Article

‘Wanna still nine-hard?’: Exploring Mechanisms of Bias in the Translation and Interpretation of Wiretap Conversations

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Abstract

Wiretaps permit police to intercept telephone conversations among targets of investigation, some of which are judged to be incriminating by those listening to the real-time conversations. How is the information intercepted from wiretaps interpreted, understood, and used? What is required to transform raw communications intercepts into evidence of probable cause? Forensic linguists have studied transcripts of intercepted conversations, focusing on the wiretap entextualization process—that is, the ways in which intercepted conversations are classified as incriminating, and converted into evidence of crimes. They hypothesize the wiretap entextualization process is prejudiced in favor of police theories of criminal actions. This paper considers forensic linguists’ police bias arguments, and offers details into mechanisms that create police predispositions to interpret conversations intercepted under a wiretap order as crimes. The analysis applies Shuy’s (2005) conversational strategies to create crime to nine conversations intercepted in a federal wiretap. Transcripts are examined by comparing conversations with their police translations. Findings suggest police bias is embedded deeply into wiretap operations, and that there are several means by which police preconceptions of crime undergird wiretap transcripts.

Introduction

Wiretaps are primarily a tool used by law enforcement and prosecutorial personnel who, under judicial orders, produce audio soundtracks and transcriptions of intercepted communications to be used in affidavits, warrants, charges, and subsequent court proceedings. One goal of wiretaps is to produce incriminating transcripts of intercepted communications (Moriarty 2005; Patavina 2005; Shuy 2005; Bucholz 2009; Mason and Mason 2006; Theoharis 1992). Development of incriminating wiretap transcripts is the end product of several technological processes executed by law enforcement and prosecutorial agents. For these agents, technology performance can be understood as a process of translating information gathered from surveillance technologies into evidence of wrongdoing.

Social scientists rarely focus on wiretaps or their operation. In perhaps the only analysis of aggregate U.S. wiretap data, Nunn (2008) summarized a 19-year time series of Title III wiretaps in the U.S. between 1987 and 2005, using data from the Administrative Office of the United States Courts (2004, 2005, 2006). In 2005, U.S. courts authorized 1,773 applications, resulting in the interception of 4.8 million communications from among 181,258 persons. The population was wiretapped at a rate of approximately 82.1 persons per 100,000 adults (18 years+), more than twice the 1987 rate. Wiretaps have moved from

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fixed telephone lines in houses and buildings to remote wireless targets. By 2005, nearly 91% of wiretaps were attached to portable communications devices. About 81% of wiretaps support narcotics investigations. In 2005, there were reportedly 1.1 million incriminating interceptions. From 1987 to 2005, the proportion of total intercepted communications classified as incriminating averaged 21.4% annually.

The mechanisms by which information is screened and interpreted to produce incriminating communications are underexplored in surveillance research. The traditional role of wiretapping as a fundamental surveillance technology is clearly acknowledged, but the literal analysis of wiretap data has been minimal in the broader literature on surveillance and undercover police work (Redden 2000; Marx 1988; see Marx 2004 for comprehensive bibliography). There are, however, at least two bodies of work that can shed light on the transformation of intercepted conversations into criminal evidence: ideas about the wiretap entextualization process (Bucholtz 2009), and linguistic analyses of conversational strategies used by police or their agents to create crime or its appearance in undercover surveillance operations (Shuy 2008).

Both have something interesting to say about the production and use of audio surveillance recordings and transcripts developed from wiretap orders. They treat wiretaps as the audio and written information created by the wiretap, which is subsequently transformed into evidence of crimes by interpreting the intercepted conversations within the context of ongoing criminal transactions. According to forensic linguistics, the process involved in transforming intercepted communications into final written transcripts is called entextualization. At the broadest level, entextualization includes conversion of electronic signals to sounds to audio recording to written transcripts. It also involves the final interpretation of communications that are intercepted, and is performed almost exclusively by law enforcement and prosecutorial advisers. Their measure of effectiveness is the total amount of incriminating communications relative to total interceptions. Forensic linguists ask whether police bias can be found in the interpretation of recorded conversations, and generally find the police predisposed to finding criminal evidence in their analyses of recorded wiretap conversations. However, this only answers part of the question. They don't ask what the nature of that bias is, where it comes from, or the reasons for its presence. Shuy (2005) has identified how police agents conduct or interpret covertly-acquired conversations in ways most likely to suggest illegal actions. Some of these strategies can tell us more about how and why this bias favors the police interpretations of wiretap transcripts. Based on a comparison of police interpretations and conversation transcripts contained in a federal drug case affidavit, two general research questions are developed: (1) To what extent does a wiretap transcript reflect police bias against the targets of the wiretap? (2) To what extent do wiretap transcript translations reflect self-evident criminal communications versus concocted or ambiguous interpretations of otherwise innocent conversations?

Background and theory

Legal and operational context

The legal context of surveillance is defined by the *United States Code (USC)*, Title 18, Part I, Chapter 119, Section 2511: *Interception and disclosure of wire, oral, or electronic communications prohibited*, more commonly known as Title III (Center for Democracy and Technology 2006). In addition to its legal context, intercepting conversations via "wire, oral, or electronic communications" presents technical challenges, including how to intercept signals, where and when you can eavesdrop on electronic communications (e.g., requiring cooperation with telephone service providers—the subject of CALEA, the 1994 Communications Assistance for Law Enforcement Act), whose conversations can be monitored, and what kinds of communications can be intercepted (Diffie and Landau 1998; Solove 2004; Foster 2005; Julie 2000). These issues must be addressed within the probable cause affidavits submitted to state or federal magistrates who approve wiretap orders.

