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Code of Ethics for Linguists in Forensic Linguistics Consulting

Preamble

The following principles of ethical conduct are intended to guide those members of the Linguistic Society of America (LSA) who engage in forensic linguistic research and legal consulting and testimony; other scholarly and professional associations (for example, the International Association of Forensic Linguists) may have additional ethical codes that members of those organizations should also consult. The LSA has also produced a general ethics statement intended to provide a basic ethical framework for linguists of all subdisciplines, which provides further guidance on ethical practices in linguistic research.

I. Integrity

- A. Mindful of their obligations to furnish valid, reliable, and accurate linguistic information and analyses to the justice system, consultants must recognize that their duty is to provide objective scientific evidence that will assist the court in arriving at its conclusions—a duty that overrides any obligation owed to the retaining attorney or litigants who have engaged them. Under no circumstances will consultants knowingly provide linguistic analyses or conclusions that are misleading to an accurate fact-finding process.
- B. Linguists who are engaged in forensic linguistic consulting will not enter into any arrangements in which compensation is dependent on the outcome of the case.
- C. In appropriate cases (usually where clients are unable to pay full fee), consulting linguists may provide their services at reduced-fee rates or without charge, not only for the sake of the advancement of science but also as a duty to linguistic science, society, and the judicial system.
- D. Testimony and reports must be based upon the linguist's professional knowledge and expertise, and upon meticulous research that uses established and accepted scientific linguistic knowledge and methodology.

- E. Consultants will not add to, delete from, or otherwise alter their reports if doing so would materially affect the accuracy or reliability of their analyses or conclusions. If material within a report must be deleted because it is legally privileged or inadmissible, consultants should carefully consider whether such deletions materially affect the validity of their analyses or conclusions, and they will inform the retaining attorney or agent if the emended report would be inaccurate or misleading to the fact-finding process.

II. Objectivity and Professional Competency

- A. Consultants undertaking forensic linguistic analyses will state in their reports the methods they have followed and provide all relevant details of the data, equipment, statistical-reliability tests, and computer programs used.
- B. In making their analyses, consultants will take due account of—and act diligently in accordance with—the technical and professional methods available at the time and their appropriateness to the purposes of the inquiry and the data under examination.
- C. In reporting on cases where judgments concerning the consultant’s level of certainty of an opinion or conclusion are scientifically possible, consultants may indicate levels of their certainty of opinion or conclusion, expressed either quantitatively (e.g., “80% certainty”) or on a discursive scale (e.g., “with the highest degree of scientific certainty”).
- D. Consultants will maintain awareness of the limits of forensic linguistic analysis and of their own knowledge and competencies when agreeing to carry out work, making certain that they possess or can with certainty acquire the specific professional knowledge and skills at the level necessary to ensure that their linguistic analysis is performed at the highest level of competency.

III. Confidentiality and Conflict of Interest

- A. Consultants will not disclose confidential information acquired as a result of consulting relationships or negotiations leading towards the establishment of consulting relationships without proper and specific authority, unless there is a legal obligation to do so. Duties of confidentiality must be maintained even in a social or academic setting—both during the pendency of the case and thereafter—unless confidentiality is waived by the party to whom the duty is owed or the information that the linguist discloses is a matter of public record.
- B. In any publication or conference presentation that makes use of material or analysis generated by forensic consulting work, or of material that bears directly on the matters at issue in the work undertaken, linguists will reveal the nature of the consulting origins of the generated material. Moreover, when making such use of material generated by forensic linguistic consulting work, the consultant will, whenever feasible, obtain a waiver from any party to whom a duty of confidentiality is owed. If waiver is not feasible or is refused, and to the extent that the regulations of the government and the scholar’s Institutional Review Board allow, the consultant should consider whether anonymizing the factual presentation of the

material will adequately protect confidentiality. When confidentiality cannot be protected and is not waived, the consultant must forego academic use of such material.

- C. To avoid appearances of impropriety, during the pendency of a case consultants should avoid unnecessary contacts with an opposing party's expert witnesses or attorney outside the formal litigation process.
- D. Consultants should not accept an engagement that would result in the consultant's conflict of interest with respect to the potentially engaging party and another party on whose behalf the expert is currently a consultant. Before accepting an engagement that could present such a putative conflict, the consultant will reveal the nature of past, current, and proposed consulting engagements to the attorneys representing both parties so that the attorneys may determine whether a conflict of interest exists or potentially could arise.

IV. Recommended Practices

- A. Consultants may wish in their written reports to state explicitly that they are aware of the contents of this Code of Ethics. A statement to this effect might read in whole or in part as follows:

This report is based on my professional knowledge and expertise, and on my research using established and accepted scientific linguistic knowledge and methodology. The data and sources that I considered in forming the professional opinions expressed here are referenced where relevant throughout the report. If sworn as a witness, I could testify competently to the matters stated herein. I understand that my duty in providing written reports and giving evidence is to assist the court—and that this duty overrides any obligation to the party by whom I am engaged or the person who has paid or is liable to pay me. I confirm that I have complied and will continue to comply with my duty. My compensation is not contingent in any way on the outcome of this case.

- B. Consultants should also be mindful that their forensic work may be of utility and scientific importance to other linguists; in this respect, consultants are encouraged to share their results through active participation in the meetings and publications of appropriate professional organizations and related societies.

Approved by the LSA Executive Committee, October, 2011