Threatening Communications: A Linguistic Perspective

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I. Introduction

Allegations of threatening communications are in the news constantly. In the United States, they seem to be an almost daily occurrence. A few prominent examples from the spring and summer of 2026:

- Former FBI Director James Comey will go on trial in federal court in October for threatening the president, as a result of his posting a photo of "8647" written in seashells on a beach.[1] 86 is an apparent use of restaurant slang, in which 86 means to remove an item from the menu because the kitchen has run out of it. 47 allegedly refers to Donald Trump, the 47th president. The obvious interpretive question is whether this communication is a threat, a joke, or advocacy for impeachment or some other legal means of removing Trump from office.
- A driver from South Carolina was arrested by the U.S. Secret Service at a North Carolina carwash because of a threat against President Trump scrawled on his car window: "Headed to WSH to kill the Pres."[2] A customer or employee had apparently called 911.[3] If and when the driver goes on trial, the prosecution will likely claim that there is no ambiguity requiring interpretation.
- New York Mayor Zohran Mamdani posted a YouTube video supporting a new real estate tax on expensive, rarely occupied "pied-à-terre" residences. It was filmed outside hedge fund billionaire Ken Griffin's penthouse,[4] and named Griffin and gave the address.[5] Griffin criticized the video as a threat, citing the nearby murder of the CEO of United Healthcare.[6] The interpretive question here focuses on the reasonableness of Griffin's reaction.

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[1] Ryan J. Reilly, James Comey's Seashells Photo Trial Delayed until October, NBC News (May 26, 2026) (https://perma.cc/D2LV-T35R).

[2] Press Release, U.S. Att'y Off. E.D.N.C., South Carolina Man Arrested for Threatening to Kill the President (May 4, 2026) (https://perma.cc/6DVM-7GQP).

[3] DeJuan Hoggard, SC Man Arrested at NC Car Wash for Alleged Threats Towards President to Remain in US Marshal Custody, ABC 11 (May 4, 2026) (https://perma.cc/94S5-PXL4).

[4] Nick Lichtenberg, Ken Griffin Says Zohran Mamdani Video Shocked Him: "It Took a Moment to Digest What I Was Watching," Fortune (May 6, 2026) (https://perma.cc/X8WM-UWQU); Louis Casiano, Ken Griffin Slams Mamdani for Singling Him Out as a "Profound Lack of Judgement," Ripping Socialist Bent, FOX Business (Apr. 28, 2026) (https://perma.cc/9CGN-2U4L).

[5] Lichtenberg, supra note 4.

[6] Id.

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- Law enforcement agencies everywhere are constantly doing real-time threat assessments.[7] Obvious questions include the accuracy of their identification of actionable threats and the efficacy of their responses.

Our objective in this article is to explore the use of linguistic theory and methods to answer these and other related real-world questions. In section II we present some examples of U.S. federal and state laws that require the assessment of threats, together with instances of cases where courts and law enforcement agencies have attempted to apply them. Section III presents a critical review of several potential linguistic approaches to these issues, while section IV offers our conclusions.

II. Legal Standards

In this section we review several U.S. federal and state laws that require and sometimes constrain the assessment of potentially threatening communications, as well as cases that illustrate how they have been applied in specific contexts.

A. U.S. Federal Law[8]

The critical federal provision is 18 U.S.C. § 871, which dates back to 1917 and deals with threatening the life of the president or vice-president. The current relevant text is as follows:

> Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any *threat* to take the life of, to kidnap, or to inflict bodily harm upon the President of the United States, the President-elect, the Vice President or other officer next in the order of succession to the office of President of the United States, or the Vice President-elect, *or knowingly and willfully otherwise makes any such threat* against the President, President-elect, Vice President or other officer next in the order of succession to the office of President, or Vice President-elect, shall be fined under this title or imprisoned not more than five years, or both.[9]

We have italicized two provisions that most obviously call for interpretation. The first, in the clause dealing with letters or other writings deposited in the mail, is the word *threat* itself. The second is the seemingly unlimited *or knowingly and willfully otherwise makes any such threat*; the critical words requiring interpretation seem to be the undefined *otherwise*, *willfully,* and, once again, *threat.*

The federal courts have had to interpret the language of 18 U.S.C. § 871 on many occasions, but no conclusive interpretation has emerged. Just a year after the statute was enacted, a federal appellate court in Chicago (a level below the U.S. Supreme Court, which

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[7] E.g., National Threat Evaluation and Reporting Program Office, Behavioral Threat Assessment and Management: An Investment in the Future of Targeted Violence Prevention & Public Safety (https://perma.cc/H55G-XGWJ).

[8] 18 U.S.C. § 871.

[9] Id. (emphasis added).

declined to hear the case) was required to interpret it.[10] In *Ragansky v. United States*, the language used by the defendant included "I can make bombs and I will make bombs and blow up the President"; and, "We ought to make the biggest bomb in the world and take it down to the White House and put it on the dome and blow up President Wilson and all the rest of the crooks."[11]

In affirming a verdict of guilty on all counts, the court of appeals held—in a very brief two-page opinion—that "[a] threat is knowingly made, if the maker of it comprehends the meaning of the words uttered by him,"[12] and "[a] threat is willfully made, if in addition to comprehending the meaning of his words, the maker voluntarily and intentionally utters them as the declaration of an *apparent* intent to carry them into execution."[13] The defendant conceded that "an intention *actually* to carry out the threat . . . is not essential."[14] Notwithstanding this concession, the defendant claimed that his statements were intended as a joke. As reconstructed from the transcript by the court of appeals, the trial court instructed the jury that, as a matter of law, "'the claim that the language was used as a joke, in fun,' is not a defense. It was not claimed that every one [sic] present [the jurors, presumably] understood that he was joking, or that he intended them so to understand."[15] The court of appeals found this statement of the law to be correct.[16]

We come away from this first case interpreting the statute with three somewhat cryptic points. First, a threat is *knowingly* made if the maker comprehends the meaning of the words. This requirement seems to depend entirely on the state of mind of the speaker: did he understand the meaning of the words (with meaning being a contestable linguistic issue, as we will see in section III)? Second, a threat is *willfully* made if the maker knowingly and voluntarily utters the words and declares an *apparent* intent to carry out the threat; an intent to *actually* carry it out is unnecessary. This point seems to invoke both the state of mind of the speaker in uttering the words and the meaning the words convey to an audience, since the intent must be merely *apparent*—but to whom? And third, claiming that the language was used as a joke is not a legal defense. This point is particularly vexing, since the joke defense could presumably be relevant to the interpretation of the language as a *threat* at all, as well as bearing on the presence of *apparent* intent to carry it out. If the speaker's jocular state of mind is *apparent* to the jurors, then it is unclear why the joke defense should be inadmissible as a matter of law.

