

Linguistic Features of Police Culture and the Coercive Impact of Police Officer Swearing in Police-Citizen Street Interactions

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Abstract: *Not infrequently, police officers will use taboo language — swearing, cursing, and similar kinds of obscene and insulting language--the course of their encounters with criminal suspects. This linguistic practice is characteristic of the norms, values, and behaviors of police culture, which is preoccupied with issues of control, dominance, and the performance of masculinity. Because of its congruence with other aspects of the occupational culture of patrol policing, swearing has specific delineated roles within that culture in its illocutionary force and predictable effects on criminal suspects in its perlocutionary impacts. Swearing — particularly by those in authority — is a powerful signal of role-transgression, and as such, signals the possibility of other forms of role-transgression as well, including the potential police use of physical force against the suspect. This meta-pragmatic analysis suggests that police swearing should be contextually relevant in determining such legal questions as whether the suspect voluntarily consented to a search or validly waived her right not to answer police questions. American caselaw currently gives inadequate attention to this problem.*

One of the recurring mysteries in American criminal law enforcement is why so many people ostensibly consent to police searches that result in the discovery of incriminating items such as quantities of illegal drugs. It seems hard to believe that any rational person would voluntarily expose oneself to criminal prosecution and punishment. In fact, many commentators and scholars familiar with these cases are deeply skeptical that these supposed “consents” are truly voluntary in any meaningful sense of the word. (Tiersma & Solan, 2004: 230-231; Stuntz, 1995: 1064). If, as many suspect, these supposedly consensual searches are instead coerced by the police, it is important to determine how coercion that is apparently invisible to reviewing courts occurs. In order to conduct an individualized analysis of

how and why a particular consent might in fact be the product of coercion, we need a more complete picture of the linguistic aspects of the interactions that culminate in these supposed “consents.” To that end, a consideration of the occupational culture of the police, and how that culture might be reflected in their linguistic practices, is essential in arriving at that understanding.

American constitutional rules governing police searches restrict the power of law enforcement to search a person’s property, requiring that they have a strong factual basis for believing that evidence of a crime will be found in the search. Police cannot conduct a search based on a mere hunch or inchoate suspicion that they may turn up such evidence. However, one exception to these constraints exists whenever the subject of a search consents in advance to the police search. Under those circumstances, police are free to search even without a factual basis justifying the search, with the consent itself making the search legally permissible as long as the consent is freely and voluntarily given. (*Schneckloth v. Bustamonte*, 1976). If, however, the subject is coerced into allowing the police to conduct a search, the “consent” procured under those circumstances would be invalid and the results of that search would be inadmissible in court. Although overt police coercion such as the use or threatened use of physical violence is apparently rare, many people in these situations nevertheless experience the interaction with the police as so coercive that they feel they have no choice but to acquiesce to a police search.

Social scientists studying police behavior have long noted the central role played by the language used by police in their interactions with citizens, observing that social science research on police behavior must attend to the linguistic

practices of police in these interactions. (Mastrofski & Parks, 1990: 476). Attention to the characteristics of the occupational culture of law enforcement, and specifically to the linguistic markers of that culture, can help uncover the discursive means through which coercion is deployed. This paper addresses one particular kind of discursive practice by police officers that creates coercion in addressees: swearing by officers at the persons with whom they interact in street encounters. Police swearing contributes to creating a coercive environment which makes it nearly impossible for citizens to assert their right to privacy from police intrusion, undermining the voluntariness of any purported consent to search.

Police linguistic behavior does not occur in a social vacuum; it is deployed from within the cultural matrix of police cultural identity and role. Therefore, it is essential to understand what sociologists and anthropologists have learned about police culture — the shared set of identities, beliefs, norms, and behaviors characteristic of the profession of law enforcement. Occupational cultures are both interpretive — shaping how one sees oneself and the rest of the world — and prescriptive — shaping how one should behave as a member of that culture. Police officers themselves appreciate that their own occupational culture is an especially powerful framework for understanding the world. (Kappeler et al., 1995: 243).

