Linguistic Bias: The Impact of African American Vernacular English in the Courtroom

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Introduction

❖African American Vernacular English (AAVE) is most associated with African Americans from low socioeconomic status (SES) backgrounds.

❖African Americans who use AAVE are often identified as less reliable, credible, competent, lower intelligence, and lower class. All qualities are frequently associated with criminal behavior according to stereotypes others embrace and perpetuated by media (Kurinec & Weaver III, 2019).

❖The use of AAVE can hinder the ability to receive a fair trial due to (1) stereotypes and biases of the jurors and court professionals and (2) the inability of others to interpret or comprehend.

❖Linguists recommended that the court systems adopt interpreters to address this inequity to ensure that all defendants receive adequate representation.

African American Vernacular English

❖ The grammar rules in the United States are dictated by English, a Germanic language that has experienced change over the centuries, often identified as old, middle, and modern (Smith & Crozier, 1998).

❖ The use of standard English can be considered classist and elitist, i.e., a power dynamic--placing limitations on educational and vocational attainment for those not using standard English (Hill, 2013).

❖ Any dialect that deviates from standard English is associated with stereotypes about education and socioeconomic status (Kurinec & Weaver, III, 2019).

❖ Because AAVE or Black English (BE) does not align with standard English, users are considered less intelligent, less attractive, low social status, less friendly, less kind, less trustworthy, and lacking goodness (Billings, 2005; Rodriguez et al., 2004; White et al., 1998). Speakers are judged based on factors that include characteristics associated with language (Rodriguez et al., 2004).

❖ Black English and AAVE are identified by specific "systematic grammatical and phonological features" (Hill, 2013).

❖ One of the primary distinctions between AAVE/BE and standard English is the variation of the word "be" and replacing the letter t with k in str clusters.

Criminal Justice System

❖Users of AAVE and BE are often stigmatized and belittled by standard English speakers in the criminal justice system (Kurinec & Weaver, III, 2019).

❖In a study that compared Standard English to AAVE speakers as witnesses and defendants, the finding supported the belief that speakers of AAVE are less intelligent and less professional witnesses (Kurinec & Weaver, III, 2019).

❖Cantone (2019) posited that race and accent significantly affect the final verdict.

❖When comparing the total scores (likeability, credibility, education, and professionalism), researchers found the higher the scores for the witness, the more likely the defendant was found not guilty (Kurinec & Weaver III, 2019).

❖For court reporters, the interpreting of AAVE has proven especially challenging for them.

❖Court reporters are responsible for documenting communication for depositions, witness statement, grand juries, and trials.

❖In a study based in Pennsylvania, court reporters had accuracy rates between 18% and 77% for utterances and an average word error rate of 82.9%. Overall, their accuracy was 59.5% (the state requirement is 95%)(Jones et al., 2019).

❖The researchers found that in 2,241 transcriptions, court reporters altered the utterance of an estimated 701 transcriptions (Jones et al., 2019).

❖These inaccurate documents become official court records that can result in perjury, influence court proceedings, and affect appeals (Jones et al., 2019).

❖ Though their accuracies were not significantly different, Black court reporters were more accurate (52.5%) than their non-Black peers (33.7%; Jones et al., 2019).

Linguistic Profiling

❖Auditory cues identify a person as belonging to a linguistic or racial subgroup (Baugh, 2000).

❖The legal standard regarding the acceptance of linguistic profiling is inconsistent among courts (Baugh, 2000).

❖ According to Small (2004), witnesses can testify to the speaker's race based on linguistic inferences in speech and no other identifiers depending on the state and court.

❖Racial identification by voice is allowed in a court of law and can result in biased identifications of perpetrators (Kurinec & Weaver III, 2019).

❖Referred to as an "earwitness" vs. an "eyewitness" (Cantone, 2019).

❖Jurors displayed dialect bias in the courtroom, often based on pre-existing attitudes and beliefs about an ethnic minority group (Kurinec & Weaver III, 2019).

❖Speech perception and evaluation are significantly influenced by a listener's attitudes about race, ethnicity, geography, and social status (Richard & Kind, 2016).

❖Linguistic profiling is concerning because linguistic differences can be learned, reflecting shared experience and knowledge within specific communities and socioeconomic statuses (Small, 2004).

Recommendations

❖Dialect biases against AAVE can perpetuate disparities in the criminal justice system (Richard & King, 2016).

❖There is a need for more research about accent and dialect bias in the criminal justice system (Richard & King, 2016).

❖Linguists recognize Black English as having valid language traits (White et al., 1998).

❖The US Guide to Judiciary Policy states that interpreters are only required for non-English speakers. Linguists argue that interpreters should be necessary for individuals who do not speak standard English (Richard & King, 2016).

References