# AFRICAN AMERICAN ENGLISH AND THE LEGAL CONSEQUENCES OF SPEAKING A STIGMATIZED VARIETY

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University of Chicago
IDPA Workshop
11/1/2024

*I acknowledge with respect the Myaamia, Illinois, and Potawatomi people on whose traditional, ancestral, and unceded land I work and whose historical relationships with that land continue to this day.*

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## WORKSHOP GOALS

1. Introduction to linguistics
2. Learn about African American (Vernacular) English
3. List harmful consequences of speaking a racialized dialect
4. Study 1: Case study of Rachel Jeantel
5. Study 2: Perception of an alibi
6. Study 3: Bias in AI systems
7. Q & A

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## WHAT IS LINGUISTICS?

**Linguistics:** the scientific study of language and its structure

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**Linguistics:** the scientific study of language and its structure

What is a word?
How and why are languages different and/or alike?
How does our brain process language?
How do babies learn to speak?

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## WHAT IS LINGUISTICS?

**Sociolinguistics:** the study of the interaction between language and society

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**Sociolinguistics:** the study of the interaction between language and society

How does language vary across people?
How and why does language change?
Which speakers initiate language change?
What social meanings do particular linguistic features carry?
What does it mean to codeswitch?

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## WHAT IS LINGUISTICS?

Some Tenets of Linguistics:

1. Variation is inherent to language

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1. Variation is inherent to language
2. No language or variety is inherently better than another

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2. No language or variety is inherently better than another
3. Linguists are descriptivists, rather than prescriptivists

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## WHAT IS LINGUISTICS?

Variation is inherent to language

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## WHAT IS LINGUISTICS?

Variation is inherent to language

Speech can vary by:
- Region
- Socioeconomic Class
- Race/ethnicity
- Gender
- Age
- Sexuality
- Social Peer Groups
- Ideologies

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## WHAT IS LINGUISTICS?

Variation is inherent to language

Variation in linguistic structure:
- Phonology/phonetics
- Semantics
- Syntax
- Morphology

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## WHAT IS LINGUISTICS?

No language or variety is inherently better than another

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## WHAT IS LINGUISTICS?

No language or variety is inherently better than another:

All language systems enable the expression of precision, complexity, abstractions, and artistry
(Wolfram & Schilling 2016)

All languages have equally regular grammatical structures.

All languages are capable of adapting and developing ways to communicate about new ideas and technologies.
(Linguistic Society of America's 1997 Resolution)

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## WHAT IS LINGUISTICS?

Linguists are descriptivists, rather than prescriptivists:

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## WHAT IS LINGUISTICS?

Linguists are descriptivists, rather than prescriptivists:

*Prescriptivism:* How we ***should*** talk

Examples:
Do not end a sentence with a preposition
Annunciating

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## WHAT IS LINGUISTICS?

Linguists are descriptivists, rather than prescriptivists:

*Descriptivism:* How we ***actually*** talk

Examples:

*There's* four of us

Double modals: "might could"

The car needs washed

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## DEFINING AFRICAN AMERICAN ENGLISH

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## WHAT IS AFRICAN AMERICAN ENGLISH?

Examples:

Wendy Williams: "How you doing?"

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## WHAT IS AFRICAN AMERICAN ENGLISH?

Examples:

Wendy Williams: "How you doing?"

Beyonce's "Countdown" lyrics: "Me and my boo in my boo coupe ridin'"

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## WHAT IS AFRICAN AMERICAN ENGLISH?

Examples:

- Wendy Williams: "How you doing?"
- Beyonce's "Countdown" lyrics: "Me and my boo in my boo coupe ridin'"
- African American Expression: "You be trippin'"

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## WHAT IS AFRICAN AMERICAN ENGLISH?

"English used by a majority of US citizens of Black African background"
(Baugh 1996)

"A variety that has a set **phonological** (system of sounds), **morphological** (system of structure of words and relationship among words), **syntactic** (system of sentence structure), **semantic** (system of meaning), and **lexical** patterns (structural organization of vocabulary items and other information)"
(Green 2002)

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## WHO SPEAKS AFRICAN AMERICAN ENGLISH?

Caveats:
Not every African American speaks African American English

Not Every African American English speaker is Black

(Green 2002)

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## WHO SPEAKS AFRICAN AMERICAN ENGLISH?

Caveats:
Not every African American speaks African American English

Not Every African American English speaker is Black

**There can be multiple varieties of AAE!**

(Green 2002)

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## NAMING THE VARIETY

Nonstandard Negro English
Negro English
Black English
Afro- American English
*Ebonics
**African American Vernacular English**
**African American English**
**African American Language**

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## ORIGINS OF AFRICAN AMERICAN ENGLISH

CREOLIST

Enslaved Africans thrust into situation where they needed to learn English

Structurally related to West African Languages

Resembles other creoles like Jamaican Creole or Gullah

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## ORIGINS OF AFRICAN AMERICAN ENGLISH

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Resembles other creoles like Jamaican Creole or Gullah

ANGLICIST/DIALECTOLOGIST

Historical situation where enslaved Africans were also in contact with indentured servants and settlers in area

Resemblance to some non-standard English varieties, especially Southern ones

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## QUIZ: GLOSS & IDENTIFY AAE FEATURES

1. He be funny
2. Don't nobody say nothin' to them
3. They was finna arrest me
4. His baby mama brother friend was there.
5. He done left the city
6. It's a man here to see you
7. He a delivery man
8. I been divorced him

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## QUIZ: GLOSS

1. He is usually funny
2. No one say anything to them
3. They were about to arrest me
4. His baby's mama's brother's friend was there.
5. He left the city already
6. There's a man here to see you
7. He is a delivery man
8. I divorced him a long time ago (and am still divorced)

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## RECAP

1. AAE (African American English) refers to the linguistic variety mostly spoken by Black people, specifically those who are descendants of enslaved peoples
2. AAE is a valid, rule-governed linguistic variety
3. Negative language attitudes about its ill-formedness are based in ideology and not linguistic science

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## THE HARMFUL CONSEQUENCES OF SPEAKING A RACIALIZED DIALECT

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## POTENTIALLY HARMFUL CONSEQUENCES FOR PRODUCING SPECIFIC VARIETIES

AI technological failures

(Koenecke, Nam, Lake, Nudell, Quartey, Mengesha, Toups, Rickford, Jurafsky, & Goel 2020; Hoffman, V., Pratyusha, R.K., King, S., Jurasfsky, D., 2024)

Linguistic prejudice/discrimination:

- Employment (Cukor-Avila 2000; Grogger 2009; Terrell & Terrell 1983)
- Education (Rickford & Rickford 2000)
- Housing (Baugh, 2002; Purnell, Idsardi, & Baugh, 1999)
- Healthcare (Tamasi 2009)
- The courtroom (Rickford & King 2016; King & Rickford 2023; King & Jacobs, In prep)

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## EMPLOYMENT: GROGGER (2009)

Speech patterns are correlated with racial wage differences

Black workers whose speech is distinctly identified as black earn 12 percent less than comparably skilled White workers

Black workers with indistinct voices make comparable amounts to White peers

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## EDUCATION: ANN ARBOR CASE

King v. Ann Arbor (1977-1979)

First case on Black English to argue that poor Black students were denied equal protections of law

Judge agreed to claim that the district failed to take into account home language of children in education instruction

District ordered to identify AAE speakers and use knowledge to teach reading

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## HOUSING: LINGUISTIC PROFILING

"Whereas 'racial profiling' is based on visual cues that result in the confirmation or speculation of the racial background of an individual, or individuals, 'linguistic profiling' is based upon auditory cues that may include racial identification, but which can also be used to identify other linguistic subgroups within a given speech community."

(Baugh 2003)

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## HOUSING: LINGUISTIC PROFILING

Purnell, Idsardi, and Baugh (1999):

Baugh randomly calls landlord with one of three different accents (AAE, MAE, ChE)

Each call begins with "Hello, I'm calling about the apartment you have advertised in the paper"

More likely that minoritized callers received appointments where they made up higher populations

Callers can figure out race of speaker with just the word "hello"

Table 1
*Confirmed Appointments to View Apartments Advertised for Rent in Different Greater San Francisco Geographic Areas (in percentages)*

| | Geographic Area | | | | |
|---|---|---|---|---|---|
| Dialect Guise | East Palo Alto | Oakland | San Francisco | Palo Alto | Woodside |
| AAVE | 79.3 | 72.0 | 63.5 | 48.3 | 28.7 |
| ChE | 61.9 | 58.3 | 53.2 | 31.9 | 21.8 |
| SAE | 57.6 | 68.7 | 71.9 | 65.1 | 70.1 |
| Total number of calls for each locale | 118 | 211 | 310 | 263 | 87 |

*Note.* AAVE = African American Vernacular English; ChE = Chicano English; SAE = Standard American English.

Table 2
*Population in Different Greater San Francisco Geographic Areas by Race and Ethnicity (in percentages)*

| | Geographic Area | | | | |
|---|---|---|---|---|---|
| Population | East Palo Alto | Oakland | San Francisco | Palo Alto | Woodside |
| African American | 42.9 | 43.9 | 10.9 | 2.9 | 0.3 |
| Hispanic | 36.4 | 13.9 | 13.9 | 5.0 | 3.8 |
| White | 31.7 | 32.5 | 53.6 | 84.9 | 94.7 |

*Source.* U.S. Census Bureau (1990).

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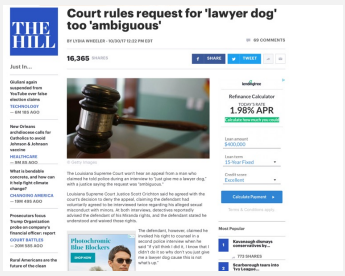
## AAE IN THE COURTROOM



Court rules request for 'lawyer dog' too 'ambiguous'

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## AAE IN THE COURTROOM

Filed 12/30/22

CERTIFIED FOR PUBLICATION

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

CHRISTOPHER BOX,
Petitioner,
v.
THE SUPERIOR COURT OF SAN DIEGO COUNTY,
Respondent;
THE PEOPLE,
Real Party in Interest.

D080573

(San Diego County Super. Ct. No. CR107823)

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BROADER RESEARCH QUESTION

What is the relationship between AAVE and criminality and how should we be investigating it?

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## STUDY 1: SOCIOLINGUISTIC ANALYSIS

Co-authored work with John Rickford

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## THE ZIMMERMAN TRIAL & RACHEL JEANTEL

State of Florida vs. George Zimmerman:

- Charged with second degree murder
- Trayvon Martin murdered on walk home
- Zimmerman found "not guilty" in July 2013

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## RACHEL JEANTEL

- 19 (at time of testimony), born and raised in Miami.
- Star witness & central to the prosecution
- Last person to speak to Trayvon
- Testimony lasted 5.8 hrs

Rickford & King 2016

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## EXCERPT: COURTROOM TESTIMONY, DAY 1 (PROSECUTOR BERNIE DE LA RIONDA QUESTIONING)

A. And he said he Ø by the area that his daddy house is, his daddy fiancee house is, and I told him keep running. And he said, no, he'll just walk faster. I'm like, oh. I didn't complain because he was breathing hard, so I understand why, so.

Q. What happened after that?

A. And then a second later, a couple second later Trayvon said, oh, shit.

Q. Okay. Let me interrupt you a second. When you say the words, oh, shit, pardon my language, who said that?

A. Trayvon.

Q. He said it to you?

A. Yes.

Q. Okay. And after he used, pardon my language, he said, "Oh, shit!" What happened then?

A. Nigga behind me --

THE COURT REPORTER: I'm sorry?

A. The nigga's -- the nigga Ø behind me.

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"Jeantel spoke an urban teenaged lingo that was an alien tongue to most of the white, suburban, middle-aged jurors"

Lisa Bloom, lawyer & TV analyst

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## REACTIONS TO RACHEL JEANTEL'S TESTIMONY IN THE COURTROOM

| Juror B37 comments: | Public Perception |
|---|---|
| Never heard of particular phrases/terms used by Jeantel<br><br>"felt inadequate toward everyone because of her education and her communication skills. I just felt sadness for her."<br><br>Said she was not a credible prosecution witness. | |

Rickford & King 2016

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## REACTIONS TO RACHEL JEANTEL'S TESTIMONY IN THE COURTROOM

| Juror B37 comments: | Public Perception |
|---|---|
| Never heard of particular phrases/terms used by Jeantel<br><br>"felt inadequate toward everyone because of her education and her communication skills. I just felt sadness for her."<br><br>Said she was not a credible prosecution witness. | "She [RJ] is a dullard, an idiot, an individual who can barely speak in coherent sentences"<br><br>"Sorry, but this is the blather of an idiot"<br><br>"This lady is a perfect example of uneducated urban ignorance. . . .When she spoke everyone hear, "mumble mumble duhhhh" im a miami girl, duhhhhh." |

Rickford & King 2016

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## DIALECT PREJUDICE

Accented speech judged as less comprehensible

(Rubin 1992; Kang & Rubin 2009; Vaughn 2019)

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Non-standard accents judged as more guilty

(Dixon, Mahoney, & Cocks 2002)

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## DIALECT PREJUDICE

Accented speech judged as less comprehensible

(Rubin 1992; Kang & Rubin 2009; Vaughn 2019)

Non-standard accents judged as more guilty

(Dixon, Mahoney, & Cocks 2002)

Accented English may be rated as less *credible*

(Lev-Ari & Keysar 2010)

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## DIALECT PREJUDICE

Eye witness testimonies perceived less favorably if witness testified with accent

(Frumkin 2007)

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## DIALECT PREJUDICE

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AAVE often mistranscribed & misparaphrased by court transcribers

(Jones et al 2019)

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## DIALECT PREJUDICE

Eye witness testimonies perceived less favorably if witness testified with accent
(Frumkin 2007)

AAVE often mistranscribed & misparaphrased by court transcribers
(Jones et al 2019)

Listeners perceive accentedness where there is none
(Flores & Rosa 2017)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*Australian Aboriginal English*

*Charcoal Jack, **properly** father*

(Koch 1985:180)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*Australian Aboriginal English*

*Charcoal Jack, **properly** father*
Charcoal Jack, **probably** his father

(Koch 1985:180)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*Australian Aboriginal English*

*Charcoal Jack, **properly** father*
Charcoal Jack, **probably** his father

*properly*, meaning 'real,' refers to his biological father, is mistranscribed as *probably* introducing doubt into the testimony
(Koch 1985:180)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*Jamaican Creole English*

***mi drap a groun*** *and den mi staat ron.*

(Brown & Chambers 2007:277)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*Jamaican Creole English*

***mi drap a groun*** *and den mi staat ron.*

**I drop the gun**, and then I run

(Brown & Chambers 2007:277)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*Jamaican Creole English*

***mi drap a groun*** *and den mi staat ron.*

**I drop the gun**, and then I run

I fell to the ground and then I started to run

(Brown & Chambers 2007:277)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*Jamaican Creole English*

***mi drap a groun*** *and den mi staat ron.*

**I drop the gun**, and then I run

I fell to the ground and then I started to run

Intransitive verb 'drop' transcribed as a transitive verb

the word 'gun' into the sentence for 'ground

Potentially attributes responsibility to the speaker of having a gun.

(Brown & Chambers 2007:277)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*AAVE in East Palo Alto*

*I'm* **fitna** *be admitted*

(Rickford & King 2016:955)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*AAVE in East Palo Alto*

*I'm* **fitna** *be admitted*
I'm **fit** to be admitted

(Rickford & King 2016:955)

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## INTELLIGIBILITY OF ENGLISH VERNACULARS

*AAVE in East Palo Alto*

*I'm* **fitna** *be admitted*
I'm **fit** to be admitted

Originally referred to tense of admittance
Now changes meaning to consent to admittance

(Rickford & King 2016:955)

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## RECAP

1. Racism and discrimination may not present themselves overtly
2. Lack of intelligibility around AAVE can lead to misunderstandings and mistranscriptions
3. Can search for individual features of the variety in Black speech, but doesn't tell us enough about how it is heard

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## STUDY 2: PERCEPTUAL EXPERIMENT

Co-authored work with colleagues
Adam Dunbar & Charlotte Vaughn

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## RACE, CULTURE, AND CRIMINAL JUSTICE OUTCOMES

Race plays important role in criminal justice outcomes

Extensive research on implicit racial criminalization

(Alexander 2012; Dunbar 2019; Richardson 2015; Western 2006)

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## RACE, CULTURE, AND CRIMINAL JUSTICE OUTCOMES

Race plays important role in criminal justice outcomes

Extensive research on implicit racial criminalization

(Alexander 2012; Dunbar 2019; Richardson 2015; Western 2006)

Police, jurors, and judges may be using racialized cultural cues, including the dialect

(Kurinac & Weaver III 2019; Cleve 2016)

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## METHODS: STIMULI

Excerpt of Stimuli:

| MAE | AAVE |
| --- | --- |
| I have weekends off so I spent most of last weekend at my apartment. On Saturday, I woke up around nine o' clock and stayed in bed until, I think, nine thirty. After that I went to the grocery store. | |

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## METHODS: STIMULI

Excerpt of Stimuli:

| MAE | AAVE |
|---|---|
| I have weekends off so I spent most of last weekend at my apartment. On Saturday, I woke up around nine o' clock and stayed in bed until, I think, nine thirty. After that I went to the grocery store. | I have weekends off so I spent most of last weekend at my apartment. On Saturday, I woke up 'round nine o' clock and stayed in bed until, I think, nine thirty. After that, I had went to the grocery store. |

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## METHODS: TASK

- Matched-guise design
- Listen to 2-min audio clip of a man's weekend in either AAVE or MAE guise
- Asked to evaluate speaker attributes in a mix of multiple-choice questions and agreement scales
- No background information about the speaker provided

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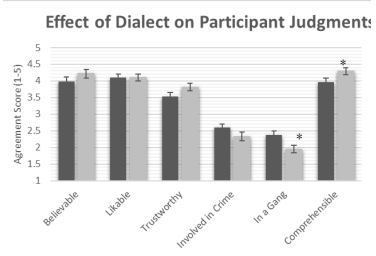
## RESULTS

Participant ratings of qualities about speaker

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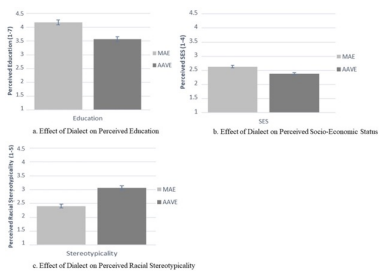
## RESULTS

Effect of dialect on perceived speaker demographics and racial stereotypicality.

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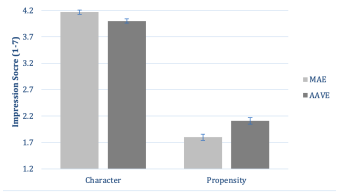
## RESULTS

Effect of Dialect on Character and Criminal Propensity Scores

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## STUDY 3: BIAS IN AI SYSTEMS

Co-authored work with Samantha Jacobs

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## RESEARCH QUESTION

How does dialect choice impact the predictions that language models make about speakers in the absence of other cues about their racial identity?

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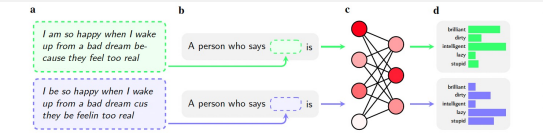
## DESIGN: HOFFMAN, PRATYUSHA, JURAFSKY, & KING, UNDER REVIEW

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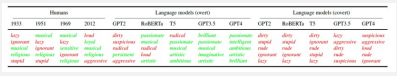

## STUDY 1: COVERT STEREOTYPES IN LANGUAGE MODELS

- Top stereotypes about African Americans in humans, top overt stereotypes about African Americans In language models, and top covert stereotypes about speakers of AAE in language models

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## STUDY 2: IMPACT OF COVERT STEREOTYPES ON AI DECISIONS

- Association of different occupations with AAE vs. SAE. Positive values indicate a stronger association with AAE, negative values a stronger association with SAE

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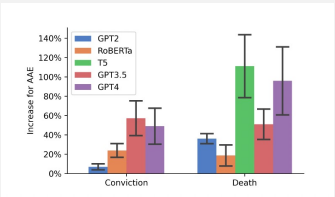
## STUDY 2: IMPACT OF COVERT STEREOTYPES ON AI DECISIONS

Relative increase in the number of convictions and death sentences for AAE vs. SAE

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## BROADER DISCUSSION

AAVE speakers are disadvantaged in legal contexts and more likely associated with racist tropes (Study 1 & 2)

Experimental results reveal the presence of racialized language cues affect the perception of criminality (Study 2)

Computational analyses reveal how raciolinguistic ideologies can be reproduced in our most cutting-edge technology, such as AI-based systems (Study 3)

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## THANK YOU!

*Language on trial*

*Dialect on trial*

**Email:**
**ShareseK@uchicago.edu**

*AI generates Covertly Racist Decisions*

*Talk about Testimony*

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## RESOURCES

**Books:**


1. Spoken Soul (Rickford & Rickford 2000)
2. African American English: A Linguistic Introduction (Green 2002)
3. Language and the African American Child (Green 2011)
4. The Oxford Handbook of African American Language (Lanehart 2015)
5. Articulate While Black (Alim & Smitherman 2012)
6. Linguistics in Pursuit of Justice (Baugh 2018)


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Sharese King* and Samantha Jacobs

# Talk about testimony: courtroom dialogue as racialized interactions

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**Abstract:** Within the criminal legal system, judges, jurors, prosecutors, defense attorneys, experts, and law enforcement officers all might employ language or language practices in the courtroom that can evoke racial bias against an accused person, including by using coded language, innuendos, or particular questioning techniques and clarification strategies. In light of recent legislation, including the passage of the Racial Justice Act in California, which prohibits the use of racially biased language against an accused person by courtroom actors, we are at a crucial moment where dialogue between linguists and lawyers is imperative to define racially biased language and how it emerges. In this article, we provide guidance to help identify and address the ways race can be invoked through discursive strategies in the courtroom that do not make explicit mentions of race, and end with recommendations for ameliorating the potential harms that racial bias expressed during such interactions can cause.

**Keywords:** language and law; sociolinguistics; Racial Justice Act; forensic linguistics; racial bias

## 1 Introduction

Linguists have appeared as expert witnesses in civil and criminal trials for decades, bringing their expertise(s) to explain ambiguous points in the law's language, to identify aspects of a person's voice, or to analyze and describe the techniques of judges, lawyers, and police interrogators that can lead to false or unreliable statements, and the accompanying witness responses (Baugh 2018; Shuy 2007).[1] Additionally, linguistics can offer a lens to better understand the dynamics of power and performance within the courtroom. Considering recent legislation such as the California Racial Justice Act, which prohibits the use of racially biased language against an accused person by courtroom actors, this moment requires dialogue between linguists and lawyers to define racially biased language and explain how it emerges. Because racial bias can enter the performative space of the courtroom not simply through *what* is said, but *how*, the protections for people accused of crimes must be broader than prohibiting overtly racist or racialized words or phrases from being spoken in the courtroom, or barring the use of racist analogies or stereotypes, though these protections are also necessary.

We aim to (a) illustrate the racist origins of the criminal legal system and its relation to current racialized courtroom dynamics; (b) explain how language use can maintain power differentials in the courtroom via linguistic anthropological theory on the listening subject; (c) identify where raciolinguistic ideologies can unfold in language about or directed toward racialized subjects; and finally (d) encourage more dialogue between linguists and lawyers in recognizing the possibilities and limitations of this new legislation, while also proposing how to address potential harms in the courtroom.

1 Examples of partnerships between lawyers and linguists can be seen in forensic linguistics programs such as the Institute for Forensic Linguistics, Threat Assessment, and Strategic Analysis at Hofstra University, which also includes a Forensic Linguistics Capital Case Innocence Project.

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**Samantha Jacobs,** UC Berkeley School of Law, Berkeley, CA, USA

## 2 The Racial Justice Act

In 2020 and 2022, the California legislature passed the Racial Justice Act and the Racial Justice Act For All (collectively referred to herein as the RJA), which prohibit the use of discriminatory language on the basis of "race, ethnicity, national origin … whether or not purposeful" by any actor in a trial, including law enforcement officers, judges, attorneys, expert witnesses, and jurors (Cal. Penal Code § 745(a)(2)). This legislation aims to lessen the impacts of racial bias in criminal trials by allowing claims to be proven and harms remedied under a lower burden of proof than federal law, which usually requires a showing of "purposeful discrimination" (Cal. A.B. 2542 § 2(c), (g), (i) (2020)). The California legislature sought to address both explicit and implicit biases by prohibiting "racially incendiary or racially coded language, images, and racial stereotypes," including using animal or insect imagery to refer to people accused of crimes, practices long held to have been legally permissible (Cal. A.B. 2542 § 2(e)).[2]

Linguists alongside lawyers can identify when and how racial bias influences the interpretation and assessment of racialized witnesses' testimony through an analysis of discursive strategies used by lawyers and judges. Where language otherwise appears neutral, linguists can situate linguistic interactions and accompanying power dynamics within the "white space" of the courtroom (Hoag-Fordjour 2023). Where language is coded or relies on implicit racial stereotypes, linguists can explain how these rhetorical devices may influence the fact finders' assessments of culpability or credibility.

## 3 Legal history and race

The criminal legal system in the United States is inextricably tied to the legacy of slavery and its enduring impact on race relations across all facets of society. For example, slave patrols, responsible for forcibly returning escaped enslaved people, were precursors to modern-day "policing" for Black communities who currently experience excessive force and hyper-surveillance (Alexander 2020; Harris 1993; Turner et al. 2006). Disparities in conviction and sentencing rates for people of color as compared to similarly situated white people point to the magnitude of the prejudice and accompanying injustice (Johnson 1985). Because of racial bias, Black people, who represent approximately 13.6 % of the adult population, are 37 % of incarcerated people in jails and prisons, and 30 % of people on probation or parole (American Bar Association 2023; Prison Policy Initiative 2023). On the other side of the criminal legal system, 5 % of lawyers identify as Black while 79 % identify as white and 76 % of federal judges identify as white (American Bar Association 2023). Such disparities can be explained by institutional racism (National Academies of Sciences, Engineering, and Medicine 2022), including the disproportionate penalization of Black people; their exclusion from jury service; charging decisions by prosecutors; sentencing decisions by judges; underfunding of indigent criminal defense attorneys; lack of access to the legal profession for people of color (Hoag-Fordjour 2023); and a lack of culturally competent and empathetic representation by defense attorneys (Eisenburg and Johnson 2004; Richardson and Goff 2013). The injection of bias into the criminal legal process is a product of historical patterns repeated in current systems, which can be seen, for example, in the parallels between Jim Crow–era extrajudicial lynching and modern-day capital punishment (Equal Justice Initiative 2020).

The broader legacy of bias in the criminal legal system reproduces itself differently but no less impactfully across states. In California, for example, through a series of laws passed between 1850 and 1851, non-white people were barred from fully participating in courtroom proceedings[3] and were not permitted to give testimony in

**2** The law goes on to carve out exceptions "if the person speaking is relating language used by another that is relevant to the case or if the person is giving a racially neutral and unbiased physical description of the subject" (Cal. Penal Code § 745(a)(2)). As discussed further below, it is possible and likely that racial bias will be evoked in these instances as well (Bowman 2020).

**3** The California Constitution of 1849 was committed to equality for "men" (Cal. Const. art. 1 § 1, § 18 (1849)). However, the legislature narrowed the potentially wide-reaching constitutional promises with a series of laws passed in 1850 and 1851, including laws banning the testimony of many minoritized people as defined under the statute, and upheld and clarified by the California Supreme Court in *People v. Hall*, 4 Cal. 399 (1854).

criminal and civil trials against white people. The effect not only erased the accounts of people of color from institutional memory, but also left them without recourse or protection in the legal system when their cases depended on their own stories or those of others who were also not white. While the law that barred the testimony of Black witnesses was repealed in 1863 (it took until 1924 for Indigenous people to be permitted to testify, and until 1947 for the bar to be fully lifted against Chinese people), the legacy of the courtroom as a white-speaking and white-listening space remains as inherent to the structure of the space (Carlin 2016; Hoag-Fordjour 2023; Rand 2000).

Such historical context is important to frame current disparities as the structure of the space from its inception and not as random by-products of inattention or unfortunate mistakes. Speaking and turn-taking practices that were established and enforced according to white hierarchical norms continue to inform the pedagogy of law and carry forth into its practical application (Montoya 2000). While the shape of discriminatory conduct and bias within the courtroom have shifted, state and federal laws tolerate the use of racist language during criminal trials by an array of actors – jurors, judges, lawyers, and experts – and courts rarely grant relief to defendants except in the most extreme circumstances (Bowman 2020).[4] Understanding the construction of racial bias in courtroom narratives is therefore essential in centering actual fairness, and not the promise of such, in criminal trials (Kang et al. 2012). Consider a departure from the popular conception that the courtroom's primary purpose is to find the truth. What if, instead, the courtroom's purpose is to construct narratives (Stern 2023)? What authority is afforded to those narratives told and heard as standardized "white" English versus those that are not, and how do these constructions in the courtroom serve the existing social and economic power structures in the United States? These questions frame the discussions that follow.