The norms and values of police culture are inculcated through practices in which the role of “street cop” is learned, rehearsed, practiced, and perfected, beginning with formal training (Chan, 2003: 246-269) and continuing on the job through experiences on the street mediated by fellow-officer reinforcement of expected behaviors. (Crank, 1998: 29-31). Police culture is sustained and developed

narratively as well through the sharing of “war stories” — tales of situations faced on the street and the consequences of what the officer did or failed to do. Sharing “war stories” is a means of inculcating norms of behavior among officers — a form of advanced on-the-job training, in a sense. In addition, “war stories” serve as a source of reaffirmation of police identity and a reminder of the assertedly unique nature of their experiences. (McNulty, 1994: 281).

One of the core tenets within police culture is that the police operate in an environment of hostility and danger in which they cannot rely on or trust anyone except fellow officers. (Crank, 1998: 187-190). Since anyone on the street — no matter how friendly or harmless — is capable of becoming a threat to officer safety, often without warning, patrol officers come to believe that it is foolish to ever trust anyone other than their fellow officers. Police in street patrols thus see themselves as in a perilous “we-they” relationship with the population they are policing. Ironically, taking this pro-actively hostile stance towards those they come into contact with may actually magnify the danger inherent to policing. The reality is that police work can at times be dangerous, even deadly. Objectively, however, it is not nearly as dangerous as officers imagine it to be. (Skolnick & Bayley, 1987: 49). As a result of their distorted sense of danger fostered within police culture, however, officers are convinced that it is essential for them to be in complete physical and psychological control over any street encounter at all times in order to minimize the risk to officer safety.

Not only do police officers seek to be dominant in any street interaction, but they believe that it is crucial that other participants and observers of the interaction

appreciate and acknowledge that the officer is in control of the situation. An officer who failed to exhibit dominance in an interaction would be considered an officer at serious risk of an overt challenge to his authority, which might escalate into a physical threat against that officer. (Kappeler et al., 1994: 114-115).

The emphasis within police culture of being in control of any situation is reinforced by another key cultural attribute of police culture — its masculinity. (Chan, 2003: 279-300; (Martin & Jurik, 1997: 59-72). On one level, the fact that policing has traditionally been an exclusively male profession, and even today is very disproportionately male in its membership, might make its cultural “masculinity” unsurprising. But many professions have been male dominated in terms of membership without necessarily incorporating masculine values and behaviors to the extent that police work does. Police culture can be considered a “masculine” culture in that the personal attributes it valorizes and that behavioral norms it enforces are closely associated with those inhering in the masculine role. Street level policing occurs in a context in which characteristics associated with masculine identity — physical strength, bravery, dominance, and aggressiveness — are highly valued. The cultural emphasis on authority and control inherent in police culture map onto the cultural constructs of masculinity seamlessly. (Crank, 1998: 180-182). In the words of one scholar of police culture, the masculine world of street policing can be summed up as a behavioral norm in two words: “Show balls.” (Reuss-Ianni, 1983: 14). Not surprisingly, this emphasis on control in police-citizen interactions is also seen in law enforcement techniques used to procure confessions. (Baldwin, 1993: 66-77; Baldwin, 1994: 325-352).

The masculine occupational culture of policing, with its preoccupation with issues of power and dominance, is expressed in all aspects of police behavior, including their linguistic practices. One linguistic practice that has been associated both with aggressive expressions of dominance and with the performance of masculinity is swearing. Swearing, or the use of highly abusive and insulting taboo language in an interaction, is a coded linguistic practice whose pragmatic communicative function varies according to the situation in which it occurs. (Jay, 2000:18). When done by a police officer, it represents an explicit linguistic norm violation that rejects the accepted conventions of appropriate speech. In that sense, it is an overt exercise of power, a meta-communicative expression that the officer is someone both willing and empowered to flout established rules of conduct. Swearing at someone communicates more than mere willingness to violate social conventions, however. Abusive language is both a signal of role transgression and of aggressive anger and contempt for the person sworn at. Swearing operates as an exercise of dominance and aggression, and serves to both signal and establish the power of the swearer over the sworn-at. (Jay, 2000: 157-163; Winters & Duck, 2001: 62).

