

# Solan, Lawrence M.

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Lawrence M. Solan (1952– ) is Don Forchelli Professor of Law at Brooklyn Law School, and well known for his contributions to the field of language and law with his books *The Language of Judges* (1993) and *Speaking of Crime: The Language of Criminal Justice* with Peter Tiersma (Solan & Tiersma, 2005), as well as numerous scholarly articles. Prior to joining Brooklyn Law School in 1996, Solan was a partner in the firm of Orans, Elsen, and Lupert, where he specialized in complex civil litigation. Before that, he served as law clerk to Justice Stewart Pollock of the Supreme Court of New Jersey. He served as president of the International Association of Forensic Linguistics from 1999 to 2003, and is on the editorial board of *The International Journal of Speech, Language and the Law*. His publications within the field of language and law have been concerned with the interpretation of written legal texts such as contracts and statutes (Solan, 2004), admissibility in US courts of linguists' testimony in general (Solan & Tiersma, 2004) and more specifically as "semantic tour-guides" in cases of disputed interpretation of legal documents (Solan, 1998).

After completing his PhD in linguistics at the University of Massachusetts in 1978, Solan attended Harvard Law School, during which time he took a summer job at the Manhattan law firm Phillips Nizer. It was here that his interest in the interface between language and the law was first aroused. Representing a chemical company in dispute with its insurance company over the latter's refusal to pay out proceeds following some severe environmental damage, he found himself concerned with the language of the insurance policy. With the realization that many of the disputes had arisen as a result of choices over punctuation and syntax, the two areas of expertise became united. Solan started collecting examples of judges' discussion of language, which subsequently formed the basis of his 1993 book, the result of his investigations into those occasions when disputes over meaning in legal documents arise and "judges act as linguists" (Solan, 1993, p. xi). The examples he presents demonstrate that judges' linguistic descriptions are inconsistent, and often incoherent and idiosyncratic. He puts forward two explanations for this: first, the pressure on judges to legitimize their power by speaking with an authoritative voice and second, the necessity of giving the appearance of adhering to the rule of law. "Judges do not make good linguists," he claims, "because they are using linguistic principles to accomplish an agenda distinct from the principles about which they write" (Solan, 1993, p. 62). Solan discusses several linguistic phenomena which have resulted in conflicting interpretations of legal documents, including referential ambiguity arising from the use of pronouns, which he describes as "semantically degenerate . . . they do not contain enough on their own to name the individual to which they are intended to refer . . . a natural source of uncertainty" (Solan, 1993, p. 38). He moves on to discussing lawyers' pursuit of precision in drafting legal documents, noting that it has given rise to the gradual development of a special, "superprecise" syntax. He discusses the ongoing tension between precision and comprehensibility, concluding that while legal professionals could "engage in an all out effort to write more clearly, with fewer unnecessarily legalistic expressions," doing so would "never be sufficient to make natural language any more precise than our cognitive capacities permit" (Solan, 1993, p. 138).

Another area in which Solan has published widely is the admissibility of linguists' testimony in US courts (Solan, 1998; Tiersma & Solan, 2002, 2004; Solan & Tiersma, 2004).

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Courts in the USA have allowed linguists to testify on such issues as the probable origin of a speaker, the comprehensibility of a text, whether a particular defendant understood the Miranda warning, and the phonetic similarity of two competing trademarks. When the issue at hand is the interpretation of legal texts, however, the admissibility of linguistic testimony has been more controversial. Reasons for judicial reluctance to admit linguistic expertise in these matters include concerns that it is not sufficiently reliable, the sense that it is up to judges, not linguists, to decide meaning as a matter of law, and the belief that meaning can just as well be decided by a jury (Solan, 1998). In his 1998 article Solan explores this last issue in depth, acknowledging that while a jury's intuitions are sufficient for matters of interpretation when the crucial statements or discourses are short and straightforward, in those cases where a linguistics expert is able to increase a juror's confidence "by converting . . . an intuitive sympathy into a structured understanding" (Solan, 1998, p. 94), their services can be of assistance. The linguist, he postulates, can assist judges and juries in evaluating linguistic issues fully, acting as a "semantic tour guide." The role of the linguist in these situations is not, Solan claims, to give his or her expert opinion on the meaning of a text, but to explain the *basis* of possible meanings, and to point out alternative interpretations. Thus, while judges may sometimes be quite justified in prohibiting unhelpful expert testimony, "if a jury is forthrightly told about the scope of a linguist's expertise, there is no reason why the system should not benefit from this knowledge" (Solan, 1998, p. 96). More careful consideration of the potential benefits of expert linguists' assistance, he concludes, "can ultimately serve to enhance the status of linguistics as a useful tool in legal analysis" (Solan, 1998, p. 102).

Solan and Tiersma's (2005) book presents a comprehensive review of the many areas around the intersection of language and law, paying particular attention to the relevance of pragmatic theory to criminal procedure, the provision of language-based evidence, and crimes—such as bribery, threats, and perjury—that are committed *by means of* language. It therefore provides a detailed exploration of the ways in which linguistics and related fields can provide a better understanding of the workings of the US legal system—and consequently, provide tools with which to address the problems therein. At the time of writing, Solan's book on the interpretation of statutes, *The Language of Statutes: Laws and Their Interpretation* was published in 2010, and *The Oxford Handbook of Language and Law*, coedited with Peter Tiersma, was published in 2012.

**SEE ALSO:** Forensic Linguistics: Overview; Legal Language; Tiersma, Peter

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### **Suggested Reading**

Solan, L. M. (2002). The Clinton scandal: Some legal lessons from linguistics. In J. Cotterill (Ed.), *Language in the legal process* (pp. 180–95). Basingstoke, England: Palgrave.