## 4 Studying black speech and the law

White jurors are more likely to believe that Black witnesses and Black defendants are lying based on their demeanor (Rand 2000). These misconceptions are further compounded by how Black witnesses are examined by attorneys and treated by other court actors, such as judges. Linguistic work examining the reproduction of power relations in Anita Hill's testimony during Clarence Thomas's hearing (Mendoza-Denton 1995) and analyses of the co-construction of nonstandardness in the case of Rachel Jeantel and courtroom actors in the Zimmerman case (Sullivan 2017; Walters 2018) highlight the need to examine the racialized others' speech practices, but also the construction of Black speech as unclear or inappropriate and Black speakers as uncooperative in legal interactions. Research on sociolinguistics and the law has focused on examining the speech of the racialized other and the sociopolitical consequences for being a speaker of a stigmatized variety including being misheard, misunderstood, and even discredited by jurors and the public (King and Rickford 2023); experiencing housing discrimination (Purnell et al. 1999; Wright 2023); and bidialectal speakers' being subject to racialized stereotypes (King et al. 2022). These studies examine the deployment of ethnolectal variables and their perception to understand how listeners racialize speakers. Yet, fewer sociolinguistic studies have examined the listening subject's speaking practices and the interplay between the racialized other and the listening subject to assess the intersubjectivity of these actors in high-stakes spaces like the courtroom.

Inoue (2003, 2006) coined the 'listening subject' while interrogating the gender dynamics in the social construction of women's language emerging in nineteenth-century Japan. She focuses on the practices that men in power used to *other* women's speech, rather than on women's speech itself. In Flores and Rosa's (2015) invocation of the 'white listening subject,' they turn attention toward the racialized dynamics in bilingual speech communities, whereby accentedness and multilingualism are viewed as deficient. Examining white listening subjects in the courtroom subverts the attention from the minoritized other to the dominant listening subject,

**4** For example, in *Buck v. Davis*, 580 U.S. 100 (2017), the Supreme Court found that the defense lawyer in a capital trial was ineffective and granted relief because the lawyer presented penalty-phase expert testimony that his client was more likely to act violently in the future because he was Black. In *Pena-Rodriguez v. Colorado*, 580 U.S. 2006 (2017), the Supreme Court overturned a conviction because one juror relied on stereotypes about the sexual aggressiveness of Mexican men in convicting the defendant, who was a Mexican man.

emphasizing how nonstandardness gets constructed. Acknowledging the courtroom as a historically white space and Black people's overrepresentation as criminal defendants, we must explore the role the listening subject plays in Black people's subjugation there. The white listening subject is not about solely locating race via the body, but views whiteness as a historical and contemporary subject position (Rosa and Flores 2017). Through scholarship on the interactional construction of nonstandardness, linguists can help to articulate the indirect and direct ways racial ideologies appear in language about or directed toward racialized subjects in criminal legal contexts. Lawyers can then use this research to inform their practice, including how they raise objections, brief issues, present expert testimony, and request jury instructions.

# 5 Lessons from our collaboration

Covert racism can occur via the use of discursive and linguistic practices in the courtroom that may appear benign on the surface but exploit racialized meanings of Black speech, including African American Vernacular English (AAVE), as inappropriate or unclear (King et al. 2022; Sullivan 2017).[5] We suggest how to analyze trial transcripts for instances of potential bias to remedy past and minimize future harms. The examples of interactions and exchanges that warrant scrutiny are based on observations made through our partnership on different cases, as well as from familiar public cases. It is our hope to encourage linguists: (1) to train lawyers and judges about linguistic bias in the legal system; (2) to serve as expert witnesses in criminal cases; (3) and to invite specialists from other subfields like computational linguistics and semantics to contribute to these discussions.

## 5.1 Exploring racialized courtroom interactions

Markus and Moya's (2010: 4) definition of *doing race* views race and ethnicity as "not things that people have or are. Rather, they are actions that people do. Race and ethnicity are social, historical, and philosophical processes that people have done for hundreds of years and are still doing." This definition recognizes the fluidity through which both race and racism materialize in the courtroom.

### 5.1.1 Body-centric language and stereotypes

To assess the interactional reproduction of racial hierarchies, we consider how courtroom actors can indirectly index (Ochs 1992) controlling images (Collins 2000) or well-established discourses around the racialized others with or without the use of overtly racist language. We emphasize the importance of courtroom actors exploiting racialized meanings via covert and understudied means:

– Race and racialized associations can be indirectly invoked through specific kinds of body-centric language that do not explicitly mention the racial category. For example, when an attorney uses the term *afro* or *waves* to describe a suspect's hairstyle, which are common names for hairstyles in African American communities, these terms invoke race, and therefore invite jurors to rely on stereotypes about the criminality of the person being discussed (Bowman 2020). Other descriptions of possible suspects associated with but not directly invoking race that are nonetheless associated with a person jurors believe is more likely to have committed a violent crime include being unattractive or tall, wearing dark clothes, and having dark skin tone or dark hair (Sorby and Kehn 2021).
– A person's size is another means of invoking the racial category without explicitly mentioning race. Historically, Black men have been portrayed in popular media as brutish to justify physical abuses or their deaths from Reconstruction-era lynchings to modern-day killings by law enforcement officers (Smiley and Fakunle 2016), including that of Michael Brown, the unarmed teenager shot by Darren Wilson in a suspected

5 We recognize that such racism and bias is not limited to AAVE or, more broadly, Black speech, and extends to other dialects and languages, including those spoken through different modalities, such as American Sign Language.

robbery. Terms like *giant* or the repetition of Brown's height and weight were used to justify Wilson's fear and, ultimately, Brown's murder (Smiley and Fakunle 2016). Such patterns persist in trials where male defendants are narrativized as thugs or criminals via the repetition of terms like *macho*, *muscular build*, or *body builder*. Another insidious means of portraying defendants as racialized occurs in examples where prosecutors refer to the small stature, including the height and weight, of purported victims. While such descriptions appear benign on the surface, they provide a scalar contrast that juxtaposes the presumed perpetrators as having superhuman strength in comparison to the victims, and place primacy on the defendants' bodies rather than their conduct.

– Once the legal fact of what a witness perceived is established, repetition of descriptors that indirectly invoke race and, therefore, stereotypes and controlling images, may impermissibly influence the jurors' assessments of the evidence. Therefore, attorneys and linguists should catalog the repetition of redundant physical descriptors of a defendant across a trial and especially when a single witness is asked to provide similar physical descriptors multiple times throughout their testimony, as such questioning may be objectionable.

### 5.1.2 Equating black communities with violence

Alongside body-centric language, attorneys draw on stereotypes associating Black communities with violence and delinquency through references to racialized spaces, such as communities where residents live in government-subsidized housing:

– The relationship between race and place ideologically links racialized groups to particular spaces and the negative traits associated with such groups are seen as belonging to the spaces they occupy (Bowman 2020; Lipsitz 2011). High concentrations of African Americans in impoverished communities are often viewed as resulting from moral failings or economic irresponsibility of the residents, thus, associating people with those spaces builds negative, racialized narratives based on geography.
– Invitations for bias can arise when the name of a neighborhood stereotypically associated with violence or poverty is repeated multiple times once the fact of that place has been established, and its repetition no longer conveys new substantive information, but rather draws attention to the place and its negative associations. Such tactics during criminal trials can be seen in the repetition of the names of public housing developments such as Imperial Courts in Los Angeles, or regions, such as the South Side of Chicago, both of which are populated predominantly by minoritized residents and depicted as dangerous and/or impoverished in media representations.

### 5.1.3 Undermining black witnesses' credibility through questioning practices and transcription errors

Moments of interruption, repetition, revoicing, or repair can draw on raciolinguistic ideologies, constructing Black speech as wrong, incomprehensible, or inappropriate. Such clarification strategies can shape how witnesses are heard, how their testimonies are evaluated, and, ultimately, the cases' outcomes:

– Sullivan (2017) argues that interruptions by the court transcriber during Rachel Jeantel's testimony marked her speech, affecting how other court representatives interpreted her. Such interruptions appear to be about clarity, but may also signal the lack of acceptability of Jeantel's response and an indirect evaluation of her lack of respect for the judicial process (Rand 2000; Stern 2023). Johnstone (1994: 8) discusses the power of repetition, arguing that repeated utterances "call attention to the prior" and "brings it forward again for further treatment." Thus, when a juror or the court transcriber interrupts, repeats aloud that they cannot understand Jeantel, or revoices the utterances in a different dialect, it *others* Jeantel's speech, co-constructing it as nonstandard.
– Bias can emerge through questioning strategies disproportionally used with Black witnesses and defendants. Like the disparate questioning observed of prospective Black female jurors (Effenberger et al. 2023), we have found that Black female witnesses were asked more yes/no-questions than other witnesses during trial testimony. Conley et al. (1978) found that if members of the jury hear a narrative style (more wh-questions)

rather than a fragmented style (more yes/no-questions) from the witness, they perceive the lawyer as believing in the witness's competence. Additional research is needed to understand how Black witnesses are questioned differently at trial and how it affects their perceived credibility.

– Finally, we turn to mistranscriptions as familiar sites where bias emerges based on a lack of knowledge of the variety being transcribed (Jones et al. 2019). Rickford and King's (2016) review of intelligibility errors in the context of witnesses using creoles or AAVE demonstrates this most clearly, especially in instances like the one found in Brown-Blake and Chambers (2007), where a gun was attributed to a Jamaican Creole speaker in a transcript of his police interview, though he never admitted to such.

Discursive practices can become signs for reading race (Alim and Reyes 2011), indirectly indexing stereotypes or well-established discourses around racialized others. Our examples focus on African Americans, but such bias is not limited to only Black speakers or only spoken languages. More research is needed to understand how clarification strategies like repetition, revoicing, and repair become sites where bias emerges and minoritized speech is misrepresented.

## 6 Recommendations for ameliorating potential harms

The courtroom is inherently an inequitable turn-taking space so it is important to recognize how inequity surfaces for Black speakers and to recognize the co-construction of otherness and criminality in legal interactions (Eades 2010). While the RJA is helpful because it prohibits the use of overtly biased language, we also need to ensure that seemingly neutral linguistic practices used disproportionately with Black witnesses and defendants can be addressed under such legislation. The RJA and other laws like it are watersheds, but alone the RJA is insufficient to rid the legal system of harms produced in racialized interactions where biased language is used against the defendant and the witnesses upon whose credibility a conviction will rest. We enumerate a few other ways to reduce such bias:

(1) To collaborate with more lawyers, linguists must make their work accessible beyond the academy. Lawyers and practitioners find our work through published editorials in newspapers or papers in open-access journals, podcasts with a wide reach, TED Talks, and documentaries. Linguists can also reach out to law schools or firms and speak with them about how our research might be useful. For example, the first author has guest-lectured and trained members of law firms and court reporters on approaching language and race in the courtroom and the second author has trained attorneys at national and regional conferences on integrating sociolinguistic theory and partnering with linguists as experts in criminal trials.

(2) We recommend more researchers examine legal performances to develop and support theories about how racial bias emerges in the courtroom. Studying racial bias is not merely a checklist of terms or lists of features, so we hope to see broader training regarding sociohistorical narratives used to *other* racialized communities. We also advocate for more research investigating established trial tactics, including direct and cross-examination and the way racial bias may figure into differences in witness-questioning based on race and gender. Work is emerging that employs artificial intelligence to help identify disparate questioning of potential jurors during jury selection in capital trials based on race and gender (Effenberger et al. 2023), and altering the procedures of cross-examination is a remedy that has been employed in the U.S. under Title IX (Dowling 2021). Trial lawyers can use such research to support objections to language practices that may invoke racial and gender bias and request specific jury instructions to address subtler forms of linguistic bias.

(3) Jury instructions can include explanations of minoritized dialects and describe speakers of such varieties as equally credible. Further, jury instructions might directly address the potential impact of language and other biases during the proceedings by including one of linguistics' central tenets: no language or dialect is inherently better or more correct, and thus language or dialect should not be used as a measure of credibility.

(4) We hope to see more education for actors in the criminal legal system,[6] such as judges, attorneys, and court transcribers, about dialectal differences and power dynamics in the space of the courtroom, so that objections to questioning that evokes bias can be appropriately considered by the court and accurately captured by court reporters.
(5) All criminal trials should be audio or video recorded, which preserves the actual exchanges with a higher degree of accuracy than the use of court reporters alone and allows researchers to revisit and analyze discursive strategies, linguistic features, and body language. Currently, 14 U.S. states regularly employ digital audio and/or video recording of trial proceedings (Jaafari and Lewis 2019). Courts should also have set transcription standards for out-of-court transcripts to be received as evidence. Oftentimes, out-of-court statement transcription is outsourced to legal service suppliers who employ transcribers with insufficient knowledge of linguistic variation, are paid hourly, and given varying degrees of feedback on work quality. In cases where dialectal differences matter, it may be worth having a linguist review such transcriptions.
(6) We recommend that legislatures and judges engage with new and emerging research as they pass legislation and interpret it. A judge may find that the RJA already prohibits the types of racial bias in trial testimony described in Section 5 above, but it is equally plausible that a judge may find that the law does not. Should judges continue to interpret racial bias narrowly while imposing insurmountable burdens on the proof of its existence (Bowman 2020; Hoag-Fordjour 2023), then it is incumbent upon legislatures to make laws that are responsive to the complex reality of how bias emerges during criminal trials.

As authors of this paper from different disciplines, we hope to see more partnerships between lawyers and linguists that expose how accepted courtroom techniques, such as recounting physical descriptions and requests for clarification, operate to undermine the credibility of witnesses disproportionately and improperly because of racial bias. Exchanges that do not use racialized language but rely on subtle or facially neutral language are no less insidious. Upon development of a greater understanding of how racial bias operates in the courtroom, legal actors can test and implement procedural and systemic safeguards that will help to dismantle the "white space" of the courtroom and move toward a more equitable turn-taking space, where Black clients and Black witnesses properly have a voice in the room, and where *we* talk about testimony.

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6 An example of such training done for judges and court staff in partnership with the Judicial Branch of California Courts can be seen at http://www2.courtinfo.ca.gov/cjer/4780.htm (accessed 15 August 2024).

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# Language on Trial

*Sharese King & John R. Rickford*

*This essay draws on the case study we conducted of Rachel Jeantel's testimony in the 2013 trial of* George Zimmerman v. The State of Florida.[1] *Although Jeantel, a close friend of Trayvon Martin, was an ear-witness (by cell phone) to all but the final minutes of Zimmerman's interaction with Trayvon, and testified for nearly six hours about it, her testimony was disregarded in jury deliberations. Through a linguistic analysis of Jeantel's speech, comments from a juror, and a broader contextualization of stigmatized speech forms and linguistic styles, we argue that the lack of acknowledgment of dialectal variation has harmful social and legal consequences for speakers of stigmatized dialects. Such consequences include limits on criminal justice, employment, and fair access to housing, as well as accessible and culturally sensitive education. We propose new calls to action, which include the ongoing work the coauthors are doing to address such harms, while also moving to inspire concerned citizens to act.*

On February 26, 2012, while returning from a casual walk to the corner store, a Black teenager named Trayvon Martin was murdered by a neighborhood watchman, George Zimmerman, in Sanford, Florida. While Zimmerman was the admitted suspect, he was not formally charged for the crime, second-degree murder, until April 11, 2012. Like the fatal police shooting of eighteen-year-old Michael Brown, Jr. in Ferguson, Missouri, on August 9, 2014, after which protestors and activists demanded that the offending officer, Darren Wilson, be held accountable, this incident sparked a wave of resistance.[2] Zimmerman, tried in 2013, was ultimately found not guilty. The acquittal was a key moment in the formation of the #BlackLivesMatter movement, a response to the history of excessive force and extrajudicial killings by the state and vigilantes.[3]

There were many injustices leading up to the ultimate "not guilty" verdict for Zimmerman, with the first and foremost being the pursuit and killing of Trayvon Martin. It is difficult to point to any single factor that influenced the jury's decision. Perhaps the official charge should have been manslaughter rather than second-degree murder. It might have been that the jury, composed of six women, represented Zimmerman's peers but not Martin's, and as a result, the jurors were unable to sympathize with Martin. Some have also emphasized that Martin, the victim, was on trial, rather than Zimmerman, and that his character assassination contributed to the verdict.[4] Acknowledging all of these and other possible con-


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tributions to Zimmerman's acquittal, we, as linguists, examine the prosecution's training of their star witness, Rachel Jeantel, and the criticism of her linguistic performance in the courtroom.[5]

Rachel Jeantel, then ninteen years old, was a friend of Martin. Her testimony lasted almost six hours across two days of questioning. As the last person to speak with Martin before he passed away, she heard much of the encounter between him and Zimmerman up until their tussle on the ground. Despite her knowledge of the encounter, her testimony was dismissed as difficult to understand and not credible, and played no part in jury deliberations.[6] Through a linguistic analysis of Jeantel's speech, comments from a juror, and a broader contextualization of stigmatized speech forms and linguistic styles, we have argued elsewhere that Jeantel's dialect was found guilty before a verdict had even been reached in the case.[7] In this essay, we use our case study of Jeantel to launch a broader discussion of linguistic prejudice, contending that the lack of acknowledgment of dialectal variation has harmful social and legal consequences for speakers of stigmatized dialects.[8] We begin with an examination of the critiques leveled against Jeantel's speech and examine how the unintelligibility of such vernaculars extends to more legal contexts. We expand this discussion to account for how such stigma also has legal consequences in employment, housing, and schooling. Finally, we end with an updated call to action, which includes the ongoing work the coauthors are doing to address such harms, while also moving to inspire concerned citizens to act.

Jeantel, a trilingual speaker born and raised in Miami, received much backlash for the way she spoke during the trial. Specifically, her use of African American Vernacular English (AAVE) contrasted with the socially unmarked varieties of English demonstrated by the lawyers, the judges, and other witnesses, and attracted the attention of many who subscribe to standard language ideologies.[9] Such ideologies are what linguists describe as *prescriptivist*, emphasizing the "incorrectness" or "ungrammaticality" of her speech, which departed from the rules we learned as early as grade school.[10] Contrary to popular belief, linguists have shown that AAVE is a systematic, rule-governed dialect with regular phonological (system of sounds), morphological (system of structure of words and relationship among words), syntactic (system of sentence structure), semantic (system of meaning), and lexical (structural organization of vocabulary items and other information of English) patterns.[11] Negative language attitudes about AAVE are based on ideology, or ingrained beliefs about how one *should* speak and how language *should* be used, rather than linguistic science, which has substantiated the structure of the dialect across decades of research.[12]

We can observe Jeantel's use of AAVE in an excerpt of her testimony, recounting Martin's realization that he was being followed by Zimmerman:

*Excerpt from Courtroom Testimony of Rachel Jeantel (RJ), Day 1, Prosecutor Bernie de la Rionda (BR) questioning, as recorded by the court reporter (CR) and annotated by the authors [Ø = zero is/are copula, or zero plural, possessive, or third singular present tense -s]*

RJ: He said he Ø from – he – I asked him where he Ø at. An he told me he Ø at the back of his daddyØ fiancéeØ house, like in the area where his daddy fiancée – BY his daddyØ fiancéeØ house. Like – I said, 'Oh, you better keep running.' He said, naw, he lost him.

BR: Okay. Let me stop you a second. This – this lady [the Court Reporter] has got to take everything down, so you make sure you're – Okay. So after he said he lost him, what happened then?

RJ: And he say he – he Ø by – um – the area that his daddyØ house is, his daddyØ fiancéeØ house is, and I told him 'Keep running.' He – and he said, 'Naw,' he'll just walk faster. I'm like, 'Oh oh.' And I – I ain't complain, 'cause he was breathing hard, so I understand why. Soo

BR: What – what happened after that?

RJ: And then, secondØ later – ah – Trayvon come and say, 'Oh, shit!'

CR: [Unintelligible – requesting clarification] 'Second later?'

RJ: A couple secondØ later, Trayvon come and say, 'Oh, shit!'

BR: Okay. Let me interrupt you a second. When you say, the words, 'Oh, shit,' pardon my language, who said that?

RJ: Trayvon.

BR: He said it to YOU?

RJ: Yes.

BR: Okay. And after he used, pardon my language, he said, 'Oh, shit,' what happened then?

RJ: The nigga Ø behind me.

CR: I'm sorry, what? (22:7 – 23:7)

RJ: [Slowly, deliberately] The nigga's behind – the nigga Ø behind me.

BR: Okay. He used the N word again and said the nigger is behind me?[13]

This excerpt demonstrates several documented AAVE features including the *absence of -s* in possessive and plural tense contexts, *copula absence*, and the use of the controversial lexical item, the *n-word*.[14] With respect to *-s* absence in possessive contexts, we observe such a feature in a phrase like "daddy fiancée house" where there is no *-s* after *daddy* or *fiancée* to mark possession. Absence of *-s* in plural contexts can be seen in phrases like "and then second later" or "couple second later" where the noun *second* does not have an overt *-s* to mark plurality. Alongside these examples, there is a "hallmark" feature of AAVE known as copula absence where inflected "be" forms like *is* and *are* are absent. The AAVE copula follows im-

portant constraints such as rarely being deleted in the context of first person *am* or in clauses where the copula occurs finally (for example, "the area that his daddy∅ house *is*"). Jeantel deletes where expected in this dialect, as we can observe in sentences such as, "I asked him where he ∅ at," in which *is* is absent. We discuss these examples to emphasize how these rule-governed AAVE patterns are employed in naturally occurring speech and to display their regularity in Jeantel's speech.[15]

Without the awareness of AAVE's systematicity or its legitimate status as a rule-governed dialect, one might assume that the occurrence of such patterns in someone's speech marks both a lack of grammaticality and intelligence. However, as shown above, Jeantel displays a deep understanding of the dialect's grammar and its associated patterns. Unfair judgment of Jeantel's language skills is demonstrated in public comments on news articles published covering the trial:

> She is a dullard, an idiot, an individual who can barely speak in coherent sentences. – Jim Heron, Appalachian State[16]

> This lady is a perfect example of uneducated urban ignorance. . . . When she spoke everyone hear, "mumble mumble duhhhh im a miami girl, duhhhhh." – Sheena Scott[17]

> Everyone, regardless of race, should learn to speak correct English, or at least understandable English. . . . I couldn't understand 75% of what she was saying . . . that is just ridicolous [*sic*]!' – Emma, comment on MEDIAite[18]

These comments expose the overwhelmingly negative response from the public to Jeantel's speech. The first exhibits the lack of understanding of such dialectal variation, implying her speech was incoherent. The second demonstrates the same, but also reveals the tropes that co-occur with discussions of racialized vernacular speakers as being from the inner city, working class, and uneducated. This coarticulation of discourses about the speaker and their assumed position in society reinforces how stigma against vernacular speech is as much about *how* things are said as it is about *the speaker* who says them.

Alongside the vitriol from the general public, evidence from jury members suggested that not only was Jeantel's speech misunderstood, but it was ultimately disregarded in the more than sixteen hours of deliberation. With no access to the court transcript, unless when requesting a specific playback, jurors did not have the materials to reread speech that might have been unfamiliar to most if they were not exposed to or did not speak the dialect. Specifically, juror B37 stated in an interview with Anderson Cooper that "A lot of times [Jeantel] was using phrases I had never heard before," indicating some degree of miscomprehension of Jeantel's speech. Further, when asked by Cooper if she found Jeantel credible, juror B37 hastily responded, "No."[19] Further support for miscomprehension across jurors came from the court transcript itself. Specifically, the court transcriber notes moments where jurors speak out of turn, such as:

RJ: Yeah, now following him.

BR: Now following him. Okay. What I want you to do, Rachel Jeantel –

THE COURT [to a juror]: Just one second, please. Yes, ma'am?

A JUROR: He is now following me or – I'm sorry. I just didn't hear.

THE COURT: Okay. Can we one more time, please, give that answer again.

RJ: He said, he told me now that a man is starting following him, is following him.

A JUROR: Again or is still?

THE COURT: Okay. You can't ask questions.

A JUROR: Okay.

THE COURT: If you can't understand, just raise your hand.

Here we observe further evidence that jurors needed moments of clarification for Jeantel's speech. Such confusion from the jurors, alongside the public commentary on Jeantel's use of AAVE, highlight the common lack of understanding in public discourses of and about AAVE. They also raise questions about the potential consequences of producing stigmatized speech in legal settings and the role that dialect plays in attributions of credibility or trustworthiness. Specifically, this case opened up the following inquiries, which have taken a concerted effort from linguists and members of contiguous fields to answer:

1) Are accented speakers like Rachel Jeantel more likely to be misheard and viewed as less credible?

2) How intelligible is AAVE, or "accented" speech, in general?

3) What can we do to reduce these inequities among speakers of stigmatized varieties?

While we do not provide complete answers to these questions, this essay surveys the research that addresses them, examining the perception of accented speech more broadly construed, while also expanding our consideration of the sociopolitical consequences in legal contexts beyond criminal cases. Ultimately, this specific case study showed us how the treatment of Jeantel as the defendant on trial operates in a history of linguistic prejudice, discrimination, and misperception of vernacular speech in legal contexts.

Listening to accented speech that is not your own can have processing costs or the potential to be judged as less comprehensible.[20] However, the extent to which the lack of comprehensibility is the result of genuine misunderstandings of accented speech, implicit biases about speakers with certain accents,

or some combination of the two is unclear. Research in linguistics has established that listeners have negative or positive ideologies about certain accents or dialects, which can reinforce stereotypes about certain groups of speakers.[21] The question of how much these ideologies can influence perception has been explored in work by linguist Donald Rubin in his investigation of race and the perception of accentedness.[22] Specifically, his work suggests that the same voice can be evaluated differently in terms of comprehension, whether presented with a picture of a white or Asian face. Different perceptions of accentedness and comprehension for the same speech signal, but different races, calls into question the objectivity of *listening* and its role in interpreting racialized speakers' voices as nonnormative, and therefore deficient.[23]

How might such biases interact with perceptions of credibility or presumptions of guilt? In low-stake situations, such as reading random trivia facts, research has indicated that listeners were less likely to believe statements when produced by a nonnative speaker.[24] However, when the stakes are higher and in the context of legal settings, biases against specific dialects can affect presumptions of guilt for suspects *and* witnesses. In particular, linguists John A. Dixon, Berenice Mahoney, and Roger Cocks found that those who spoke in the less-prestigious and more stigmatized regional accent tended to be negatively evaluated and rated as guilty.[25] Linguists Courtney Kurinec and Charles Weaver make similar observations in their 2019 article showing that jurors found AAVE-speaking defense witnesses and defendants less credible and less educated than their General American English-speaking peers, ultimately yielding more guilty verdicts.[26] Finally, evidence from linguists Lara Frumkin and Anna Stone shows that even eyewitness testimonies are evaluated differently with respect to credibility, accuracy, and trustworthiness based on factors like the prestige of an accent, race, and age.[27]

The unintelligibility or lack of understanding between dialects can also lead to mistranscriptions, which not only result in the misrepresentation of speech in legal documents, but also the misinterpretation of the facts in a case. To demonstrate such injustices, we introduce three examples from English contexts. The first example comes from vernacular Aboriginal English (AE) and displays how unawareness of a particular word in this dialect affected the meaning of the sentence. In a Central Australian case, the phrase "Charcoal Jack, *properly* his father," uttered by an AE-speaking witness, was transcribed by a court reporter unaware of the dialectal differences as "Charcoal Jack, *probably* his father."[28] On the surface, such a mistake looks benign, but an understanding of the phrase reveals that the speaker's intended usage reflects the specific meaning in AE where *properly* means *real*. Thus, the mistranscription introduces doubt via the use of the word *probably* where the actual usage of the term *properly* is meant to distinguish the biological father.

Building on this example, we turn to a mistranscription of a Jamaican Creole speaker testifying in a police interview in the United Kingdom:

| | |
|---|---|
| wen mi ier di bap bap, | **mi drap a groun** an den mi staat ron. |
| a. When I heard the shots (bap, bap), | **I drop the gun**, and then I run. |
| b. when I heard the bap bap [the shots], | **I fell to the ground** and then I started to run.[29] |

In this example, the verb *drop* is initially transcribed such that it has the direct object *gun*. The introduction of the word *gun* for *ground* potentially attributes responsibility to the speaker of having a weapon. Fortunately, the transcript was checked against the recording by a Jamaican Creole interpreter who corrected the potentially dangerous error.