Not surprisingly, given the connection between swearing and issues of power, physical aggression, and dominance, swearing is considered masculine language use. Examination of patterns of swearing by male and female speakers shows that men swear more frequently than do women, and that the taboo language they choose is considered harsher and more vulgar than the swear words deployed by female swearers. (Ginsburg et. al, 2003: 105). Survey responses on language use

by male and female respondents reveal that men self-report greater frequency and harshness of swearing than do women, and that both men and women respondents agree that swearing is less appropriate or desirable for women than for male speakers. (DeKlerk,1991; DeKlerk, 1997). This sociolinguistic evidence suggests that degree to which swearing serves as a gender-liminal linguistic practice associated with the performance of masculinity. In any interactional setting in which power and masculinity are at issue, swearing can play an important role as a linguistic resource in the assertion of dominance. (Wajnryb, 2005:149).

In light of the importance in police culture of issues of dominance and masculinity, one would predict that swearing would be a prominent linguistic resource deployed by police officers in street encounters. Indeed, despite the lack of a formal corpus of these encounters — police officers do not tape record their street encounters as a matter of course — there is substantial evidence that police swearing is a common occurrence in their street-level policing interactions. Ethnographic field work done by participant-observer anthropologists and sociologists has documented the high incidence of swearing by police at the persons they interact with in street encounters. (White et. al, 1991: 276-77; Reisig et. al, 2004:251). In addition, official complaints by citizens about police swearing are among the most common claims handled by citizen review boards charged with investigating citizen complaints of police misconduct. In fact, nearly every police department has a formal rule forbidding swearing by police officers. (Seron et. al, 2004: 665). Presumably the ubiquitous nature of these regulations is a good indication that police administrators perceive that abusive swearing by patrol

officers is a significant problem worthy of their disciplinary attention. Thus there is considerable evidence that swearing is a linguistic resource frequently deployed by police in street policing.

What, then, is the impact of police swearing in their street interactions on the persons at whom they swear? A pragmatic analysis of the impact of swearing in this context requires attention to the meta-communicative functions of swearing both for swearers and for the sworn-at. Meta-communication in an interaction helps define the relationship between the parties and the overall meaning of the interaction. (Gumperz & Gumperz, 1982: 13). In interactions with others, participants are both expressing themselves and interpreting responses on a number of levels at once, engaging in both communicative and meta-communicative exchanges of information as the interaction unfolds and reevaluating their interpretations of the communication as it proceeds. Therefore, understanding the meaning of swearing thus occurs within a process of dynamic interpretation in which both speaker intent, or illocutionary force, and hearer interpretation, or perlocutionary impact, contribute to meaning.

To understand swearing from a sociolinguistic perspective, then, it is necessary to consider both the swearer and the sworn-at. Just as swearing has meta-communicative functions for the swearer in establishing masculinity and expressing a claim of dominance, it also has distinctive meta-communicative effects on those at whom such language is directed. Because the illocutionary force of swearing derives from socially shared conventions — its association with transgression, aggression, and masculinity — its perlocutionary impact in any

particular swearing episode will turn on the addressee's understanding of the meta-linguistic functioning of the swearing within its specific context..

The perlocutionary impact of swearing on the person who is sworn at is a product of a series of interrelated interpretive processes. First, person sworn at has to determine why the swearer chose to swear at him. (Young, 2004: 344). In order to do that, the person sworn at must interpret the situational significance of the swearing, taking into account contextual factors such as the nature of the episode in question, the relationship that he has with the swearer, the social identities of the swearer and of himself, the tone of voice and facial expressions that accompany the swearing, and so forth. Given the multiplicity of social meanings that swearing can have, the hearer must pick from among the culturally available meanings the ones that best seems to fit the context in question.

In the course of this interpretive process, the fact of the swearing itself changes the perceived nature of the interaction. When someone swears at a person, the person sworn at must now reconsider and re-evaluate the entire context of the interchange in which the swearing has occurred and the contextual identities of the swearer and the sworn-at. Most obviously, it changes the addressee's attitude toward and assessment of the swearer. It also affects the hearer's reaction to the exchange in which it occurs and changes the subsequent dynamics of interactions between them. (Mulac, 1976). In that way, swearing operates as a sort of meta-linguistic practice that serves to define the meaning of the interchange itself, and acts both as a cause of and a consequence of the reactions that each has to the other and to the interchange itself.