The courts have had several subsequent occasions to apply and interpret 18 U.S.C. § 871 since *Ragansky*, but their decisions have added little useful understanding. The U.S.

[10] Ragansky v. United States, 253 F. 643 (7th Cir. 1918).

[11] Id. at 644.

[12] Id. at 645.

[13] Id. (emphasis added).

[14] Id. (emphasis added).

[15] Id. at 644.

[16] Id. at 645.

Supreme Court commented on the statute on one occasion, in an unusual 1969 decision in *Watts v. United States*.[17] During a protest at the Washington Monument, Watts, an 18-year-old prospective Vietnam draftee, said to a group of fellow protestors, "If they ever make me carry a rifle the first man I want to get in my sights is L.B.J."[18] At the trial, at the conclusion of the prosecution's case, Watts's counsel made a motion to dismiss the charge on the grounds that there was "absolutely no evidence on the basis of which the jury would be entitled to find that [petitioner] made a threat against the life of the President."[19] The trial judge denied this motion, and the court of appeals affirmed, 2-1.[20] The appellate judges disagreed about the meaning of the *willfulness* requirement in the statute, with the majority endorsing *Ragansky*'s holding that an *apparent* intent to carry out the threat would suffice to support a conviction.[21]

The Supreme Court's decision is very hard to interpret. Technically, the only issue before the Court was whether to grant review of Watts's case (certiorari), which a majority of the justices did grant in an unsigned opinion.[22] But the majority opinion went well beyond the simple grant of review: it reversed the judgment (conviction) of the court of appeals and sent the case back (remanded it) to the court of appeals with instructions that it be returned to the trial court for the entry of a judgment of acquittal.[23] Reversing lower courts' decisions due to legal error is usually an outcome that is reached only after full briefing and argument of a case under review, as was pointed out by two dissenting justices.[24] The majority concluded that Watts's statement was political hyperbole, not a true threat, because "[t]aken in context, and regarding the expressly conditional nature of the statement and the reaction of the listeners, we do not see how it could be interpreted otherwise."[25]

In addition to holding that Watts did not violate 18 U.S.C. § 871 because he did not make a true threat, the majority made some ostensibly gratuitous but potentially significant observations about the statute. First, the majority stated that "[c]ertainly the statute under which petitioner was convicted is constitutional on its face," although it noted that particular applications would have to be evaluated with the First Amendment in mind, distinguishing between threats and constitutionally protected speech.[26] Second, the majority commented, without explanation, on *Ragansky*'s interpretation of *threat* and *willfulness* and

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[17] Watts v. United States, 394 U.S. 705 (1969).

[18] Id. at 706.

[19] Id.

[20] Watts v. United States, 402 F.2d 676 (D.C. Cir. 1968).

[21] Id. at 680.

[22] Watts, 394 U.S. at 705.

[23] Id. at 708.

[24] Id. at 712.

[25] Id. at 708.

[26] Id. at 707.

the sufficiency of *apparent* intent: "Perhaps this interpretation is correct, although we have grave doubts about it."[27] We are left, then, with a procedurally irregular decision in which a majority of the justices constituting the Supreme Court in 1969 might have believed that 18 U.S.C. § 871 was constitutional and might have rejected *Ragansky*'s interpretation of its critical terms.

A series of more recent lower court cases have come down on various sides of what 18 U.S.C. § 871 means, providing little if any further guidance.

- *Roy v. United States* (1969):[28] A Marine stationed at Camp Pendleton, California, where the president was scheduled to visit the next day, called the camp telephone operator from a pay phone outside his barracks and said, "I hear the President is coming to the base. I am going to get him."[29] The trial court convicted Roy under 18 U.S.C. § 871 and the U.S. Court of Appeals for the Ninth Circuit affirmed.[30] The court of appeals "construe[d] the willfulness requirement of the statute to require only that the defendant intentionally make a statement, written or oral, in a context or under such circumstances wherein a reasonable person would foresee that the statement would be interpreted by those to whom the maker communicates the statement as a serious expression of an intention to inflict bodily harm upon or to take the life of the President, and that the statement not be the result of mistake, duress, or coercion. The statute does not require that the defendant *actually* intend to carry out the threat."[31]
- *United States v. Patillo* (1970):[32] The trial court convicted Patillo of threatening the life of the president in violation of 18 U.S.C. § 871. The U.S. Court of Appeals for the Fourth Circuit reversed the conviction and remanded the case for a new trial.[33] Patillo was a security guard at the Norfolk, Virginia Naval Shipyard. While riding with a coworker, he said, "I'm going to kill President Nixon, and I'm going to Washington to do it."[34] The court of appeals rejected *Ragansky*'s interpretation of the statute, holding instead that "where, as in Patillo's case, a true threat against the person of the President is uttered without communication to the President intended, the threat can form a basis for conviction under the terms of Section 871(a) only if made with a present intention to do injury to the President."[35]
- *United States v. Lockhart* (2004):[36] This case was decided by a later iteration of the Fourth Circuit. Lockhart approached a manager's office in a grocery store, ostensibly to apply for a job. When the manager tried to explain the hiring procedure, Lockhart became agitated and handed her a letter. It stated that "[i]f George Bush refuses to see the truth and uphold the Constitution I will personally put a bullet in his head."[37] She was arrested by the Secret Service, which already had an extensive file on her, and charged

[27] Id. at 708.

[28] Roy v. United States, 416 F.2d 874 (9th Cir. 1969).

[29] Id. at 875.

[30] Id. at 878.

