting pause and silence

In addition to the complex array of factors that appear to interact with pause perception and production, there remains one final aspect of silence in legal discourses to be addressed here. The fact is that many legal context speech events consist of much non-verbal action and these actions can be important — or even crucial — aspects of the event, necessary for properly understanding its full scope.

Turning to a passage from the examined deposition, Excerpt (1) presents 8 lines from the official transcript. From this excerpt, we have no way to know exactly what is happening, or, crucially, how much time is passing. In particular, it looks likely that in line 21 the deponent is correcting the questioner — basically saying «I've *already* looked at it». In fact, the text of line 19 has a somewhat ambiguous phrasing «I'd ask you». Judging just from this transcription it's not entirely clear whether the questioning attorney is currently asking the deponent to review Exhibit 57 or if the

transcriber missed a past-tense stop on «ask» — «I'd asked you» — and this refers to an earlier request.⁴

- (1)⁵ 18 Q And while Mr. XXXX is looking at that,
 19 Professor XXXX, I'd ask you to please review Exhibit
 20 57. I'll ask you a few questions about that.
 21 A I've looked at it. I mean, I could spend an
 22 indefinite amount of time looking at it, but I looked at
 23 it.
 24 Q Are you talking about Exhibit 57?
 25 A Yes, sir.

Excerpt (2) provides a more temporally accurate transcript of that excerpt, indicating all pauses and silences longer than a half-second. In particular, there was a 32 second break in the speech between lines 20 and 21 as the deponent flipped through the pages of the document. Listening to the audio (even without the video), one can tell that pages are being turned. While this may not be a «stop the presses» observation for this particular case, it hopefully makes the point that, in addition to the psycholinguistic aspects of pause, the silence in speech masks important actions crucial for the full comprehension of an event.

- (2) 18 Q And while, um, Mr. XXXX's looking at that [0.7 s]
 19 Professor XXXX, um [0.5 s], I'd ask you just to please review
 20 Exhibit 57, I'll ask you a few questions about that.
 21 A [flips through papers; 32.4 s]
 22 Uh, I've looked at it. [0.5 s] I-- I could spend an
 23 indefinite amount of time looking at it, but I've looked at
 24 it.
 25 Q Talking about Exhibit 57?
 26 A Uh, yes sir.

4. Court reporting and the transcription of pause

Returning to where this paper began, it is apparent that — even if we could accurately depict all of the words of speech in a transcript — we cannot accurately represent that speech event by only its words. In short, it is clear that the focus of court reporting on the *verbatim* transcript is problematic.

⁴ Although the «please» could be argued to support a present-tense interpretation.

⁵ The names of the individuals are suppressed, but otherwise the passage appears exactly as it was presented in the official transcript.

This paper is not the first to comment on this problem. A handful of forensic linguists have made recommendations for improvements to the legal transcript (Walker 1990; Fraser, 2003) and it has also been deemed important enough an issue by language and law practitioners that at least one introductory textbook on *Forensic Linguistics* (Gibbons, 2003) begins with a good review of what I'll call «the transcription problem». Yet practitioners, such as courtroom reporters and police transcribers, don't appear to be changing their transcripts to match the recommendations that have been made by linguists. In fact, Gibbons explains this well by describing the «tension between two incompatible and competing criteria for transcription» (2003: 30) — *readability vs. accuracy*. Despite the emphasis on *verbatimness* that the courts have put on transcription, most transcripts lean toward the *readable* side of the spectrum. As a result of the focus on readability, court reporters only have a limited set of conventions to choose from when building their transcripts. In the deposition transcript I have examined for this paper, the only conventions used by the transcriber beyond standard written English punctuation are *paragraph breaks* and *double dashes* («--»). One of each of these is illustrated in Excerpt 3.

- (3) 8 Q Did you meet with the attorneys or talk with
9 them in person with regard to -- I'm sorry.
10 Did you meet with them or talk to them over the
11 telephone regarding this subpoena?
12 A I don't recall.

Yet even these «tools» are used indiscriminately whereas they could be systematically put to use to better indicate pause or other aspects of the speech. For example, the double dash notation is used in the examined transcript to indicate speaker restart, interruptions, parentheticals, and occasionally for depicting pause. However, sometimes the double dash is used simply as punctuation, a practice that can support misinterpretations. For example, (4) demonstrates a double dash used as punctuation (it should just be a period) in a way that appears, misleadingly, to indicate speaker restart.