In the specific context of a police-citizen encounter on the street, the perlocutionary impact of police officer swearing has the effect of undermining agency on the part of the citizen. Because swearing acts as a linguistic signal of dominance and power, the person sworn at must choose how to react to the police assertion of dominance. The citizen could choose to contest dominance and react aggressively himself, either linguistically or physically. This response, however, is atypical. Most people recognize that the police have the edge in power and authority, including the right to use physical force to compel compliance and the ability to summon additional officers for backup. In a contest over dominance, the odds are stacked in favor of the officer, and the rational actor fully appreciates that fact. As a result, the choice almost always made by the citizen in the face of a police exercise of power is to concede dominance and become acquiescent. This submission to police authority creates a passivity that is inconsistent with an exercise of agency such as the claiming of a right such as the right not to be searched. This is especially true given the fact that the citizen knows that the police officer asking for consent to search has a strong preference that the citizen not exercise his right to object to the proposed search. It is a hardy soul indeed who would interpose an objection to a police search under these circumstances.

A police officer who swears at someone during a street interaction is linguistically enacting a performance of social role transgression, communicating a willingness to break the rules of appropriate interaction. In effect, the swearing officer is letting the person sworn at understand that he is not a follow-the-rules-by-the-book kind of officer but instead is, at least in some respects, a transgressive

officer. If the citizen sworn at thereby understands that the officer is in fact a transgressive officer, then he should conclude that there is little point in refusing to consent to a search, since a transgressive officer is unlikely to respect a claim of right that would inhibit the officer's unfettered exercise of investigatory power. Asserting the right to refuse to permit the search would be pointless if the citizen felt that the officer would simply override the assertion. Worse yet, the citizen would have alienated and antagonized the officer for no gain. So, the attempt to claim one's rights from a transgressive officer might be not only a pointless act but potentially a counter-productive, even dangerous, one. After all, an officer who is willing to be transgressive about language norms may also be willing to violate other norms, such as the norm against gratuitous physical abuse of citizens. In other words, the citizen must consider the real possibility that the transgressive swearing officer might be willing or even eager to use force in the course of this interaction. A suspect who understands this possibility is particularly unlikely to try to assert a right if he understands that doing so will antagonize or anger the officer and may subject him to violence. "Consent" to search in these circumstances is the nearly inevitable result. As this analysis shows, swearing by police in street encounters with citizens as an expression of power and dominance can engender a form of coercion that undermines voluntariness to subsequent officer "requests" that the citizen consent to a search by the officer of person or property.

The tests outlined by the U. S. Supreme Court for determining whether a purported consent is voluntary validate the necessity for lawyers and trial judges to go beyond the immediate verbal context of the supposed consent to search and to

undertake a linguistic examination of the wider context of the entire interaction between the police and the target of the search in the light of the linguistic practices situated within police occupational culture. In its earliest consideration of the problem, the Supreme Court rejected taking a narrow and cramped interpretive approach to considering whether a purported consent to search had been procured through means that rendered it involuntary. Instead, the Supreme Court held that the totality of the circumstances of the consent needed to be considered. (*Schneckloth v. Bustamonte*, 1973: 227). Three years later, the Supreme Court refined this test, holding that coercion in this context could be shown not only by demonstrating overt threats or violence but also by a showing of “more subtle forms of [police] coercion that might flaw [the target’s] judgment.” (*United States v. Watson*, 1976: 424). Regrettably, in more recent cases, the Supreme Court has retreated from this contextual analysis and proposed instead that a bare examination of the language used by the police in asking to search and of the citizen in acquiescing is sufficient to show a valid consent, without any consideration of the fuller context of the interaction in question. (*United States v. Drayton*, 2002: 207). Such a narrow examination is unlikely to reveal the existence of the kind of discursively-created coercion that operates to undermine meaningful choice by citizens in these encounters. The analysis of this paper provides a concrete example of the kind of “thick linguistic description” of police-citizen interactions necessary to uncover the architecture of coercion in those situations. Instead of looking narrowly only at what the officer said to ask for authority to search and the reply of the citizen, this analysis shows the importance of widening the inquiry to look carefully at the linguistic dynamics of the entire encounter.

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