[31] Id. at 877-78 (emphasis added).

[32] United States v. Patillo, 431 F.2d 293 (4th Cir. 1970).

[33] Id. at 298.

[34] Id. at 294.

[35] Id. at 297-98.

[36] United States v. Lockhart, 382 F.3d 447 (4th Cir. 2004).

[37] Id. at 449.

> and convicted under 18 U.S.C. § 871; the Fourth Circuit affirmed the conviction.[38] The court discussed *Patillo*, but on issues not directly relevant to the standard of proof under the statute. Instead, it focused on the meaning of a "true threat" under the Supreme Court's opinion in *Watts*.[39] Concluding that the letter was a true threat under *Watts*, the Fourth Circuit held that "[t]here is nothing in its contents that signals it is intended to be a joke. Moreover, Miss Lockhart gave the letter to the Food Lion manager, whom she did not know before entering the store, in a serious manner without suggesting it was meant as jest."[40] The court continued, "although the letter contains political statements, the manner in which Miss Lockhart gave the letter to its recipients is different from a speech at a political rally. Nothing in Miss Lockhart's actions suggest she intended to engage in political discourse with the Food Lion management."[41]

We are left, then, with a statute fraught with ambiguity and no definitive legal guidance on how it is to be construed. In section III, we will consider whether a linguistic approach might help to fill in this legal gap.

B. U.S. State Laws

In this section we consider the threatening language laws of three states: California, whose laws exert national influence because of its population and market power; West Virginia, where Riner lives and works; and North Carolina, where Conley and Ozor live and work. As in the federal section, we will present the relevant state statutes as well as such court decisions as are available.

1. California Penal Code § 422(a)

Section 422(a) provides as follows:

> Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for their own safety or for their immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.[42]

The section appears to embody five elements:

- Defendant willfully threatened to commit a crime that will result in great bodily injury or death;
- Defendant made the threat with the specific intent that the statement be taken as a threat;
- The threat was made verbally, in writing, or by means of an electronic communication

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[38] Id. at 449-52.

[39] Id. at 451-52.

[40] Id. at 452.

[41] Id.

[42] Cal. Penal Code § 422(a) (West 2026).

device and was, on its face and under the circumstances in which it was made, so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution;
- The threat caused the recipient to be in sustained fear for their safety; and
- The recipient's fear was reasonable under the circumstances.[43]

Two significant cases have interpreted these elements.

- *People v. Franz*, 88 Cal. App. 4th 1426 (2001): The appellate court affirmed the defendant's conviction for violating § 422(a) (though it reversed and remanded a portion of the trial court's judgment that imposed an enhanced sentence).[44] A police officer had responded to a domestic violence call at the victim's apartment. While the officer questioned a witness, the defendant stood behind him, put his finger on his lips and made a "shhh" sound, then dragged his finger across his throat in a cutting motion.[45] The court held that making a "shhh" sound was sufficient to constitute a *verbal* threat under § 422(a).[46] The cutting motion and shushing noise were sufficiently unequivocal to convey gravity of purpose.[47] Even though the officer was present at the time the threat was made, the court held that there was still an immediate prospect of execution because the victim and witness did not know when they would next see the defendant, and they knew that an officer would not always be there to provide protection.[48]
- *In re George T.*, 93 P.3d 1007 (Cal. 2004): In this subsequent case, in a very different factual context, the California Supreme Court addressed the issue of whether a communication constituted a threat at all. A high school student gave a poem entitled "Dark Poetry" to two classmates. The poem included this language: "I am Dark, Destructive, & Dangerous. I slap on my face of happiness but inside I am evil!! For I can be the next kid to bring guns to kill students at school. So parents watch your children cuz I'm BACK!!" The court held that "the ambiguous nature of the poem, along with the circumstances surrounding its dissemination, fail to establish that the poem constituted a criminal threat."[49] The court made this finding in spite of extensive evidence that one of the student recipients was so frightened that she emailed her teacher over a weekend to report the threat and her fear.[50] There was also evidence that George T. had joked about the 1999 school shooting in Columbine, Colorado, in the presence of another student recipient.[51] From a common-sense linguistic perspective, the court's analysis is almost impossible to justify.

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[43] Id. ("Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for their own safety or for their immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.").

[44] People v. Franz, 106 Cal. Rptr. 2d 773, 793 (Ct. App. 2001).

[45] Id. at 779.

[46] Id. at 785-86 (citing a dictionary that included "sh" and "shush" as words).

[47] Id. at 787.

[48] Id. at 788.

[49] In re George T., 93 P.3d 1007, 1009 (Cal. 2004).

[50] Id. at 1010.

[51] Id. at 1011.

2. West Virginia Code § 61-3C-14a

This section prohibits the use of electronic communications to engage in four categories of threat or harassment:[52]

> (a) It is unlawful for any person, with the intent to harass or abuse another person, to use a computer, mobile phone, personal digital assistant or other electronic communication device to:
>
> (1) Make contact with another person without disclosing his or her identity with the intent to harass or abuse;
>
> (2) Make contact with a person after being requested by the person to desist from contacting them: *Provided*, That a communication made by a lender or debt collector to a consumer, regarding an overdue debt of the consumer that does not violate chapter forty-six-a of this code, does not violate this subsection;
>
> (3) Threaten to commit a crime against any person or property; or
>
> (4) Cause obscene material to be delivered or transmitted to a specific person after being requested to desist from sending such material.

The West Virginia Supreme Court has issued two decisions interpreting these provisions.

- *State v. Keffer*, No. 13-1066 (Memorandum Decision, Nov. 25, 2014): The specific legal question in this case was whether a possible violation of § 61-3C-14a created probable cause to support the lower court's decision to issue a search warrant covering all computer equipment found at the residence of Keffer, a parolee.[53] The warrant was motivated by a post on a local internet forum in which Keffer wrote, "Like to see all cops die and judges get capped."[54] The search yielded not only computer equipment but also drugs and drug paraphernalia that led to the revocation of his parole.[55] The Supreme Court affirmed the lower court's issuance of the warrant.[56] Without further explanation, it held that "[t]he record establishes that the State had sufficient information upon which the magistrate found probable cause to execute" the warrant.[57] The clear implication is that the court found that Keffer's post was a probable violation of subsection (3), a threat to commit a crime against persons or property.
- *State v. Calvert*, No. 15-0195 (Memorandum Decision, June 3, 2016): The Supreme Court considered § 61-3C-14a once again two years later in another memorandum decision.[58] Defendant Calvert got into an argument on an online forum with the wife and sister of the former local police chief.[59] Calvert wrote: "[P]lease come looking for me, you come to my house bitch, I will open your chest with my 12 gauge, that I promise you from

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[52] W. Va. Code § 61-3C-14a (2016).

