

How I Got Started as a Forensic Linguist

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It was one of those unusually warm spring afternoons in Fort Worth Texas when three burly policemen approached that city's most flamboyant and wealthiest resident. T. Cullen Davis had just entered a telephone booth to make a phone call when three policemen unceremoniously yanked him out of the booth, arrested, and cuffed him, advising that he was being charged with soliciting murder. He objected, of course, but before he did so he begged the cops to let him get his nickel back from the telephone booth.

Cullen Davis was an unusually frugal man but he had very expensive tastes. He had inherited his father's very successful business of producing oil-drilling equipment that serviced the many oilrigs all over southwestern United States. He built a spacious house in Ft. Worth that everyone referred to as "the mansion." In Davis's social life, however, he did not mingle with the more prominent citizens. He preferred to associate with the lower-classes. He liked to hang around gas stations to chat with mechanics, among others, and he frequented bars where the upper classes would never allow themselves to be seen. At one of these bars he met an attractive blonde woman named Priscilla, married her, and as a wedding present bought her a necklace made of diamonds that spelled out "rich bitch." She wore it unashamedly.

Their marriage didn't last very long. A few years before his arrest at the phone booth, Davis and Priscilla had argued constantly and Davis finally moved out. One night shortly after he left, a masked man entered the mansion and shot and killed Priscilla's new boyfriend and her teen aged daughter by a previous relationship. Priscilla escaped with only a superficial wound to her breast.

Davis was the main suspect because he was thought to have the motivation to kill the woman from whom he was not yet divorced. Although this intruder was masked, Priscilla swore that she recognized him as Davis. Two of Priscilla's friends who happened to be on the street outside the house at the time supported her accusation, claiming that they too recognized the masked man as Davis.

This seemed to be enough evidence for the police to arrest Davis and charge him with murder. He was tried for murder but the trial ended with a hung jury, probably because the evidence against Davis was so weak. Undaunted, the prosecutor retried the case and this time the jury acquitted Davis.

Even though the prosecutor had failed twice to convict Davis, he was still not ready to give up. He had another idea. The new scenario was that if Davis couldn't be convicted of murdering Pricilla's boyfriend and daughter, maybe someone could convince him to hire a hit man to kill Pricilla. The timing for the police to arrange for this scenario became apparent after Davis filed for a divorce from Pricilla. Whether or not it could be verified, a rumor was flying around that Pricilla was in an intimate relationship with the judge in their divorce procedures. Now Davis had even more motivation to kill his wife.

It is not clear how the police originated the plan to get Davis to hire a hit man to kill Pricilla, the judge, and the two alleged witnesses to the earlier murders by the masked intruder, but suddenly one of Davis's midlevel employees, David McCrory, had a conversation with Davis while they sat in the front seat of Davis's Cadillac in a Fort Worth parking lot. McCrory's job was to get Davis to agree that McCrory would find a hit man to kill the four people. McCrory wore a hidden wire to record this conversation while police simultaneously tried to video tape the two men from a van parked directly across from Davis's car.

Although the videotape was virtually inaudible, the prosecutor was delighted with McCrory's audiotape, believing that this time he finally had sufficient evidence to convict Davis at trial. These audio and video tapes could be far better proof against Davis than the previous questionable opinions of witnesses about the identity of the masked man.

This trial for solicitation to murder began in 1979. I heard about the case accidentally when I was on an airplane flying to Dallas for a linguistics meeting. The man sitting next to me was reading a manuscript that seemed to look like a sermon. I asked him if he was a minister and he said no, he was a lawyer defending a minister who was charged with slander. My seatmate then asked me what I did for a living and I told him that I was a Georgetown University sociolinguistics professor who analyzed tape-recorded speech. His eyes lit up as he told me that his lawyer-colleague had a case in which the evidence was tape-recorded speech and would I mind if he told his colleague about me. I agreed, not knowing what I might be getting into but always interested in the way people talk. Shortly after I returned home, I got a call from Sam Guiberson, one of the lawyers who was defending Davis in that case. He invited me to fly to his Houston office to get acquainted.

That summer I flew to Houston to meet with Guiberson, who outlined the details of the case. I'd never heard anyone solicit murder before and since I was too insecure to go alone, I talked one of Georgetown's junior faculty members into coming along with me for support. Don Larkin and I were met at the airport by Guiberson, who drove us to his law firm's office.