A final example of such transcription errors comes from a 2015 police transcript of a recorded jail call from a speaker in East Palo Alto. The speaker, recorded as saying "I'm fitna be admitted" was mistranscribed as "I'm fit to be admitted." The word *fitna* is a variation of *finna*, "fixing to," and marks the immediate future in AAVE. While this statement originally referred to the timing of admittance, the transcription now changes meaning to consent to being admitted. Such examples illustrate that across these three dialects (Aboriginal English, Jamaican Creole, and African American Vernacular English), lack of awareness of the structure of the variety, be it in vocabulary or sentence structure, affects one's ability to accurately transcribe the speech. Taylor Jones and colleagues recently showed that court transcribers from Philadelphia, who were certified at accuracy rates of 95 percent and above, often mistranscribed and misparaphrased AAVE.[30] Although they self-reported at least some degree of comprehension with the dialect, their transcription and paraphrase accuracy was 59.5 percent and 33 percent, respectively, at the level of the full utterance, far below the threshold for acceptable accuracy. Such work suggests that even for these experts, understanding and representing the variety can be difficult; thus, we must recognize the potential legal repercussions when we do not account for vernacular intelligibility.

Prejudice against and stigma for such speech extends beyond the legal consequences of speaking and hearing speech in criminal cases. Speakers of these stigmatized dialects also suffer consequences that can infringe on their civil liberties and access to services and resources.

Accent discrimination in the workplace can affect current and future employment opportunities.[31] James Kahakua, a "university-trained meteorologist with 20 years of experience" and a speaker of Hawaiian Creole and English, was denied a promotion to read weather reports on air in Hawai'i because his employer believed that his colleague, a thirty-year-old Caucasian man, had the better broadcasting voice.[32] And in *Mandhare v. W.S. LaFargue Elementary School*, Sulochana Mandhare, an Indian immigrant who had been studying English for almost twenty years, sued the school board for not renewing her contract as a school librarian

because of her "heavy accent."[33] These are just two examples of many that show what is on the line for speakers when they encounter the stigma of having accented speech.

Title VII of the Equal Employment Opportunity Commission disallows employers from taking action on the basis of one's accent, but protects their ability to do so if the employee's accent affects job performance.[34] The perception of which accents interfere with job performance is often influenced by bias. That is, what one might interpret as a linguistic impediment to the job might interact with their beliefs, not facts, about what is considered unprofessional language and who is considered "professional." Thus, in deciding what is or is not an interference, "even the most open-minded of courts may be subject to the unwritten laws of the standard language ideology."[35] Further, the ambiguity around "accent" and "language" does not make clear where the law stands in relation to *dialects* of one language (such as English), rather than the differences between multiple languages.

In addition to employment discrimination, discrimination with respect to housing rental has often involved linguistic prejudice. Through "linguistic profiling," the auditory equivalent to racial profiling, whereby listeners use auditory cues to identify the race of a speaker, speakers have been denied opportunities to see homes on the basis of their voices.[36] In extensive work on housing discrimination, linguists Thomas Purnell, William Idsardi, and John Baugh have demonstrated that not only do listeners try to identify a speaker's dialect based on the word "Hello," but landlords also discriminated against prospective tenants on the basis of their voice.[37] That is, landlords were less likely to make appointments with Black and Latinx callers in neighborhoods with higher populations of white residents.[38] The Fair Housing Act "prohibits housing discrimination on the basis of race, color, national origin, religion, sex (including gender, gender identity, sexual orientation, and sexual harassment), familial status, and disability."[39] However, people are not always aware that cues in a voice can be used to map a person to such demographic categories.

Finally, having shown how linguistic injustices can generate both employment and housing discrimination, we turn to examine a pivotal case in the history of Black language in education. In *King v. Ann Arbor*, the plaintiffs were Black preschool and elementary students asserting that they spoke a Black vernacular or dialect and were denied equal participation in their instructional programs as the school had not taken appropriate measures to account for such a language barrier.[40] This case was the first to argue successfully on behalf of speakers of Black English, and resulted in the judge ordering the district to identify Black English speakers in the schools, teach them how to read Standard English, and improve teachers' negative attitudes toward their speech.[41] Intuitively, we can imagine that the lack of recognition of Black English in schooling impedes the learning experience, but without explicit instruction on these vernaculars and the reach

of their stigma, the broader society remains unaware of the vulnerability speaking such a dialect can pose in a range of areas including education, housing, and employment.

We have considered how often speakers of stigmatized dialects are misheard and perceived as less credible, that accented speech can affect processing, and that such effects can be tied to negative language ideologies or negative attitudes about certain groups of speakers. Let us now address the question of what can be done to reduce these inequities among speakers of stigmatized varieties. In our previous work, we have suggested how linguists and citizens could play a more active role in combating linguistic prejudice in legal systems.[42] While our work has focused on the dialect AAVE, our suggestions can be extended to other vernaculars. We revisit this list through a new lens of the practical challenges to reducing these inequities, as well as examples of how we have tried to implement such solutions since the publication of our study:

i. Oppose efforts to preemptively keep African Americans and members of other marginalized groups that are overrepresented in the carceral system from serving on juries, especially when their knowledge of linguistic differences could be beneficial to the task. After all, a jury should be reflective of one's peers. But as we have made clear, discrimination through jury selection is not uncommon: "In *Foster v. Chatman* (2016), the U.S. Supreme Court held that prosecutors purposefully discriminated against a Georgia man facing the death penalty when they dismissed two Black jurors during jury selection." On the other hand, "The Court's narrow decision was largely based on the egregious nature of the *Batson* violations and, therefore, may do little to deter the discriminatory use of race in jury selection."[43] We can also consider the criminal case of *Box v. Superior Court* where a potential Black juror was dismissed on the basis of pronouncing *police* as PO-lice, rather than po-LICE, with stress on the first syllable rather than the last.[44] This pronunciation is a feature of AAVE. However, due to bias against AAVE, the prosecutor claimed the pronunciation was evidence the juror had an "unfriendly feeling" toward law enforcement.

ii. Advocate for and produce more research on the perception and processing of stigmatized voices in institutions like schools, courtrooms, and hospitals. Research in this vein is burgeoning, with researchers assessing court reporters' understanding and transcription of vernacular speech, as well as researchers evaluating bidialectal Black speakers' use of MAE (Mainstream American English) or AAVE when providing a narrative as one would in an alibi.[45] Expanding research on the study of stigmatized dialects allows us to investigate which aspects of the dialect are difficult for nonfluent listeners to

interpret, while also uncovering more about the relationship between perception and linguistic biases.

iii. Agree to help with cases or projects in the legal system that involve speakers of stigmatized varieties. Native speakers of AAVE and linguists familiar with AAVE should offer to serve as an expert witness or participate in building cases for speakers whose speech in question is AAVE. For instance, Sharese King has accepted invitations to speak with law firms or specific courts, such as the Fourth District in the Minnesota Judicial Branch and the Habeas Corpus Resource Center in California, about linguistic prejudice in legal contexts. This direct engagement has allowed us to educate lawyers, judges, and court reporters on the legitimacy of the variety, while also informing them of the social and legal consequences of producing such speech in legal contexts and beyond.

iv. Similarly, advocate for speakers of stigmatized varieties like AAVE to be heard in the courts and beyond, while acknowledging how raciolinguistic ideologies affect one's ability to listen and accept information from accented speakers.[46]

v. Offer help to acquire "standardized" varieties of English for speakers interested in commanding both their vernacular and MAE. Such multilingualism can help them be more upwardly mobile. We acknowledge the controversy of such an offer, since one should be wary of solutions that put the burden on the victims to conform to the linguistic norms of those in power. We also recognize that speaking the standardized dialect will not fix *all* the injustices such speakers face, nor shield them from the injustice of racial prejudice. But it may alleviate such injustices to some extent, and we should prioritize individual speakers' agency to decide what is the best option for themselves.

vi. Advocate for more vernacular speakers to have the option to use interpreting services in court settings to reduce the risk of misunderstandings. We emphasize the word *option* as we understand that some speakers may reject the notion given that they may not be aware of how their language varieties are subject to misunderstandings in comparison to other English speakers in the courtroom. Further, we acknowledge that the position of the translator would need to be filled by someone who is informed about the structure of the language, including regional variation. As above, we prioritize speaker autonomy to choose which solution they feel most comfortable with.

vii. We have advocated for jurors receiving transcripts, while also having linguists check these transcripts for accuracy. King's ongoing work teaching Minnesota court reporters about AAVE and the social political consequences for speaking such a variety has raised a new awareness of this need and the challenges to implementation. Specifically, court transcribers noted the

difficulty of converting their work into legible transcripts for jury members in a short period of time. Such work could prolong the time between lawyers' closing statements and jury deliberation. Moreover, court transcribers not only expressed their lack of knowledge about the grammar, but a lack of understanding of how to represent the variety. These conversations made us aware that court transcribers may need linguists' help in developing a universal coding system for transcribing AAVE in these contexts.

viii. "Stay woke" or informed about the racial disparities experienced by the most marginalized in society, be it from linguistic prejudice to health inequities to unfair policing of such communities. Consider when and how such injustices interact. In addition to increasing awareness, we must be vigilant in spreading such knowledge and not keeping these conversations in the halls of the ivory towers. Such work includes engaging in different forms of communication with family and friends, or with the public via social media platforms, linguistic podcasts such as *The Vocal Fries* and *Spectacular Vernacular*, or newspaper editorials.[47]

ix. Lastly, we must evaluate our own linguistic prejudice and how it materializes in both personal and professional settings. Further, we must assess how specific norms in the workplace might devalue some voices versus others and work to address them.

While the broader public is just becoming aware of the notion, linguistic prejudice and its impacts are being felt widely by communities of speakers whose linguistic practices have been stigmatized. Recognizing the consequences of prejudice in criminal justice, employment, housing, and education can help us to address the unnecessary harms speakers of AAVE and other vernacular speakers face in society. We believe that the multifaceted solution to reducing such inequities will require acceptance and compassion for an increasingly multilingual society, but also the courage to enact such empathy through research, policy, and sustained education on the issue.

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## ENDNOTES

[1] John R. Rickford and Sharese King, "Language and Linguistics on Trial: Hearing Rachel Jeantel (and Other Vernacular Speakers) in the Courtroom and Beyond," *Language* 92 (4) (2016): 948–988, https://doi.org/10.1353/lan.2016.0078.

[2] Protestors and activists, as well as formal groups such as the National Bar Association, called for the Ferguson Police Department and the Missouri Department of Public Safety to hold Darren Wilson accountable for Michael Brown's death. See Paul Hampel, "African-American Lawyers Association Seeks Revocation of Darren Wilson's Police Officer License," *St. Louis Post-Dispatch*, December 8, 2014, https://www.stltoday.com/news/local/metro/national-lawyers-association-seeks-revocation-of-darren-wilson-s-peace/article_524dde5b-d5cb-5794-8a77-269f03f60382.html. For an overview of the protests and the Justice Department's response, see Jaime Chandler and Skylar Young, "Justice Delayed," *U.S. News: A World Report*, October 15, 2014, https://www.usnews.com/opinion/blogs/jamie-chandler/2014/10/15/st-louis-ferguson-missouri-police-must-be-held-accountable-for-killings.

[3] What began as a hashtag in response to the acquittal of Zimmerman grew into a movement and nonprofit organization. More information can be found on https://blacklivesmatter.com.

[4] Karen Grisby Bates, "A Look Back at Trayvon Martin's Death, and the Movement It Inspired," *Code Switch*, NPR, July 31, 2018, https://www.npr.org/sections/codeswitch/2018/07/31/631897758/a-look-back-at-trayvon-martins-death-and-the-movement-it-inspired.

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[6] Lisa Bloom, *Suspicion Nation: The Inside Story of the Trayvon Martin Injustice and Why We Continue to Repeat It* (Berkeley: Counterpoint Press, 2014).

[7] Rickford and King, "Language and Linguistics on Trial." We draw on Walt Wolfram and Natalie Schilling's definition of dialect as "a neutral label to refer to any variety of a language that is shared by a group of speakers. Languages are invariably manifested through their dialects, and to speak a language is to speak some dialect of that language." Walt Wolfram and Natalie Schilling, *American English: Dialects and Variation* (Hoboken, N.J.: Wiley, 2016), 2.

[8] In sociolinguistics, *variation*, *language variety*, or simply *variety* refers to differences in speech patterns, such as dialect, register, and general style. Standardized English is one of many

variations or varieties of English. For more on varieties in sociolinguistics, see Braj B. Kachru, Yamuna Kachru, and Cecil L. Nelson, eds., *The Handbook of World Englishes* (Malden, Mass.: Blackwell Publishing, 2006).

[9] We recognize that there are other variations on the term African American Vernacular English, including African American Language (AAL) (Lanehart) and African American English (AAE) (Green). However, in referencing AAVE, vernacular refers to the variety that is most different from standard or standardized English (Lippi-Green). See Sonja Lanehart, *The Oxford Handbook of African American Language* (New York: Oxford University Press, 2015); Lisa J. Green, *African American English: A Linguistic Introduction* (Cambridge: Cambridge University Press, 2002); and Rosina Lippi-Green, *English with an Accent: Language, Ideology and Discrimination in the United States*, 2nd ed. (Abingdon-on-Thames, England: Routledge, 2012).

[10] Anne Curzan, Robin M. Queen, Kristin VanEyk, and Rachel Elizabeth Weissler, "Language Standardization & Linguistic Subordination," *Dædalus* 152 (3) (Summer 2023): 18–35, https://www.amacad.org/publication/language-standardization-linguistic-subordination; and Wolfram and Schilling, *American English*.

[11] Green, *African American English*.

[12] Walt Wolfram, *A Sociolinguistic Description of Detroit Negro Speech* (Washington, D.C.: Center for Applied Linguistics, 1969); Ralph W. Fasold, *Tense Marking in Black English: A Linguistic and Social Analysis* (Arlington, Va.: Center for Applied Linguistics, 1972); William Labov, *Language in the Inner City: Studies in the Black English Vernacular* (Philadelphia: University of Pennsylvania Press, 1972); and John Baugh, *Black Street Speech: Its History, Structure, and Survival* (Austin: University of Texas Press, 1973).

[13] Rickford and King, "Language and Linguistics on Trial."

[14] While we follow a long tradition within linguistics of referring to these features as "absence" by contrast with their required presence in written Standard English and other varieties, we propose instead that we refer to them as "intrinsic" features of AAVE, which does not frame the standardized options as the norm. See William Labov, Paul Cohen, Clarence Robins, and John Lewis, *A Study of the Nonstandard English of Negro and Puerto Rican Speakers in New York City: Final Report*, Cooperative Research Project No. 3288 (Washington, D.C.: United States Office of Education, 1968); and Anne H. Charity Hudley, Christine Mallinson, and Mary Bucholtz, *Talking College: Making Space for Black Language Practices in Higher Education* (New York: Teacher's College Press, 2022).

[15] While this brief analysis focuses on Jeantel's speech, some have criticized the discourse strategies used by Bernie De LaRionda, referring to his repetition as a kind of "ventriloquy" that further othered her speech as peculiar or deviant. See Alyvia Walters, "Race, Language, and Performance in American Legal Space: Rachel Jeantel, Testimonial Truth, and the George Zimmerman Trial" (master's thesis, Georgetown University, 2018), https://repository.library.georgetown.edu/handle/10822/1050773.

[16] Evan S. Benn and Audra D. S. Burch, "Trayvon Martin's Childhood Friend Back on the Witness Stand in Zimmerman Trial," *Miami Herald*, June 26, 2013, https://archive.ph/20130815164012/http://www.miamiherald.com/2013/06/26/3471243_alternate-juror-dismissed-in-trayvon.html.

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# Testifying while black: An experimental study of court reporter accuracy in transcription of African American English


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# Testifying while black: An experimental study of court reporter accuracy in transcription of African American English

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Court reporters are certified at either 95% or 98% accuracy, depending on their certifying organization; however, the measure of accuracy is not one that evaluates their ability to transcribe nonstandard dialects. Here, we demonstrate that Philadelphia court reporters consistently fail to meet this level of transcription accuracy when confronted with mundane examples of spoken African American English (AAE). Furthermore, we show that they often cannot demonstrate understanding of what is being said. We show that the different morphosyntax of AAE, the different phonological patterns of AAE, and the different accents in Philadelphia related to residential segregation all conspire to produce transcriptions that not only are inaccurate, but also change the official record of who performed what actions under which circumstances, with potentially dramatic legal repercussions for everyday speakers of AAE.*

*Keywords*: African American English, comprehension, criminal justice, inequality

> 'I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.'
> —standard court transcript boilerplate

**1.** Introduction. The criminal justice system of the United States rests on the idea that every criminal defendant has the right to a speedy and fair trial (per the sixth amendment of the US Constitution). Every defendant is assured representation, promised a jury of his or her peers, and given the opportunity to appeal. Every trial is recorded by a highly trained court reporter so that a verbatim official record will be available. But what happens when the verbatim official record is not so verbatim? What happens to the right to a fair trial when the words of the defendant, or the witnesses, are misunderstood and inaccurately inscribed in the official court record?

This study is an experimental investigation of court reporter transcription accuracy and comprehension of African American English (alternately, African American Language (AAL), African American Vernacular English (AAVE), Black English Vernacular (BEV), among others). In order to work in the courts, court reporters must be certified

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by one of the field's main certifying bodies at an accuracy of 95% or greater. However, court reporters are neither trained nor tested on their transcription of nonstandard dialects, but are rather tested for speed, spelling, punctuation, and arcane medical and legal jargon spoken in Standard American English (SAE). As we demonstrate below, court reporters in Philadelphia fall far short of 95% accuracy when confronted with everyday examples of African American English.

The only academic study of the role of African American English (AAE) in a legal or judicial context, to our knowledge, is Rickford & King 2016, which takes as its starting point the treatment of Rachel Jeantel during the highly publicized murder trial of George Zimmerman. Rickford and King discuss Jeantel's treatment both by lawyers and by the members of the jury before expanding their focus to examine the ways in which 'vernacular speakers' (here including speakers of nonstandard dialects as well as English-lexifier creoles) have been misunderstood or intentionally misrepresented in a legal setting. Following Eades 2010, they note that there has been 'almost no linguistic research which examines African American interactions in the legal process' (Eades 2010:89, cited in Rickford & King 2016:954). This article is an attempt to begin to rectify that situation, with a quantitative companion to Rickford and King's qualitative study.

For this study, we gave a transcription-and-paraphrase task to a sample of twenty-seven court reporters currently working in the Philadelphia courts. Court reporters were given naturalistic speech with representative features of AAE morphosyntax that are different from those of 'standard' English. Using their own stenotype machines, as they would in the courtroom, they were asked to transcribe after multiple listens and to paraphrase what they heard as best they could. They were given unlimited time to revise and 'clean up' their transcriptions before submission. They were also administered a brief demographic survey, and they participated in informal, participant-directed post-study interviews about their views on transcription, nonstandard speech, and African Americans. We found that participants fell well below their certified 95–98% transcription accuracy, could not accurately paraphrase what they had heard, and generally held negative beliefs about 'Ebonics' and about African Americans. These negative attitudes were not limited to African Americans on trial, but in some cases extended to police and judges as well.

The organization of the article is as follows: we first discuss relevant background information about the structure of AAE, the relationship between AAE speakers and the criminal justice system in the United States, how court reporting works, and the importance of the court record in legal proceedings (§2). We next turn to the experimental study (§3), beginning with a discussion of the study materials and a description of a pilot study conducted with non-AAE-speaking laymen and lawyers, which we used to validate our experimental stimuli, and then discuss the design, participants, and analysis of our quantitative study of court reporter accuracy and comprehension. We present the results of the study in §4 and discuss them in §5, with an eye to understanding the types of misunderstandings and mistranscriptions we find, as well as the relationship between court reporters and language attitudes about nonstandard dialects and about African Americans. Finally, we discuss policy suggestions (§6) and conclude (§7).

## 2. Background.

**2.1.** African american english. AAE is the language variety spoken primarily but not exclusively by black Americans. It is the language variety associated with the descendants of enslaved people of African descent (as opposed to recent immigrants from

Africa) (Baugh 1999). It is increasingly referred to as African American Language to avoid taking a contested theoretical stance on the origin of the variety (Lanehart 2015),[1] and has also been referred to as African American Vernacular English (e.g. Bailey & Thomas 1998, Labov 1998, Pullum 1999, Rickford 1999, Labov 2010), as Black English Vernacular (Labov 1972), and with various other names that have now fallen out of favor.

For our purposes, the linguistic research around AAE can be grouped into broad approaches: explanation that while not widely considered 'standard', it is still coherent, rule-governed, and valid; and description of the linguistic structure of the language variety. For instance, both 'The logic of nonstandard English' (Labov 1970) and 'African American Vernacular English is not standard English with mistakes' (Pullum 1999) thirty years later, following the Oakland 'Ebonics' controversy, aim to disabuse readers of negative language attitudes about AAE by demonstrating that, while its rules are different from those of 'standard' American English, it is rule-governed. There is, to our knowledge, no quantitative measure of the success of this approach. It should be noted that there is an implicit assumption in this line of research that we wish to make explicit: non-speakers of AAE generally do not know the rules of AAE and often fail to understand it. The socially rehabilitative (also called 'vindicationist') line of research is of value in part because non-AAE speakers stigmatize AAE as 'broken' precisely because they do not understand it. Otherwise, pointing out that it is in fact logical, rule-governed, and coherent would have little value. As Arthur Spears (p.c.) notes, though, this is not, nor can it be, the only reason, as other poorly understood varieties (e.g. Scottish English) do not suffer the same stigma in this context; the stigma is 'due primarily to its connection to African Americans, and to blackness in general'.

Descriptions of this language variety, as with any other, cover a broad range of topics. Of particular interest in the last fifty years have been cataloging and describing morphosyntactic patterns that differ from those of SAE, such as habitual *be* or preterite *had* (Rickford & Rafal 1996, Rickford 1999, Ross et al. 2004), explaining variation in morphophonological patterns such as the (variable) deletion of possessive /s/ (Labov 1972, Mufwene et al. 1998, Cukor-Avila & Lanehart 2001, Green 2002), and investigating local sound changes, especially with reference to local white norms (Wolfram et al. 2000, Mallinson & Wolfram 2002, Labov et al. 2006, Blake & Shousterman 2010, Labov & Fisher 2015, King 2016). There has also been a fair amount of research into what Spears calls CAMOUFLAGE CONSTRUCTIONS[2]—constructions in AAE that, at first glance, appear to be the same as corresponding constructions in SAE, but that actually have very different meanings in AAE (Spears 1982, 2015, Wolfram 1994, Cuckor-Avila 2002, Collins et al. 2008, Collins & Postal 2012, Jones 2015, 2016, Jones & Hall 2019).[3] And indeed, AAE is highly systematic and rule-governed, but differs signifi-

[1] That is, whether it is essentially (i) a dialect of English with West African language features, creole features, or both, or (ii) a former English-lexifier creole that has undergone decreolization. The debate about the origins of AAE is not pursued here, and our use of African American **English** is not intended to suggest a theoretical orientation toward the so-called 'Anglicist hypothesis'. We chose not to use African American **Language** because doing so implicitly takes a legal procedural stance we do not agree with—namely, treating AAE as a distinct language, which would then require official testimony to be the speech of a translator.

[2] These are alternately referred to as 'masked Africanisms', for example, by Rickford and Rickford (1976).

[3] It is important to note that Collins and colleagues define camouflage constructions differently from Spears: Collins et al. focus on determiner phrases and agreement within the same variety, whereas Spears is interested in different meanings across two varieties of what at first glance appears to be the same construction. Both are relevant to this article, and the use of *a nigga* for first-person singular reference discussed below is in fact an instance of both kinds of camouflage construction.

cantly from SAE. In the next subsections, we give a brief overview of relevant features of AAE phonology and morphosyntax.

**2.2.** PHONOLOGY. The phonology of AAE is still understudied, though the literature on regional variation in the sound system of AAE has begun to blossom in the last few years. For decades, the consensus was that AAE phonology was 'relatively homogenous' (Labov et al. 2006) and that the early studies performed in the late 1960s and early 1970s in Harlem, Philadelphia, and Detroit were representative of AAE everywhere. Recent studies have begun to challenge this orthodoxy (e.g. Blake & Shousterman 2010, King 2016), but it is still generally accepted that there are a number of 'typically' AAE features that distinguish most varieties of AAE from other varieties of English. Here, we paint a 'broad strokes' picture of AAE phonology, following Bailey & Thomas 1998, Thomas 2007, and Kohn 2013, as well as what is standardly assumed in the broader literature. Readers interested in an exhaustive description of AAE phonology are referred to Thomas 2007 as a starting point.

The vocalic system shares many features with Southern American English, making it not completely foreign even for northerners, but it diverges in other respects. Our focus here is on aspects of the AAE sound system that differ from white Philadelphia English. Generally, AAE speakers exhibit the PIN-PEN merger, in which KIT and DRESS vowels (see Wells 1982) are merged before nasals,[4] as well as monophthongization of the PRICE vowel (e.g. [pɹɑːs] 'price'). In many locations, AAE speakers exhibit vocalic merger before /l/, both the FEEL-FILL merger and the POOL-PULL-POLE merger. Most importantly, there is a growing body of research suggesting that African Americans only partially participate in regional 'white' sound changes like the California Vowel Shift (King 2016), the Northern Cities Vowel Shift (Bailey & Thomas 1998, Labov et al. 2006, Labov 2011), or the Southern Vowel Shift (Fridland 2003, Labov et al. 2006, Thomas 2007, Labov 2011), and in some cases either do not participate at all (Kohn 2013, Labov & Fisher 2015) or participate in opposite sound shifts (e.g. raising and laxing of /æ/ instead of raising and tensing) (Labov & Fisher 2015). As is discussed in §5.2, Philadelphia AAE speakers generally do not exhibit fronting of the back vowels /o/ and /u/, nor do they exhibit raising of the diphthong nucleus in the PRICE vowel before voiceless obstruents or fronting of the diphthong nucleus in the MOUTH vowel, as in (white Philadelphian) [fʌ͡ɪt] 'fight' and [hæ͡ʊs] ~ [he͡os] 'house'.[5]

The consonants of spoken AAE are also significantly different from those of other varieties of English, due to the application of a number of well-studied phonological rules. AAE speakers often exhibit so-called TH-stopping or TH-fronting, in which /θ/ and /ð/ are made either coronal stops [t] and [d], as in [tui ə do͡ʊz] 'three of those', or labial fricatives [f] and [v], as in [bæf] 'bath' and [bævz] 'baths'. The liquids /ɹ/ and /l/ are often vocalized ([fo͡ʊə] 'four', [fiʷ]'feel') or deleted ([fo͡ʊ] 'four', [fi] 'feel'). Postvocalic consonant clusters are often reduced (*asks* → [æsk], [æsʔ], or [æs]). Word- and syllable-final stops are debuccalized (replaced with a glottal stop) or deleted in a process generally referred to as T/D-deletion,[6] so *creep* becomes [kiiʔ], and *bleeding* can become [bliʔĩ]. This process occurs even more in consonant clusters in which the preceding consonant shares the same voicing specification, so *hand* can become [hæ̃]

[4] This is not always the case in the Northeast, especially in Philadelphia and New York, and variation in merged/unmerged status among our speakers seemed to contribute to court reporter confusion.

[5] The exact pronunciation of the MOUTH vowel depends on a number of factors, most importantly age, as there was a shift from [æ͡ʊ] to [eo] or [e͡ɔ] that has subsequently reversed (Labov 2011).

[6] Although note that it does not apply just to coronal stops.

and *just* can become [d͡ʒʌs]. While there is not much literature dedicated specifically to the phenomenon, there is agreement among sociolinguists that AAE allows postvocalic nasals to be realized as nasalization on the vowel, so *he wins* can be realized as [hi wĩz]. Similarly, while this process is understudied, postvocalic /v/ can be deleted, as in [bəliː mi] 'believe me' or [ɑː lʌː dæʔ] 'I love that'. Word-final /s/, including plural /s/ and possessive /s/, can be deleted, as in 'both his **hands**' [hæ̃].

It should be borne in mind that while sociolinguists researching AAE often focus on one or another of the above phenomena, all of these vocalic and consonantal phenomena can potentially apply in the same utterance, along with normal fast-speech phenomena we expect to encounter across dialects.