[53] State v. Keffer, No. 13-1066, 2014 WL 6724747, at *1 (W. Va. Nov. 25, 2014) (mem.).

[54] Id.

[55] Id. at 2.

[56] Id. at 3.

[57] Id. at 2.

[58] State v. Calvert, No. 15-0195, 2016 WL 3179968, at *1 (W. Va. June 3, 2016) (mem.).

[59] Id. at 1-2.

> the bottom of my heart."[60] Rejecting a variety of arguments, including the trial court's construction of § 61-3C-14a and a First Amendment defense, the Supreme Court affirmed Calvert's conviction.[61] Once again, the clear implication is that the evidence just reviewed was sufficient to support the conclusion that Calvert had made a threat as defined in subsection (3).

3. North Carolina General Statutes § 14-277.1

The section provides as follows:[62]

> § 14-277.1. Communicating threats.
>
> (a) A person is guilty of a Class 1 misdemeanor if without lawful authority:
>
> (1) He willfully threatens to physically injure the person or that person's child, sibling, spouse, or dependent or willfully threatens to damage the property of another;
>
> (2) The threat is communicated to the other person, orally, in writing, or by any other means;
>
> (3) The threat is made in a manner and under circumstances which would cause a reasonable person to believe that the threat is likely to be carried out; and
>
> (4) The person threatened believes that the threat will be carried out.

The North Carolina Court of Appeals, the state's intermediate appellate court, has interpreted and applied the statute in a number of cases going back to the past century, with not entirely consistent results.

- *State v. Roberson*, 247 S.E.2d 8 (1978): The court affirmed defendant Roberson's conviction for violating § 14-277.1.[63] Roberson had an ongoing dispute with her neighbor over rose bushes that encroached on the neighbor's property. The language in question included a threat to hit the neighbor with a rock if she cut the bushes again.[64] In affirming Roberson's conviction under the statute, the court of appeals held that "there was ample evidence from which the jury could find that the threat was made and communicated by defendant 'in a manner and under circumstances which would cause a reasonable person to believe that the threat [was] likely to be carried out' and that '[t]he person threatened believe[d] that the threat [would] be carried out.'"[65] In rejecting a number of defenses, the court found that even though the threat was conditional ("if you come any closer"), the statement still conveyed an intention to carry out the threat, and the circumstances surrounding the relationship between the defendant and neighbor made the threat seem genuine.[66] The defendant also had no right to impose this

[60] Id. at 1.

[61] Id. at 6.

[62] N.C. Gen. Stat. § 14-277.1.

[63] State v. Roberson, 247 S.E.2d 8, 10 (N.C. Ct. App. 1978).

[64] Id.

[65] Id.

[66] Id.

condition, since the neighbor had a legal right to be on her land and trim the rose bushes that were on her land.[67]

- *State v. Thompson*, No. 02-1220, 157 N.C. App. 638 (May 20, 2003): Defendant Thompson, who had a prior conviction for stalking a woman, told a third party that "he was going to go out and buy two guns, and he was going to blow away some Emerald Isle police" officers who had been involved in the earlier case.[68] The third party then reported the threat to the police.[69] On appeal, the court held that even though the defendant did not directly communicate the threat to the officers in question, the defendant could still be guilty of violating § 14-277.1 for making a threat that a reasonable person would believe was likely to be carried out.[70] Rejecting a variety of defenses, the court affirmed his convictions for threatening both the officers and the original stalking victim.[71] It is not clear whether there was any evidence that the officers believed that the threat would be carried out, as required by § 14-277.1(a)(4), implying an inconsistency between this case and the next one.
- *State v. Matthews,* No. COA24-961 (Nov. 19, 2025): Defendant Matthews was initially followed by officers Ballard and Haddock for not having a valid license.[72] While they were parked near him at a convenience store, they saw him engaging in what they thought was a drug transaction.[73] They verified that he did not have a valid license, followed his car, and then made a traffic stop.[74] They approached his car and made repeated demands that he get out, which he ignored.[75] When he finally got out and walked away, they attempted to arrest him. He resisted, cursing at the officers and threatening to kill them and their families as they handcuffed him and took him into custody.[76] Matthews was convicted on a variety of drug charges as well as for communicating threats to officers Ballard and Haddock in violation of § 14-277.1.[77] The court of appeals affirmed Matthews's conviction on all charges except communicating a threat to officer Ballard.[78] It focused solely on the fourth element—that the person threatened believes that the threat will be carried out. While Haddock testified that he believed the threat *against him* would be carried out, Ballard did not testify at all, and Haddock said nothing about whether Ballard believed the threat *against her* would be carried out.[79]

C. Conclusions

It is notable that 18 U.S.C. § 871 as well as California and North Carolina's threat statutes require that the threat be made willfully. The further requirement in the California

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[67] Id.

[68] State v. Thompson, 580 S.E.2d 9, 10 (N.C. Ct. App. 2003).

[69] Id.

[70] Id. at 14-15.

[71] Id. at 15.

[72] State v. Matthews*,* 924 S.E.2d 92, 94 (N.C. Ct. App. 2025).

[73] Id.

[74] Id.

[75] Id.

[76] Id.

[77] Id.

[78] Id. at 95.

[79] Id. at 96.

and North Carolina statutes that the threat be made in a manner that would cause a reasonable person to believe the threat is likely to be carried out implies that "willful" means a subjective intent to threaten. This understanding of "willful" differs from the reasoning in *Ragansky* and *Roy*, decided under the federal statute, that a threat only needs to *appear* serious to be willful. The lack of discussion about subjective intent in North Carolina and California cases may be because courts can generally assume that when a person makes an apparent threat towards another party with whom they have had direct interactions, that person intends to communicate a threat. By contrast, since the president is a highly visible public figure that people frequently have strong feelings about but no interaction with, it is conceivable that a person who stated an apparent threat towards the president might have only intended to express disapproval.