We had one of those "get-to-know-you" meetings in which Sam didn't mention the tape-recordings that I learned later would be the major evidence in the forthcoming trial. It turned out that Sam was a junior member of the law firm who had told his boss, the famous Richard "Racehorse" Haynes, that believed that the evidence in this case required the expertise of a linguist. He explained that at our first meeting the law firm would assess my physical appearance and demeanor and decide whether I could stand up to the hostile cross-examination that trials inevitably produce. Apparently, I passed their test because Sam then ushered me into the office of the senior partner and introduced me to Haynes, the lead counsel in the case.

As I entered Haynes's office, I quickly buttoned my suit coat before we shook hands. Only much later did Sam tell me that Haynes was impressed that I had performed the politeness gesture of buttoning my coat. The meeting was brief but as I left, Sam told me that Haynes told him that I looked like a "player."

My major test came later, after Guiberson sent me the audiotape and videotape, the evidence upon which the oilman's indictment for solicitation of murder was based. He also advised me that I was now hired to work on the case. Since I no longer needed my young colleague's emotional support, I was now on my own, working on the first law case of my career.

Even though Haynes would do all of the direct questioning of me at trial, Guiberson was equally important. After I reviewed and analyzed the taped evidence, Sam had me fly to Houston several times to work intensely with him about how to present my testimony at trial. I remain grateful that he taught me what I needed to know about courtroom procedures and especially what I could expect during the prosecutor's cross-examination. He was a great teacher.

At the trial I was on the witness stand for most of three days. During the first day, Haynes followed the plan that Guiberson and I had created in which my testimony would rely on the homemade charts I had prepared. These charts were important guides for both Haynes and me about the sequence of how my testimony would proceed. But I was disappointed and shocked when Haynes omitted what I considered the most important chart, the keystone of my testimony. When I mentioned this to Sam during one of the breaks, he told me to not worry because Haynes was setting up the prosecutor to ask me about this topic, feeling that it would be more effective if it came through cross-examination rather than direct.

And that's exactly what happened. The prosecutor first asked me the very question that Sam had predicted. Apparently, he thought I had conveniently omitted or overlooked the passage on the tape that Haynes had not questioned me about. When the prosecutor asked me why I didn't deal with this passage, I replied that I had actually analyzed it and I happened to have a chart explaining it if he would like to see it. Of course, he was trapped into saying that he wanted to see it. Expert lawyer that he is, Haynes had successfully trapped the prosecutor into focusing on the most important part of my analysis.

The prosecutor did his best to keep me on the witness stand for most of two days, but he didn't make much progress with me, thanks to the extensive preparation Guiberson had provided. The jury deliberated for a few hours and returned a verdict of not guilty. It was a grueling and exhausting first experience for me as my first time as an expert witness in a trial.

Not all went well for me though. In addition to the problem I had when Haynes didn't ask me the most important question, one of my biggest problems was my nervousness and fear at finding myself in an adversarial situation that reminded me of the final oral exam for my PhD. It was worse than that oral exam because the prosecutor kept trying to trick me into giving answers that I did not want to make. For example, he asked me, "Dr. Shuy, when you did this subjective analysis of these tape recordings, what type of tape recorder did you use?" I paused long enough to realize that he was trying to make me admit that my testimony was not scientifically objective. Therefore, before telling

him what equipment I used, I responded the first clause in his question, telling him that I had done an objective analysis, not subjective. I caught on to what he was doing most of the time but I'm afraid I wasn't always so perceptive. Fortunately, during my direct exam Haynes asked me questions that repaired most of these infelicities.

Another problem for me was how to deal with meaning created in discourse rather than small chunks of data, including any inferences that might be made. I addressed this problem by using topic and response analysis, illustrated with my charts. They enabled me to show that the bad topics were only vaguely introduced by the government's representative, not by Davis, whose responses demonstrated that he did not understand their meaning. As far as I knew, this type of analysis had not been tested before in the courtroom setting and any success I might have with it depended on how effectively I presented it. The prosecutor had never faced such analysis before and he did his best to discredit it. His objections seemed strong at the time, but somehow the jury managed to understand what I was teaching them.

After it was all over, I flew home totally exhausted and vowed to not get involved in law cases ever again. But since this was a highly publicized case, word spread quickly among other lawyers that forensic linguists could be of help to them. Suddenly, my phone began ringing and since that case I have consulted or testified in many other cases that had tape-recorded evidence. Lawyers who specialized in other areas such as disputes about trademarks, contracts, insurance policies, police interrogations and other types of cases also began to call me to help them.

In summary, it was that 1979 conversation with my seatmate on an airplane who helped get me started in this field. After this I was helped greatly by the teaching and preparation I received from attorney Sam Guiberson along with the inspiring courtroom management of attorney Richard "Racehorse" Haynes.