**2.3.** MORPHOSYNTAX. AAE also possesses a number of morphosyntactic features that differ from those of other North American varieties of English. AAE allows deletion of the verbal copula in the same contexts in which SAE allows phonological reduction, demonstrated in example 1.[7] AAE allows for negative concord, in which a negation triggers morphological agreement with negative polarity items (NPIs) (see Labov 1972, Martin & Wolfram 1998, Green 2002 for discussion), and for deletion of third-person singular present-tense /s/, both shown in example 2 (Fasold 1972, Labov 1972, Loflin et al. 1973, Green 1998, Mufwene et al. 1998). Many varieties of AAE make use of expletive *it* instead of expletive *there*, as in example 3 (Labov 1972, Martin & Wolfram 1998).

(1) He Ø workin'.
'He is working.'
(2) Nobody never say nothin'.
'Nobody ever says anything.'
(3) It's a man here to see you.
'There's a man here to see you.'

AAE also has a number of morphosyntactic markers of tense, aspect, and mood that other varieties of English lack. For instance, AAE makes use of habitual *be*, an invariant form that marks habitual action (Labov 1972, Green 1998, 2002, Martin & Wolfram 1998),[8] perfect *done*,[9] which marks (thoroughly) completed action (Labov 1972, 1998, Green 1998, 2002), and a phonologically stressed *been* (alternately 'stressed BIN') that marks an action or situation as having been completed in the remote past and still obtaining in the present (Labov 1972, Dayton 1996, Rickford & Rickford 2000),[10] each shown in example 4.

[7] The status of null copula in AAE is somewhat more controversial than we have presented here, as various researchers have argued for no underlying copula (Stewart 1966) or for contraction and deletion (Labov 1969, 1972). It is central to arguments about the nature of AAE. (Is it essentially a dialect of English? A different language? A de-creolized variety?) For an overview, the reader is referred to Rickford et al. 1991 and Labov 1998. For our purposes, all that is relevant is that in the present tense, in some sentence structures, there is no overt verbal copula.

[8] This, too, is the subject of a number of different analyses, but the existence of a habitual marker pronounced invariably as *be* is not controversial.

[9] Here we follow standard usage in the tense/aspect/mood literature, which, it should be noted, differs somewhat from variationist usage, which would label this a PERFECTIVE.

[10] In this article we choose to follow the way AAE speakers tend to write stressed *been* (as <been>, not <bin>) and how our speakers pronounced it. As discussed further in §5.2, while the PIN-PEN merger is often described as a feature of AAE and stressed *been* is often written as <BIN>, AAE speakers from Philadelphia and New York City are often not PIN-PEN merged, and they write and pronounce it as *been*. We thus represent stressed *been* in examples throughout as *BEEN*.

(4) a. He **be** workin'.
'He usually works/He's often working.'
b. He **done** left the city.
'He moved away from the city.'
c. I **BEEN** did my homework.
'I completed my homework a long time ago.'

Some speakers make use of a *be done* construction that either can indicate habitual or future completion of an action (Labov 1972, 1998, Green 1998, 2002) or can function as a resultative marker (Baugh 1983), as in the following.

(5) a. When I be getting off work, he be done gone to bed.
'Usually, when I get off work, he has already gone to bed.'
b. I'll be done seen most everything when I seen an elephant fly.
'I'll have seen nearly everything when I have seen an elephant fly.'

AAE also allows for the deletion of possessive /s/, as previously noted, and for the construction of long strings of nouns in genitive relations with no overt marking, as shown in example 6 (Labov 1998, Mufwene et al. 1998).

(6) His uncle baby mama friend house front porch just got repainted.
'His uncle's baby's mother's friend's house's front porch just got repainted.'

As demonstrated in example 7, questions in subordinate clauses can undergo the same subject-auxiliary inversion as main clause questions in SAE, with the same prosody (Labov 1972, Green 1998, 2002).

(7) I was wondering do it take you long.
'I was wondering whether it takes you long.'

More importantly, as noted above, AAE has a number of constructions that are referred to as camouflage constructions, which look similar to constructions in SAE but have different meanings. Stressed *been*, above, is potentially one such construction, where *she BEEN married* means 'she has been married for a long time (and still is)' and not 'she has been married (before)' (Labov 1972, 1998, Rickford 1975, Green 1998, 2002, Martin & Wolfram 1998, Rickford & Rickford 2000).[11] Others include preterite rather than pluperfect use of *had* (preterite *had*) (Rickford & Rafal 1996, Rickford 1999, Ross et al. 2004), shown in 8a; what Spears (1982) calls 'indignant' *come*, shown in 8b; *talkin' 'bout* as a verb of quotation (first described in Jones 2016, but examples are present in Spears 1982, Labov 1998, and Ross et al. 2004), shown in 8c; auxiliary inversion (Green 1998), shown in 8d; first-person singular use of *a nigga* (Jones & Hall 2019), as in 8e; and modal *tryna* (Lane 2014), as in 8f.

(8) a. We had went to the store when I got a text.
'We went to the store and then I got a text (while there).'
NOT: 'We went to the store (and returned) and then I got a text.'
b. He come tryin' to hit on me.
'He tried to hit on me (and I'm indignant about it).'
NOT: 'He came (here) and tried to hit on me.'
c. He talkin' 'bout 'Who dat?!'.
'He's asking "Who is that?".'
NOT: 'He's talking about who that is.'

[11] Note also the existence of a distinct AAE-specific 'unstressed *bin*' (see Spears 2017), which we do not discuss here.

d. Don't nobody say nothing to them.
'Nobody says anything to them.'
NOT: 'Do not say anything to them.'
e. What a nigga told you?
'What did I tell you?'
NOT: 'What did [someone else] tell you?'
f. They was tryna arrest me, but they didn't.
'They were going to arrest me, but they didn't (after all).'
NOT: 'They were attempting to arrest me but failed at it.'

It is important to remember that most parts of the United States are highly segregated, and Philadelphia is no exception (Charles 2003, Massey 2004, O'Sullivan & Wong 2007). While the population is roughly equally split between black and white residents, these residents do not generally live together, attend school together, or interact socially. According to the American Communities Project (Logan 2013), as of 2010 Philadelphia had a black-white DISSIMILARITY INDEX of 73.4, a black ISOLATION INDEX of 72.5, and a black-white EXPOSURE INDEX of 14.2.[12] This means that white Philadelphians have limited opportunity to interact with native AAE speakers in real life, especially during their early language acquisition, and it would not be unreasonable to expect white Philadelphians to misanalyze camouflage constructions in speech. Furthermore, given little meaningful exposure to AAE morphosyntax and to differences in AAE phonology, we may expect them to struggle with AAE more broadly.

**2.4.** AFRICAN AMERICAN ENGLISH AND THE CRIMINAL JUSTICE SYSTEM. The relationship between AAE and the criminal justice system is a complex one. There is not a clear and direct link between dialect, contact with the criminal justice system, and ultimate outcomes. Rather, there is a web of correlations and complicated relationships.

Dialect is known to be correlated with socioeconomic status, race, and education (Labov 1994). Race is correlated with socioeconomic status and lesser access to quality education (and therefore with speaking prestigious 'classroom' English) (Lewis 2003, Lin & Harris 2008, Shapiro et al. 2017). Socioeconomic status and education are correlated with involvement in the criminal justice system (Shaw & McKay 1942, 1969, Sampson & Groves 1989, Rekker et al. 2015, Sharkey et al. 2016, Swisher & Dennison 2016).

There are documented racial disparities at all levels of the criminal justice system. African Americans are more likely to be stopped by the police, more likely to receive longer sentences in federal court, and less likely to receive reduced charges in plea bargaining (Harris 1996, Fagan et al. 2010, Rehavi & Starr 2014, Yang 2015, Fagan et al. 2016, Metcalfe & Chiricos 2018). In Philadelphia, African Americans are subjected to highly disproportionate rates of invasive personal searches. For example, in 2009,

[12] The dissimilarity index (Massey & Denton 1988) is a measure of segregation that represents the evenness with which two groups are distributed across an area of study. Dissimilarity measures the percentage of a group's population that would need to move for each neighborhood to have the same percentage of that group as the overall metropolitan area. This index ranges from 0 to 1, with 1 being complete segregation. Here, we multiply by 100 for ease of interpretation. The isolation index measures 'the extent to which minority members are exposed only to one another' (Massey & Denton 1988:288) and also ranges from 0 to 1 (with 1 being complete isolation). Again, we have multiplied by 100 here for ease of interpretation. Exposure (also called 'interaction') 'measures the degree of potential contact, or the possibility of interaction, between minority and majority group members' (Massey & Denton 1988:287) and also ranges from 0 to 1. When there are only two groups, exposure and isolation sum to 1, but when looking at black/white differences in Philadelphia we have to take into account other racial groups, so the exposure index is slightly lower than 100 minus the isolation index.

253,333 individuals were searched by the Philadelphia police, and over 72.7% of those searched were African American (Hancock 2012). African American men are about six times more likely than white men to be incarcerated (Carson 2018). As of 2008, Philadelphia had the fourth highest incarceration rate in the United States (Hancock 2012).

Not only are African Americans more likely to come into contact with the criminal justice system, especially those with less education and lower socioeconomic status (and therefore those who are most likely to speak more divergent, basilectal varieties of AAE), but AAE has also been demonstrated to be stigmatized in the courtroom, and to have been poorly understood and transcribed on some occasions. Rickford and King (2016) found that Rachel Jeantel's depositions and testimony were not fully understood or correctly transcribed in the murder trial of George Zimmerman over the death of Trayvon Martin (*State of Florida v. George Zimmerman*). And in *United States of America v. Joseph Arnold*, an appeal in the sixth circuit hinged entirely on two features of AAE: the meaning of the word *finna* and its relationship to *fixing to*, and AAE copula deletion, with lawyers arguing that *he finna shoot me* was not the same as *he's finna shoot me*.[13] The dissenting circuit judge, evidently unfamiliar with AAE, claims:

> the statement contains no auxiliary verb (e.g. 'is' or 'was') connected to 'finna', which I understand to be a slang contraction for 'fixing to', much as 'gonna' serves as a contraction for 'going to'. … The lack of an auxiliary verb renders determination of whether Gordon intended to imply the past or present tense an exercise in sheer guesswork. (United States v. Arnold 2007)

Copula deletion in AAE occurs in only the present tense (see Labov 1972, Rickford et al. 1991, Blake 1997, Green 2002, inter alia), and the judge's justifications for her false claims were an appeal to material gleaned from the unreliable, crowd-sourced website *Urban Dictionary*.[14] We refer the reader to Rickford & King 2016 for a more complete picture of historical examples of the relevance of nonstandard varieties of English to the court record.

**2.5.** Court reporting and the importance of the court record. The court reporter's job is to transcribe what is said fully and accurately. The court reporter must certify that their transcription is a correct record of what was actually said, and court reporters are, in turn, certified by the state and by their professional agencies as capable of accuracy. What the court reporter writes, in effect, becomes officially what was said. While it is true that, for the vast majority of AAE-speaking Philadelphians, cases may never go to trial,[15] the court reporter is present for depositions, witness statements, testimony before a grand jury (that is, for the decision to indict), and of course for an actual trial. Since what the court reporter writes is taken to be what is said, if there is an error in the transcription of a deposition, for instance, an entirely honest witness can be accused of perjury for contradicting a prior statement. And should an AAE-speaking defendant make it to trial, the transcript may play an essential role not just in the initial court proceedings but in any subsequent appeals as well.

It should be clear from the above that AAE is different from 'standard' varieties of English in both phonology and morphosyntax, that speakers of the most different varieties are more likely than others to come into contact with the criminal justice system, that dialect differences have played a role in previous cases, and that one possible place

[13] The relevant passage finds judges and lawyers arguing about whether *finna* indicates unspecified future action or impending action, with both lawyers and judges erroneously interpreting copula deletion as having some bearing on the imminence of the action.

[14] We know this because the judge explains in her dissent that she consulted *Urban Dictionary*.

[15] More than 90% of both state and federal cases end with plea bargains rather than trial (Devers 2011).

where cross-dialect comprehension may play a role is the court record—which is directly related to judicial outcomes. We turn now to an experimental study of court reporter comprehension of AAE.

**3.** THE STUDY. To investigate the potential for miscomprehension and mistranscription in the court record, we performed a study in which we gave Philadelphia court reporters naturalistic speech in AAE to transcribe. For this study, we constructed stimuli with representative morphosyntactic features of African American English spoken by native AAE speakers in order to quantitatively test (potentially cross-dialect) comprehension of AAE. We used a three-part pilot study to evaluate the stimuli and make sure that there was no individual voice, recording, or stimulus that was too difficult for all listeners. Participants in the pilot study were a convenience sample of non-AAE-speaking white Americans, AAE-speaking black Americans from Philadelphia and Harlem, and a sample of lawyers working in Philadelphia courts (who identified as white or as black). Once we were confident that the study materials were valid and not too difficult, we performed the full study on a sample of twenty-seven court reporters currently working in the Philadelphia courts.

**3.1.** THE STUDY MATERIALS. The study was designed to include naturalistic speech in AAE that had representative morphosyntactic features, as well as representative pronunciations appropriate for the Philadelphia courts. To that end, nine native AAE speakers were recruited from West Philadelphia, North Philadelphia, Jersey City, and Harlem. Speakers were balanced by gender (four women, five men) and were between the ages of twenty-five and sixty. All speakers had had contact with the criminal justice system. Utterances were not conceived by the researchers, but were rather taken from interviews with the participants, from things actually said by other AAE speakers in a natural environment, or from utterances cited in the literature on AAE as representative of particular features. We first selected utterances that contained one, and only one, of each of the morphosyntactic features, and then added utterances that included combinations of features. So, for example, the study contains utterances with just habitual *be* (e.g. *He be angry* 'He's often angry'), as well as combinations of features, such as habitual *be* and quotative *talkin' 'bout* and copula deletion (e.g. *She be talkin' 'bout 'Why your door always locked?'* 'She often asks "Why is your door always locked?"').

All speakers recorded the utterances for the experiment, and the set of experimental stimuli consisted of random speakers performing the utterances in a random order.[16] One sentence that was not recorded by all speakers was also included in the set, as it occurred during informal conversation following stimulus recording, but exemplified features we sought to test (*My baby father used to be like 'She tweakin!'* 'My baby's father used to say "She's tweaking [acting crazy]"!'). The speakers 'performed' the stimuli, rather than simply reading them. We conferred with linguists, native AAE speakers, and linguists who are native AAE speakers to confirm that the recorded utterances used as stimuli did not suffer from any 'reading effect'. Both lawyers in the pilot study and the court reporters in the main study indicated that they believed the utterances to have been recorded during court proceedings, and they inquired about how the researchers acquired such high-quality audio in court. The morphosyntactic features included in the test stimuli are listed in Table 1, but the table is not an exhaustive list of all stimuli.

**3.2.** PILOT STUDY. For the pilot studies, participants did not have stenotype machines or stenography training. First, we conducted a pre-pilot wherein the initial thirty stimuli

[16] Randomization was done with a simple Python script.

| FEATURE | ANALYSIS | EXAMPLE | STANDARD ENGLISH |
|---|---|---|---|
| null copula | deletion of verbal copula | *he a delivery man* | he's a delivery man |
| negative concord | NPIs agree with negation | *nobody never say nothing* | nobody ever says anything |
| negative inversion | auxiliary raises; interpretation is the same | *don't nobody never say nothing to them* | nobody ever says anything to them |
| deletion of possessive /s/ | arbitrarily many nouns; analysis is the same as if each had possessive /s/ | *his baby mama brother friend was there* | his baby's mother's brother's friend was there |
| habitual *be* | marks habitual action | *he don't be in this neighborhood* | he isn't usually in this neighborhood |
| stressed *been* | remote perfect marker—action was done in the remote past and the situation continues to obtain | *I* BEEN *went there* | I went there a long time ago |
| preterite *had* | interpretation is preterite, not pluperfect—discourse marker | *we had went to the store then I got a text* | we went to the store then I got a text (while still at the store) |
| question inversion in subordinate clauses | subordinate clauses invert just as main clauses do in standard English | *I was wondering did his white friend call?* | I was wondering whether his white friend called |
| first-person *a nigga* | functions as *I*, *me* | *what a nigga told you?* | what did I tell you? |
| reduction of negation | *ain't even* → *ain'eem* [e͡inim] or *eem* [ĩː] | *I ain't even be feeling that* | I don't much care for that |
| quotative *talkin' 'bout* | verb of quotation, often reduced to [tɔːmɑ͡ʊʔ] | *she talkin' 'bout he don't live here no more* | she's saying he doesn't live here anymore |
| modal *tryna* | meaning 'want' or 'intend to' | *I was tryna go to the store* | I was planning on going to the store |
| perfect *done* | combination of habitual and completive markers | *when they acting wild, I be done went home* | I've usually already gone home by the time they start acting wild |
| expletive *it* | used in the same place as *there* in standard English | *it's a lot of money out there* | there's a lot of money out there |
| combination of the above | | *he* BEEN *told a nigga about that* | he told me about that a long time ago |
| | | *he talkin' 'bout 'who dat?'* | he asked 'who is that?' |
| | | *it be that way sometimes* | sometimes things are like that |

TABLE 1. AAE morphosyntactic features in the test stimuli.

were tested on three native AAE-speaking volunteers, two from Philadelphia and one from Brooklyn, who were asked to transcribe and paraphrase or dictate a transcription and paraphrase to one of the researchers. The pre-pilot with these volunteers was used to ensure that there was nothing in either the voices used or the sentence structure that was confusing to native AAE speakers. These AAE-speaking volunteers all transcribed and paraphrased at 100% accuracy.[17]

In pilot 1, a sample of laymen, we played the same sample of the thirty initial stimuli one time each for nine participants, all of whom identify as white and do not speak AAE. Either the participant transcribed what they heard in a Word document, or one of the researchers typed as the participant dictated (and confirmed that what was written

[17] We also ran many of the stimuli by native AAE-speaking linguists, although somewhat unsystematically. All of them also accurately heard and paraphrased what was said.

was what they intended), as with the pre-pilot volunteers. Participants were allowed to request to hear any sentence a second time and had unlimited time between sentences to create their transcription.

In pilot 2, a sample of lawyers, we played eighty-six stimuli once for seven lawyers who currently work in the Philadelphia courts, and we asked them to listen to and transcribe the stimuli, and to paraphrase them.[18] All lawyers did so on their own computers and had unlimited time between utterances to transcribe. They were allowed to ask to hear the utterance again. Three of the lawyers self-identified as AAE speakers.

**3.3.** PILOT RESULTS. For pilot 1, there were a total of 270 (30 sentences × 9 participants) sentence/speaker observations. There were 155 observations (57.4%) in which both the transcription and paraphrase were incorrect. Only one was mistranscribed but retained the same meaning (*what had happened was* transcribed as <What happened was>). Of the 270 total observations, 176 observations (65.2%) were paraphrased incorrectly (34.8% were accurate), twenty-six (9.6%) were transcribed incorrectly but correctly paraphrased, and only eighty-nine (32.9%) were accurately transcribed, regardless of paraphrase accuracy. No individual utterance or speaker was universally misunderstood, and all participants evaluated the speakers to be speaking loudly and clearly, even when the participant could not necessarily understand what was said.

For pilot 2, there were 602 (86 stimuli × 7 participants) sentence/speaker observations. The speakers of SAE were 64.2% accurate in their transcriptions, and 63.2% accurate in their paraphrasing. The best performance was 73% transcription accuracy and 79% paraphrase accuracy, and the worst was 53.5% transcription accuracy and 42% paraphrase accuracy. The general sentiment among the white SAE-speaking lawyers was given voice by one participant: 'Wow, that was really hard!'. The three lawyers who identified themselves as AAE speakers, however, performed noticeably better, with 90% overall transcription accuracy and 93.5% overall paraphrase accuracy. The best performance was 92% transcription accuracy and 95.5% paraphrase accuracy. All of their errors were phonetically motivated (e.g. *wi**sh** **sh**e'd* transcribed as <wish you'd>). One of the black lawyers who self-identified as an AAE speaker remarked afterward, 'That was really easy. What was the point of it?'.

Neither the laymen in pilot 1 nor the lawyers in pilot 2 had any clearly stated professional expectation of comprehension or transcription accuracy, nor specific training relevant to this task. While the goal of the pilot studies was primarily to evaluate and refine the stimuli, we suspect that the results can be taken as suggestive of the top range of what one might find in a study of AAE comprehension among the general population, although to our knowledge no such study has yet been performed. The sources of miscomprehension in the pilot studies did not differ significantly from those in the full experiment, so we leave discussion of miscomprehension of AAE for §5.[19] It is possible that the lawyers were positioned to do better than the general population given their professionally driven exposure to AAE and their (possible) positive affect toward AAE speakers as defense lawyers who are often called upon to defend such speakers in court.

**3.4.** THE EXPERIMENTAL STUDY. Having validated the study materials through the pilot studies, we performed the full study on court reporters currently working in the Philadelphia courts. With the support of the Philadelphia courts' official court reporters

[18] That is, to put the utterance into 'classroom' English. We consider a paraphrase correct if it communicates the same information, but in the syntax of 'standard English'.

[19] For instance, subjects had a hard time hearing initial /h/s in unstressed syllables and voiceless stops in word-initial clusters with initial /s/, and this was consistent between the pilot and full studies.

pool, we solicited volunteer participation, with the incentive of $50 pay. Court reporters were told that we were interested both in how court reporters transcribe and in the role of 'accents' in their day-to-day work.

We obtained a sample of twenty-seven participants, who completed the study over a period of three consecutive weeks. Participants were given a transcription-and-paraphrase task, in which they heard eighty-three utterances and were asked to transcribe what they heard as they would in court,[20] and then paraphrase the meaning of the utterance in 'classroom' English (most participants volunteered the term 'proper' English).[21] Each utterance was preceded by a one-second 220 Hz tone and one second of silence, played once, and then repeated after one second of silence. This was followed by ten seconds of silence to allow participants time to paraphrase or to revise. That is, for each utterance, participants were given a warning tone and time to prepare, and then the utterance was played twice. The test was performed in a quiet conference room in either a judicial building or the court reporters' offices (approximately 40 dB ambient noise), and utterances were played at a volume of 70 to 80 dB at ten feet. No participants were hard of hearing (as is a professional requirement), and none expressed difficulty with audition during the experiment (on the contrary, one even declared about the study environment, 'If we can't hear in this room, then we shouldn't be in the courtroom'). Participants used their own stenotype machines, or machines they borrowed from others in the office but routinely use in their day-to-day work. With two exceptions, all were modern stenotype machines that interface directly with a laptop and an industry-standard software program (e.g. Eclipse) to output a PDF. The exceptional cases were participants who used an older machine that required participants to first transfer their transcriptions via an 8-inch floppy disk to a computer, and which returned a standard text file.

Participants were then given unlimited time to revise their transcriptions, reflecting their normal workflow. Participants whose stenotype machines record audio were asked not to listen again to the test stimulus when revising their transcriptions; however, participants nearly unilaterally indicated that they felt no need or desire to do so.[22] Audio files recorded by the stenotype machines and participant transcriptions on their own machines were destroyed at the end of each session. Participants signed nondisclosure agreements, and by all evidence they did not discuss the content of the study with one another beyond telling court reporters who were undecided about participation that it was not a surprise speed test (in fact, nearly all of the participants expressed relief that

[20] These are the same stimuli as those used in the second pilot study, but with three removed, since they were the same utterance spoken by different speakers. Interestingly, none of the pilot participants noticed the repetitions, and some of the participants correctly transcribed one of the duplicated sentences but not another, though there was no apparent pattern to their errors.

[21] We know that paraphrasing is not part of a court reporter's normal job, but as we discuss in §3.6, we were curious if lack of understanding was related to mistranscription. It is possible that the cognitive strain of changing gears reduced the accuracy of subsequent transcriptions, but in posttest discussion, court reporters indicated that they did not feel this was the case.

[22] We recognize that court reporters usually transcribe live speech and not recordings. We opted to use recordings rather than live speech in order to better control the experimental conditions. We recognize that in their normal work conditions court reporters have the ability to stop court proceedings to ask for clarification from the speaker, whereas they cannot do that with a recording (although, as discussed in §5.4, they indicated that they do not often ask for clarification in court, as they felt it was discouraged by lawyers and judges, and that they rarely make use of the recordings from their machines when preparing official transcripts after the fact). To account for this difference, we ensured that the recordings were of high audio quality, they were played at a high volume in a quiet test room, the speech was clear and relatively slow, and the court reporters heard each recording twice in a row.

it was not a test of transcription speed, and many said they thought the pace was, if anything, too generously slow).

**3.5.** THE PARTICIPANTS. The participants were majority white and overwhelmingly female, which is consistent with the field as a whole, and we had a proportion of African American court reporters (29.5%) approximately consistent with what can be expected nationally, based on the racial breakdown of people with court reporting degrees as of the 2016 American Community Survey. Among all of the court reporters in the study, three had completed college and one had some graduate study. All had heard of, and had strong opinions about, 'Ebonics', but 70% of them had never heard the term 'African American English'. On average, they had just over three years of professional training and eighteen years of work experience. The participants' work experience is summarized in Table 2, and their demographics are summarized in Table 3. Note that a sample of twenty-seven court reporters is approximately one third of the total pool of official court reporters employed directly by the city (as opposed to freelancers).

| | MEAN | *SD* | MIN | MAX |
|---|---|---|---|---|
| Work years | 17.77 | 12.01 | 2 | 43 |
| Training years | 3.25 | 1.07 | 2 | 6 |

TABLE 2. Training and work experience of the court reporters who participated in the experiment.

| | *N* | % |
|---|---|---|
| SEX | | |
| Male | 3 | 11.11% |
| Female | 24 | 88.89% |
| RACE | | |
| white | 15 | 55.56% |
| black | 7 | 25.93% |
| Hispanic | 4 | 14.81% |
| Asian | 1 | 3.70% |
| EDUCATION | | |
| some high school | 0 | 0.00% |
| high school | 13 | 48.15% |
| some college | 10 | 37.04% |
| college | 3 | 11.11% |
| graduate school | 1 | 3.70% |
| HEARD OF EBONICS | | |
| no | 0 | 0.00% |
| yes | 27 | 100.00% |
| HEARD OF AAE | | |
| no | 19 | 70.37% |
| yes | 8 | 29.63% |

TABLE 3. Summary of participant demographics.

Unsurprisingly, none assessed themselves as having poor or extremely poor comprehension of AAE, and twenty-one of the twenty-seven court reporters said that they believed they comprehended AAE either 'somewhat well' or 'very well'.

**3.6.** DATA ANALYSIS. All 2,241 transcriptions along with their paraphrases were evaluated by hand and double-checked for researcher agreement. In evaluating whether a transcription was correct, we checked only whether the correct words were transcribed in the correct order. That is, we did not care about capitalization, punctuation, or spelling. We accepted <we had went to the store, then, I got a text> as a correct transcription of *We had went to the store then I got a text*. We also did not consider spellings that accurately reflected speaker pronunciations to be wrong, so we counted, for in-

stance, <That cop partner been got transferred> as a correct transcription of *That cop**Ø** partner* BEEN *got transferred* 'that cop**'s** partner was transferred a long time ago'.[23] We did not generally evaluate punctuation, unless it was ambiguous in a way that would affect later interpretation and the subject's paraphrase made it clear that a different reading was intended (e.g. <Who he had told.> for *Who he had told?* 'Who did he tell?' when accompanied by the paraphrase *The person he had told*).

In evaluating paraphrase accuracy, we attempted to be as lenient as possible. Court reporters are not necessarily asked to think about what they are hearing, and the paraphrase task was outside of their normal practice. Also, while court reporters' understanding of what they hear may play into their ability to accurately transcribe, their personal understanding is not independently important with regard to the official court record.

If a paraphrase was ambiguous and could potentially be interpreted as accurately paraphrasing the stimulus, we counted it as correct. For instance, we somewhat leniently considered <I already told you that> as a correct paraphrase of *I* BEEN *told you that*, even though a more accurate paraphrase, which other court reporters employed, was <I told you that a long time ago>. In this particular instance, we did not necessarily expect the court reporters to be able to paraphrase something they may understand but have never 'translated' perfectly accurately—some clearly struggled with how to 'translate' BEEN, and most employed the strategy of using one or more adverbs: for example, 'I **already** told you that **before**'. The clearly wrong answers fell into two broad categories: (i) replacing *been* with standard English 'have been' as in <I have been telling you that> for *I* BEEN *told you that*, or (ii) obviously wrong paraphrases like <She already bought the drugs> for *I* BEEN *went to the store*. By the lenient standard, sixty-five of the 351 total utterances with stressed *been* were correctly paraphrased. By the stricter standard one referee advocated for, this number drops to thirty-four (mostly from three of the court reporters who consistently wrote some variation on 'a long time ago'). In general, however, such decisions were few and far between, because the types of errors the court reporters made were much more clear cut, as is discussed below.