Once authorized, an individual wiretap is supposed to be managed operationally in a certain way. The minimization rule requires individuals monitoring wiretaps to exclude conversations not relevant to the crimes specified in the wiretap order, as well as other privileged communications such as client-attorney conversations (Theoharis 1992; Diffie and Landau 1998: 193). Listeners are permitted to monitor a conversation for 30-seconds every two minutes of an interception (Foster 2005: 296). The monitor can record only those communications relevant to the investigation, and must judge the acceptability of intercepting a phone conversation (i.e., determine that it is or is not pertinent) based on short bursts of periodic communications. As noted above, statistics on U.S. Title III wiretaps from 1987 to 2005 suggest about 20% of intercepted communications were classified as incriminating (Nunn 2008).

Consider the production of wiretap transcripts as a two-part process. The first is real-time interception of interpersonal (device) communications. This involves a complicated and embedded technological structure in which electronic signals originated and received by one or more targeted telephone numbers are intercepted virtually as they occur. To do this, the broader technology of wiretapping requires the cooperation of telecommunications carriers (mandated by CALEA), who divert cellular digital packets and otherwise transfer audio communications to a law enforcement intercept, or 'wire room', as well as a set of shared communications and computing environments within which to process interceptions. The wire room is a combined receiver, computer, and information storage and processing system for the intercepted communications. It produces the basic audio soundtrack of the wiretap.

Because of the periodic nature of listening in on intercepted communications for signs of incriminating conversations, the individuals monitoring and translating interceptions (hereafter, monitors or translators will refer to the persons authorized to be in wire rooms) must be attuned to the nuances and details of the presumed criminal conspiracy in order to make quick determinations of whether conversations are pertinent to the investigation. It is a judgment of individuals monitoring interceptions as to what is incriminating. Presumably, the more attuned the wire room monitors are to coded criminal communications, the better the wiretap. Less attuned wire room monitors will operate at a sub-optimal level, and might offer only a partial picture of criminality or inaccurate pictures of hypothesized criminal behavior. It is unlikely a monitor can successfully screen and intercept all incriminating communications. Some non-incriminating information will be recorded, while some incriminating information will escape notice.¹

Production of transcripts and the entextualization process

In any event, the raw output from a wiretap is the set of all recorded conversations, considered *primary* information, which must be processed and interpreted in order to become more valuable secondary or *tertiary* (managerial) information (Manning 1992: 352). However, because criminals attempt to conceal their activities from law enforcement authorities, communications among conspirators is often coded or deliberately misleading (Mason and Mason 2006). Therefore, intercepted conversations must be listened to and interpreted. The basic question for every conversation must be: what does it mean?

The reduction and interpretation processes that are needed to answer this question involve initial audio screening of incoming conversations—first, is it relevant to the investigation?—and then for those deemed pertinent, transcription and interpretation must be performed. Solan and Tiersma (2005: 192-194) describe how FBI agents interpreted transcripts of recorded telephone interceptions in narcotics cases, sometimes interjecting content inferences, educated guesses, and other qualitative translations that meant more—or at least something different—than the words written on paper. In one case, “the agent...went

¹ Data sources capable of assessing these propositions—which would require detailed data on the operation of individual wire rooms and the outcomes of subsequent legal proceedings—are scarce. In addition, because only about 20% of intercepted communications are ultimately classified as incriminating, wire rooms evidently intercept non-incriminating conversations as well—otherwise, the rate of incriminating interceptions would be 100%.

beyond explaining what individual words and phrases meant, often discussing what he believed to be the plans and intentions of the speakers” (p. 193). They go on to note, “[i]n a Texas case, the court cited evidence that the defendant used terms like longs, shorts, and apples—which refer to a gram, a half-gram, and an ounce of cocaine, respectively—as evidence that he was involved in a conspiracy to sell drugs” (p. 194). Solan and Tiersma argue that some phrases could have “a vastly more ordinary meaning that could lead to a more innocent interpretation” (p. 193).

Therefore, incriminating conversations are identified and culled out of all recorded information, converted to writing, and explained as crimes (Lee 2005; Mason and Mason 2006; Shuy 2005; Solan and Tiersma 2005). Police and prosecutors are interested in using the intercepted communications as evidence supporting probable cause for arrest or evidence of crimes in a criminal trial. Intercepted conversations have to be re-heard, re-read, and interpreted to make sense within the context of the criminal investigation.

Forensic linguists refer to this broadly as entextualization: “the process by which circulable texts are produced by extracting discourse from its original context” (Park and Bucholtz 2009). Some analysts hypothesize that the entextualization process is complex and heavily influenced by the imbalanced power relationships between law enforcement and the targets of wiretaps (Park and Bucholtz 2009). One forensic linguist has hypothesized that in wiretaps, law enforcement has the upper hand in assembling evidence of criminal activity because

law enforcement officials as institutional representatives control both the means of recording criminal evidence and the products of such surveillance events, such as interrogations and confessions.... Studies of the entextualization of police interrogations and court proceedings report a consistent pattern of bias in legal transcription in favor of those who hold the greatest institutional power—judges, lawyers, and police officers (Bucholtz 2009: 507).

For law enforcement, successful entextualization requires what forensic linguists call “professional hearing” (Bucholtz 2009), a process by which the authorized ‘ears’ of wiretap monitoring in wire rooms must decide which conversations to intercept, and then among those intercepted, listen to recordings, and finally apply (criminal) meaning to what was said. Professional hearing is what is practiced by the monitors and translators staffing wire rooms. They listen to real-time and recorded conversations, determine which ones are incriminating (based on police or prosecutorial theories about crimes being undertaken), and turn those conversations into written form.