- (4) 19 A I think the people I was working with -- I
20 don't remember. Sorry. I'm guessing.

In order to get a better quantitative sense of how punctuation was used — and not used — in the deposition, I tabulated a 6 page section of the transcript, corresponding to just under 8 minutes (exactly 470 seconds) of the interview, for three main categories of features: punctuation as used in the transcript — i.e., what each *double dash*, *paragraph break*, *semicolon*, and so forth in the transcript corresponded to in the recording; event features that occurred in the interview (whether or not they were indicated in the transcript) — for example, a speaker restart or interruption; and, finally, pauses. Any pause that was longer than 500 milliseconds was tabbed

and measured to an accuracy of 100 milliseconds.⁶ Table 1 presents a breakdown of the features occurring in the passage — mostly pause — not well represented by punctuation in the transcript.

Table 1. Speech features, including all pauses > 0.5 s, and transcript punctuation

| Feature | Count | Punctuation Used * | Not Punct. | % Not Indicated |
|------------------------------|-------|-------------------------------|------------|-----------------|
| Pause: In-turn, 0.5 – 0.9 s | 35 | 5(--), 1(P), 7(,), 3(.), 1(?) | 18 | 51% |
| Pause: Switch, 0.5 – 0.9 s | 5 | None | 5 | 100% |
| Pause: In-turn, 1.0 – 1.4 s | 16 | 1(P), 2(,), 2(.) | 11 | 69% |
| Pause: Switch, 1.0 – 1.4 s | 5 | None | 5 | 100% |
| Pause: In-turn, 1.5 – 1.9 s | 9 | 1(--), 2(,), 1(.) | 5 | 56% |
| Pause: Switch, 1.5 – 1.9 s | 4 | none | 4 | 100% |
| Pause: In-turn, 2.0 – 2.9 s | 9 | 1(--), 1(;), 1(P), 1(,), 3(.) | 2 | 22% |
| Pause: Switch, 2.0 – 2.9 s | 3 | 1(--) | 2 | 67% |
| Pause: In-turn, 3.0 – 9.9 s | 2 | 1(,) | 1 | 50% |
| Pause: Switch, 3.0 – 9.9 s | 4 | none | 4 | 100% |
| Pause: Switch, > 10 s | 1 | none | 1 | 100% |
| Speaker Restart | 18 | 10(--), 2(,) | 6 | 33% |
| Parenthetical (begin or end) | 10 | 7(--), 3(,) | 0 | 0% |
| Interruption (begin or end) | 11 | 11(--) | 0 | 0% |

For this presentation, I have differentiated between *switching pauses*, pauses that occur between speaker turns, and *in-turn pauses*, those occurring within a speaker's turn. We see from this table that almost no *switching pauses* are indicated by any sort of punctuation in the transcript. It may not be surprising that only around half of the short pauses are indicated by punctuation, but we still note that a number of the longer pauses, those over 2 seconds in length, are not indicated. It should also be mentioned that those pauses that happen to correspond to the placement of standard punctuation are counted as indicated in Table 1. So, looking at the *in-turn pauses* between 0.5 seconds to 0.9 seconds, for example, we see that 11 of the instances counted as indicated are only indicated by a period, comma, or question mark and, while falling in places where we might expect short pauses to naturally occur, these punctuation marks are not actually providing any information about the speech — they are simply contributing to the transcript's *readability*.

As a final note on the transcript examined here, in its 212 pages there is not a single use of the square bracket, a convention that is sometimes used by court reporters for describing important non-verbal action and behavior. Gibbons points out that this is rarely done — that «only when such information is needed for the interpretation of spoken language is it normally included» (2003: 33). However, as is illustrated in

* «P» indicates «paragraph break».

⁶ For this study, I have not distinguished between silent pauses and filled pauses (e.g. «uh»). Both were counted.

this analysis, this practice is not used even when some sort of indication is necessary for understanding.

