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Speaking Black Dialect in Courtrooms Can Have Striking Consequences

By John Eligon

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“He don’t be in that neighborhood.”

When one court reporter in Philadelphia transcribed that phrase, it turned into this: “We going to be in this neighborhood.” In other words, the opposite of what the phrase actually meant — that someone is not usually in a neighborhood.

That was just one transcription error captured in a soon-to-be published study that found court reporters in Philadelphia regularly made errors in transcribing sentences that were spoken in a dialect that linguists term African-American English.

Researchers played audio recordings of a series of sentences spoken in African-American English and asked 27 stenographers who work in courthouses in Philadelphia to transcribe them. On average, the reporters made errors in two out of every five sentences, according to the study.

The findings could have far-reaching consequences, as errors or misinterpretations in courtroom transcripts can influence the official court record in ways that are harmful to defendants, researchers and lawyers said.

“The larger implication is that people are not being afforded a sense of fairness and justice because the system is not responding to their language,” said Anthony L. Ricco, a New York-based criminal defense lawyer, when told of the study’s findings.

Decades of research has shown that the way some black people talk could play a role in their ability to secure things like employment or housing. The new study, scheduled for publication in June in the linguistic journal *Language*, provides insight on how using black dialect could also impact African-Americans in courtrooms.

“People who speak African-American English are stigmatized for so doing,” said Taylor Jones, a doctoral student in linguistics at the University of Pennsylvania and one of the study’s authors.

Mr. Jones added that there was nothing improper or broken about the dialect that some African-Americans inherited over generations, but negative stereotypes have influenced the way people hear or perceive it.

“If you’re taught that these people speak incorrectly, then it’s very easy to say, ‘Well, they don’t make any sense; what they’re saying is wrong,’” Mr. Jones said.

The researchers found that the court reporters were not transcribing with any malicious intent. But some of them did have a very limited understanding of black dialect.

After going through the exercise, the researchers said that one of the court reporters told them that when they hear African-American English in the courtroom, “I have to be like, ‘Ok, don’t roll your eyes,’” according to a draft copy of the study.

Beyond negative stereotypes or lack of familiarity, a court reporter’s own discomfort with some of the terminology used in black dialect could also lead to incorrect transcriptions, the study found.

While Pennsylvania court reporters must score 95 percent accurate on tests in order to be certified, the reporters in this study were fully accurate, on average, on just 59.5 percent of the sentences.

Black court reporters who participated in the study made errors in transcribing at roughly the same rate as their white peers.

All of the reporters, in addition to transcribing, were asked to paraphrase what was being said in each sentence. Here, the results were even worse than the transcriptions, with reporters correctly paraphrasing the sentences about 33 percent of the time.

The authors faulted the training that court reporters received, saying that it mostly used “classroom” English. African-Americans are disproportionately represented in the criminal justice system, and so training should take that into consideration, researchers said.

“The training isn’t taking into account what they’re actually going to hear,” said Jessica Rose Kalbfeld, a co-author who is pursuing her Ph.D. at New York University.

The transcription errors also speak to an impact of segregation, Mr. Jones said. When black and white people live in separate parts of a city, they develop their own ways of speaking that people outside of their cultural communities are not exposed to.

“Because of segregation, black Philadelphians and white Philadelphians pronounce the same words differently,” he said. “This is common across the United States.”

Riley H. Ross III, a lawyer in Philadelphia, said that it was not just black dialect that was often misunderstood in a courtroom. It happens with other races, too, he said, and it was up to him as a lawyer to intervene in real time.

“Over all, if there’s something that’s said that the jury won’t understand, I’ll bring it up,” he said.

While this study was based on recordings made outside of a formal court setting, transcription errors have seeped into real cases.

In a 2015 transcript of a recorded phone call from a jail in the San Francisco Bay Area, a suspect who said, “He come tell ’bout I’m gonna take the TV” was incorrectly transcribed as “I’m gonna take the TV,” according to a 2016 research paper by a pair of Stanford University linguists.

In one recent case out of Louisiana, the transcription seemed to be correct, but it highlighted how African-American English can be subject to over-the-top scrutiny.

A lawyer for a defendant who had admitted to sexual assault sought to have that admission suppressed because his client had initially asked for a lawyer, saying, “I know that I didn’t do it so why don’t you just give me a lawyer dog ’cause this is not what’s up.”

The state’s Supreme Court ultimately ruled that the police did not have to cease questioning him because “lawyer dog” was ambiguous and did not necessarily mean that he was invoking his right to counsel.

Mr. Ricco, the defense lawyer, said the most troubling thing about court reporters incorrectly transcribing African-American English was that it was indicative of larger difficulties of black witnesses trying to get their points across.

“If the court reporters are missing the story,” he said, “the jurors are missing the story.”

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