Thus, one tangible product of the wiretap entextualization process is the conversation (the wiretap transcript). Wiretap transcripts can be in different forms; they can be one-sided summaries of conversations without using the exact wording of the targets, or they can be scripted, narrative renditions of conversations as they occurred, or they can be both. But the process of transcription belies the harder process of interpreting conversational meanings. With wiretaps, the final processing of information involves identifying conversations in ways that offer reasonable evidence of criminal behavior.

Some research questions

Regarding wiretaps, the basic question asked by forensic linguists boils down to this: how realistic is the police translation of a transcript in comparison to its written narrative? Are transcribed conversations more or less supportive of the police translation, or suggestive of apparent attempts to misconstrue innocent words and phrases? Although these are valid questions, another way of asking them is to ask why the wiretap transcripts would *not* support a police version of events. In short, it is much more likely that police bias is an unavoidable element of the wiretap entextualization process (and the transcripts produced from that process), for several reasons. First, police bias in a wiretap transcript is likely because the transcript is the product of activities performed almost entirely by law enforcement and prosecutors, as

noted in the earlier Bucholtz quote. Second, in producing wiretap transcripts, the police define the vocabulary of the crime(s), assign meaning and definitions to coded words, select what conversations to portray as evidence of crimes, and they restate or summarize target communications. From this perspective, police control the overall 'story' or theory of the pre-supposed criminal activities. Third, the operational rules of wiretaps suppose that for a conversation to have been collected and interpreted, it must at least have *appeared* incriminating. Simply by virtue of being transcribed and analyzed under a wiretap order, an intercepted communications would be considered more rather than less incriminating (if wiretap monitors are operating effectively). Also, out of the total number of intercepted communications, transcribed conversations are likely to be the best examples of incriminating statements. Finally, to be of any value to police and prosecutors, interpretation of the transcript needs to tell plausible stories of planned, potential, or executed crimes. Ideally, the literal dynamics of the crime could be explained. Conversations that don't reflect 'criminal talk' are unlikely to find their way into wiretap transcripts. These four factors almost certainly inject "police bias" into transcripts.

An alternative way of exploring wiretap transcripts is to hypothesize that other more specific sources of bias (i.e., favoritism to a view that conversations revealed criminal actions) are embedded in their interpretation. Shuy (2005) considers a different version of law enforcement advantage when he examines "conversational strategies used to create crime" within the context of covert investigative work by undercover police (U) and confidential informants (CI). Shuy has examined many cases involving information elicited by U's, CI's, or developed through police interrogations. He has closely examined a variety of these cases in order to identify strategies used by agents of the police to demonstrate criminal behavior in audio or video recordings (Shuy 2005; Smith and Shuy 2002). When CI's or U's are used to surreptitiously record potentially criminal conversations, Shuy identifies 11 strategies CI's or U's can use to create crime (or at least its appearance): ambiguity, blocking the target's words (e.g., speaking on behalf of the target or manipulating the on/off switch), hit and run, contaminating the recording, camouflaging the illegality, isolating targets from information, ignoring the target when he says 'no', inaccurately restating what the target says, withholding key information from the target, lying to the target, and scripting the target (Shuy 2005: 13-29).

All of this leads directly to questions of whether any of these strategies can be applied to processing wiretap transcripts. These 'conversational strategies to create crime' are in fact relevant to understanding wiretap transcripts. For example, on tape, a U or a CI might "speak on behalf of the target" or "manipulate the on/off switch" in some fashion to show criminal conduct. This would be roughly the same as wiretap monitors summarizing long conversations or excluding some conversations in favor of others. Or they might re-state, more or less accurately, the words of the target in ways that make it appear likely criminal talk is occurring. As shown below, this is a major function of police translations included in wiretap transcripts. Shuy notes that CI's or U's can build solid cases in murder solicitations if they get details about desired manner of death, placement of dead bodies, and so on. In Shuy's view, seeking information to fill in these details leads the U or CI to use various strategies to shape and interpret the information presented on wire recordings in a way that portrays criminal communications.²

Presumably, wiretap transcripts of individuals said to be involved in illegal drug deals must offer plausible details of what appears to be an illegal drug sales and distribution operation and associated conspiracy. In the Indianapolis case explored here, a group of (unidentified) authorized individual monitors and translators in the wire room assisted in the interpretation of intercepts. Their actions parallel the role of

² Shuy (2005) considers transcripts to be the worst incarnation of interpersonal conversations, especially in comparison to the original undercover tape recording. Nonetheless, by analogy, the authors of the Martindale transcripts served in the functioning role of U or CI because they scripted meaning on the activities of targets, spoke for the target, restated words or phrases, spoke on behalf of the target, interrupted targets' words, and figuratively manipulated the on/off switch by selecting and excluding conversations to include in the affidavit.

U's or CI's in entextualizing and demonstrating the criminal nature of conversations. In this way, wiretap transcripts become a rough substitute for information supplied by the CI or U, and it is therefore fair to ask whether the monitors and translators of audio wiretap data show any evidence of these latent strategies of defining crimes. Accordingly, several of Shuy's strategies can be applied to the interpreted transcript and considered to be part of the entextualization process, including ambiguity, speaking on behalf of a target, manipulating the on/off switch, and more or less accurately restating information. This is shown in the following examination of the Indianapolis wiretap transcripts.