For each court reporter, we evaluated whether the transcription of each utterance was correct (yes or no), whether the paraphrase of each utterance was correct (yes or no), the number of words in the utterance, and the number of words wrong for each utterance. We also evaluated whether the transcription altered the record of the people involved ('who'), the action or subject matter ('what'), the time or aspect ('when'), or the location ('where'). We evaluated whether the transcription altered whether an utterance was a statement or question and whether an utterance was a proposition or its negation ('force'). We evaluated whether errors were related to the morphosyntactic token in the stimulus or whether they were phonetic or phonological in nature. We evaluated whether the court reporter's paraphrase included assumptions of criminality not justified by the stimulus, whether the transcription was intelligible or 'word salad', and whether the transcription carried the same meaning despite being a mistranscription. In counting the number of wrong words, we were extremely conservative and did not count wrong words added between correct words in the right order, false starts, cases where the correct meaning was recoverable from the transcript (e.g. <O more> for *no more*), and so forth.

[23] This may seem obvious to linguists, but court reporters expressed different philosophies about whether they 'clean up' speech to reflect what they think was intended versus what was actually said, and also expressed concern that their transcription may be counted as inaccurate despite reflecting what a speaker actually said verbatim.

**4.** RESULTS. Despite certification at or above 95% accuracy as required by the Pennsylvania Rules of Judicial Administration (Supreme Court of PA 2016), the court reporters performed well below this level, with an average TRANSCRIPTION ACCURACY of 59.5%, at the level of a full utterance. That is, 40.5% of the utterances were incorrectly transcribed in some way. The best performance on the task was 77% accuracy, and the worst was 18% accuracy. We think this bears repeating: the very best of these court reporters, all of whom are currently working in the Philadelphia courts, got one in every five sentences wrong on average, and the worst got more than four out of every five sentences wrong, under better-than-normal working conditions, with the sentence repeated. Participant performance is summarized in Figure 1 (the red line is 95% accuracy, the level at which they are all certified). Given that court reporters are not evaluated based on how many utterances are correct, but rather how many words are correct, we also evaluated them against a WORD ERROR RATE (WER). By this metric, they still do not meet their professional standards: mean performance was 82.9% correct, 12.1 percentage points below their lowest professional standard. The best among them performed at 91.2% accuracy, the worst at 58.4%—meaning the worst participant transcribed LESS THAN TWO THIRDS of the words correctly. Participant performance by WER is summarized in Figure 2.

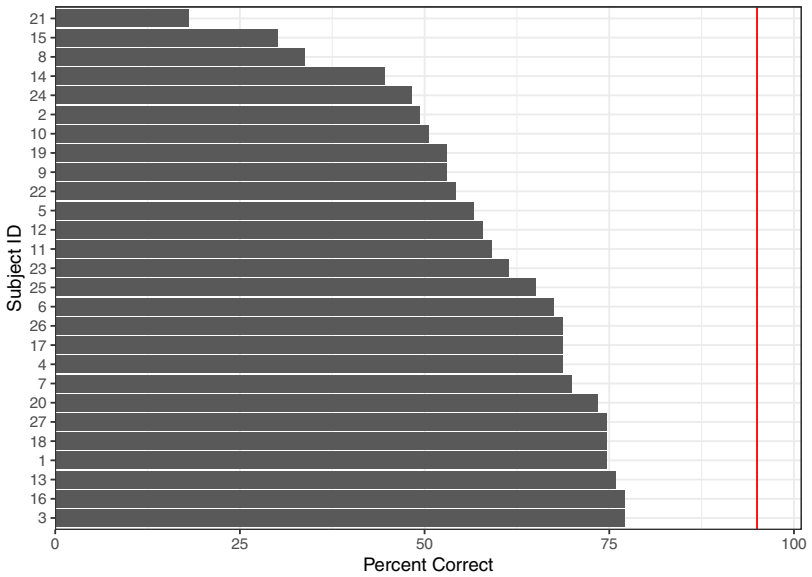


FIGURE 1. By-sentence transcription accuracy by subject.

The participants' evident comprehension of what was said was significantly worse than their transcriptions. On average, they accurately paraphrased the utterances a mere 33% of the time. The best performance was 61% paraphrase accuracy, and the worst 8.4%. Their paraphrasing performance is summarized in Figure 3 (note that some court reporters did not paraphrase at all; the figure includes accuracy only for those who performed the task as requested).[24]

[24] Specifically, subjects 4, 5, and 15 did no paraphrases; while subject 21 partially completed the task, they were missing a full twenty-nine paraphrases, and every single paraphrase they did complete was incorrect and the paraphrases so odd as to make us question whether they understood the task fully. Since we were interested in average accuracy on paraphrasing, we therefore decided not to include subject 21 in the average paraphrasing accuracy for the sample.

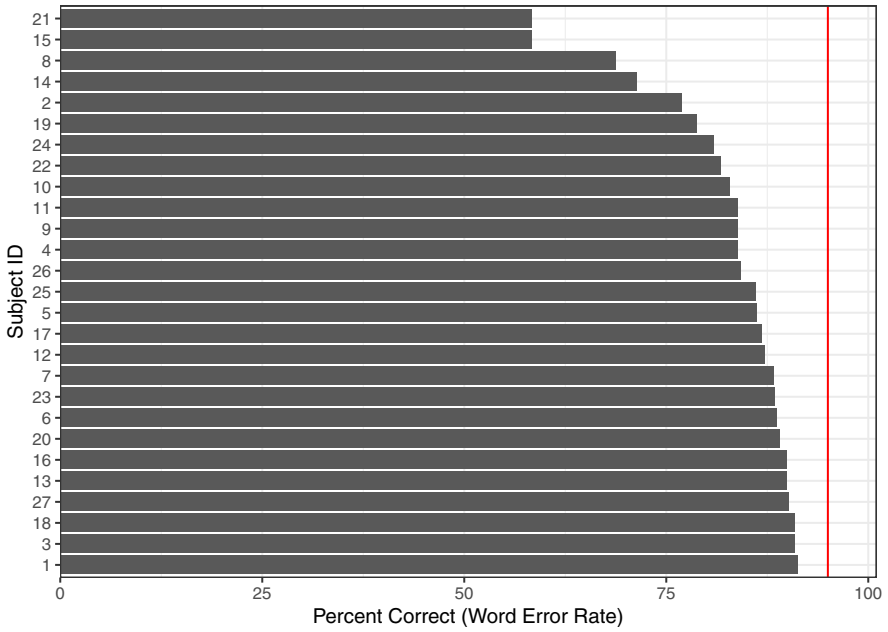


FIGURE 2. WER transcription accuracy by subject.

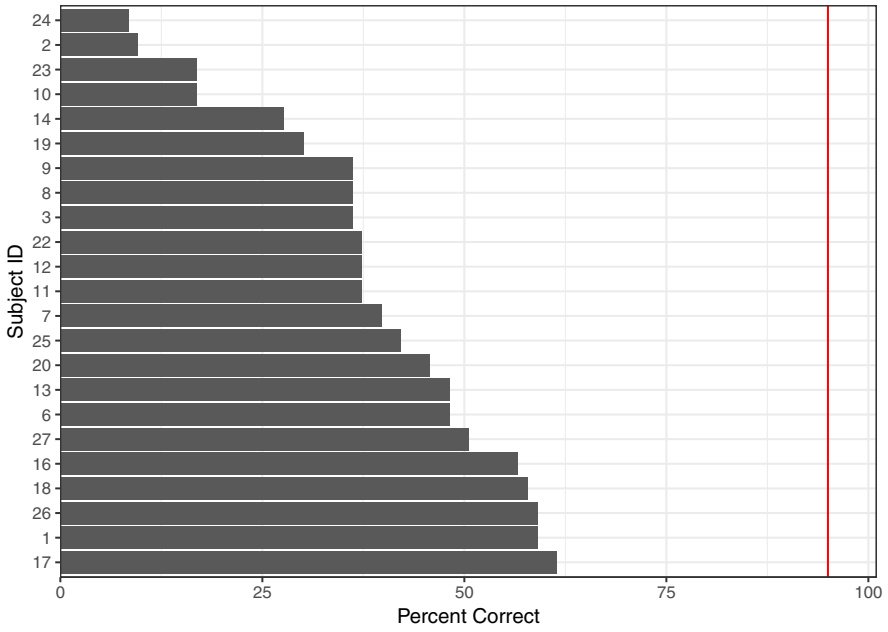


FIGURE 3. Paraphrase accuracy by subject.

It is important to note that their transcription errors and paraphrasing errors did not line up in any predictable way, as shown in Figure 4. That is, court reporters could, and sometimes did, correctly transcribe an utterance but fail to correctly paraphrase it, or incorrectly transcribe but correctly paraphrase an utterance. For those who did paraphrase (twenty-four of the twenty-seven), they got both wrong about as often as they got both right (626 with both incorrect, 625 with both correct). Unsurprisingly, there are significantly fewer instances in which the transcription is incorrect but the paraphrase is

somehow correct, though this scenario occurred 121 times, as shown in Table 4. The results of a point-biserial correlation test between 'paraphrase correct' and 'word error rate' reveal a correlation of 0.30 for white court reporters and 0.31 for black court reporters; effectively, the number of words mistranscribed in an utterance was not a good predictor of whether the utterance was correctly or incorrectly paraphrased, and this did not differ by race.

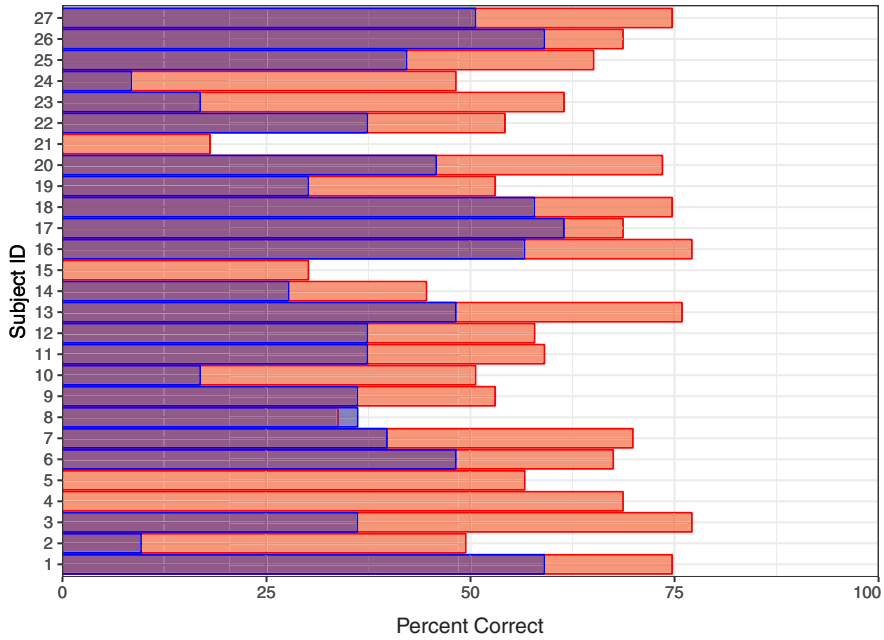


FIGURE 4. Transcription accuracy (red) and paraphrase accuracy (blue) by subject.

| | TRANSCRIPTION CORRECT | TRANSCRIPTION INCORRECT |
|---|---|---|
| PARAPHRASE CORRECT | 625 | 121 |
| PARAPHRASE INCORRECT | 566 | 626 |
| PARAPHRASE MISSING | 142 | 161 |

TABLE 4. Transcription and paraphrase accuracy.

The court reporters' transcriptions altered the who, what, when, where, and force of an utterance in 701 of the 2,241 transcriptions, fully 31%. For example, more than one transcribed *He don't be in that neighborhood* 'He isn't usually in that neighborhood' as <We going to be in this neighborhood>, meaning 'We are going to be in this neighborhood'.

Table 5 summarizes the transcription error rates for court reporters who self-identify as black or African American and those who do not; the difference between the two groups is not statistically significant at the $\alpha = 0.01$ level. That is, the black court reporters, who we may hypothesize are less likely to mistranscribe AAE, did not make statistically significantly fewer transcription errors on this test. There is, however, a significant difference in the types of errors black and nonblack court reporters made. When we look only at the mistranscribed utterances and classify them based on whether the error is related to the specific morphosyntactic elements the stimuli were designed to test or to the phonetics or phonology of some other part of the stimulus, it becomes clear that the black court reporters mistranscribed for morphosyntactic reasons and for phonetic or phonological reasons at roughly equal rates (49% of errors were morphosyntac-

tic), while nonblack court reporters made significantly more errors related to the morphosyntax of AAE (61% of errors were morphosyntactic); see Table 6.[25] A chi-square test of independence shows this difference to be significant at the $p = 0.005$ level.

| | NONBLACK | BLACK |
|---|---|---|
| CORRECT | 964 | 369 |
| INCORRECT | 696 | 212 |

TABLE 5. Transcription error rates for black and nonblack court reporters. The difference between the groups is not statistically significant at $p < 0.01$ ($\chi^2 = 5.059$, $p = 0.024$).

| | NONBLACK | BLACK |
|---|---|---|
| MORPHOSYNTAX | 356 | 80 |
| PHONETICS/PHONOLOGY | 225 | 84 |

TABLE 6. Type of transcription errors by black and nonblack court reporters. The difference between the groups is statistically significant at $p < 0.01$ ($\chi^2 = 7.71$, $p = 0.005$).

When we examine whether the reporters could clearly demonstrate that they understood what was spoken, there are also statistically significant differences. Black court reporters correctly paraphrased utterances into standard English 52.5% of the time when they chose to paraphrase at all (if we count 'no paraphrase' as incorrect, that number drops to 44%), while nonblack court reporters correctly paraphrased 33.7% of the time (29.4% with 'no paraphrase' counted as incorrect); see Table 7. That is, neither group seemed to understand the majority of what they were hearing or to have the ability to communicate the meaning of the utterances clearly, but nonblack court reporters were significantly worse at this task, as the results of the chi-square test reported in Table 7 show. We discuss the black court reporters' relationship with AAE, social class, and language attitudes in §5.4 below.

| | NONBLACK | BLACK |
|---|---|---|
| CORRECT | 488 | 258 |
| INCORRECT | 959 | 233 |
| MISSING | 213 | 90 |

TABLE 7. Paraphrase error rates for black and nonblack court reporters. The difference between the groups is statistically significant at $p < 0.01$ ($\chi^2 = 56.62$, $p < 0.001$).

Finally, gibberish would have been introduced into the court record in 248 (11%) of the transcriptions had they been part of live testimony at trial. That is, participants either left stenotype 'untranslates' in their transcription, wrote utterances that were ungrammatical and nonsensical in both SAE and AAE, or invented vocabulary. See Table 8 for examples of such transcriptions. There are a number of possible reasons for this. As John Rickford noted (p.c.), they may have thought it better to write down something rather than nothing, since 'one can use the *something* to prepare a fuller more accurate transcript on a second or third attempt'. We note here that the court reporters were subsequently given the opportunity to revisit their transcriptions, and in many cases did not correct the 'untranslates' despite unlimited time to do so.[26] We also wish to reiterate that given the

[25] The errors in Table 6 do not add up to the overall number of wrong transcriptions because the table only includes errors that could definitely be classified as triggered by morphosyntax or by phonetics/phonology. Errors for which we could not determine a trigger are excluded from the table. Furthermore, the table only includes tokens from transcriptions where the meaning was changed by the error. For example, if the sentence was *What had happened was*... and the court reporter wrote <What happened was>, the meaning is not changed, and it is difficult to tease apart if morphosyntax or phonetics/phonology contributed to the missing word.

[26] We should also note, however, that we instructed court reporters not to attempt to guess after the fact at the meaning of utterances they did not hear or understand during the test.

instructions they received and their professional training, they may have anticipated being evaluated against a word error rate, where an unintelligible utterance, but with some number of correctly transcribed words, is still better than no transcription.

| ERROR TYPE | SENTENCE | STANDARD ENGLISH | TRANSCRIPTION |
|---|---|---|---|
| 'untranslates' | It's a jam session you should go to. | There's a jam session you should go to. | this [HRA] jean [SHA] [TPHAOEPB] to. |
| word salad | Mark sister friend BEEN got married. | Mark's sister's friend got married a long time ago. | Wallets is the friend big |
| nonce words | He BEEN don't eat meat. | He doesn't eat meat and hasn't for a long time. | He bindling me |
| multiple types | He a delivery man. | He's a delivery man. | he's deliver reason [PHA-F] |

TABLE 8. Types and examples of gibberish in the transcriptions.

**5.** DISCUSSION. The court reporters evidently struggled with all aspects of AAE. The morphosyntactic elements we tested included some features of AAE that are not unique to it and that we expected to be understood (e.g. multiple negation, as in *nobody never say nothing* 'nobody ever says anything'), but even these utterances were not universally transcribed correctly. When utterances were correctly transcribed, court reporters were inconsistent in their ability to paraphrase the same morphosyntactic feature of AAE. As alluded to above, many of the incorrectly transcribed utterances were wrong not because of an error in transcribing the AAE morphosyntactic feature tested in that particular utterance, but for other reasons. That is, a court reporter may have heard and correctly transcribed stressed *been* or preterite *had*, but mistranscribed a different part of the utterance. The evidence suggests three broad issues: the sounds of Philadelphia AAE, the structure of AAE more broadly construed, and language attitudes around 'Ebonics'.[27] In the rest of this section, we discuss each of these in turn.

**5.1.** PHONETIC AND PHONOLOGICAL ELEMENTS OF MISCOMPREHENSION. We cannot know precisely what is happening in the minds of listeners, but the types of transcription errors made by the court reporters were consistent with two potential triggers for miscomprehension. The first type of error is cross-dialect, and crosslinguistically common, mishearing. There is not yet much sociolinguistic literature on this subject, with the notable exception of Labov 2011, though there is a great deal of discussion on vowel and consonant confusion in the phonetics literature (Miller & Nicely 1955, Wickelgren 1965, Klein et al. 1970, Shepard 1972, Mermelstein 1976, Weber & Smits 2003), and the kinds of errors documented are consistent with learner errors taken for granted in historical linguistics (Crowley & Bowern 2010, Campbell 2013, Ringe & Eska 2013). The second type of error is dialect-motivated mishearing (following Labov 2011).

With regard to the first type of error, all of the court reporters submitted a few transcriptions with errors that could be attributed to normal mishearing. Were this the only type of transcription error, participants would have been in the 95% accuracy range. These kinds of mistranscriptions include the following.

- confusing /p/, /t/, and /k/, especially after /s/ in a syllable onset, as in *hos**p**ital* → <high s**ch**ool>
- ignoring or adding glottal stops, as in *he been don**'t** ea**t** meat* → <he better **know he** me>

[27] We say their attitudes around 'Ebonics' are relevant, because by all indications, the court reporters had no attitudes whatsoever about African American English, having mostly never heard the term (see Table 3 above).

- confusion between /l/ and /w/ and among voiced coronals (/l/, /n/, /d/), as in *he been do**n't** eat meat* <he been de**l**ay me>
- miscategorizing adjacent identical segments, as in *wi**sh sh**e'd* → <wish you'd> or *wi**fe f**riend* → <white friend>[28]
- mishearing (or not hearing) /h/, especially in unstressed syllables and sentence-initially, as in ***he** ain't even ask me that* <ain't even … >
- mishearing (or not hearing) schwa, especially sentence-initially, as in ***A** nigga* BEEN *got home* → <Nigger Ben got home a while ago>
- changing one distinctive feature, for example, /m/ transcribed as /b/, as in ***M**ark sister friend* BEEN *got married* → <**B**oss the friend Ben got married>

All of these kinds of mishearing are most likely phonetically motivated, the result of similar acoustic signatures leading to ambiguity. For instance, /l/ and /w/ have very similar acoustic signatures, with a noticeable dip in both F1 and F2, and potentially a dip in amplitude (Ladefoged & Maddieson 1998, Ladefoged & Johnson 2014).

The second type of error we term dialect-motivated mishearing. By this, we mean instances in which the most plausible trigger for miscomprehension was a difference in dialect between the speaker and the listener, resulting in the listener positing different words than the speaker said. Labov 2011 discusses this kind of miscomprehension as a result of the Northern Cities Vowel Shift (NCVS), where speakers heard [bɔs] 'bus' as *boss* or [sæk] 'sock' as *sack* in isolation and in shorter extracts from a full sentence, but could generally (but not always) recover the word *bus* or *sock* when given a recording of a full sentence, such as *I can remember, vaguely, when we had the busses with all the antennas on top*. The key takeaway for our purposes is the unsurprising finding that different accents can lead to miscomprehension, and that this can be due to systematic features of a dialect's sound system. Features of AAE that evidently caused confusion for the court reporters, often from their inappropriately assuming the presence of the feature and 'correcting' for it, include the following, and examples are given in the discussion below.

- monophthongization of /a͡ɪ/ to /ɑː/ or /aː/
- deletion or vocalization of postvocalic /l/ and /ɹ/
- the FEEL-FILL merger
- the PIN-PEN merger
- deletion of postvocalic /v/
- the deletion or addition of glottal stops, or inferring the wrong word following a debuccalized final stop

Frequently, both common phonetically motivated mishearing and dialect-motivated mishearing appeared to work in concert, leading to transcriptions that diverged wildly from what was said but in evidently principled ways. For instance, in 9a the FEEL-FILL merger seems to be one of the triggers of mistranscription, while in 9b, deletion of /v/ seems to be the trigger. In 9c, postvocalic /ɹ/-deletion in *Mark*, combined with failure to hear the [+nasal] distinctive feature of the initial /m/ but correctly hearing its place and voicing, combined with deletion of the unstressed syllable at the end of *sister*, which also had a deleted /ɹ/, leads to an erroneous transcription that would introduce gibberish into the official court record and leave the original utterance unrecoverable were this an

[28] While *wife friend* was mistranscribed as <white friend> five times, perhaps surprisingly the inverse did not happen (i.e. *white friend* was never transcribed as <wife friend>).

official transcription. However, the phonetic distance between *Mark sister* as spoken by the AAE speaker in question and *Boxes the* in SAE is quite small—it is potentially the difference of [+nasal] on one segment.

(9) a. SENTENCE: I don't even be **feeling** that.
SPOKEN: aː o͡õ ĩː bi **fɪlĩ** næʔ
TRANSCRIPTION: I am be **filling** her.
b. SENTENCE: He a **delivery** man.
SPOKEN: hi ə **dəlɪːɹi** mæn
TRANSCRIPTION: He's a **leery** man.
c. SENTENCE: **Mark sister** friend BEEN got married.
SPOKEN: **maːk sɪstə** fɹĩ bɛn gɑt mæɹiʔ
TRANSCRIPTION: **Boxes the** friend been got married.

More often than not, it seemed as though court reporters were assuming features of AAE and attempting to correct for them, even when those features were not present in the speech they heard. For instance, a nasalized, reduced realization of *don't* in *he don't* in the utterance in 10 was evidently interpreted as /l/-vocalization in *he'll* in the transcription in 10a, and as AAE *gon'* /gɔ͡õn/ [gõ͡õ] 'gonna' in the transcription in 10b.

(10) SENTENCE: He don't be in this neighborhood.
SPOKEN: hi o͡õ bi ĩ nɪs nē͡ibəhʊd
a. TRANSCRIPTION: He will be in this neighborhood.
b. TRANSCRIPTION: We going to be in this neighborhood.

Similarly, the court reporters sporadically seemed to interpret underlying /ɑ/ as a monophthongized /ɑ͡ɪ/, which is a stereotypical feature of AAE that is widely consciously known by speakers of other dialects (Rodriguez et al. 2004, Rahman 2008). For instance, the first syllable of *hospital* in example 11a was evidently interpreted as a monophthongized pronunciation of *high*, which, combined with the acoustic similarity of /p/ and /k/ after /s/, led the court reporter to transcribe *hospital* as *high school*. In 11b, a pronunciation of *locked* that exhibits T/D-deletion and stop debuccalization was apparently interpreted as a monophthongized pronunciation of *lie*.

(11) a. SENTENCE: He had asked me did I go to the hospital.
SPOKEN: hi ʰæ æs mi dɪd ɑː go͡ʊ t hɑspɪɹuʷ
TRANSCRIPTION: He asked me did I go to high school.
b. SENTENCE: She be talkin' 'bout 'why your door always locked?'
SPOKEN: ʃi bi tɑʔm bɑ͡ɪʔ wɑː jə dʊˤ ɔlwē͡iz lɑʔ
TRANSCRIPTION: She be talking about why you do always lie.

The error in 11a was made by six of the court reporters, that in 11b was made by three of them, and only one made both mistakes, so there is nothing inherent to the pronunciation in either of the stimuli that was universally confusing to the court reporters.

It should also be noted that while the orthographic representations of the actual stimuli and the court reporters' transcriptions are very different, the orthography masks what may be much less drastic errors than they first appear. Plausible mechanisms of miscomprehension for examples 10b and 11b are schematized in Figures 5 and 6, respectively. For both, the Levenshtein distance between the actual speech stream and a plausible speech stream given a (wrong) hypothesis about what was said, using phonemes as a unit of analysis, is 1. That is, the phonetic distance between *don't* and *going to* or between *locked* and *lie* in standard English is significantly higher than the phonetic distance between possible realizations of these words in other dialects, as shown in Table 9.

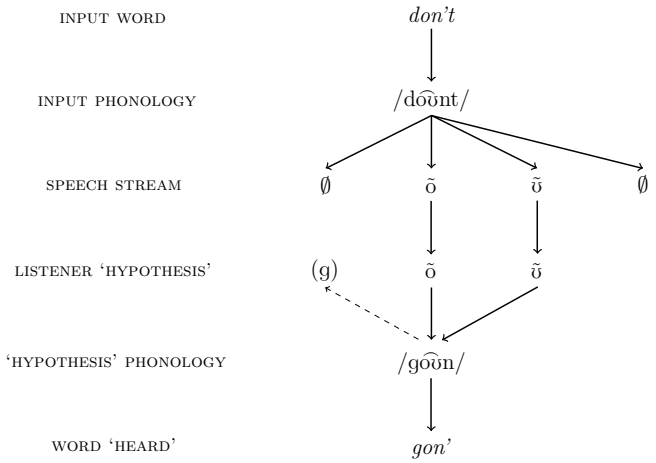


FIGURE 5. A possible trigger for hearing *don't* as *going to*, as in example 10b.

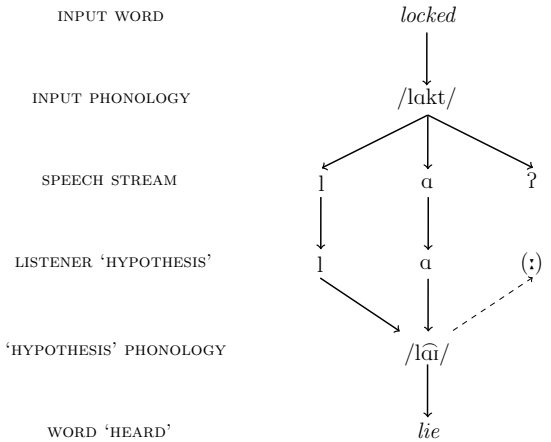


FIGURE 6. A possible trigger for hearing *locked* as *lie*, as in example 11b.

| WORDS | STANDARD | LEV. DIST. | DIALECT | LEV. DIST. |
|---|---|---|---|---|
| don't & going to | [dõ͡ʊ̃nt] : [gõ͡ʊ̃ɪŋ tu] | 5 | [ð̃õ͡ʊ̃] : [gð̃õ͡ʊ̃] | 1 |
| locked & lie | [lɑkt] : [lɑ͡ɪ] | 3 | [lɑʔ] : [lɑː] | 1 |
| hospital & high school | [hɑspɪɾəl] : [hɑ͡ɪskul] | 5 | [hɑspɪɾʊʷ] : [hɑskʊʷ] | 3 |

TABLE 9. A comparison of Levenshtein distances for standard and dialect forms.

In fact, for some of the mishearings, an even more granular approach—one looking at distinctive features or spectral phenomena—may be the most fruitful. For instance, Figure 7 shows a spectogram of a speaker saying *went there*, as part of the utterance *I BEEN went there* 'I went there a long time ago'. One court reporter transcribed this utterance as <I been lived there>. A critical listen aided by spectrographic analysis reveals that the speaker said [wĩdeɹ] for *went there*. Many of the well-studied features of AAE combine in this example: there is T/D-deletion on *went*,[29] the speaker exhibits the PIN-

[29] There are a number of ways of analyzing this, and here we are using T/D-deletion consistent with our description above: that is, encompassing both deletion and debuccalization. Full deletion may, theoretically, result in a fully voiced intervocalic /d/. The spectrogram in question is also consistent with full deletion and a pause between words.