III. Linguistic Approaches to Threats

In this section we consider linguistic approaches to analyzing threatening language in a variety of contexts, both written and spoken. In subsection A, we discuss linguistic approaches generally, while in subsection B, we focus on the method of conversation analysis.

A. Linguistic Analysis of Threats

1. Written Threats

Two papers illustrate different approaches that linguists have taken in analyzing *real* written threats, or threats that are likely to be acted on. In a 2015 study, Gales conducted a corpus-based quantitative analysis of 470 written threat texts from the Communicated Threat Assessment Reference Corpus—67 were *realized*, meaning that the writer caused actual harm, while 37 were not (the results of 366 were unknown).[80] This analysis looked for statistically significant and salient grammatical markers of the threatener's stance, meaning the threatener's position towards the proposition being asserted.[81] Gales found that in realized threats, *will* is frequently used conditionally—if this does or does not happen, I will act—while for non-realized threats *will* is more often a direct declarative, without the conditional frame.[82] Realized threats also include more emphasis on the threatener's justification and tend to use speech act verbs to emphasize "a claim, command, or request that was previously made by or at the behest of the threatener(s) but, as understood through context, was either ignored or not carried out due to unforeseen circumstances."[83]

In a 2026 paper, Hurt similarly used appraisal analysis to examine 14 authentic threat texts—6 of which were realized—and determine how the attitude and engagement of the

[80] Tammy Gales, Threatening Stances: A Corpus Analysis of Realized vs. Non-Realized Threats, 2 Language & L. 1, 8 (2015).

[81] Id. at 9.

[82] Id. at 19.

[83] Id.

author differed between realized and non-realized threats.[84] Perhaps surprisingly, realized threat texts tend to be less violent and negative than their non-realized counterparts.[85] Again surprisingly, non-realized threat texts are more likely to mention weapons.[86] Realized threat texts are more likely to bring in outside voices and acknowledge other systems of ethics.[87] The more evenhanded, less menacing tone of realized threats may indicate that the threatener wants to provide a mainstream interpretive frame for the dangerous actions that they have decided to commit.[88]

Gales's (2015) and Hurt's (2026) analyses reveal that the actual language of realized threats often defies people's (including professional threat assessors') expectations about how a realized threat will be linguistically constructed. Commonly held beliefs about threats—language ideologies, in linguistic parlance—hold that a realized threat will be more specific and direct than a non-realized threat and will include more language that conveys the author's dominance.[89] However, Gales's and Hurt's analyses show that realized threats include both strengthening and weakening grammatical functions and tend to be less direct and vitriolic than non-realized threats. This gap between how language is expected to function and how it functions in practice has important implications for law enforcement officials seeking to uncover intent from words alone.

2. Verbal Threats

In assessing threats that are communicated verbally, a critical linguistic question is what elements of the communication lead the addressee to perceive it as real. Speech act theory provides one potentially useful approach. Speech acts, according to Gales (2010),[90] who in turn relies on the foundational work of Austin[91] and Searle,[92] comprise three primary levels of performance: the locutionary act, the act's illocutionary force, and its perlocutionary effect.[93] The locutionary act consists simply of the words uttered.[94] The illocutionary

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[84] Marlon Hurt, Perseus's Shield: The Linguistics of Detecting Violent Intent in Threatening Language, 13 J. Threat Assessment & Mgmt. 82, 86 (2026).

[85] Id. at 95.

[86] Id.

[87] Id.

[88] Id. at 97.

[89] Gales, supra note 80, at 20; see infra notes 150-55 & accompanying text (discussing ideology).

[90] Tammy Gales, Ideologies of Violence: A Corpus and Discourse Analytic Approach to Stance in Threatening Communications (2010) (Ph.D. dissertation, Univ. of California, Davis).

[91] J.L. Austin, How to Do Things with Words (1962).

[92] John R. Searle, Speech Acts (1969).

[93] Gales, supra note 90, at 6.

[94] Id.

force of those words refers to the speaker's intent in uttering them.[95] The perlocutionary effect of the words is their effect on the hearer, which implicates the context in which they are spoken.[96]

In considering threats as speech acts, Gales observes that threats are ubiquitous in everyday life: children threaten each other, parents threaten children with consequences, unhappy consumers threaten businesses with lawsuits.[97] Following Shuy, a distinguished forensic linguist,[98] Gales notes that threats are most closely related to two other kinds of speech acts, warnings and promises.[99] A threat, however, is "clearly made to the detriment of the hearer" and, at the perlocutionary level, "tilts the scale of power in favor of the speaker, thus benefiting the speaker."[100] Drawing on many strands of research from linguistics, ethnography, and social theory, Gales ultimately defines threats as "communicated (written or spoken) speech acts, that are proffered for the benefit of the speaker and to the detriment of the hearer, that are in the control of the speaker, and that are intended to and have the effect of instilling fear in or intimidating a recipient."[101]

In another 2010 speech act theory analysis of threats that is generally consistent with Gales, the Spanish linguist Salgueiro classifies threats and promises as "close relatives."[102] Although several papers have argued that a promise is an illocutionary act, committing the speaker to a future course of action,[103] while a threat is a perlocutionary act whose defining characteristic is to intimidate the receiver, Salgueiro concludes that threats and promises "share the same basic formal types" and that their differences regarding "illocutionary versus perlocutionary nature have been greatly exaggerated."[104] Referencing the cultural context that is the hallmark of perlocutionary force, Salgueiro stresses that "some illocutionary forces, if not all, can only be understood satisfactorily as forming part of a more or less extensive network of forces that are modulated by a multitude of contextual factors."[105]

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[95] Id.

[96] Id. at 7.

[97] Id. at 8.

[98] Roger Shuy, Language Crimes: The Use and Abuse of Language Evidence in the Courtroom 97-98 (1993).