Gibbons makes another important point of great relevance here when he discusses how temporally shortened transcripts tend to be. He recounts a case in which «the transcript of an interview purported to be the record of 30 minutes of interview (...) took less than 5 minutes to read slowly» (Gibbons, 2003: 31). It is clearly beneficial that a transcript can be perused more quickly than the event it represents — if we really wanted to spend 30 minutes reviewing a 30-minute interview, we might as well review the interview itself and not an abstracted representation of it.⁷ However, it seems critical that the transcript can account for the entire duration of the interview. If not, how do we even know that a transcript is actually accurate? How do we know whether paraphrasing is occurring or whether there are omissions? Thinking about Gibbons' example further, where did the other 25 minutes go?

5. Conclusions and recommendations

Fraser (2003: 217) reminds us that «even the best (...) transcript (...) will only be sufficiently accurate, not a hundred per cent accurate.» The question then is: for what aspects of the transcript is accuracy most important? John Du Bois and his colleagues (Du Bois, 2006; Du Bois et al., 1993) have proposed hierarchies for discourse transcription, where possible components of a transcript are ordered by importance and transcribers are urged to make explicit decisions about the levels of detail that will be included and how they will be included. Obviously this is an important way to build and conceive of transcripts and it would benefit court reporters to look at some of Du Bois' work.

It is my belief, however, that the most important component of a transcript is temporal accuracy. For situations where we only have a transcript and don't have a recording, this accuracy-need could be met simply by better use of punctuation to indicate pauses. Even a fuller adoption of the convention Gibbons (2003: 29) and others discuss — using two periods («..») for a short pause and three periods («...») for a longer pause — would help users interpret transcripts. As illustrated in excerpts (1) and (2), any sort of indication that time is passing would aid readers' comprehension. When we do have both a transcript and a recording, software, such as that discussed by Kendall (2005), can be used to link temporally accurate transcripts to their corresponding recordings — a methodology with great potential for forensic linguistics.

To conclude, it is my recommendation that language and law practitioners, court reporters and their organizations, and legal systems in general rethink their

⁷ Incidentally, this is Walker's critique against just using videotaped records of entire proceedings. She tells us, they «are time-consuming and difficult to handle, catalog, and review» (1990: 239). For more information, see Pearson and Berch's (2004) discussion of the advantages and disadvantages of videotaping depositions.

emphases on and conceptions of the *verbatim* — on the purely spoken — and reassess the relationship between the transcript and that which it represents.

References

- Campione, E.; Véronis, J. (2002). «A large-scale multilingual study of silent pause duration». In B. Bel; I. Marlien (eds). (2002). *Proceedings of the Speech Prosody 2002 Conference*. Aix-en-Provence: Laboratoire Parole et Langage. 199-202.
- Cotterill, J. (2005). «You do not have to say anything...: Instructing the jury on the defendant's right to silence in the English criminal justice system». *Multilingua* 24 (1/2). 7-24.
- Crown, C.; Feldstein, S. (1985). «Psychological correlates of silence and sound in conversational interaction». In Tannen, D.; Saville-Troike, M.(eds.)(1985). *Perspectives on Silence*. Norwood, New Jersey: Ablex Publishing Corporation. 31-54.
- Du Bois, J. W. (2006). «Transcription and the delicacy hierarchy: What is to be represented?». [Paper presented at the Linguistic Society of America Annual Meeting 2006: Albuquerque, New Mexico]
- Du Bois, J. W. et al. (1993). «Outline of discourse transcription». In Edwards, J.A.; Lampert, M. D. (eds.)(1993). *Talking Data: Transcription and Coding in Discourse Research*. Hillsdale, New Jersey: Lawrence Erlbaum Associates Inc. 45-89.
- Feldstein, S.; Sloan, B. (1984). «Actual and stereotyped speech tempos of extroverts and introverts». *Journal of Personality* 52 (2). 188-204.
- Feldstein, S.; Dohm, F.-A.; Crown, C. (1993). «Gender as a mediator in the perception of speech rate». *Bulletin of the Psychonomic Society* 31 (6). 521-524.
- Fraser, H. (2003). «Issues in transcription: Factors affecting the reliability of transcripts as evidence in legal cases». *Forensic Linguistics* 10(2). 203-226.
- Gibbons, J. (2003). *Forensic Linguistics: An Introduction to Language in the Justice System*. Malden: Blackwell Publishing.
- Jaworksi, A. (1993). *The Power of Silence: Social and Pragmatic Perspectives*. Newbury Park, CA: Sage.
- Kendall, T. (2005). «Advancing the utility of the transcript: A computer-enhanced methodology». [Paper presented at the Twelfth International Conference on Methods in Dialectology: Moncton, New Brunswick, Canada]
- Kendall, T. (2007). «On the status of pause in sociolinguistics». [paper presented at the Linguistic Society of America 2007 Annual Meeting: Anaheim, CA]
- Lehtonen, J.; Sajavaara, K. (1985). «The silent Finn». In Tannen, D.; Saville-Troike, M. (eds.) (1985). *Perspectives on Silence*. Norwood, New Jersey: Ablex Publishing Corporation. 193-201.
- Mendoza-Denton, N. (1995). «Pregnant pauses: Silence and authority in the Anita Hill-Clarence Thomas hearings». In Hall, K.; Bucholtz, M. (eds.). *Gender Articulated: Language and the Socially Constructed Self*. New York/London: Routledge. 51-66.

