claim, surprisingly, that given that study's conclusions, we should expect to find gender differences between men and women court of appeals judges and expect to see differences on the abortion issue. Although I believe abortion is a women's issue, polls do not show that men and women differ in their positions on abortion, and the parties have been realigning on this issue. Moreover, women are the most committed activists on both extremes. Overall, she finds women judges less likely than male judges to uphold abortion restrictions—the biggest differences are between men and women judges appointed by Republicans. She does not explore these intriguing findings but merely quips that she has affirmed the existence of substantive representation.

The conclusion is disappointing because Scherer fails to wrestle with the implications of her research. What should we do about the polarization over the composition of the lower federal courts? Her exclusive focus on the United States leaves her unable to draw on other jurisdictions for ideas, but neither does she look at debates over judicial selection at the state level. In her brief conclusion, she mentions Rosenberg's (1993) *The Hollow Hope* and opines that, since he found that courts cannot produce social change in any case, maybe elites should not care so deeply about who sits on them. While law and society scholars may share some of Rosenberg's ambivalence about vesting political power in courts, they will find Scherer's failure to engage the extensive scholarly debate about legal mobilization unsatisfactory. In the end, this is a political science book rather than a law and society book, although law and society scholars should read it and will learn much from it.

**Reference**

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*Speaking of Crime: The Language of Criminal Justice*. By Lawrence M. Solan and Peter M. Tiersma. Chicago: University of Chicago Press, 2005. Pp. 264. $55.00 cloth; $22.00 paper.

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In *Speaking of Crime: The Language of Criminal Justice*, Solan and Tiersma offer a simple yet powerful thesis: many legal decisions hinge on the interpretation of words, but the criminal justice

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system adheres to deeply entrenched but often incorrect or problematic assumptions about language. These errors are not randomly distributed, but systematically favor the state. As Solan and Tiersma put it, "[t]he legal system is willing to ask serious questions about how understandable language is so long as the answers do not threaten important legal institutions" (p. 27).

The central objective of this book is to bring linguistic education and enlightenment to the legal community. In this goal the authors succeed admirably: *Speaking of Crime* provides a clear, concise, and lively analysis of how legal decisions and processes are informed by questionable assumptions about language. The analysis is replete with fascinating examples taken from recent and important legal rulings. Solan and Tiersma begin with a brief primer in linguistics that emphasizes two things. First, the meaning of words is determined in part by the context in which utterances occur. Indirect requests for access to one's glove box, for example, are likely to be interpreted and responded to differently if the request comes from a car wash operative than from a state patrol officer. Second, utterances convey meaning, but they may also be performative acts aimed at achieving particular ends. Many legal rulings ignore these insights.

Subsequent chapters provide numerous examples of legal miscomprehension of the nature of language. Police efforts to obtain consent for searches are a particular concern. The authors begin by pointing out that most searches do not involve a warrant, and that many people (some of whom are guilty) give consent even when it is quite likely that doing so will lead to the discovery of incriminating evidence. Solan and Tiersma argue that this counterintuitive pattern reflects, at least in part, the widespread assumption that police requests for consent to search are in fact commands.

This inference is supported by linguistic studies indicating that people routinely make requests and demands indirectly. Requests and demands are closely related speech acts: both are an attempt to impel someone to do something. Yet commands are often expressed as requests. Saying "Would you mind cleaning up your room now?" rather than "Clean your room now" allows the recipient of the command to save face and may be perceived as more polite. Nonetheless, if the former "request" is made by a parent to a small child, it may be appropriately understood as a command. An apparent request might be a request, but it might be a demand, depending, in part, on the context in which the request is made.

Police requests for consent often occur after law enforcement officers have pulled someone over and ordered them out of the car. Given this context, it is not surprising that many detainees

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apparently perceive police requests for consent as commands. Solan and Tiersma show that despite voluminous research on this topic, the courts have ignored the inherently coercive nature of police-citizen encounters, assumed that all verbal consent is voluntary, and refused to require that police officers specifically state that the suspect has the right not to give consent.

Solan and Tiersma provide many other examples of legal miscomprehension of the nature of language. For example, linguistic research suggests that qualified or indirect utterances and requests are common, particularly among women and persons of lower socioeconomic status. But the courts have generally not recognized suspects' indirect requests for counsel (such as "Didn't you say I have a right to an attorney?") (p. 58). Given the classed nature of this speech pattern, "[a] rule requiring detainees to invoke their right to counsel with clarity may result in a disproportionate number of people with less education and socioeconomic clout having to navigate through police interrogations without a lawyer. No doubt this has some effect on the demographics of the prison population" (pp. 60–1).

Subsequent chapters document other instances of legal misunderstanding of linguistics. For example, Solan and Tiersma argue that although researchers have found that minors, people with mental problems, and non–English speakers do not understand the Miranda warning well, the courts have failed to acknowledge this. The courts also ignore studies indicating that people do not remember spoken words particularly well. Yet requests for attorneys, verbal expressions of consent to searches, and confessions are often unrecorded and yet considered vital evidence by the courts.

More controversially, the authors maintain that the legal miscomprehension of language favors the state over criminal defendants: "The law is systematically more concerned with how a suspect asks to see a lawyer than it is with how a police officer asks for permission to conduct a search" (p. 98). As an empirical assessment, this contention is quite convincing and is amply demonstrated by the examples they provide. However, the authors do not offer an account of why this is so. Although engaging this question would necessarily have put the authors on more theoretical and speculative terrain, analyzing how this discrepancy might be explained would have enhanced the book's power and scope. Nonetheless, *Speaking of Crime* offers a compelling analysis of an underappreciated problem—the legal reliance upon misinformed assumptions about language. Furthermore, it is a terrific read, one that will undoubtedly be of great interest to students and scholars of linguistics, criminal law, and criminal justice.

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