[99] Gales, supra note 90, at 10.

[100] Id.

[101] Id. at 14.

[102] Antonio Blanco Salgueiro, Promises, Threats, and the Foundations of Speech Act Theory, 20 Pragmatics 213 (2010).

[103] Id.

[104] Id. at 225.

[105] Id. at 226.

But how can speech act analysis help the law? One might reasonably conclude that it does nothing more than restate the question. At the locutionary level—the words uttered—all legal definitions require that those words be capable of being perceived as a threat. Was James Comey's "8647" capable of being perceived as a threat, for example?[106] Speech act theory offers no help in making that determination. The illocutionary force of an utterance refers to the speaker's intent: were the words intended as a threat, or perhaps as a joke (see Comey once again[107]) or a political comment?[108] The law usually requires a resolution of such questions, and here again speech act theory merely rephrases the question.

Finally, perlocutionary effect refers to the effect on the hearer, with close attention to the multifaceted context in which the words were uttered. The definition of perlocutionary effect necessarily presumes that the words were received by the target. The law struggles with every aspect of effect on the hearer.[109] Must the utterance be received by the target? If so, must the receipt be direct, or can it come through an intermediary? And most critically, must the threatening effect on the target be subject to some kind of reasonableness standard? Speech act theory provides a framework for the law's analysis, but little in the way of answers.

Gales provides an exhaustive review of previous efforts to apply speech act theory to practical legal questions,[110] some of which was discussed above under the heading of written threats.[111] Much of this research is instructive, but Gales's review is far too extensive to deal with here.

One innovative subsequent (2011) approach to the issue is the work of Hepburn and Potter, which integrates linguistics, particularly how threats are organized in conversational interactions, and social psychology.[112] The "foundational" questions they posit include: "What is a threat? In what ways can threats be built—in either everyday or institutional settings? How are threats responded to? In what interactional environments do threats appear?"[113] Drawing on methods from both discursive psychology and conversation analysis, the authors analyzed videos recorded by a real family at 16 dinnertimes to better understand how threats, warnings, and admonishments are formed and how the addressee can respond.[114] Although this setting is everyday, Hepburn and Potter raise the question of

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[106] See supra section I.

[107] Id.

[108] See U.S. threat statute cases supra section II(A).

[109] See federal and state case discussions supra section II.

[110] Gales, supra note 90, at 15.

[111] See federal and state case discussions supra section II.

[112] Alexa Hepburn & Jonathan Potter, Threats: Power, Family Mealtimes, and Social Influence, 50 Brit. J. Soc. Psych. 99 (2011).

[113] Id. at 100.

[114] Id.

their method's potential utility in institutional settings, including legal interactions such as between police and suspects.[115] In conclusion, Hepburn and Potter write that "part of the aim of this initial documentation of some of the dimensions of threats as interactional objects is to provide the groundwork for this comparative research."[116]

B. Conversation Analysis

Despite the fact that Hepburn and Potter's approach to analyzing verbal threats is ostensibly unrelated to legally cognizable threats, we agree with them that it has potential utility in legal contexts. In particular, its focus on the interactional construction of threats could be of assistance in the real-time legal analysis of developing threats. The linguistic features of threats described above are largely speaker-oriented; that is, they focus on the linguistic construction of the threat from the speaker's perspective. This section will review models of threats that take an interactional perspective, illuminating how threats emerge via their uptake by interlocutors, not simply through speaker design. Speech act theory reminds us that the effect of a threat—or its perlocutionary force—is central to a threat's realization, not just the speaker's intent. If an addressee does not believe in the speaker's intent to enact undesirable consequences, then the conditions of a threat have arguably not been met. It is thus important to examine threats within their interactional context, as the addressee's reaction can ultimately reveal whether the threat was authentic.[117]

Linguistic analyses of threats attempt to identify threats and their potential outcomes according to lexical and/or grammatical features. Conversation analysis (CA) work, in contrast, identifies threats and projects their outcomes according to their turn-by-turn unfolding in interaction, in other words, according to their discursive structure. Additional discursive features, including prosody (rhythm, stress, and intonation) and embodied actions such as gesture, contribute to a threat's realization. CA scholarship on threats reveals three additional points of analysis relevant to any potential threat assessment: (1) context is key, (2) a threat's success relies in part on its interactional uptake, and (3) utterances that resemble threats linguistically may not actually function as threats, and vice versa.

Interactional analyses of threats reveal that context—including the institutional or everyday setting of the interaction and relationship between interactants—plays a significant role in how threats emerge and the degree to which they are taken by the recipient(s) as "true threats," or those that are likely to be carried out.[118] The "status and power of the threatener," in particular, is an important factor in determining the success of a threat.[119] Research has shown that addressees are more likely to comply with threats from high-status

[115] Id. at 118.

[116] Id.

[117] Holger Limberg, Impoliteness and Threat Responses, 41 J. Pragmatics 1376, 1378 (2009).

[118] Kate Storey, The Language of Threats, 2 Forensic Linguistics 74 (1995).

[119] Limberg, supra note 117, at 1378.

speakers,[120] leading some to ask whether threats are power-dependent speech acts.[121] In contexts ranging from police-civilian encounters to family dinner-time interaction, hierarchically structured relationships play a significant role in how threats are produced and received.

In a study of police-civilian encounters during traffic stops, for example, Shon (2005) investigates the distinction between warnings and threats.[122] The goal of a warning, he explains, is to change the addressee's behavior in a favorable way, while the goal of a threat is to intimidate.[123] Shon argues that police warnings are always threats, even if they are not explicitly stated as such, because they are always backed by the police officer's institutional and actual (when they are carrying weapons) ability to enforce and carry out the actions implied in their utterances.[124] He argues that any directive from a police officer at a traffic stop wearing a uniform and carrying a gun can be taken as a threat; the presence of the uniform and weapon contribute to the perlocutionary effects of the officer's utterances.[125]

While drawn from a drastically different context, Hepburn and Potter's (2011) study of family mealtime interactions discussed in the prior section similarly highlights the importance of the roles and statuses of interlocutors in the construction and uptake of threats. Their analysis focuses on the agency of threats, or how the speaker interactionally presents their commitment and ability to follow through with the threatened action.[126] Threats were more common, they found, in interactions where the power asymmetry among interactants was distinct, as between parents and children.[127] The threatener, as parent, had more pronounced agency when uttering threats, as their institutional role bolstered the child's belief in their ability and desire to carry out the threatened action.[128] These examples reveal that the full realization of a threat relies on both the context and the identities of the participants.