Data and analysis of wiretap transcripts

In the Indianapolis case, tried in the U.S. Southern District of Indiana in 2000, the interpretation of a large number of telephone conversations fueled the arrest and ultimate conviction of the conspirators in a drug distribution ring. They will be referred to here as the Martindale group, a loosely organized inner city drug crew, consisting of several serious chronic offenders and associates engaged in cocaine distribution and sales. On April 2, 1999, an FBI affiant submitted a 250-plus page affidavit consisting of 137 pages of text and 120 pages of appendices to a federal magistrate, requesting search, arrest, and property seizure warrants (Fabian 1999). Criminal histories of the 19 targets comprised 18 percent of the affidavit (24 of 137 pages).³ The affidavit produced arrest warrants for 19, search warrants for 29 residential locations, and property seizure warrants. All 19 primary targets were convicted in subsequent trials.⁴

As part of the Martindale investigation, the Indianapolis Metro Drug Task Force and the FBI obtained wiretap orders and intercepted an undisclosed quantity of telephone conversations among the Martindale targets. At least two 1998 and five more 1999 federal wiretaps were issued. In the arrest warrant affidavit section entitled "Intercepted Wire Communications," 96 conversations intercepted via the wiretaps are transcribed, annotated, and interpreted. Two-thirds of the text (89 of 137 affidavit pages) was dedicated to quoting and explaining the telephone conversations. In those 89 pages, the affiant weaved 96 conversations intercepted between December 10, 1998, and March 30, 1999, into a tale of semi-organized drug dealing and many of its accompanying intrigues. Conversations are quoted, with interpretations offered by the affidavit author(s). There are communications exchanges from various two-way combinations among 19 individuals over about 50 days. Each of the 96 conversations in the affidavit was presented as incriminating and interpreted as indicative of an ongoing illegal narcotics sales and distribution ring. Individuals appear in the intercepts with different frequencies, suggesting the centrality of their involvement in the Martindale group.⁵

In this analysis, nine of the scripted conversations in the affidavit are adapted and reformatted into side-by-side comparisons of dialogues and police interpretations.⁶ In these transcript comparisons, the wording is taken directly from the federal affidavit. This is consistent with the approaches used by Solan and

³ The combined criminal histories of the Martindale group included about two dozen prior felony convictions (more than 150 prior felony arrests) and 62 prior misdemeanor convictions (more than 300 prior misdemeanor arrests), ranging from traffic violations to attempted murder.

⁴ Ultimately, the wiretap evidence in the Indianapolis case supported the arrests and conviction of about two dozen members of the Martindale group. In the Indianapolis case, "of the 26 total arrests, 16 went to prison for more than 10 years, eight of them received sentences of more than 20 years, and two received sentences of more than 30 years" (Nunn *et al* 2006: 97). Clearly, wiretap transcript evidence can be a powerful prosecutorial tool. However, the extent to which the 96 conversations recounted and interpreted in the affidavit were actually used as items of evidence during the trial is unknown, and would require an examination of the federal court transcript.

⁵ Of the nineteen, two individuals, Lee Williams and Marlon McReynolds (Marley Mar), are principals in more than 40 percent of intercepted conversations.

⁶ Examining all 96 conversations would be the most complete way to fully understand the evolution of how the intercepts were interpreted, but goes beyond the scope of this exploratory analysis.

Tiersma (2005), Shuy (2005), Bucholtz (2009), and to a lesser degree, Natarajan (2006).⁷ Below are nine transcribed phone conversations compared to the police translation of each conversation. The conversation number from the affidavit is also noted (e.g., #12 of 96). Each comparison is followed by a summary analysis.

Transcription of interception	Police translation
Henderson: "Hey, uh, six three, six two fifty?"	Henderson inquired as to whether the purchase price for nine ounces of cocaine from Williams was \$6,300 or \$6,250
Williams: "Six Three."	Williams replied \$6,300.
Henderson: "Six three, it's cool though?"	Williams assured Henderson the cocaine was of good quality (cool)
Williams: "Yeah."	
Henderson: "Alright, hey, uh, it'll be together in about an hour or so: I'm gonna go get this last, uh, big mac from marley mar, and I'm gonna go sting it for forty-two."	Henderson advised Williams that as soon as Henderson purchased one last four ounce quantity (Big Mac) of cocaine from Marlon McReynolds (Marley Mar), which Henderson planned to sell (sting) for \$4,200 [and] he would have his money together to purchase the nine ounces of cocaine.

Conversation 1: Intercepted cellular telephone call from Henderson to Williams, 1/25/99, 2:34 pm

Conversation 1 (#12). The police translation is a minor feat of decryption, and relies to a large degree on re-stating the words of the targets, as well as defining several key code words. It uses 77 words to explain a 52-word conversation. A set of cryptic conversational exchanges is re-contextualized into a description of cocaine prices, the quality of some cocaine up for sale, and the anticipated timing of a completed cocaine sale. In this carefully constructed exchange, police attribute a quantity of cocaine without any proximate textual information that is the quantity requested. Translators interpret or otherwise define code words or slang involved—to 'sting' is to sell and a 'Big Mac' is four ounces of cocaine—which appears to be mostly inferential; the term 'Big Mac' had not appeared in any of the previous 11 conversations in the affidavit. The translator had to know what 'six three, six two fifty' meant to contextualize the remaining conversation. He had to know that 'marley mar' is a nickname, that 'sting' means to sell cocaine, and that a 'Big Mac' signified four ounces of cocaine.

Transcription of interception	Police translation
Robert: "Hey Lee? Uh, uh, who'd you get rid of them two with? Joe and, uh, Paul?"	Lee advised Robert that Lee distributed kilogram amounts of cocaine hydrochloride to Joseph Palmer and Jamie Thomas (Bam).
Lee: "Nope. Paul didn't get nothin', just Joe and, uh"	
Robert: "Bam?"	
Lee: "Yeah. There was three."	
Robert: "Cool, so I got my people still then."	