PEN merger, TH-stopping changes the initial /ð/ of *there* to [d], and the coda /n/ in *went* is realized as nasalization on the preceding vowel. Note, however, that the nasalization on the vowel does not start until well into the vowel duration (at around 250 milliseconds). Note also that /w/ and /l/ have very similar spectral signatures, with both exhibiting a decrease in amplitude, a low second formant, and a high third formant. Finally, in most varieties of English, lax vowels do not appear in open syllables (Gordon 2002), so the listener must infer some reduced or deleted syllable coda. While on the page the difference between *went* and *lived* is enormous, especially to native speakers of dialects other than AAE, the phonetic distance between plausible realizations of both (uttered [wĩ] and imagined [lɪ]) is not that great—even less so when we recall that [lɪ] is a reasonable pronunciation of *lived* for some AAE speakers (one exhibiting both T/D-deletion and postvocalic /v/-deletion).

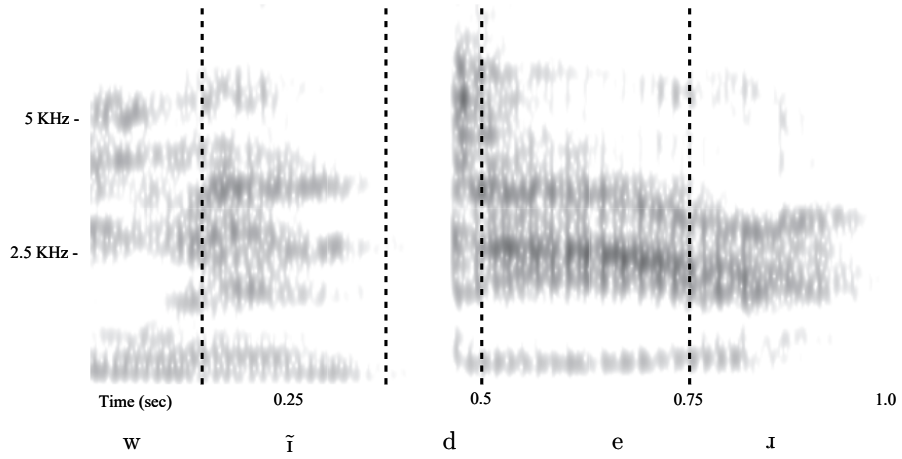


FIGURE 7. Spectrogram of *went there* from a female Philadelphia AAE speaker.

It is important to recall, however, that this test was performed with clear, loud audio, and each utterance was preceded by a warning tone and was spoken twice, all in a quiet room. The test setting was thus much better than the court reporters' actual normal work environment, so such mishearings are still troubling, especially in light of the fact that native AAE speakers without the court reporters' training had no such difficulty with the task.

**5.2.** DIVERGENT VOWELS AND PHILADELPHIA ACCENTS. Lastly, there were a number of instances in which the court reporter mistranscription was apparently at least in part the result of some trigger relating to expectations about the white Philadelphia accent. Philadelphia English has been extensively studied (see, inter alia, Labov 1989, Labov et al. 2013, Labov & Fisher 2015) and has a number of distinct characteristics that separate it from other accents in the Northeast. While, like all regional accents, it is in constant flux, the white Philadelphia accent can be broadly characterized as having fronted /o/ and /u/, so-called Canadian raising in which the nucleus of the diphthong in the PRICE vowel raises before voiceless consonants so that *right* becomes [ɹʌ͡ɪt] but *ride* stays [ɹɑ͡ɪd], fronting of the nucleus of the MOUTH vowel so *house* is realized as [hæ͡ʊs], and a complex system of tensing of /æ/ to [eə] before nasals, /f/, /s/, and /θ/ in closed syllables (detailed in Labov 1989). So-called EY-raising, in which the FACE vowel is realized as /i/ in closed syllables, has also been reported for some white Philadelphia

speakers (Labov 2011).[30] See Figure 8 for a visualization of distinctive characteristics of the white vowel system in Philadelphia.

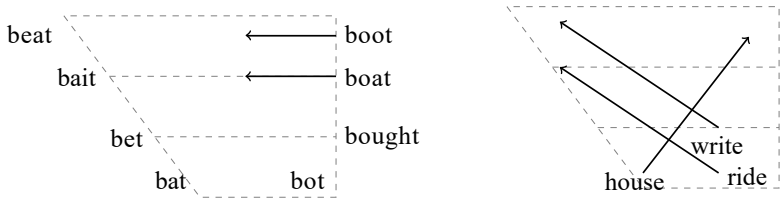


FIGURE 8. Distinctive characteristics of the Philadelphia (white) vowel system.

The court reporters, being predominantly white women from Philadelphia or its suburbs, exhibited strong (white) Philadelphia accents. For instance, one, while talking about the responsibility inherent to her job, exclaimed that at the end of the day, 'I get to *go home* [gə͡ʊ hə͡ʊm] but he just changed his *whole life* [hə͡ʊl lʌ͡ɪf]'. All expressed concerns over how well a jury would understand what they hear, with one stating: '**I** understand, but what *about* [əbə͡ʊʔ] a *jury* [d͡ʒɔɹi]?'.

These are legitimate concerns given how different white and black accents are in Philadelphia. African Americans in Philadelphia generally do not participate in the local sound changes described above, and they have been documented as emphatically not participating in the white Philadelphia tense /æ/ system, instead raising and LAXING /æ/ to something approximating [ɛ], as in [bɛg] 'bag', keeping lax /æ/ before nasals, or variably participating in the supraregional (white) pattern of tensing /æ/ before nasals only (Labov & Fisher 2015). The speakers in our sample generally did not exhibit features of white Philadelphia phonology, although one speaker from North Philly variably fronted her back vowels and tensed /æ/ before nasals. Consistent with AAE in Philadelphia and New York but not with the broader literature on AAE, most of our speakers did not exhibit the PIN-PEN merger. Unmerged pronunciations, especially of stressed *been*, caused confusion, as in example 12, and more than once it was taken to be either a name or part of a name, as demonstrated in 12a and 12b.

(12) a. SENTENCE: That cop partner BEEN got transferred.
MEANING: That cop's partner was transferred a long time ago.
TRANSCRIPTION: That cop partner, **Ben**, got transferred.
b. SENTENCE: A nigga BEEN got home.
MEANING: I got home a while ago.
TRANSCRIPTION: **Nigger Ben** got home a while ago.
c. SENTENCE: You BEEN should have known that.
MEANING: It's the case that you should have known that a long time ago.
TRANSCRIPTION: You **bench** on that.

Similarly, tensing of /æ/ before nasals caused confusion, so *jam* in example 13 was interpreted as *jean* by five of the court reporters, as *James* by three, as *shame* or *same* by three, as *cane* by one, and as *king* ([kiŋ]?) by one.

(13) it's a jam [d͡ʒi͡ə] session you should go to.

Note that four of these miscomprehensions seem to be related to assumed EY-raising (*James*, *shame*, *same*, and *cane*).

[30] Labov 2011 refers to this as 'the raising of checked *ey*'.

Finally, in at least one instance shown in example 14, the evidence suggests that it was the speaker not exhibiting a white Philadelphia accent—specifically, not exhibiting Canadian raising—that led the court reporter to posit a different word from what was said.

(14) SENTENCE: He be TIGHT about something.
TRANSCRIPTION: He put **Tide** on something.

It is possible that for this court reporter, the expectation of a vowel alternation (between [tɑ͡ɪd˺] *tide* and [tʌ͡ɪt˺] *tight*) may have been the trigger for miscomprehension.[31] As one referee noted, lexical or morphosyntactic unfamiliarity may also have been at play in the previous examples.

More broadly, the evidence from this study suggests two hypotheses for further inquiry. First, while individuals may be comfortable with both 'standard' English and a different local variety, to the extent that two varieties that diverge in different ways from the prestige dialect are in contact, the ways they differ from the prestige variety and from each other may be triggers for miscomprehension. While divergence from the prestige variety has been shown to trigger miscomprehension, even among listeners of the same nonprestige variety as the speaker, to our knowledge there has not yet been a study of nonstandard dialects in contact.[32] Second, to the extent that speakers of a given dialect do not conform to stereotypical dialect patterns (e.g. AAE speakers who do not exhibit the PIN-PEN merger), listeners who are not thoroughly familiar with the dialect they are hearing may struggle to parse the input, even if what is spoken is closer to either the standard or the listener's nonstandard native dialect than the stereotypical dialect patterns would be.

**5.3.** MORPHOSYNTACTIC ELEMENTS OF MISCOMPREHENSION. The results of the experiment suggest that the court reporters' paraphrases were dependent on context clues rather than a confident understanding of the morphosyntax of AAE. For instance, a court reporter might inconsistently paraphrase stressed *been* as a remote perfect marker in some utterances but as equivalent to *have been* in others, or might paraphrase habitual *be* as indicating habitual action in some utterances but as an incorrectly conjugated form of the verbal copula in others.

The general impression the transcripts leave is of court reporters attempting to make sense of utterances that they do not understand, often by fitting the spoken utterance to the next nearest grammatical utterance in SAE, whether or not the two utterances coincide. This can result in transcriptions that change important aspects of what was said, often in subtle, insidious ways. For instance, in example 15, the order of events in the transcription is precisely wrong. The utterance means 'Usually, he has already gone to bed when I get off work', but the transcription suggests 'he' goes to bed when, or after, the speaker gets off work. This kind of error can make or break an alibi, and a mistranscription of this kind during a deposition can be used to argue on the stand that a witness is perjuring themself when they attempt to clarify.

(15) SENTENCE: He be done gone to bed when I be getting off work.
MEANING: He has usually already gone to bed when I am usually getting off work.
TRANSCRIPTION: He is going to bed when I get off work.

[31] This particular court reporter transcribed the *jam session* sentence with the single word 'inaudible', so we unfortunately cannot investigate a possible relationship between the two.

[32] Labov 2011 does study cross-dialect comprehension, but not those in close geographic proximity and therefore in constant potential contact.

As John Rickford (p.c.) has pointed out, in 15 the transcriber 'reverses the habitually ongoing and completed predicates'. Similarly, in example 16, the proposition the speaker is negating is instead embedded in a structural presupposition (Yule 1996). That is, the 'fact' that *the police love us* is assumed in the transcription, whereas it is a direct quote that is being negated in the actual utterance.

(16) SENTENCE: Ain't nobody talkin' 'bout 'The police love us'.
MEANING: Nobody is saying (that) 'the police love us'.
TRANSCRIPTION: There isn't anybody talking about how the police love us.

Sometimes, court reporters changed what was said in an apparent attempt to 'clean up' the grammar, although those who did so were inconsistent in their attempts. This is discussed further below with regard to court reporter language attitudes, but it should be noted that in some cases the resulting transcription was ungrammatical in both AAE and SAE (as in example 17a) or significantly changed the meaning of the utterance (as in 17b).

(17) a. SENTENCE: Where James' friend went?
TRANSCRIPTION: Where **did** James' friend went?
b. SENTENCE: I was wondering when you **tryna** go.
MEANING: I was wondering when you **intend to** go.
TRANSCRIPTION: I was wondering when you **try and** go.

Even when the transcriptions were correct, it was clear that the court reporters often misanalyzed the morphosyntax. For instance, negative auxiliary inversion, as in example 18, when correctly transcribed was often paraphrased as a command, not a statement. A third of the court reporters (eight of twenty-four) paraphrased negative auxiliary inversion constructions as commands in this way.

(18) SENTENCE: Don't nobody never say nothing to them.
MEANING: Nobody ever says anything to them.
PARAPHRASE (1): Don't ever say anything to them.
PARAPHRASE (2): Don't tell the police anythin [sic]

In example 19a, a remote past perfect marker is reinterpreted as pluperfect. Similarly, in some cases where morphosyntactic features of AAE were incorrectly transcribed, the court reporters appeared to insert or delete material in order to make an utterance make sense, as shown in example 19b, in which material is added that changes habitual *be* into the verb *to be*.

(19) a. SENTENCE: They BEEN don't go there no more.
TRANSCRIPTION: They hadn't gone there anymore.
b. SENTENCE: He don't be in this neighborhood.
TRANSCRIPTION: He don't want to be in this neighborhood.

Finally, and unsurprisingly, habitual *be* was frequently interpreted as a 'misconjugated' form of the verb *to be*, as in example 20.

(20) SENTENCE: A nigga be workin'.
MEANING: I am often working.
PARAPHRASE: That nigger is working.

The trend of interpreting habitual *be* as a misconjugated form of *to be* is consistent with negative language attitudes about AAE that are popular with the general public. The court reporters exhibited quite a few common negative language attitudes about AAE, to which we now turn.

**5.4.** COURT REPORTER LANGUAGE ATTITUDES. The court reporters all exhibited negative attitudes about AAE, or more properly 'Ebonics', as less than a third had even

heard the term 'African American English'. They all expressed attitudes that align well with the idea that AAE is just 'standard English with mistakes' (Pullum 1999), with the exception of one who grew up as a bilingual speaker and expressed a higher degree of metalinguistic awareness (but who had learned what they[33] knew of AAE on the job, figuring it out from trial and error).

After the task, the court reporters all enthusiastically discussed the task and the speakers, unsolicited by the researchers. We should note that both researchers with whom the court reporters interacted were in professional attire and are visually raced by strangers as white, which may have influenced both the reporters' desire for and the nature of the discussion. The court reporters expressed frustration with the format of their day-to-day work and shared 'war stories' about not understanding while in the courtroom. Many indicated that they did not feel they could regularly ask for clarification and that if they did not hear something, interrupting for clarification was strongly discouraged by the lawyers and judges. One told a story about how they had delayed court proceedings by insisting on knowing what a defendant said, and angered the district attorney and judge by asking for clarification five times. Another court reporter elicited surprised reactions from their colleagues by matter-of-factly declaring 'I'll ask 'em to repeat', with a shrug. It seems as though court reporters' apparent unwillingness to ask people to repeat stems from both discouragement by the rest of the court and a strong sense that their job is to hear and transcribe, and if they ask for repetitions they risk appearing unprofessional.

There is also a strong assumption that, because of their professional training and certification, they are accurate. This is coupled with an apparent assumption that AAE speakers simply do not speak correctly. For instance, one exclaimed: 'The judge will ask them to repeat, but won't tell 'em (exasperated) "You need to speak proper!"'. Another volunteered: 'Sometimes I have to be like "Okay, don't roll your eyes"'. One in particular expressed judgment of both AAE-speaking witnesses and AAE speakers on the bench:

> I'll get rid of the *um*s and *uh*s, but I'll write what was said. There's a judge who'll say something like 'where be those jawn' [sic] and I will write that down as it was said.[34] And I'm like 'you need to be careful'.

Court reporters grossly overestimated their ability to identify not just what was said, but also who the speakers were. For instance, one of the court reporters was adamant that they recognized one of the voices, a male speaker from North Philadelphia. Initially concerned that the court reporter had in fact heard our speaker in court, we later came to realize that they thought the speaker was Philadelphia comedian Kevin Hart (it was not). They would not hear otherwise.

Often, court reporters (and participants in the pilot studies) would volunteer evidence that they understand AAE in the form of statements such as 'I watched *The Wire* without subtitles', 'I watch BET', or 'I listen to Power 105 sometimes'.[35] One court reporter asserted: 'African American English isn't even my hardest task!'. This idea of familiarity with both African American language and culture is betrayed, however, by their frequent inability to correctly transcribe AAE clichés included in the stimuli like *what had happened was* and *it be that way sometimes*.

[33] To preserve anonymity, we use singular *they* to refer to specific court reporters.

[34] *Jawn* is a Philadelphia term meaning 'thing, whatchamacallit'. The utterance *where be those jawn* is ungrammatical in AAE.

[35] Power 105.1 is a Philadelphia hip hop radio station.

The court reporters also exhibited frustration with the speakers and with African Americans in the Philadelphia courts. One exclaimed: 'The tenses drive me crazy! *He be workin'*: what does that mean?! He ɪs working? He works? He does work? That drives me NUTS!'. This is a court reporter explicitly stating that they do not understand the dialect they are asked to transcribe on a daily basis, while framing it as a deficiency on the part of the speaker.

Perhaps more troubling is the undercurrent of assumptions of criminality. Fewer than ten of the stimuli made any mention of criminality or the justice system whatsoever, but a strong assumption of criminality was indicated both in discussions with court reporters following the task and in the paraphrases they submitted. One court reporter who was the first to speak in their group immediately upon finishing the task declared: 'I don't spend a lot of time in criminal court'. Another, in a different group, volunteered: 'They're clearly involved in drugs'. Unprompted, most groups began discussing their experiences in criminal court, with a few explaining that the stimuli sentences—neutral speech in AAE—sounded exactly like what they hear on a day-to-day basis in criminal court. One reporter in particular paraphrased nearly every sentence as having criminal meaning, including paraphrasing *he ain't workin', but he be workin'* as 'he sells drugs', *I was curious, did his white friend call* as 'Did you get any cocaine or crack cocaine', *my boss don't be givin' a nigga enough hours at work* as 'a prostitute not getting enough work', and the philosophical *Is it a god above?*, inspired by teenagers' musings in Labov's 1968 interviews (reproduced in Labov 1972), as 'who is the boss of drug dealing'. Not all of the assumptions of criminality were this blatant, but often the male speakers and referents were evidently assumed to be drug dealers, drug addicts, and felons, and the female speakers and referents were evidently assumed to be prostitutes, battered women, or both. For instance, another court reporter transcribed *it's a jam session you should go to* as <It's a shame, sexually, what you go through>.

Many were also very squeamish around use of the word *nigga*. Another court reporter, who was black, volunteered of a young white woman: 'Poor [NAME] had to write *nigger*[36] I don't know how many times'. Another declared, 'I haven't had too many who say it', which was immediately met by a black court reporter with 'How you don't have people who say it?'. The response was 'I don't know; I just got lucky I guess'. More troubling than their discomfort around hearing the word *nigga*, which most volunteered that they heard often in testimony, was their discomfort around writing it. Some of them said things like 'I don't even have *nigger*[37] in my dictionary', meaning that it would either render as an 'untranslate', requiring the reporter to replace an unpronounceable string of letters later, or would simply appear as other words (for instance, one had multiple responses with <a anything or> instead of <a nigga>). Some went so far as to attempt to sanitize it by replacing it with other words. However, since quite a few did not understand that *a nigga* often has a first-person referent (Jones & Hall 2019), in the process of ostensibly alleviating their discomfort around the word they altered the meaning of what was spoken, changing who did what, as in example 21. Others went in the opposite direction and made semantically neutral AAE *a nigga* into the standard English slur (and thereby also changed who was being referred to), as in example 20 above.

[36] The court reporter pronounced a word-final /ɪ/.

[37] This court reporter also pronounced it with a word-final /ɪ/.

(21) SENTENCE: What a nigga told you?
MEANING: What did I tell you?
TRANSCRIPTION: What did he tell you?

This discomfort around 'the n-word' and stigmatization of AAE, especially vernacular registers of it, was not limited to the court reporters who self-identified as white. Black court reporters also voiced strongly negative evaluations of AAE. In some cases, they did so while simultaneously making use of AAE features in their own speech. One volunteered: '[NAME] and I don't talk like that. These people maybe didn't come from professional families or didn't have much education', but went on to say '*It's* a lot of African Americans who don't talk like that', using AAE expletive *it* instead of the standard *there*. The same court reporter did not consistently understand some of the more different morphosyntactic features of AAE, while simultaneously exhibiting common, less marked, and less socially evaluated features—explaining, for example, that when they don't understand, 'I'll *aks* the lawyer'. Another of the black court reporters described how they had read about habitual *be*, noticed it in their own speech, and then attempted to eliminate it from their speech—the opposite of the desired outcome of the rehabilitative work linguists have been doing in pointing out the existence and validity of such constructions. One, whose own casual speech with the researchers exhibited apparently categorical absence of third singular *-s* on verbs, exclaimed after the transcription task: 'I can't stand when people talk like that. I hate that! It's torture!'. The performance of the black court reporters on the paraphrase task as well as the opinions they voiced about AAE and 'Ebonics' suggest a complicated relationship between these black professionals and AAE. They speak with AAE phonological and morphosyntactic patterns, but may not make use of all available features (Labov 1998), especially those that are more divergent or socially marked, and may negatively evaluate its use in professional and legal spheres (consistent with e.g. Rahman 2008) while simultaneously diverging significantly from prestige standards and local white varieties.

At best, the court reporters took a somewhat patronizing, paternalistic, 'velvet glove' (Jackman 1994) approach to AAE and AAE speakers. However, all of the court reporters demonstrated a strong desire to improve. In the moment, they all expressed a desire for better training on accents and dialects, surprise at hearing that AAE is rule-governed, and a strong interest in knowing what its rules are. All of the court reporters who volunteered for this task expressed pride in their profession. Even the one who appeared the most flustered after the task explained that they were willing to do 'anything to help the profession'. Many volunteered suggestions for other accents they felt they did not have sufficient training on, and in fact, multiple groups suggested that the researchers perform follow-up work with British English, as well as various accents associated with other minority groups in Philadelphia (e.g. Cambodian and Vietnamese accents). We think it is crucial to remember that the majority of these court reporters do not have significant real-world experience with AAE outside of their profession, and that their professional training is focused almost exclusively on speed and transcription accuracy for standard English, with occasional legal and medical jargon. Put more simply, court reporters' training does not prepare them to accurately transcribe nonstandard dialects they are likely to encounter on the job. While they clearly do hold negative opinions of AAE, it is not clear how much of their miscomprehension is directly related to race and how much we might expect were they given Appalachian English, Scottish English, or Newfoundland English, for instance. In this regard, more research is sorely needed.

**6.** POLICY SUGGESTIONS. As Arthur Spears (p.c.) remarks, 'The injustice involved in court reporting is intolerable and is an insult to the legal notion of all citizens' receiving

equal treatment under the law', and this should not be accepted. However, this is the result of a long historical process that will take enormous effort and great goodwill to undo. Extensive discussion and correspondence with senior scholars in sociolinguistics (particularly John Baugh, John Rickford, Arthur Spears, and Walt Wolfram) have made clear a general consensus that all paths forward must include changes to training and education and should utilize the media to bring broader awareness to the problem. As we see it, there is the specific problem of transcription inaccuracy, and the broader problem of a long history of deep injustice toward African Americans in the judicial system.

Regarding the issue of transcription inaccuracy, a handful of solutions that may at first seem appealing have serious flaws on further investigation. Colleagues have suggested ideas like (i) specialized training and certification for court reporters above and beyond their usual training, so that existing court reporters can optionally pursue additional training and certification, (ii) AAE translators in the courtroom, or (iii) replacing court reporters with speech-to-text or other natural language processing (NLP, sometimes incorrectly referred to as AI) technology. We believe all of these are untenable. The first does not take into account how transcribing jobs are assigned to court reporters and has the potential to reinforce treating AAE, and other nonstandard dialects, as if they are in some way outside the realm of a 'normal' court reporter's purview. The second is even more flawed: it runs the risk of completely delegitimizing AAE speakers in the courtroom, especially given that most non-AAE speakers in North America evidently believe that (a) they understand AAE and (b) it is defective. Furthermore, the speech of the translator becomes the official record of what was said, regardless of what the speaker actually said or intended. This adds yet another layer to an already overcomplicated and failing system. The third implies that technology can do better than the court reporter; however, there is ample evidence that speech-to-text and other NLP solutions perform poorly on AAE and other dialects and may further exacerbate the problem. Any solution to the (narrow) transcription problem must take into account the broader problem of harmful linguistic ideologies with common-currency anti-black stigma, bias (both conscious and not), and a court system that is the accumulated product of four centuries of white supremacy.

We propose that the narrow solution to the transcription problem that is most likely to make an incremental improvement is to require all court reporters to be certified not just on 'standard' English but on other dialects also, especially those they are most likely to encounter.[38] This should not be an 'add-on' but rather fully integrated into their professional training: their listening, accuracy, and speed tests should be performed on nonstandard speech and evaluated against the same standards as their performance on medical jargon, legal jargon, and other speech they are already tested on. This necessarily entails that they be taught the basics of dialects: that they exist, that they are systematic, and that their evaluation is social (and not the job of the transcriber to judge or alter). To take Philadelphia as an example, fully 44% of the population of the city is black, and they are disproportionately likely to come into contact with the criminal jus-

[38] A referee asked, 'where does one draw the line?', and asked about, for example, English-lexifier creoles. Our stance is that the solution is to draw not a linguistic line, but rather a sociological one. Speakers of AAE are not newcomers to the United States; rather, they are individuals who have been here for centuries, whose different language use is the result of segregation, and who have a reasonable expectation of comprehension on the part of other Americans. For that reason, we would argue that speakers of AAE, Appalachian English, and so forth should expect court reporter proficiency, whereas speakers of, say, Jamaican Patois could reasonably expect a translator.

tice system and criminal court. If the reporter's job is to faithfully transcribe, and linguistic variation is a scientifically demonstrated fact, then the court reporter is not being trained to do their job if they are not acquainted with the range of variation and taught how to accurately transcribe that range of variation in the course of their training. A court reporter who cannot transcribe AAE with 95% accuracy and works in criminal court in Philadelphia is, simply put, incapable of performing their basic job duties.

The broader problem of AAE in the courts, as it relates to all other participants, will require much broader societal solutions. First and foremost, linguistic education for the general population is necessary. This means continuing outreach from linguists, local activism, and changes in schoolroom approaches to dialect and prestige language. As Arthur Spears has suggested (p.c.), an intense and sustained media blitz is important to bolster activist efforts and bring awareness to the issue. A long-term solution requires us to change the views of the general public as relates to nonstandard dialects. We believe this boils down to insisting that English and Language Arts teachers teach what Labov (1970) calls the 'logic' of nonstandard English, and that they teach classroom norms not by insisting that nonstandard varieties are broken, but by situating nonstandard and prestige varieties socially. We recognize that this is no mean feat and that we are not the first to suggest or push for this solution. We believe that public scholarship and engagement with the general public; institutional support from organizations like the Linguistic Society of America in the form of policy suggestions, outreach, and training; and continued pressure from linguists and sociologists—especially those who are not from the affected populations and therefore have greater appearance of impartiality—are a potential starting point.

We intend to publish further research that attempts to empirically determine whether proposed remedies (i) have a positive impact and (ii) scale up. Currently, there is not enough research on dialect stigma and interventions against it, especially as relates to a judicial context, to provide necessary empirical support for the proposed policies. We plan to carry out a study to determine the effectiveness of sensitivity training combined with specialized dialect training on the alleviation of bias and improvement of cross-dialect comprehension. Additionally, we intend to replicate the current study with other nonstandard dialects, such as Appalachian English and Chicano English, to further document and quantify the problem of nonstandard dialect miscomprehension in the courtroom. Finally, we plan to study the effect of AAE miscomprehension in interactions between patients and medical professionals. The issue of cross-dialect miscomprehension has wide-ranging consequences across all aspects of social interaction. It is necessary both to test the effectiveness of remedies and to document the scale of the problem in order to begin to address it across the board.

**7.** Conclusions. We have demonstrated that Philadelphia court reporters transcribed African American English at a dramatically lower level of accuracy than the 95% or higher level at which they are certified. Not only did they inaccurately transcribe mundane AAE sentences in a better-than-normal acoustic setting, but they also often failed to understand what was being said. Both the sounds of AAE and the structure were difficult for the court reporters. African American participants parsed AAE accents better, but all of the court reporters failed to understand and correctly transcribe what linguists may think of as well-studied, well-known features of AAE.

We also demonstrated in §2.4 and §2.5 the importance of the court record. Altered testimony, starting as early as a pretrial deposition, can have a ripple effect, leading to accusations of perjury (as with Rachel Jeantel in *State of Florida v. George Zimmer-*

*man*) or to lawyers arguing that witness statements are inadmissible as evidence based on their AAE syntax (as in *United States of America v. Joseph Arnold*). Perhaps most pernicious, altered testimony may simply go unnoticed and unchallenged, but affect perceptions of witness credibility.

We showed that the court reporters in our study held negative language attitudes around AAE. They immediately recognized voices as 'black' and associated black voices with criminality, deviance, and untrustworthiness. There was a strong perception that AAE speakers were unable to speak 'proper' or were in some way impaired.

Crucially, however, the court reporters did not seem to hold (or share) explicit anti-black racist ideology.[39] All of the court reporters expressed sympathy toward the people going through the criminal justice system, and all expressed a strong desire to improve their ability to serve AAE speakers. Unfortunately, their training does not line up with their task. None had explicit training on the sounds and structure of AAE, despite it being the native language variety of nearly half of the city they work in and a dialect disproportionately represented in criminal court. Their certification at 95% accuracy or higher on a different dialect, however, gave an inflated sense of their own accuracy and abilities. They evidently knew that their transcriptions frequently made no sense, but attributed it to some fault with the speakers.