- Pearson, B.; Berch, R. W. (2004). «Video Depositions: Linguistic Endorsement and Caveats». In Gibbons, J. (ed.). (2004). *Language and the Law*. New York: Longman Group. 171-187.
- Rochester, S. R. (1973). «The significance of pauses in spontaneous speech». *Journal of Psycholinguistic Research* 2 (1). 51-81.
- Tannen, D. (1985). «Silence: Anything but». In Tannen, D.; Saville-Troike, M. (eds.) (1985). *Perspectives on Silence*. Norwood, New Jersey: Ablex Publishing Corporation. 93-111.
- Tannen, D.; Saville-Troike, M. (eds.) (1985). *Perspectives on Silence*. Norwood, New Jersey: Ablex Publishing Corporation.
- Walker, A. G. (1985). «The two faces of silence: The effect of witness hesitancy on lawyers' impressions». In Tannen, D.; Saville-Troike, M. (eds.) (1985). *Perspectives on Silence*. Norwood, New Jersey: Ablex Publishing Corporation. 55-75.
- Walker, A. G. (1990). «Language at work in the law: The customs, conventions, and appellate consequences of court reporting». In Levi, J.; Walker, A. G. (eds.) (1990). *Language in the Judicial Process*. New York/London: Plenum Press. 203-244.

Applying Plain Language Guidelines as Criteria in Legal Cases

Margaret van Naerssen
Immaculata University

Abstract

Plain language guidelines are typically used for educating writers and for setting standards for revising communications. However, they can also be tools for expert consultants/ witnesses in forensic linguists. Guidelines provide linguists with a set of accepted standards required in doing analyses in legal cases. This is a report on how guidelines were applied in a civil case (contract) and in a criminal case in the United States. The role of such guidelines may vary by state/ province and country. Also the requirements on expert witnesses may also vary. However, it is hoped that these two cases will suggest strategies that could be adapted for different contexts. The civil case involved a state law on the use of plain language in contracts and its application to a housing construction contract. At issue were several sections of the contract that the client found extremely difficult to understand and felt the company had not met its obligations under the contract. The criminal case involved a non-native English speaker. The relevant Plain Language guidelines were tied to a Presidential Memorandum on writing by federal government agencies. The documents were from a federal agency. Had the defendant adequately understood the procedures and his obligations? Was he negligent or had he conspired? The analysis procedures for both cases are introduced along with practical analysis problems encountered and their solutions.

1. Introduction

This is a brief report on two cases involving contracts, government regulations and correspondence. The analyses addressed comprehensibility of legal documents by native and non-native speakers (NNSs). Case #1 involves native English speakers in a housing contract case. Case #2 involves comprehension by a NNS of government communications. Using external standards can increase an expert's objectivity. The focus of this presentation is on the use of such standards, not on data.

2. Case #1: Comprehensibility Using State Law, Plus

The first case was based on a state law. My job was to do linguistic analyses within the framework of the law. Below is a sample paragraph from the housing contract in question, followed by an overview of the relevant law.

Notwithstanding anything to the contrary set forth herein, in the event Buyer orders in writing changes which are approved by Seller or selects extras as provided