Conversation 2: Intercepted in a phone call from Robert Williams to Lee Williams, 1/25/99, 8:37 pm

Conversation 2 (#13). This is succinct re-statement and interpretation, with an 18-word police translation of a 38-word conversation. Without the annotated interpretation, it's difficult to draw the undisputable conclusion that a drug crime has been or is likely to be perpetrated. What other meanings could be attached to "...you get rid of them two with...Joe and... Paul?" It could have been bags of recycling or a discussion about friends or a somewhat cryptic business conversation. They could have been talking about car parts or fencing stolen goods. But whatever it was, Joe got it and Paul didn't. Once again,

⁷ In a slightly different framework, Natarajan (2006) uses wiretap data to ascertain a criminal network (heroin distribution in New York City region), analyzing 2,408 wiretap conversations (covering 21 phones during "1991-93 period") through a combination of quantitative intercommunications indicators, qualitative interpretation of selected intercepted conversations, and graphical network presentation of the drug crew (38 individuals). It uses communications patterns to establish the roles various individuals played in the heroin distribution 'game'.

translators interpret code words or, in this case, nicknames. You have to know that “Bam” is a person, not an exclamation. What Lee means by “There was three” is not clear. Is he talking about Lee and Joe and Paul, or is it a reference to “kilogram amounts” in the description? Understanding this conversation depends on the interpretive skills and tacit knowledge of the monitors and translators, and not fully on the information contained in the instant communication.

Transcription of interception	Police translation
Graves: “You need them two? I tried to call you this morning.”	Graves asked Williams if he needed the two kilograms of cocaine hydrochloride which Williams was apparently in possession of.
Williams: “I ain’t trippin like that.”	Williams replied he did not care (ain’t trippin), but had not yet heard from his cocaine supplier as to the availability of any more cocaine
Graves: “Hey! Did y’all hear any good news yet?”	
Williams: “Hell, no.”	
Graves: “I’m takin’ my ti...., I ain’t gonna get rid of this one that big like that. You know the two that y’all let Palmer get? How come y’all didn’t save them, just in, you know what I’m sayin, cause wouldn’t we got more breakin’ ‘em down like we doin’?”	Graves indicated he was “taking his time” selling the kilogram (big one) of cocaine which he was in possession of, and planned to sell cocaine in smaller quantities. Graves questioned Williams as to whether Williams would have been better off keeping the two kilograms of cocaine Williams sold to Joseph Palmer, adding Graves and Williams would have made more money selling the two kilograms in smaller quantities (breaking ‘em down).
Williams: “I don’t know man, I’m gonna do it next time, boy, I said, I go get that other money, I coulda bought, you know what I’m sayin?”	Williams stated he would do it that way the next time. Williams indicated he wished he had retrieved some other money, and purchased more cocaine.

Conversation 3: Intercepted in a cellular-to-cellular phone call from Lee Williams to Lynn Graves, 1/26/99, 2:27 pm

Conversation 3 (#14). In this case, the police translation not only re-states the conversation, but provides more elaboration about parts of it. In Shuy’s terms, they are “speaking for the targets.” Translators take 239 words to explain a six-part, 108-word conversation. The translation is intent on full explanation, mixing phonic translation with interpretative insights. The translators re-state the conversation in basic cocaine market terms, and define a few new phrases. For example, “I ain’t tripping like that” is defined as “not caring” but is nonetheless injected with intent to acquire more illegal cocaine. The translators complete Graves’s spoken words: “takin’ my ti” becomes “taking his time.” In the context of the police translation, the conversational exchange does suggest the interpretation is valid, unless, for instance, Williams’ girlfriend (or wife) is pregnant or that Williams was in fact waiting on some other type of good news pertaining to a different topic. New definitions are offered. A “big one” is defined precisely as a kilogram of cocaine, and “breakin’ ‘em down” means to sell cocaine in smaller quantities. The police translation imputes more detail into the methods by which Graves and Williams package cocaine for retail sales, suggesting they are talking about ways to generate additional revenue. The translators go as far as to state what Williams “wished” he had done with a previous shipment of drugs.

Transcription of interception	Police translation
Bush: "Yeah, what, what he say I'm supposed to hold on? Fifty? What I supposed to hold on? Fifty?"	George Bush questioned Williams as to how large a quantity of cocaine base Bush was supposed to hold on to at his residence. Williams assured Bush Williams would move the cocaine the next day.
Williams: "Where he at?"	
Bush: "Man, he gone, man, I'm supposed to hold all fifty?"	
Williams: "He got the other, don't he?"	
Bush: "Hell no!"	
Williams: "It was ninety somethin'. Shit, that's what I'm tryin' to figure out,. We have to move it tomorrow, man. I'll move it tomorrow."	
Bush: "This is bullshit, man. He leave me, Bennie gone; he leave me standin' out in the goddamn yard."	
Williams: "I get 'em tomorrow, just hide 'em. I get it tomorrow."	