The social or institutional status of interlocutors, however, does not necessarily determine the outcome of a threatening utterance. There is some evidence that threats are in fact more likely to be complied with in relationships of equal status, such as among friends.[129] The status of the speaker, therefore, does not wholly determine an addressee's likelihood of taking a threat seriously. "The contextual conditions" of an interaction, rather,

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120 Thomas Faley & James T. Tedeschi, Status and Reaction to Threats, 17 J. Pers. & Soc. Psych. 192 (1971).

121 Limberg, supra note 117, at 1380. See also Daniel Vanderveken, Meaning and Speech Acts (1990).

122 Phillip Chong Ho Shon, "I'd Grab the S-O-B by His Hair and Yank Him out the Window": The Fraternal Order of Warnings and Threats in Police-Citizen Encounters, 16 Disc. & Soc'y 829 (2005).

123 Id. (citing Bruce Fraser, Threatening Revisited, 5 Forensic Linguistics 157 (1998)).

124 Id. at 842.

125 Id. at 841.

126 Hepburn & Potter, supra note 112, at 103.

127 Id. at 116.

128 Id. at 108.

129 Limberg, supra note 117, at 1390.

"allow any speaker to establish temporary power over someone when producing a threat utterance sincerely and effectively," as the unfolding of an interaction can involve "dynamic changes in perceptions of power."[130] An addressee's historically informed obligations to their interlocutor, the urgency of the situation, and the triggering incident of a threat are among those contextual factors that can inform an addressee's response to a threat.[131] Their response, including whether they comply or not with the directed action and the discursive construction of their response, can also contain strategies to mitigate or enhance the face-threatening effect of the utterance.[132] These findings further support a perspective on threat assessment that attunes to the interactional context of threat production and receipt, focusing on the response of the addressee as much as the speaker's utterance.

Additional CA work suggests that utterances that take the linguistic form of threats, such as the following excerpt from a conversation among white supremacists, may in fact serve other interactional functions. A father of three asserts:

> "All my kids, you know, we're shooting it out, we're staying. My boys, they say 'Dad we're going to hold our guns and shoot back and if you and Mom get killed, we're gonna shoot it out.'"[133]

The authors of this study, which examines the interactional construction of white supremacy identity, argue that this utterance, while it linguistically resembles a conditional threat, in fact serves to demonstrate "consistency between beliefs and action" and thereby support the speaker's identity work.[134] The authors argue that this utterance does not therefore constitute a threat, as the speaker and his family arguably do not intend to actually carry out the action named. Examples such as this, the authors argue, should perhaps be treated not as "literal declarations of a person's intent to commit violence [but as] rhetorical expressions meant to convey a particular identity."[135] This does not, however, negate the injurious effect of the utterances. In fact, violent talk such as this serves to socialize groups into violent and racist worldviews, thus potentially "fomenting actual violence."[136] Work such as this that clarifies the interactional function of utterances that resemble threats underscores the need to assess threats within their interactional and larger social contexts.

Conversation analysis can provide additional contributions to the practice of threat assessment, demonstrating what the interactional unfolding of threats can reveal about the likelihood they will be carried out. Through an analysis of videotaped violent interactions,

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[130] Id. at 1380.

[131] Id. at 1391.

[132] Id. at 1385.

[133] Pete Simi & Steven Windisch, The Culture of Violent Talk: An Interpretive Approach, 9 Soc. Scis. 1, 7 (2020).

[134] Id.

[135] Id. at 10.

[136] Id. at 11.

Whitehead, Bowman, and Raymond (2018) investigate how risk factors often used to predict violent behavior are constructed in turn-by-turn interaction.[137] Examining which interactional features allow typical social barriers to violence to be overcome, the authors ask, "[w]hen and how do participants in interactions observably produce, use, or orient to those factors conventionally described as correlates or predictors of potential or actual violent actions?"[138] Their analysis reveals shared cultural beliefs that often underpin threats, such as when threats of violence are used to perform a "recognizably exaggerated and extreme form of aggressive masculinity . . . as a means of asserting dominance over other men."[139] They note that gender, racism, and intoxication are all factors oriented to by participants in the early unfolding of violent actions.[140] Social asymmetries such as racism and sexism are thus produced as resources for enactments of violence.[141] Gender, in particular, they argue, serves as a "powerful resource for provoking a response from a co-protagonist in a conflict."[142] Cultural beliefs are thus important to take into consideration when gauging the potential realization of a threat.

The authors' findings also reveal that orientation to or repetition of the other's prior actions or utterances (e.g., "What did you say to me?") often serves as an impetus for violent action.[143] This resonates with Gales's (2015) and Hepburn and Potter's (2011) findings that realized threats often minimize the threatener's agency in the utterance of the threat (e.g., "if you don't eat dinner, **there will be** no pudding" vs. "if you don't eat dinner, **I won't give you** any pudding").[144] Constructions such as these allow the threatener to pose the threat as responsive to another's actions or as a necessity and not simply subject to their individual will.

IV. Conclusion

Linguistic and conversation analysis treatments of threats provide multiple potential contributions to legal threat assessments. First, the social, cultural, and interactional context of the threatening utterance, whether written or spoken, must be considered. Threats depend on much more than the intention of the speaker, though this is often the focus of many laws and legal judgments. The likelihood of a threat being carried out is linked to the situational context in which the threat is made, including the relationship and past interactions

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[137] Kevin A. Whitehead et al., "Risk Factors" in Action: The Situated Constitution of "Risk" in Violent Interactions, 8 Psych. Violence 329 (2018).

[138] Id. at 331.

[139] Id. at 333 (citing Willer et al., Overdoing Gender: A Test of the Masculine Overcompensation Hypothesis, 118 Am. J. Socio. 980 (2013)).

[140] Id.