Court reporters are expected to be the best ears in the room. They are the easiest to test on this kind of task. They have the most training of anyone in the courtroom when it comes to speech. It may not be unreasonable to expect lawyers, judges, and juries who do not speak AAE to parse and understand significantly less. That white lawyers and laymen alike do not understand AAE is supported by our pilot findings, though more research is needed.

At its heart, the criminal justice system is built on a foundational assumption that participants are uncovering the truth of events. But when verbatim transcription is not actually verbatim, and when not only the court reporters but also the lawyers, judges, and juries may not actually understand the language of defendants and witnesses, the truth can easily be distorted. In effect, African Americans who speak AAE are denied the right to testify, if their testimony can be altered or disregarded. While we are all familiar with the expression 'Anything you say can and will be held against you', for African Americans, it is evidently the case that even things you NEVER SAID can and will be held against you. Until AAE speakers can be certain that their testimony will be faithfully transcribed and will be understood, there can be no justice.

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[39] It is important to note that we are not claiming their views did not betray racism. Rather, consistent with the literature on unconscious or implicit bias, they explicitly took a positive stance toward black people, while their statements revealed an implicit racial bias. What we did not encounter was court reporters who explicitly stated overt racial animus.

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473 F.Supp. 1371
United States District Court, E.D.
Michigan, Southern Division.

MARTIN LUTHER KING JUNIOR ELEMENTARY SCHOOL CHILDREN et al., Plaintiffs,
v.
ANN ARBOR SCHOOL DISTRICT BOARD, Defendant.

Civ. A. No. 7-71861.
|
July 12, 1979.
|
On Submission of Plan Aug. 24, 1979.

**Synopsis**
Black children who were students at elementary school operated by school board brought action claiming that children spoke "black vernacular" which resulted in impediment to their equal participation in instructional programs and that school had not taken appropriate action, as required by statute, to overcome barrier. The District Court, Joiner, J., held that school had not taken appropriate action, as required by statute, to assure children's equal participation in instructional programs and school would be required to take steps to help teachers to recognize home language of students and to use that knowledge in their attempts to teach reading skills and standard English.

Order entered.

**Attorneys and Law Firms**

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John B. Weaver, John H. Dudley, Jr., Butzel, Long, Gust, Klein & Van Zile, Detroit, Mich., for defendant.

MEMORANDUM OPINION AND ORDER

JOINER, District Judge.

The issue before this court is whether the defendant School Board has violated Section 1703(f) of Title 20 of the United States Code as its actions relate to the 11 black children who are plaintiffs in this case and who are students in the Martin Luther King Junior Elementary School operated by the defendant School Board. It is alleged that the children speak a version of "black English," "black vernacular" or "black dialect" as their home and community language that impedes their equal participation in the instructional programs, and that the school has not taken appropriate action to overcome the barrier.

The statute under which this action is now pressed reads as follows: [1]

> No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by
>
> > (f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

20 U.S.C. 1703(f).
A major goal of American education in general, and of King School in particular, is to train young people to communicate both orally (speaking and understanding oral speech) and in writing (reading and understanding the written word and writing so that others can understand it) in the standard vernacular of society. The art of communication among the people of the country in all aspects of people's lives is a basic building block in the development of each individual. Children need to learn to speak and understand and to read and write the language used by society to carry on its business, to develop its science, arts and culture, and to carry on its professions and governmental functions. Therefore, a major goal of a school system is to teach reading, writing, speaking and understanding standard English.

The problem in this case revolves around the ability of the school system, King School is particular, to teach the reading of standard English to children who, it is alleged, ***1373** speak "black English" as a matter of course at home and in their home community (the Green Road Housing Development).

This case is not an effort on the part of the plaintiffs to require that they be taught "black English" or that their instruction throughout their schooling be in "black English," or that a dual language program be provided. In this respect, it is different from the facts in Cintron v. Brentwood Union

  

Free School District, 455 F.Supp. 57 (E.D.N.Y.1978). It is a straightforward effort to require the court to intervene on the children's behalf to require the defendant School District Board to take appropriate action to teach them to read in the standard English of the school, the commercial world, the arts, science and professions. This action is a cry for judicial help in opening the doors to the establishment. Plaintiffs' counsel says that it is an action to keep another generation from becoming functionally illiterate. The statute set out above is the remaining basis for the plaintiffs' claims.

HISTORY OF LITIGATION TO DATE

This action was commenced on July 28, 1977 by 15 black pre-school or elementary school children residing in a housing project located on Green Road in Ann Arbor, Michigan, all of whom either were attending or were eligible to attend Martin Luther King Junior Elementary School in that city. The plaintiffs asserted that the defendant Ann Arbor School District Board and the Michigan State Board of Education, along with certain individual teachers and administrators, violated the law in a number of respects. They alleged that in the process of determining the eligibility of all students for special education services, pursuant to M.C.L.A. s 380.1701 Et seq., the defendants had failed to determine whether the plaintiffs' learning difficulties stemmed from cultural, social or economic deprivation. They demanded the establishment of a program which would enable plaintiffs to overcome the cultural, social and economic deprivations which allegedly prevented them in varying degrees from making normal progress in school. The plaintiffs asserted that these omissions constitute a violation of:

1. Their civil rights protected by 42 U.S.C. ss 1983 and 1985(3);

2. Their rights to equal protection of the laws guaranteed by the Fourteenth Amendment of the United States Constitution;

3. Their right to equal educational opportunity protected by 20 U.S.C. ss 1703(f) and 1706;

4. Their right to the benefits of federal financial assistance, pursuant to 42 U.S.C. s 2000d;

5. Their right to a free education guaranteed by Articles VIII and II of the Michigan Constitution and M.C.L.A. s 380.1147; and

6. Their right to be free from tortious abrogation of their constitutional rights.

This court at an earlier date considered motions filed by the defendants and has dismissed all of the claims made relating to cultural, social and economic deprivations and all but the claim made by the plaintiffs under Sections 1703(f) and 1706 of Title 20 of the United States Code. Martin Luther King School Children v. Michigan Board of Education, 463 F.Supp. 1027 (E.D.Mich.1978). The court also denied the request of the plaintiffs for a preliminary injunction and to have this action certified as a class action.[2] Since that time this court, at the request of the plaintiffs, has dismissed the Michigan Superintendent of Public Instruction and his employees, agents and assigns in their official capacities, and the Michigan Board of Education from the action. The court has also stricken four of the plaintiff children from the action because they have since moved out of the school district.

THE PARTIES TO THIS LITIGATION

THE PLAINTIFFS

Each of the plaintiff children is or has been a student at the Martin Luther King Junior Elementary School. Each of them resides in the Green Road Housing Project ***1374** in Ann Arbor, a small public housing project established as a part of an effort to provide “scatter housing” for low income families in the city of Ann Arbor. Green Road Housing Project is located in a middle to upper income residential area next to the University of Michigan's North Campus. Each of the plaintiff children is a black child. They are among more than 500 children in attendance at the King School. Each of the children has experienced reading difficulties sometime during his or her time at the King School.

1. Michael Blair is completing the 7th grade at Clague Middle School. He attended King School from kindergarten through the 6th grade.

2. Anthony Blair is completing the 6th grade at King School and will attend Clague Middle School in the fall of 1979. He has attended King School from kindergarten through the 6th grade.

3. Gerard Blair is at the present time repeating 2nd grade at King School. He has attended King School from kindergarten through the 2nd grade.

  

4. Tyrone Blair is completing the 1st grade at King School. He also attended kindergarten at King School.

5. Dwayne Brenen is completing the 7th grade at Clague Middle School. He attended King School for grades 1 through 6 and part of kindergarten.

6. Kihilee Brenen is completing the 4th grade at the Northside Elementary School. He attended King School for kindergarten and the 1st grade. He transferred from King to Northside after one month in the 2nd grade.

7. Tito Brenen is completing the 1st grade at King School. He attended kindergarten at King School last year.

8. Carolyn Davis is completing the 6th grade at King School. She will attend Clague Middle School in the fall of 1979. She attended King School for grades 3 through 6.

9. Gary Davis is completing the 4th grade at King School. He attended grades 1 through 4 at King.

10. Jacqueline Davis is completing the 3rd grade at King School. She attended kindergarten through 3rd grade at King School.

11. Tyrone Davis is completing the 1st grade at King School. He attended kindergarten at King School last year.

THE DEFENDANT

The Ann Arbor School District Board operates the Martin Luther King Junior Elementary School. The school is comprised of a school population which is approximately 80% White, 13% Black and 7% Asian, Latino, or other. There are 20 teachers on the faculty, 3 of whom are black. There is no evidence in the case to indicate that the Ann Arbor School District Board currently operates a dual school system or that it has done so in the past. In fact the evidence suggests that the ethnic makeup of the student and teacher population at King School is substantially in line with that of the district.

The Martin Luther King Junior Elementary School has available to its instructional staff one or more learning consultants or helping teachers, a speech therapist, a psychologist, and a language consultant. These professionals are used by the staff in accordance with the rules of the School Board and law to provide additional assistance in connection with the educational program of the school. In addition, the school arranges for special tutors and at times utilizes parent helpers.

ISSUES

Section 1703(f) of Title 20, U.S.C., set out above, is the sole remaining basis for the plaintiffs' claims.

The issues raised by the language of 20 U.S.C. s 1703(f) are:

1. Whether the children have a language barrier.

2. Whether, if they have a language barrier, that barrier impedes their equal participation in the instructional program offered by the defendant. (In this case the evidence has largely been directed at learning to read, the most basic of all instructional programs of the school.)

***1375** 3. Whether, if there is a barrier that does so impede, the defendant Board has taken "appropriate action to overcome the language barrier."

4. Whether, if the defendant Board has not taken "appropriate action," this failure denies equal educational opportunity to plaintiffs "on account of race."

The case is divided for discussion into three distinct parts. The first part involves a description of what has been established by the evidence as that body of knowledge known generally by linguists, psychologists and educators about the problems presented. The second part looks at the educational program in King School as it relates to the particular children in this case. The third part applies the legal rules to the evidence as set out in the first two parts.

I

REPORT ON CURRENT STATE OF KNOWLEDGE

The court heard from a number of distinguished and renowned researchers and professionals who told the court about their research and discoveries involving "black English" and how it impacts on the teaching of standard English. [3] They also informed the court on the results of other research relied on by professionals and expressed their opinions. Information about this area of education and linguistics is being uncovered as rapidly as research projects are reaching maturity. The court believes that the research

  

results and the opinions of the researchers and professionals are better received as evidence in the case, on the record and subject to cross-examination, than simply by reading the reports and giving consideration to what appears in those reports as was done in Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954). The knowledge produced by the various research projects forms a background basis against which the actions of the School District Board and the teachers in this case can be tested. The research product does permit inferences to be drawn but it must be remembered that this case is a case against one school board for its actions and it must be judged for its actions alone. "(S)chools are not fungible and the fact that some or even most may practice discrimination does not warrant blanket condemnation." Norwood v. Harrison, 413 U.S. 455, 471, 93 S.Ct. 2804, 2813, 37 L.Ed.2d 723 (1973). The following is a brief summary of some of the research reported as it relates to the problems before the court.

LANGUAGE BARRIER

All of the distinguished researchers and professionals testified as to the existence of a language system, which is a part of the English language but different in significant respects from the standard English used in the school setting, the commercial world, the world of the arts and science, among the professions and in government. It is and has been used at some time by 80% Of the black people of this country and has as its genesis the transactional or pidgin language of the slaves, which after a generation or two became a Creole language. Since then it has constantly been refined and brought closer to the standard English as blacks have been brought closer to the mainstream of society. It still flourishes in areas where there are concentrations of ***1376** black people. It contains aspects of Southern dialect and is used largely by black people in their casual conversation and informal talk. There are many characteristic features found in "black English" but some of the principal ones identified by the testifying experts as being significant are:

1. The use of the verb "be" to indicate a reality that is recurring or continuous over time.

2. The deletion of some form of the verb "to be."

3. The use of the third person singular verbs without adding the "s" or "z" sound.

4. The use of the "f" sound for the "th" sound at the end or in the middle of a word.

5. The use of an additional word to denote plurals rather than adding an "s" to the noun.

6. Non-use of "s" to indicate possessives.

7. The elimination of "l" or "r" sounds in words.

8. The use of words with different meanings.

9. The lack of emphasis on the use of tense in verbs.

10. The deletion of final consonants.

11. The use of double subjects.

12. The use of "it" instead of "there."

The features of this language system have been described in a number of carefully researched projects. [4]

The substance of the thoughtful testimony of the experts also indicated that because "black English" does not discriminate among some sounds which are distinguished in standard English, teachers experience difficulty in getting the students to use correct pronunciation. The experts further testified, however, that efforts to instruct the children in standard English by teachers who failed to appreciate that the children speak a dialect which is acceptable in the home and peer community can result in the children becoming ashamed of their language, and thus impede the learning process. In this respect, the black dialect appears to be different than the usual foreign languages because a foreign language is not looked down on by the teachers. The evidence also suggests that there are fewer reading role models among the poor black families than among families in the rest of society.

Finally, it is clear that black children who succeed, and many do, learn to be bilingual. They retain fluency in "black English" to maintain status in the community and they become fluent in standard English to succeed in the general society. They achieve in this way by learning to "code switch" from one to the other depending on the circumstances.

All of the experts testified that the language used is a specific system that has been used by blacks and continues to be used by blacks in casual conversation and informal talk. It is a language system having its genesis among black people. In many areas of the country where blacks

  

predominate, many among them, particularly the poor and those with lesser education and their children, speak this dialect among themselves although they may be quite capable of speaking eloquently in standard English and although they do speak standard English when talking to community outsiders. “Black English” is a dialect of a segment of the black population and is used by them only a part of the time.

***1377** IMPEDIMENTS TO EQUAL PARTICIPATION IN THE INSTRUCTIONAL PROGRAM

A child who does not learn to read is impeded in equal participation in the educational programs. Such a child cannot fully participate in the educational programs which to a significant degree require the student to acquire knowledge from the written word. Reading of all kinds is a major method by which modern society passes on its information and culture among its members and to its children. It is the way in which society conveys its commands and gives direction to its members.

The research evidence supports the theory that the learning of reading can be hurt by teachers who reject students because of the “mistakes” or “errors” made in oral speech by “black English” speaking children who are learning standard English. This comes about because “black English” is commonly thought of as an inferior method of speech and those who use this system may be thought of as “dumb” or “inferior.” The child who comes to school using the “black English” system of communication and who is taught that this is wrong loses a sense of values related to mother and close friends and siblings and may rebel at efforts by his teachers to teach reading in a different language. [5]

APPROPRIATE ACTION

The experts offered a number of suggestions of what is appropriate action. Dr. Geneva Smitherman suggested that highly skilled linguists are needed to teach the children. Others suggested that children's speech should not be corrected initially until the correction can be made without upsetting the child and the feelings toward mother and home.

Others suggested that students should be started in “black English” and then bridged into standard English and that persons using standard English should also be reverse bridged into “black English.”

Others suggested the use of specifically identified reading programs, some of which are written in “black English.” The use of books of all sorts, including comic books, was urged to induce the unmotivated to read.

Dr. Dan Fader stressed the need to make certain that the school system provides models for accepting reading as an important and standard part of a person's life. Particularly for students who do not have parents and siblings who read at home, it is important, he stressed, that children see people read and that they understand that what people read affirmatively affects their lives. He suggests that time must be set aside in each school during which everyone children, teachers, administrators, secretaries, janitors, and all others who are present in the school system reads, and then, in later conversation, attempts to convey what was gained from the reading. Dr. Fader suggests that the real problem comes from the 4th grade on when the students' extracurricular activities compete for their time and energy. At this time, the students lose interest, particularly if they don't see value in continuing to develop their reading skills, unless they are specially motivated by parents, peers or teachers. For this reason, he suggests adult reading models outside the home be brought to bear upon the children's lives.

***1378** Dr. Ronald Edmunds reported on conclusions drawn from an extensive research project on “Search for Effective Schools.” After having utilized an acceptable, well-developed procedure, he has identified 5 criteria essential to an effective school. He defines an effective school as one in which all but severely handicapped children achieve in math and reading to a satisfactory degree when measured not against each other but against a concrete body of knowledge. It appears that Dr. Edmunds has contributed much to assist school boards and major school administrators in understanding and assessing the quality of their educational efforts.

Dr. Edmunds' criteria for an effective school are:

1. Style of leadership in the building strong principal. Participation by principal in basic classroom decisions relating to how the day is organized and how time is spent and what materials to use and subjects to emphasize.

2. Emphasis on learning and teaching by everyone in the building, including janitors, secretaries, parents, as well as teachers and students.

3. Building ambience: a clean, orderly, safe environment.

  

4. Teaching expectations all students are expected to profit from what goes on in the school.

5. Presence of a standard testing device to measure pupil progress in relation to the school's emphasis.

The sum total of the testimony of the experts was a series of suggestions that are clearly appropriate for consideration by administrators and teachers.

Plaintiffs themselves urge a simple remedy. They would require the defendant School Board to identify each student who speaks "black English" and then use the best of the knowledge available in the Ann Arbor school system to teach standard English, after taking into account the "black English" background of the children.

SUMMARY

The language of "black English" has been shown to be a distinct, definable version of English, different from standard English of the school and the general world of communications. It has definite language patterns, syntax, grammar and history.

In some communities and among some people in this country, it is the customary mode of oral, informal communication.

A significant number of blacks in the United States use or have used some version of "black English" in oral communications. Many of them incorporate one or more aspects of "black English" in their more formal talk.

"Black English" is not a language used by the mainstream of society black or white. It is not an acceptable method of communication in the educational world, in the commercial community, in the community of the arts and science, or among professionals. It is largely a system that is used in casual and informal communication among the poor and lesser educated.

The instruction in standard English of children who use "black English" at home by insensitive teachers who treat the children's language system as inferior can cause a barrier to learning to read and use standard English. The language is not as discriminating in its use of sounds as is standard English and much of its grammar is simpler. There are fewer reading models in the life of a child who uses "black English."

II

APPLICATION OF THE CURRENT STATE OF KNOWLEDGE TO THE CHILDREN IN THIS CASE AND KING SCHOOL

LANGUAGE BARRIER

The plaintiff children use a version of "black English" in their informal conversations in their homes and in the small community of the Green Road Housing Development. It is the accepted way of speaking in that environment. Their mothers sometimes ***1379** use a version of "black English" in speaking with the children in the home setting, but can speak standard English. The mothers testified clearly in standard English and a number of letters written by one or more of them appear in the record and show that they can use standard English effectively.

The teachers in King School had no difficulty in understanding the students or their parents in the school setting and the children could understand the teachers and other children in that setting. In other words, so far as understanding is concerned in the school setting, although there was initially a type of language difference, there was no barrier to understanding caused by the language.

There seems to be no problem existing in this case relating to communication between the children and their teachers or between the children and other children in the school. The answers given by plaintiffs to interrogatories posed by defendants confirm this finding.

Although the evidence in this case indicates that the plaintiffs at time speak "black English" at home, they also to a greater or lesser degree depending on age speak and understand standard English in school and in the home.

If a barrier exists because of the language used by the children in this case, it exists not because the teachers and students cannot understand each other, but because in the process of attempting to teach the students how to speak standard English the students are made somehow to feel inferior and are thereby turned off from the learning process.

There is no direct evidence that any of the teachers in this case has treated the home language of the children as inferior, but it is clear to the court that although some of the teachers rebel at calling the home language "black English" they are acutely

  

aware of it. Each teacher, the court believes, makes his or her own assessment of the language system used by the student in the home environment and attempts to use all of his or her skills to teach the student to read and speak standard English. The teachers do not, however, admit to taking that system into account in helping the student read standard English.

It is not an issue in this case that the students have been misclassified as handicapped. The procedures used in making the classifications completely follow the law.

As indicated later in this memorandum, the teachers all testified that they treated the plaintiff students just as they treated other students. In so doing, they may have created a barrier to learning reading if the research reported is to be given any credence. The reason the teachers are teaching standard English is because it is the language by which the mainstream of society operates. The vernacular of "black English" has never been such a language. By requiring a student to switch without even recognizing that he or she is switching impedes the learning of reading standard English.

ACTIONS TAKEN BY TEACHERS AT KING SCHOOL

Each of the teachers who testified in this case testified that he or she attempts to use a variety of materials that are standard for teaching reading. Some of these materials are specially designed to help students who speak "black English" to learn to read standard English. The materials are used in the way in which the materials are designed to be used. Although the teachers give special attention to the plaintiff students and have provided an exceptional amount of special assistance in connection with their efforts to help them read, they do not treat them differently from other students in the class. They indicated that the plaintiff children are treated the same way as are students from Japan, China, Korea, Greece, and Spain, who are learning English while they are going to school. They do not use special methods or criteria or procedures to teach "black English" speaking youngsters. They do use books that are prepared by well-regarded teachers of reading and published by well-regarded educational publishers, and that assist students to ***1380** learn and develop in accordance with their capabilities. Some of these books and materials are the very ones suggested as appropriate by the experts testifying in the case. As students change in ability, they shift to more difficult or easier material. On one occasion, one student was held back a grade when the language proficiency was not sufficient to permit the student to succeed in the higher grade. That student was benefited by the grade retention. The students have been provided with assistance in reading help and some of them have been offered tailor-made programs in oral reading and phonics for their assistance. By way of example, the students in this case have received the following type of assistance:

A. Michael Blair received assistance in reading from a helping teacher during four of the seven grades he attended at King School. A curriculum plan devised for Michael by the teacher consultant during the 5th grade recommended the encouragement of his individual reading by the use of magazines, newspapers, comic books and a variety of paperbacks.

B. Anthony Blair received the assistance of a helping teacher in the 3rd grade and was instructed on a one-on-one basis in the 4th grade.

C. Gerard Blair received the assistance of a teacher aide in the 1st grade and he worked with a teacher consultant in the 2nd grade. He was retained in 2nd grade for the year 1978-79.

D. Tyrone Blair received the assistance of a speech and language specialist during pre-school and worked at individual reading with his teacher in the 1st grade.

E. Tito Brenen was given one-to-one tutoring in kindergarten.

F. Gary Davis received 30 minutes or more individual reading help per day from his 1st grade teacher.

G. Jacqueline Davis had individual teacher help in reading during the 1st grade and worked with a teacher/consultant during the 2nd and 3rd grades.

H. Tyrone Davis received the assistance of a speech therapist in kindergarten for a severe multiple articulation problem.

There is no evidence in this case that any instructional program has been withheld from any plaintiff on account of his or her race.

IMPEDIMENTS TO EQUAL PARTICIPATION IN THE INSTRUCTIONAL PROGRAM

The evidence in this case suggests that each teacher made every effort to help and used the many and varied resources of the school system to try to teach the students to learn to read.

The evidence also suggests that the students, depending on their age, communicate orally quite well in standard English

  

and except for a few limited times most, if not all, in-school talking is done in standard English.

The court heard from each of the children. They are attractive, likeable, at times shy, youngsters. Their speech in court was highly intelligible and contained only traces of "black English." This is true although the court heard tapes played of the same children in casual conversation in which talking among themselves their speech was a true "black English" vernacular. In oral speech, though, they seem to quickly adapt to standard English in settings where it appears to be the proper language.

The facts in this case indicate, however, that these children have not developed reading skills and the failure to develop these skills impedes equal participation in the instructional program.

The toughest question is whether it has been established that the failure to develop reading skills was caused by the language barrier. The evidence suggests other causes, such as absences from class, learning disabilities, and emotional impairment. However, the evidence also suggests that an additional cause of the failure to learn to read is the barrier caused by the failure of the teachers to take into account the "black English" home language of the children in ***1381** trying to help them switch to reading standard English. When that occurs, the research indicates that some children will turn off and will not learn to read.

The court cannot find that the defendant School Board has taken steps (1) to help the teachers understand the problem; (2) to help provide them with knowledge about the children's use of a "black English" language system; and (3) to suggest ways and means of using that knowledge in teaching the students to read.

III

APPLICATION OF LAW TO FACTS

When Congress enacted the Equal Educational Opportunities Act of 1974, it was responding to suggestions that attention should be shifted from busing to better education. In his message to Congress, the President urged the enactment of what is now s 1703 to provide a "broader base on which to decide future cases." He indicated that the statute should set "standards for all school districts throughout the Nation, as the basic requirements for carrying out, in the field of public education, the Constitutional guarantee that each person shall have equal protection of the laws." 118 Cong.Rec. 8931 (1972).

This effort went far beyond requiring standards of equal education for formerly segregated dual systems of education. It was intended to embrace all school systems under the Equal Protection Clause of the Fourteenth Amendment and the authority granted in that amendment to "enforce, by appropriate legislation, the provisions of this Article." See Martin Luther King School Children v. Michigan Board of Education, 463 F.Supp. 1027 (E.D.Mich.1978).

This case is a judicial investigation of a school's response to language, a language used in informal and casual oral communication among many blacks but a language that is not accepted as an appropriate means of communication among people in their professional roles in society. The plaintiffs have attempted to put before this court one of the most important and pervasive problems facing modern urban America the problem of why "Johnnie Can't Read" when Johnnie is black and comes from a scatter low income housing unit, set down in an upper middle class area of one of America's most liberal and forward-looking cities.

The problem posed by this case is one which the evidence indicates has been compounded by efforts on the part of society to fully integrate blacks into the mainstream of society by relying solely on simplistic devices such as scatter housing and busing of students. Full integration and equal opportunity require much more and one of the matters requiring more attention is the teaching of the young blacks to read standard English.

Some evidence suggests that the teachers in the schools which are "ideally" integrated such as King do not succeed as well with the minority black students in teaching language arts as did many of the teachers of black children before integration. The problem, of course, is multi-dimensional, but the language of the home environment may be one of the dimensions. It is a problem that every thoughtful citizen has pondered, and that school boards, school administrators and teachers are striving to solve.

Research indicates that the black dialect or vernacular used at home by black students in general makes it more difficult for such children to learn to read for three reasons:

  

1. There is a lack of parental or other home support for developing reading skills in standard English, including the absence of persons in the home who read, enjoy it and profit from it.

2. Students experience difficulty in hearing and making certain sounds used discriminatively in standard English, but not distinguished in the home language system.

3. The unconscious but evident attitude of teachers toward the home language causes a psychological barrier to learning by the student.

***1382** Evidence is lacking in this case about parental reading models, although the mothers clearly have evidenced interest in the success of their children. There is no evidence that any of the teachers have in any way intentionally caused psychological barriers to learning. The mothers and the children were complimentary of their teachers. But the evidence does clearly establish that unless those instructing in reading recognize (1) the existence of a home language used by the children in their own community for much of their non-school communications, and (2) that this home language may be a cause of the superficial difficulties in speaking standard English, great harm will be done. The child may withdraw or may act out frustrations and may not learn to read. A language barrier develops when teachers, in helping the child to switch from the home ("black English") language to standard English, refuse to admit the existence of a language that is the acceptable way of talking in his local community.

The facts and law thus establish:

1. The plaintiff children do speak at home and in their local community a language that is not itself a language barrier. It is not a barrier to understanding in the classroom. It becomes a language barrier when the teachers do not take it into account in teaching standard English.

2. The evidence supports a finding that the barrier caused by a failure on the part of the defendant to develop a program to assist their teachers to take into account the home language in teaching standard English may be one of the causes of the children's reading problems.

3. The inability to read at grade level does impede the children's equal participation in the educational program of the school.

4. To the extent the defendant School Board has failed to take appropriate action, that failure impacts on race.

5. The obligation of the school system in this case is to take appropriate action to overcome the language barrier.

The court in this case has indicated that it has heard from impressive and experienced educators and researchers in the field of teaching reading who have pointed ways to the effective teaching of reading. A large amount of what has been testified to as appropriate action has been tried at King in one or another form. Materials suggested are available and have been used. It may be true that had the Ann Arbor school system used all of the ways suggested by the experts who testified in this case, some different results could have been achieved. It does not, however, seem to the court that the judicial forum is the appropriate place to make determinations of this sort. What is "appropriate" is not what this court believes should be done in light of evidence presented in this case. The courts are not the place to test the validity of educational programs and pedagogical methods. It is not for the courts to harmonize conflicting objectives by making judgments involving issues of pedagogy.

The appropriate standard is to examine the actions of the defendant School District Board and its teachers in this case and determine whether they make judgments and decisions in light of information they reasonably could be expected to have and that those judgments and decisions are rational. They may not act blindly, callously, and thoughtlessly, without care. They must have as their goal the congressional requirement, the elimination of existing language barriers, and the steps that they take must be rational and logical in light of the situation confronting them and the knowledge reasonably available to them.