Conversation 4: Intercepted in a phone call from George Bush to Lee Williams, 1/27/99, 2:09 am

Conversation 4 (#16). The police translation here offers another cryptically concise re-statement and interpretation—34 words describe a 99 word conversation. The translation leaves out the third party who is the primary topic of the conversation, the person that supposedly left George Bush holding the cocaine. There appears to be an undercurrent of anger, if not from Bush to Williams then from Bush to the unnamed third party. Only the monitor-translator(s) would be able to say whether the edge of anger was embedded in these words (the transcription does add an exclamation point to Bush's comment), or if there were other preceding referents to validate that interpretation. The translators do not clarify certain items. What quantity does Bush mean when using the word, "Fifty"? It could be grams, kilos, or something else, but the translation provides no answer. Certainly a reading of the transcript does not appear to completely fill-out the underlying meaning of the eight-part conversation. In Shuy's terms, the police translation is a generalized re-statement of the target's words that appears to leave out several translatable elements.

Transcription of interception	Police translation
Williams: "You wanna sell some soft?"	Williams made arrangements to purchase nine ounces (a nine piece) of cocaine hydrochloride (soft) for \$6,500 from Palmer, which Williams planned to immediately resell to Derrick Outlaw.
Palmer: "Uh...I ca...I...I do, but I'm with my girl right now...just come out from eatin."	
Williams: "You know I'm gonna make me 'bout five hundred; I'm gonna say seven; you said it's 'bout sixty-five."	
Palmer: "Yeah."	
Williams: "I said seven, cause I'm gonna make five off each one I got."	
Palmer: "What do ya got? A nine piece sting?"	
Williams: "Yeah."	
Palmer: "Alright. Well...give me about a hour, man."	

Conversation 5: Intercepted in a cellular-to-cellular phone call from Lee Williams to Joseph Palmer, 2/15/99, 8:47 pm

Conversation 5 (#41). This eight-part exchange reads like drug market talk, and the police translation uses only 27 words to explain a 67-word conversation. By now, translators have defined the term "soft" as referring to cocaine powder. Earlier drug slang re-appears (nine-piece sting) so it appears the conversation is about drugs. One question here is how the police translation can know at this point that Williams is going to sell to Outlaw. All Williams said was that he was "gonna make five off each one." But his excerpt does not mention Outlaw. Although a transaction appears to have occurred ("Williams made arrangements to purchase"), information is missing from this to draw a conclusion about a subsequent sale to Derrick Outlaw. The police translator applied an interpretation to this conversation that

could not have been exactly known at that time. However, 21 minutes later, after Conversation 6 is brought into the mix, the source of the Outlaw sale statement becomes clear. That is, Conversation 5 could be understood only in the context of a future interception. This interpretation foreshadowed the next conversation. Translations of this type introduces elements of (re-stated) synthesis and summary that could not occur in real-time, but would have to wait on understanding the meaning of other previous and later communications.

Transcription of interception	Police translation
Williams: "Outlaw. Alright he gonna call me when, uh, he, uh, he said he'll call me when he get done with his girl. He's gonna do it tonight"	Williams advised Outlaw the nine ounce cocaine transaction would occur later in the evening.
Outlaw: "Yeah, 'cause I...I need it tonight, bad."	
Williams: "He gonna you...he gonna call me soon as he gonna, uh...leave from his girl."	
Outlaw: "Okay, buddy. I appreciate it."	

Conversation 6: Intercepted in a cellular-to-cellular phone call from Lee Williams to Derrick Outlaw, 2/15/99, 9:08 pm

Conversation 6 (#42). About 20 minutes after making a deal with Palmer, Williams calls Derrick Outlaw to arrange the sale prognosticated in Conversation 5. This requires the combination of two separate conversations between two different dyads with a common member, Williams. For example, nowhere in the transcription of this conversation does the question of quantity come up, so that the translator is speaking for Williams. From this, we might conclude that a wiretap monitor has to be fairly well-attuned to previous overheard conversations, which in and of themselves appear mostly innocent, until connected with a future communications. The translators used only 14 words to summarize a 53-word conversation.

Transcription of interception	Police translation
McReynolds: "Hey? You still...you all still are straight?"	McReynolds asked Palmer if he has his money together (straight) to purchase kilogram amounts of cocaine hydrochloride, to which Palmer complained of having to take money from his cache (bank), as he already purchased some cocaine elsewhere (some grabbin), and still had an amount of cocaine base (hard) yet to be sold.
Palmer: "Yeah, man...I'm tellin ya...I really didn't have no money on hand, cause I had went an...uh...grabbed...uh...was grabbin...then still had all that hard, right? I had to hit the bank."	
McReynolds: "For real? Uh...that dude still on, though?"	
Palmer: "I don't even know; I ain't even talked to him. Y'all straight?"	Palmer inquired as to the cost of the cocaine (the numbers), to which McReynolds advised \$26,500 per kilogram (two six five).
McReynolds: "Yeah."	
Palmer: "What's the numbers?"	
McReynolds: "Uh, two six five. He supposed to bring his old ass in, tonight."	
Palmer: "Okay."	
McReynolds: "Be careful out there, man."	

Conversation 7: Intercepted in a cellular-to-cellular phone call from Joseph Palmer to Marlon McReynolds, 2/18/99, 1:45 pm

Conversation 7 (#49). This is another succinct re-statement, with 74 words used to describe a nine-part, 87 word conversation. In this translation, drug market lingo and the definition of terms is the focus (e.g., straight, grabbin, hard, bank, the numbers). The police translation links use of the drug market lingo to McReynolds and Palmer. Otherwise, there are fewer words in the translation partly because about one-third of the conversation is ignored. The three-part transaction in the middle is left out by the police translators. Palmer essentially asks McReynolds the same question: "Y'all straight?" They're talking about something else or some other person ("that dude still on though?"). Possibly they're talking about

another drug deal but the police don't comment on the meaning of the exchange. No context or any other explanation is offered. As for the last four part exchange, McReynolds and Palmer could just as easily be talking about a lottery number or the answer to a math problem—either way the interpretation presumes upon information that is not otherwise included in the intercept.