[141] Id. at 336.

[142] Id. at 334.

[143] Id. at 336.

[144] Hepburn & Potter, supra note 112, at 109.

between the threatener and target.[145] The interpretation and potential success of threats, moreover, rely on shared social, cultural, and ideological frames.[146] Threat assessments, therefore, must recognize that

> [t]hreats, like all forms of communication, are ultimately the product of the society from which they derive in that they are the manifestation of personal feelings, emotions, and intentions that have been shaped, influenced, and even encouraged by the larger social structure.[147]

Ideology plays an important role in the communication of threats, recipients' reactions, and how they are treated by threat assessors in law enforcement. We use the term in two senses. In its general sense, ideology refers to a set of ideas and beliefs, held individually or collectively, that people use to interpret the social and political realities that they confront.[148] In this general sense, ideology overlaps with cultural context, which is central to speech act theory's analysis of perlocutionary effect, or the effect of an utterance on the recipient.[149]

For example, the assessment of threats to the U.S. from identified "outsider" groups seems to be influenced by ideology in this general sense.[150] Among state and local law enforcement, the threat assessment of Muslim extremist groups is elevated above the actual level of the threat,[151] apparently because of shared political attitudes.[152] This attention to cultural context is especially important because utterances that resemble threats in linguistic structure do not always serve functionally as threats.

Language ideologies represent a specific type of ideology—beliefs about the nature, structure, and use of language. As defined by linguistic anthropologist Kathryn Woolard, "they are in some crucial way *about* language itself."[153] Elaborating, Woolard writes that "ideologies of language are morally and politically loaded representations of the nature, structure, and use of languages in a social world."[154]

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145 Andre Simons & J. Reid Meloy, Foundations of Threat Assessment and Management, in Handbook of Behavioral Criminology 627 (2017).

146 Gales, supra note 80, at 3.

147 Gales, supra note 90, at 102 (citing Suzanne Eggins & J.R. Martin, Genres and Registers of Discourse, in Discourse as Structure and Process: Discourse Studies: A Multidisciplinary Introduction 230 (1997)).

148 Michael Freeden, Ideology, Routledge Encyclopedia Phil. (https://perma.cc/4HH5-UX89).

149 See supra notes 96, 105 & accompanying text.

150 Charles Kurzman et al., Ideology and Threat Assessment: Law Enforcement Evaluation of Muslim and Right-Wing Extremism, 3 Socius 1 (2017).

151 Id.

152 Id.

153 Kathryn A. Woolard, Language Ideology, in The International Encyclopedia of Linguistic Anthropology 1 (2021).

154 Id.

Language ideologies have particular salience in the real-world assessment of threats by recipients as well as law enforcement. For example, studies have shown that individuals' ideologies about different accents were related to how threatening specific groups were judged to be.[155] In addition, Gales (2015) asserts that threat assessors' "folk linguistic impressions,"[156] or language ideologies, about the content of threatening language do not align with the linguistic features of realized threats. These ideologies, she argues, can mask the ways in which threateners actually display intent to carry out a threat.[157] For example, increased violent imagery does not necessarily indicate the likelihood that a threat will be carried out. More detailed language about weapons actually correlates with a lower likelihood of a threat enactment,[158] and higher levels of violent talk indicate a lower threat risk.[159] Threats of violence often serve as a substitute for, rather than a predictor of, violent actions.

Viewed from the perspective of the threatener, threats can accomplish other interactional functions, such as performing identity work that promotes affiliation with racist or sexist ideologies.[160] Interactional approaches to threat assessment also remind us that threateners and targets alike are subject to conversational norms such as face-saving, which can lead threateners to mitigate their role in the promised act, not taking direct responsibility for its completion.[161] Threateners may also soften the directness of their threat or lessen the boldness of their violent claims. This may serve to deflect the potential social or legal sanctions of uttering a threat and does not necessarily decrease the likelihood of the threat being carried out.[162] These mitigated forms contrast with common ideologies that assume "that in the case of threats, the threatener is firmly in control of the victim, the act, and, ultimately, the outcome."[163] Instead, threateners often construct their threats in ways that align with conversational and social norms in an attempt to maintain their own social identity.[164]

To summarize, threatening communications are everywhere and always have been. Along with threats comes the necessity of assessing and, where necessary, responding to them, at both individual and institutional—especially law enforcement—levels. The current political environment seems to put alleged threats against public figures in the news every day, and all of them must be assessed, however ambiguous they might be. For example,

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155 James Tompkinson, Spoken Threats from Production to Perception (2023).

156 Dennis R. Preston, The Uses of Folk Linguistics, 3 Int'l J. Applied Linguistics 181 (1993).

157 Gales, supra note 80, at 3.

158 Hurt, supra note 84, at 89.

159 Simi & Windisch, supra note 133, at 12.

160 Id.

161 Gales, supra note 80, at 19.

162 Id. at 4.

163 Gales, supra note 90, at 164.

164 Gales, supra note 80, at 4.

billionaire Ken Griffin interpreted Mayor Mamdani's tax announcement video as threatening in part because of the nearby killing of the United Healthcare CEO, an event to which Mamdani did not allude in his video.[165] Similarly, when announcing James Comey's indictment, Department of Justice officials mentioned that the 8647 post was made at a time of increased political violence and previous assassination attempts against President Trump.[166] This suggests that although Comey made no reference to these assassination attempts in his post, they were part of the cultural context that impacted the DOJ's interpretation of 8647 as a threat. Our framing question was how linguistics might help in that assessment. Linguistics can indeed help, and the help falls into three broad categories. First, linguistics can help by framing the assessment question in a more precise way. That is, just what does it mean to say that a writing or utterance is a real threat? Second, what are the identifiable characteristics of an actual threat? Knowing those characteristics can help assessors distinguish more efficiently between real and merely apparent threats. And third, linguistics can identify some of the biasing factors that can lead assessors into potentially dangerous misidentifications.

[165] See supra section I.

[166] Press Release, Office of Public Affairs, Federal Grand Jury Indicts Former FBI Director James Comey for Threats to Harm President Trump (Apr. 28, 2026) (https://perma.cc/2FJE-TQFL).