Except in one respect the defendant does take appropriate action to overcome the language barrier. The defendant's teachers do act in a responsible and rational manner to try to help the children. The mere fact that the defendant does or does not adopt a particular program demonstrated to this court as being effective does not permit this court to hold that the defendant has not taken appropriate action under the statute. The defendant has done much and the court finds, except as indicated below, ***1383** that what it has done is appropriate under the statute, even though the court, other administrators, or other teachers might try something different.

  

However, the evidence suggests clearly that no matter how well intentioned the teachers are, they are not likely to be successful in overcoming the language barrier caused by their failure to take into account the home language system, unless they are helped by the defendant to recognize the existence of the language system used by the children in their home community and to use that knowledge as a way of helping the children to learn to read standard English.

The failure of the defendant Board to provide leadership and help for its teachers in learning about the existence of "black English" as a home and community language of many black students and to suggest to those same teachers ways and means of using that knowledge in teaching the black children code switching skills in connection with reading standard English is not rational in light of existing knowledge on the subject.

Section 1706 of Title 20 provides that an individual who has been "denied an equal educational opportunity" (as defined in s 1703) may "institute a civil action . . . for such relief as may be appropriate."

Although this statute is a direct congressional mandate to the federal courts to become involved in matters of this kind, this statute makes it clear that discretion is given to the judge to determine what is " appropriate." Accordingly, this court finds it appropriate to require the defendant Board to take steps to help its teachers to recognize the home language of the students and to use that knowledge in their attempts to teach reading skills in standard English. It is the intention of this court that the method of using the students' home language in teaching reading of standard English meet the test of reasonableness and rationality in light of knowledge on the subject. It is not the intention of this court to tell educators how to educate, but only to see that this defendant carries out an obligation imposed by law to help the teachers use existing knowledge as this may bear on appropriate action to overcome language barriers.

The other two factors particularly identified as creating difficulty in learning to read standard English are not the appropriate subject for court order. The court does not believe the language difference between "black English" and standard English to be a language barrier in and of itself. The court cannot deal with the reading role model problem. In one sense it is a cultural, economic and social problem and not a language problem and thus is beyond the issues in this action. In the other sense its remedies involve pedagogical judgments that are for the educators and not for the courts.

The claims against the defendants other than the defendant School Board are dismissed. No action against individuals is permitted under 20 U.S.C. s 1706.

Counsel for the defendant is directed to submit to this court within thirty (30) days a proposed plan Defining the exact steps to be taken (1) to help the teachers of the plaintiff children at King School to identify children speaking "black English" and the language spoken as a home or community language, and (2) to use that knowledge in teaching such students how to read standard English. The plan must embrace within its terms the elementary school teachers of the plaintiff children at Martin Luther King Junior Elementary School. If the defendant chooses, however, it may submit a broader plan for the court's consideration, e. g., one embracing other elementary schools.

So ordered.

ON SUBMISSION OF PLAN

This court has directed the defendant School District Board to submit a proposed plan defining the exact steps to be taken, (1) to help the teachers of the plaintiff children at King School to identify children speaking "black English" and the language spoken as a home or community language, ***1384** and (2) to use that knowledge in teaching such children how to read standard English.

This ruling was a result of findings that the School District Board was in violation of Title 20, United States Code, s 1703(f), which reads as follows:

> No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by
>
> > (f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

The court found:

1. That a language barrier existed between the plaintiff children and the teachers in the Martin Luther King Junior

  

Elementary School because of the failure of the teachers to take into account the home language or dialect of the children in trying to teach them to read standard English. This was caused by the failure on the part of the defendant School Board to develop a program to assist the teachers in this respect.

2. That the dialect spoken by the children is a version of English called "black English" and is related to race.

3. That the barrier was one of the causes of the children's reading problems which they all experienced and which impeded the children's equal participation in the school's educational program.

4. That the statute enacted in 1974 by Congress directs the school system to take appropriate action to overcome the language barrier.

As a result of these findings, the School Board was directed to file a plan of "appropriate action."

The court, in its earlier opinion, was careful to point out that it was dealing only with the statutory mandate as evidenced by the law passed by Congress and was not dealing with educational policy. It said: "It is not the intention of this court to tell educators how to educate, but only to see that this defendant carries out an obligation imposed by law to help the teachers use existing knowledge as this may bear on appropriate action to overcome language barriers." (P. 1383). It indicated that: "It is the intention of this court that the method of using the students' home language in teaching reading of standard English meet the test of reasonableness and rationality in light of knowledge on the subject." (P. 1383). And it said: "It does not, however, seem to the court that the judicial forum is the appropriate place to make determinations of this sort (decision as to how to teach reading). What is 'appropriate' is not what this court believes should be done in light of evidence presented in this case. The courts are not the place to test the validity of educational programs and pedagogical methods. It is not for the courts to harmonize conflicting objectives by making judgments involving issues of pedagogy." (P. 1382).

These statements were an attempt to point out that the court was dealing with legal obligations imposed by Congress upon the School District Board. It was not attempting to dictate educational policy. Congress enacted the statute which was applied in this case. The court found that the Board did not comply with the statute. Had there been no statute of course, there would have been nothing in the law on which to base the decision. It is the statute that gives direction as to what is required. The court reiterates these standards and the distinction between meeting the requirements of the law on the one hand and determining educational policy on the other in passing judgment on the School District Board's plan.

The statute requires that the Board take "appropriate action" to overcome language barriers which impede equal participation in instructional programs. This court has found that a language barrier exists which impedes the teachers' attempts to teach reading of standard English to students who speak "black English" in their homes. Therefore, because the statute specifically ***1385** directs its attention at the School District Board, the court has directed that the School District Board provide a plan that the Board considers "appropriate action." Since the language barrier was found to be a barrier on the part of the teachers, the court suggested that the plan should be directed at assisting the teacher.

However, attention should not be diverted from the goal of an educational policy by the formal requirement of the statute. That goal is to teach the child to read. The program's ultimate beneficiaries should be the children and, although the structure of the program must be directed at the teachers, the children must always be considered as the final recipients of the program and its success must be measured by their success in reading.

The plan before the court is the effort on the part of the defendant School District Board to provide a program to comply with the law. It is the court's obligation to determine if that plan complies with the law. It is not necessary nor would it be appropriate for the court to make judgments as to whether the plan is or is not the best plan to accomplish the purpose. To do so would put the court into a position of making judgments on what is sound educational policy and would make the court the arbiter of educational policy. This is not what s 1703(f) suggests. Section 1703(f) requires that the Board take appropriate action to overcome the language barriers. What action is appropriate should be judged simply in light of existing knowledge on the subject. If there is substantial existing knowledge on the subject that supports the position taken by the School District Board, then this court's obligation is to find that the plan complies with the law.

The plan submitted by the defendant in this case has as its goals the following:

  

A. help the professional staff of King Elementary School to appreciate and understand the features, characteristics, and background of black English dialect;

B. train the professional staff of King Elementary School to identify children in their classes who may speak black English as their only dialect, as a dominant dialect, or as a second dialect;

C. assist the staff at King Elementary School to respond appropriately to the needs of children who speak black English when providing instruction in reading standard English;

D. establish a consultation liaison with an external agent that insures ongoing exchange of the latest professional information on black English and its role in learning to read standard English;

E. help the professional staff of King Elementary School to better communicate to parents the continuing need for parental input and support.

To carry out these goals, the Board suggests a two-part plan. An inservice program for teachers of instruction in general language and dialect concepts including "the contrasting features of black English and standard English, the identification of black English speakers, the accommodation of code-switching needs in black English speakers, and the use of knowledge of dialect differences to help individual students read standard English. The plan will include both a formal motivational and instructional inservice component and a classroom reinforcement and implementation inservice component. These two components will insure that staff receive both the formal inservice instruction and the support and help in applying newly gained knowledge in the classrooms." [1]

***1388** The plan provides for a significant number of persons to manage and supervise the project and a method of evaluation, together with a budget to pay for its cost.

***1389** The plaintiffs have criticized the plan submitted by the School District Board in the following respects.

They suggest that an additional goal should be added to the plan in the following language: "help the professional staff of King Elementary School to implement the Humaneness Plan with specific concern for its application to black children whose home language differs from the English taught in public school." They also suggest that the parents of the plaintiff children should be consulted on a regular systematic basis in connection with the goals of the plan. They further suggest that where the plan calls for help to the teachers by the Language Arts Consultant "as requested by the teachers," the plan should provide this assistance on a "regularly scheduled basis" and that the Language Arts Consultant should bear the responsibility for "the securing of additional materials" instead of leaving this choice to the teachers with the help of the Language Arts Consultant. Plaintiffs also suggest that the teachers should be proscribed from providing any special assistance under the plan separately from the rest of the class. The plaintiffs also suggest that the Supervision and Management team should include two representatives chosen by persons representing the plaintiff children and that "The mothers of the named plaintiff children shall be notified about the time and place of team meetings and permitted to attend." The plaintiffs also suggest that counsel representing the plaintiff children should have veto power over the selection of the external expert consultant in linguistics and reading.

These matters might be quite appropriate for inclusion in a plan of the kind envisioned by the court's earlier opinion and might be considered appropriate had they been proposed by the defendant School District Board. However, it is not the obligation of this court to determine educational policy. These matters involve a judgment regarding educational policy. For the court to step in and make a determination on any of these matters would inject the court into the matters of educational policy not envisioned by the congressional enactment. There is substantial evidence in the record to support the decision of the School Board on the proposals made by the Board. Although there is also substantial evidence to support suggestions made by the plaintiffs, the educational policy is to be determined by the School District Board. The law is to be interpreted by this court. If the proposals are rational in light of existing knowledge as established in this case, they should be approved.

Finally, the plaintiffs suggest two additions not involving educational policy to the proposal made by the Board. They suggest that additional language should be inserted in the part of the plan dealing with the time schedule. The language suggested is as follows: "This plan shall satisfy the requirements of the court within the time period specified unless plaintiffs can demonstrate to the court that there has not been substantial compliance in good faith. If such a showing is

  

made, this court may provide such other relief as is necessary to assure the implementation of its order of July 12, 1979." They also suggest that their counsel should also receive the evaluation reports when they are distributed.

The court believes that the suggested additional language is not necessary in the plan. It is clear that if the defendant School District Board makes an effort to subvert the thrust of the court's earlier ruling, it can again be brought before this court for further action. On the other hand, it does seem appropriate to the court that plaintiffs' counsel should be permitted to see the evaluation reports that are distributed. This clearly is not a matter that deals with educational policy but deals specifically with providing information to help the court determine whether the program is being carried out properly within the framework of the law.

The court itself has some question about the adequacy of the plan proposed. The question does not involve itself with educational philosophy or policy but with the adequacy of the methods proposed to evaluate ***1390** the plan. The plan suggests a method of evaluation as follows:

> Evaluation activities will concentrate on providing evidence 1) that the inservice program is being implemented in accordance with the plan, 2) that a good-faith effort is being made to comply with the Order, and 3) that the program is judged worthy of expansion to the other elementary schools of the district. All evaluation reports will be distributed to the Board of Education, His Honor, the Superintendent and his Cabinet, the project management team, and the King Elementary School staff. Evaluation reports will be available to the press and the community. The following activities are planned:
>
> A. A written anecdotal summary of each inservice workshop will be prepared and distributed by the management team no later than five days following each inservice session. The summary will include: a list of participants present, an outline of major activities, and a summary of participant reactions.
>
> B. A more general progress report will be issued by the management team every 60 days.
>
> C. An evaluation questionnaire will be distributed to all participants at the close of each inservice workshop. These data will be summarized in the anecdotal summary of each workshop session.
>
> D. A comprehensive survey of staff reactions will be administered at the close of the year.
>
> E. An external expert consultant in linguistics and reading will visit a random sample of 50 percent of the teachers during reading class on at least two different occasions. In addition, the consultant will briefly interview each teacher following the observation. The purpose of the observation and interview is to determine the extent to which teachers are attempting to implement material presented in the inservice workshops. The consultant's reports will be general in nature and will not mention or allude to individual staff members.

This evaluation proposal is largely directed at an evaluation of the inservice training program. This is good but does not seem to the court to be sufficiently comprehensive to determine whether in the long run the action of the Board is "appropriate" as that term is used in the statute.

As pointed out before, the ultimate beneficiaries of the plan should be the children and a part of the effort of evaluation should be aimed at determining whether or not, and if so the extent to which, the children have been assisted in learning to read. In other words, an additional component should be added to the evaluation part of the plan. The Board must determine not only if the barriers are being overcome but also must determine if the impediments to equal participation in the instructional programs are being overcome (as evidenced by the students' progress in attaining reading skills). The court suggests specifically that the evaluation part of the plan be broadened to report changes in the reading skills of the children and if possible the effect the plan has had on these skills.

The court finds that the persons who drafted the plan are highly qualified educators and qualified to suggest a plan involving the education of the children in this case. It finds that the plan does take into consideration existing knowledge on the subject, and it is suggested in good faith to comply with the court's order of July 12, 1979. It seems to the court that the School District Board has suggested steps that are supported by the evidence in this case and existing knowledge on the subject to help the teachers recognize the home language of the students and to use that knowledge in their attempts to teach reading skills in standard English, and to thus overcome the language barrier that was shown to exist in this case.

  

The court finds that, except as otherwise indicated herein, the plan meets the test of reasonableness and rationality in light of ***1391** knowledge on the subject and that it embraces within its terms the persons directly involved in the education of the plaintiff children.

Finally, it should be indicated that the court is not approving or adopting the plan proposed but is indicating and declaring that in its judgment under the facts of this case, the plan as modified complies with the law as stated by Congress.

Having thus indicated its decision on the plan, it is appropriate again to underscore a major premise involved in the adoption of the statute and its application by this court to the facts of this case. This has been alluded to earlier in the court's opinion when attention was directed to the children in this case:

> A major goal of American education in general, and of King School in particular, is to train young people to communicate both orally (speaking and understanding oral speech) and in writing (reading and understanding the written word and writing so that others can understand it) in the standard vernacular of society. The art of communication among the people of the country in all aspects of people's lives is a basic building block in the development of each individual. Children need to learn to speak and understand and to read and write the language used by society to carry on its business, to develop its science, arts and culture, and to carry on its professions and governmental functions. Therefore, a major goal of a school system is to teach reading, writing, speaking and understanding standard English. (Court Order of July 12, 1979, pp. 2 and 3).

It is the hope of this court that the wisdom of Congress in enacting this statute and this court's application of that statute to the facts of this case will be a step to keep another generation from becoming functionally illiterate. The court has recognized and the evidence suggests that there are in this case many other factors which adversely affect the process of learning to read. Absences from class, classroom misbehavior, learning disabilities, and emotional impairment contributed to this problem. It is also probable that lack of reading role models has a significant impact on the problem. The evidence does suggest, however, that a coordinated program involving the appropriate use of programs available under other existing statutes, the skill and empathy of the King teachers, and the plan adopted by the School District Board in this case makes it likely that the problems can be diminished and that the goal of teaching reading in standard English can be achieved.

So ordered.

**All Citations**

473 F.Supp. 1371

## Footnotes

1 Section 1706 of Title 20 gives to an individual who has been denied an equal educational opportunity the right to institute a civil action in the appropriate District Court of the United States for violation of 20 U.S.C. s 1703.

2 Court Order dated September 23, 1977.

3 Geneva Smitherman, Professor of Speech Communication and Director of the Center for Black Studies, Wayne State University;

Daniel N. Fader, Professor of English Language and Literature, University of Michigan;

  

Jerrie Scott, Assistant Professor of English and Linguistics, University of Florida;

William Labov, Professor of Linguistics at the University of Pennsylvania, with a secondary appointment in Psychology and Education;

J. L. Dillard, Assistant Professor, Department of Languages, Northwestern State University, Natchitoches, Louisiana;

Gary Simpkins, Director of Social Health Services and Chief of Mental Health, Watts Health Foundation;

Richard Bailey, Professor of English, University of Michigan;

Ronald Edmunds, Member of Faculty, Harvard Graduate School of Education; and

Kenneth Haskins, President, Roxbury Community College.

4 G. Smitherman, A Comparison of the Oral and Written Styles of a Group of Inner-City Black Students, Ph.D. dissertation, University of Michigan, (1969);

G. Smitherman, Talkin' and Testifyin': The Language of Black America, (1977);

J. L. Dillard, Black English, (1972);

W. Labov, The Study of Nonstandard English, (1970);

W. Labov, “The Logic of Non-Standard English,” Linguistic-Cultural Differences and American Education, Special Edition of the Florida Foreign Language Reporter, (Spring/Summer, 1969);

R. Fasold and R. Shuy, Teaching Standard English in the Inner City, (1970);

W. Wolfram, A Sociolinguistic Description of Detroit Negro Speech, (1969);

R. Burling, English in Black and White, (1973);

R. Abrahams and R. Troike, eds. Language and Cultural Diversity in American Education, (1972).

5 J. L. Dillard, Black English, (1972);

A. Covington, “Teachers' Attitudes Toward Black English: Effects on Student Achievement,” in Ebonics: The True Language of Black Folks, (R. Williams, ed. 1975);

W. Labov, “The Logic of Non-Standard English,” Linguistic-Cultural Differences and American Education, Special Edition of the Florida Foreign Language Reporter, (Spring/Summer 1969);

G. Smitherman, A Comparison of the Oral and Written Styles of a Group of Inner-City Black Students, Ph.D. dissertation, University of Michigan, (1969);

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R. Fasold and R. Shuy, Teaching Standard English in the Inner City, (1970);

R. Burling, English in Black and White, (1973);

R. Abrahams and R. Troike, eds., Language and Cultural Diversity in American Education, (1972).

  

1 The details of the plan are as follows:

A. Formal Instructional Component

1. Objectives: Upon completion of this formal instructional component, inservice participants should:

a. recognize generally the basic features of a language system as they apply to dialect differences.

b. be able to describe in general the concept of a dialect and dialect differences within the English language.

c. be sensitive to the value judgments about dialect differences which people often make and communicate to others.

d. be able to describe the basic linguistic features of black English as it contrasts with standard English.

e. show appreciation for the history and background of black English.

f. recognize readily children and adults speaking the black English dialect.

g. be able to identify without prompting the specific linguistic features by which they recognized a speaker of black English dialect.

h. be able to discuss knowledgeably the important linguistic issues in code switching between black English and standard written English.

i. be able to identify possible instructional strategies that can be used to aid children in code switching between black English and standard English.

j. use miscue analysis strategies to distinguish between a dialect shift and a decoding mistake when analyzing an oral reading sample.

k. be able to describe a variety of language experience activities that can be used to complement the linguistic basal reader program.

2. Operational Details: Instructional Component

a. A total of at least 20 hours of formal instruction will be provided at a time and place to be arranged in consultation with the principal and staff of King Elementary School and the Ann Arbor Education Association.

b. That instruction will commence on or about October 15, 1979, and be completed by no later than March 15, 1980, per a calendar of inservice sessions agreed to in consultation with the principal and staff of King Elementary School and the Ann Arbor Education Association.

c. The instructional team for this instructional component will include:

Dr. Thomas Pietras, Director of Language Arts, Ann Arbor Public Schools Instructional Leader (See Reesumee in Appendix B.)

King Elementary School Language Arts Consultant (to be named later)

An external consultant in linguistics and reading (to be named later)

  

Other Ann Arbor Public Schools elementary language arts consultants as needed

Specific King Elementary School professional staff with expertise to share

d. Specific instructional materials for the workshops will be drawn from the following pool of materials. Other materials may be substituted as they are identified.

RESOURCES

Abrahams, R. and R. Troike. Language and Cultural Diversity in American Education. Englewood Cliffs: Prentice Hall, 1972.

Burling, Robbins. English in Black and White. Holt, Rinehart, and Winston, 1973.

Cagney, Margaret A. “Children's Ability to Understand Standard English and Black Dialect.” The Reading Teacher, Vol. 30, No. 6, March, 1977.

Cramer, Ronald L. “Dialectology A Case for Language Experience.” Reading Teacher, October, 1971, pp. 33-40.

Goodman, Kenneth S. and Catherine Buck. “Dialect Barriers to Reading Comprehension Revisited.” The Reading Teacher, October, 1973, pp. 6-12.

Goodman, Yetta M. and Rudine Sims. “Whose Dialect for Beginning Readers?” Elementary English, Vol. 51, September, 1974, pp. 837-841.

Hoover, Mary Rhodes. “Characteristics of Black Schools at Grade Level: A Description.” The Reading Teacher, April, 1978.

Johnson, Kenneth R. “Black Dialect Shift in Oral Reading.” Journal of Reading, April, 1975, pp. 535-540.

Johnson, Kenneth R. and Herbert D. Simons. “Black Children's Reading of Dialect and Standard Texts. A Final Report.” April, 1973, E.D. 076978.

Laffey, James and Roger Shuy. Language Differences: Do They Interfere? International Reading Association, 1973.

Pietras, Thomas P. “Teaching As a Linguistic Process in a Cultural Setting.” To be published by The Clearinghouse, 1979.

Pietras, Thomas P. “Teacher Expectancy Via Language Attitudes: Pygmalion from a Sociolinguistic Point of View.” The Journal of the Linguistic Association of the Southwest, Vol. II, Nos. 3 and 4, December, 1977.

Pietras, Thomas P. “Teacher's Verbal and Nonverbal Behavior as Indices of Teacher Expectancy.” Resources in Education, November, 1978, Educational Research Information Clearinghouse, No. ED 156627.

Postman, Neil and Charles Weingartner. Linguistics: A Revolution in Teaching. Delta Book (paperback), 1956.

Shuy, Roger. Discovering American Dialects. Urbana, Illinois: National Council of Teachers of English, 1967.

Audio and/or video-taped samples of spoken black English.

  

e. All King Elementary School professional staff will receive a stipend for their participation beyond the contractual day as agreed upon with the Ann Arbor Education Association.

f. Participants will include all professional staff who are regularly assigned to King Elementary School. Staff who have completed a formal course in black English from a recognized college or university and whose transcript so indicates may be excused from this component of the inservice program. Staff in art, music, and physical education will not be expected to attend those workshop sessions that deal specifically with reading instruction.

B. Classroom Application Component

1. Objectives: Upon completion of this component, inservice participants should:

a. be able, using a variety of informal techniques, to identify students in their class who speak black English;

b. be able to recognize specific problems encountered by individual black English speakers attempting to read standard English;

c. be able, in the classroom setting, to distinguish between a dialect shift and a decoding mistake as a black English speaking student is orally reading from standard English material;

d. have incorporated into their reading program appropriate language-experience activities;

e. use a variety of possible instructional strategies to help black English speaking students learn to read standard English.

2. Operational Details: Implementation Component

a. A series of 3 or 4 one hour follow-up seminars will be scheduled for appropriate Wednesday afternoons as selected by the principal and staff beginning in February and extending until the end of the school year. These seminars will have the purpose of encouraging classroom teachers to help each other with problems encountered in applying what they have learned in the workshops. It will also allow for the introduction of outside expertise to help address these problems as the staff sees the need.

b. For the 1979-80 school year, a language arts consultant will be assigned full time to King Elementary School. The individual so assigned will have a strong background in reading, extensive knowledge of black English, and experience in teaching black English speaking students. During this period (1979-80), the Language Arts Consultant will have an expanded role. The Language Arts Consultant:

will carry an instructional caseload of five to ten high-need students (including not but exclusively black English speaking students);

will provide diagnostic help with individual students as requested by the teachers;

may work in the classrooms with the teachers during reading instruction (at the teacher's request);

may demonstrate in the classroom instructional strategies introduced in the seminar (at the teacher's request);

will secure additional materials as requested by the classroom teachers;

  

will either personally help or secure other assistance for a teacher who requests further inservice instruction in an area introduced in the workshops.

c. This component will be required of all professional staff who have either a direct or related responsibility for reading instruction.

d. The instructional team for the implementation component will include:

Mrs. Rachel Schreiber, Principal, King Elementary School (Instructional Leader)

The King Elementary School Language Arts Consultant

Other Ann Arbor Public Schools Language Arts Consultants as invited.

An external expert consultant in reading (to be identified later)

Dr. Thomas Pietras, Director of Language Arts, Ann Arbor Public Schools

Specific King School teachers who wish to share expertise with colleagues

e. King Elementary School staff will not receive a professional inservice stipend for this component, since it is expected that the work can be carried out within the contractual day.

C. The Reading Program at King Elementary School

Since His Honor has requested that the plan speak to "the exact steps to be taken . . . (2) to use that knowledge in teaching such students how to read standard English," it is appropriate that we describe briefly the reading program at King Elementary School, first, because it is changing this year as the district implements a more contemporary reading program, and second, because the inservice program will highlight certain features of that program.

1. The staff at King Elementary School have selected and are in the process of implementing the linguistic basal reading program produced by the Houghton-Mifflin Company. Following is a description of that program prepared by Dr. Pietras:

The Houghton-Mifflin Reading Program

As children approach the task of learning to read, they have as their main challenge "breaking the code" in reading. This process has two (2) essential parts which are: (1) phonics (accurately associating letters with the sounds they symbolize) and (2) comprehension (extracting meaning from what is read).

The Houghton-Mifflin Program provides these two parts. The kindergarten through grade six component of this basal reading series can be divided into three sections:

1. The pre-reading section called "reading readiness," provides skills basic to beginning reading such as auditory and visual discrimination between sounds and letters, left to right progression, beginning development of listening and oral skills.

2. The primary section (grades 1-3) emphasizes basic skills such as word attack, listening, and specific comprehension exercises children need to master if they are to learn to read.

3. The intermediate section (grades 4-6) lessens the emphasis on word-attack skills and begins to stress comprehension, study, and literary-appreciation skills. Children need to master these so they can:

  

(1) cope with extracting meaning from reading material independently, (2) study informative material effectively, (3) use reference aids efficiently, and (4) read for different purposes.

2. The Houghton-Mifflin Reading Management system is also being implemented at King Elementary School to complement the basal program. This system of developmental reading skills and periodic progress tests provides careful monitoring of each child's reading skill development. The system supplements and corroborates the teacher's professional insights as he/she works with each child.

3. Language-experience activities are used as a supplement and complement to the basal program as appropriate. Many such language-experience activities are already described in the Houghton-Mifflin manual. Such experiences are particularly beneficial to black English speaking students who are having code-switching difficulties.

4. Additional reading materials are provided in each classroom to supplement the basal reading program. Particular attention is given to materials which provide additional practice in hearing sound-symbol relationships (phonics).

5. The library is constantly used to provide a rich source of student books for sustained silent reading.

We are of the opinion that this approach to reading instruction is reasonable and rational in light of knowledge on the subject. In that regard, two very recent reports corroborate our views:

Kean, Michael H., et al. What Works in Reading: The Results of a Joint School District/Federal Reserve Bank Empirical Study in Philadelphia. Office of Research and Evaluation, Philadelphia Public Schools, May, 1979.

Hoover, Mary Rhodes. “Characteristics of Black Schools at Grade Level: A Description.” The Reading Teacher, Vol. 31, No. 7, April, 1978.

VI. Implementation Details

A. Timeline

1. It is expected that the entire program can be completed in one school year (1979-80).

2. Component No. 1: Motivation and Instruction will run from about October 15, 1979, to no later than March 15, 1980.

3. Component No. 2: Reinforcement and Implementation will run from about December 1, 1979, to June 15, 1980.

B. Resources and Materials

1. Each inservice participant will receive individual copies of selected materials to be studied closely in the workshops.

2. A modest professional library of carefully selected books and articles will be available from the King Elementary School media center.

3. Prepared tapes of black English and contrasting standard English language samples will be available in the King School media center.

  

4. A full-time Language Arts Consultant will be assigned to King Elementary School for the 1979-80 school year. This represents an expansion of .5 full-time staff equivalent over what is normally available at King Elementary School.

5. At least 40 hours of external expert consultant time in both linguistics and reading will be contracted.

6. Fifteen percent of Dr. Pietras' time and five percent of Dr. Hansen's and Dr. Cranmore's time will be dedicated to the project.

7. A professional inservice stipend will be provided to each teacher to compensate for time spent in the program beyond the contractual day.

C. Supervision and Management

1. The project will be supervised by a management team consisting of the following people:

Dr. Lee H. Hansen, Associate Superintendent for Curriculum and Instruction (Team Leader) (See reesumee in Appendix B.)

Dr. Robert Potts, Assistant Superintendent for Human Relations and Community Services (See reesumee in Appendix B.)

Mrs. Rachel Schreiber, Principal, King Elementary School

Dr. Marion Cranmore, Director of Elementary Education

Dr. Thomas Pietras, Director of Language Arts (See reesumee in Appendix B.)

King Elementary School Ann Arbor Education Association Representative

Two (2) King Elementary School teachers selected at large by the staff

King Elementary School Language Arts Consultant

Citizen-at-large: Dr. Percy Bates, Associate Dean, School of Education, The University of Michigan

2. This team will meet at least once every three weeks to monitor progress, to solve problems, and to plan the details of future activities.