Transcription of interception	Police translation
Henderson: "Hey! You know black ass Richard Price right? You know his brother, Carlos?"	Henderson asked Williams if Williams knew of any reason why Henderson shouldn't sell nine ounces of cocaine [niner] to Carlos Price.
Williams: "Yeah."	
Henderson: "Ah...he cool and shit?"	
Williams: "He used to be cool. What about him?"	
Henderson: "Uh, nah...I'm just askin', shit, 'cause he...he tryin' to, uh...get, uh... 'niner', shit."	
Williams: "Man, don't get me...he used to be cool...I mean, he ain't never told on no motherfucker. He had a murder...he beat that. I think he's cool, you know what I mean."	
Henderson: "Yeah, I mean, that's all I wanted to know, you know, but with that part, the police part, I ain't worried about the other part, you know what I'm sayin', cause he comin' on...on...on my part, on my turf, you know what I'm sayin', and I'm gonna be straight, so I'm just makin' sure, you know, you ain't never heard no shit like that about him."	Henderson advised he no longer distributed drugs in the Hillside area of Indianapolis, but was now distributing in the area of 21 st Street and Arlington Avenue.
Williams: "Nay...whata you gonna...he gonna come down Hillside?"	
Henderson: "Nah! Hell no! Man, you know I don't be fuckin' around down there. You know, I'm over Arlington now...21 st . Shit, I'm not tryin' to go to jail, man, like that, you know what I'm sayin'? I'm...I'm...I'm...I feel sorry as a motherfucker for Dave, man?"	
Williams: "Man, how did he get knocked like that?"	Williams and Henderson discussed the arrest of David Bennett, for which Henderson felt very badly.
Henderson: "I don't know, man, I don't know, you know what I'm sayin?"	He then asked Williams when he was going to have a supply of cocaine to sell [when everything gonna be cool?].
...[LATER] "Hey man, when everything gonna be cool with y'all, man?"	
Williams: "Man."	Henderson stated he had purchased a kilogram amount of cocaine [whole thing] from Mike Stanley, who Williams advised was connected with Marvin Dumas. Henderson remarked the cocaine was of very good quality, for which Henderson paid \$26,000.
Henderson: "I had to...hollered at Mike Stanley, and shit."	
Williams: "He be fuckin with Dumes."	
Henderson: "I don't know, but, uh...that shit...that shit he gave me, boy, was off the heap. He came and got the money, and shit. Came back about an hour later with the whole thing. He gave us for twenty-six, too. It was cool, Lee."	

Conversation 8: Intercepted in a cellular-to-cellular phone call from Joseph Henderson to Lee Williams, 3/1/99, 5:20 pm

Conversation 8 (#58). This carefully annotated conversation suggests ways the Martindale group vetted out potential customers, but also shows how much a reader must rely on the officially interpreted translation of the conversation to understand how the criminal conspiracy is moving forward. Henderson has evidently been approached by (Black Ass) William Price about a 'niner' although we rely on the translators to have earlier defined what a niner is. Once the niner interpretation is recalled, the conversational exchange points to a possible drug transaction. Williams appears to hesitate before

endorsing a customer, but ultimately praises his skills: Richard Price “never told on nobody” and beat a murder rap. The declaration of Henderson’s marketing area (“I’m over Arlington now, 21st”) also depends heavily on the annotated re-statement by the police translation. Henderson could just as easily be talking about where he lives, works, or hangs out, not necessarily his sales territory. That inference depends on the police translation. Drug slang previously introduced (niner) is used, and once again considered to be incriminating.

Transcription of interception	Police translation
Williams: “Wanna still nine hard?”	Williams inquired if Bush still had nine ounces of cocaine base left.
Bush: “Is it...is it what?”	
Williams: “Nine of still hard?”	
Bush: “Was it...hold on, black...what'd you say?”	
Williams: “Wanna still nine hard?”	
Bush: “Is it still nine hard?”	
Williams: “Yeah...yeah.”	Bush replied he did.
Bush: “Yeah.”	
Williams: “Call me on my phone when you get home. I’m gonna come...I’m gonna see if Bennie can get ‘em for me.”	Williams stated he would have Bennie Houston retrieve it from Bush at Bush’s residence.
Bush: “Hey! Listen to this. Why was that open?”	Bush complained to Williams that when Williams gave him the bag containing the cocaine, it was open and, although it did not happen, cocaine could have spilled out of the bag.
Williams: “Huh?”	
Bush: “Why was that open?”	
Williams: “What?”	
Bush: “That...what...what I got from you.”	
Williams: “I wrapped it up in another bag, didn’t I?”	
Bush: “Yeah, but it was open.”	
Williams: “It ain’t spill out?”	
Bush: “It was open...it coulda, though.”	
Williams: “I don’t know...I must have been tied up.”	
Bush: “Alright.”	

Conversation 9: Intercepted in a cellular-to-cellular phone call from Lee Williams to George Bush, 3/4/99, 1:45 pm

Conversation 9 (#63). The initial seven-part exchange between George Bush and Williams reads faintly like a routine from an Abbott & Costello film (U.S. comedians, circa 1945-60). What appear to be misheard cell phone conversations are re-assembled and re-stated by the translation into an inquiry about cocaine. Then George Bush registers a consumer complaint about something he obtained from Williams. They could have been discussing a sack of groceries or a bag of salt but, as translated by the police, it sounds reasonable that the two are discussing a past drug transaction. Nevertheless, without this interpretation a reader might be hard-pressed to identify the crimes or criminal conspiracy involved. However, at its point within the probable cause affidavit, it was the 63rd in a longer series of 96 transcribed conversations, with each contextualized within an ongoing drug distribution conspiracy. Sheer repetition would by this time have convinced judicial reviewers of the affidavit that these guys were dealing drugs.

Discussion

This paper provides a perspective on the nature of wiretap operations by comparing narrative renditions of legally intercepted telephone conversations to translations the police applied to the interceptions. Two primary research questions are examined. First, to what extent does a wiretap transcript reflect police bias against the targets of the wiretap? Second, by comparing police interpretations to transcribed conversations, in what ways do wiretap transcript translations reflect self-evident criminal communications versus concocted or ambiguous versions of seemingly innocent conversations?

Considering whether police bias is embedded in the Indianapolis wiretap transcripts and translations, it seems clear that the presence of police bias in (any) wiretap transcript is all but inevitable, for reasons argued earlier. Thus, while Bucholtz's argument that police bias is embedded in transcripts is clearly supportable, she has more important things to say about the underlying process of wiretap translation. In this regard, issues linked to "professional hearing" are never properly identified in the Indianapolis transcripts. For instance, the exact source of the translations is never quite clear. Nominally, it's written by a single affiant, but there is no way of identifying how many individual monitor-translators were involved in the Martindale wiretaps. These individuals had to understand drug market language used by the Martindale targets. In the U.S., persons serving as monitors in wire rooms are sworn police officers who have been fully minimized and trained under the guidance of the judicial wiretap order and federal wiretap law, and thus either worked in the wire room as monitors or were allowed to listen to wiretap recordings later. It seems more likely the monitors-translators would need to listen to original conversations to identify and define codes for future interceptions and interpretations. Considering all 96 of the intercepted conversations, the monitor-translators in effect re-defined and re-interpreted intercepted communications so that cocaine sales or distribution was revealed as the centerpiece of each conversation. Typically, a pending crime or drug transaction was described in more or less coded language, although there are times when the Martindale targets were less careful about the nature of their language.⁸ The decoding of that information required the monitor-translator to re-define words and phrases to put them into the context of local cocaine distribution and sales. Clearly, those doing the interpreting had to be highly sensitive contextually: they frequently interpret words, phrases, and identify people in ways next to impossible based only on the transcribed conversation. The monitors-translators are key shapers of the entextualization process. They are the individuals that supply Bucholtz's "professional hearing" in order to complete the entextualization process.

As shown by the Indianapolis wiretap transcript comparisons, the ways that professional hearing injects bias into the transcripts are better illustrated by Shuy's conversational strategies to create crimes. Almost by definition, the police translations "speak for the targets" because of the format used in the affidavit. Conversations are transcribed, followed by or interjected with the interpretations introduced by the monitors and police translators. Another strategy identified by Shuy is common, in that the police translations are, in and of themselves, "more or less accurate re-statements" of what the wiretap targets have to say. The use and treatment of "ambiguity" also play a major role, in the sense that the police translators assigned meanings and definitions to words and phrases thought to be 'coded' drug market lingo—that is, they had control over and were sole definers of the vocabulary of crime. Thus, translators were able to *reduce* possible ambiguities inherent in the conversations among targets. Once terms were defined, their use in subsequent intercepted conversations were always linked to illegal drug sales and distribution. Thus, terms or conversational exchanges that might appear ambiguous in nature—that is, as not necessarily reflecting criminal talk—are re-structured by the police translations to be, in contrast, completely *unambiguous* examples of criminal communications. In addition, by selecting from *all* intercepted communications, (presumably) only the best examples of incriminating talk were included—which is a version of Shuy's "manipulating the on/off switch" when U's or CI's are controlling a recording device.

In addition, in the data base of 96 conversations from which this set of comparisons were drawn, the written narratives of individual conversational exchanges are (obviously) police-transcribed, but with supplemental commentary by the monitors and translators. In this sense, written transcripts in the affidavit had many interlocutive comments by the affiant(s). In the vast majority of cases, affidavit reporting of the individual conversations includes a variety of transitive verbs, adverbs, and adjectives that

⁸Among all 96 narrative conversations, the extent to which the various targets are more or less guarded about direct discussion of criminal activity varies greatly. In a conversation not included in this analysis (27/96), a woman says "I know how to cook dope!" while complaining to Lee Williams that the cooking process instructions that he had given her weren't working.

qualify or otherwise describe in much more evocative terms the manner in which conversational exchanges occur between targets. For example, in many conversations, the participants 'direct', 'advise', 'warn', 'respond', and 'interrupt' one another in their communications, or 'explain', 'complain', 'mumble', 'whine', and 'suggest' to each other. In some respects, this added explanatory power to the story of the conversation but, in other ways, it helped to support the police translation of criminal communications. It should be noted that in developing the comparative tables above, this analysis excluded the various expository words used in describing conversations in the affidavit. Nonetheless, the use of the various descriptives in the affidavit is another example of some of Shuy's conversational strategies, such as speaking on behalf of the target, interrupting or overlapping targets words, or manipulating the on/off switch.

In summary, wiretap transcripts are joint products of the initial screening process and secondary interpretation requiring tacit human knowledge applied to translating language and conversational exchanges into evidence of crimes. Transcripts are a primary product of the broader entextualization process. Entextualization is executed by police monitors and translators, so the introduction of police bias into transcripts is highly likely. Further, bias is created and sustained directly or indirectly via a variety of latent conversational strategies identified by Shuy (2005), such as re-statements, selective inclusion and exclusion of conversations, and speaking on behalf of a target.

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