Abuse of Evidence in Persuasive Speaking: An Un-Conventional Solution

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Scholars in the forensics community have been lamenting the misuse and abuse of evidence in forensics competition for decades. Beginning with Frank's 1983 discussion of evidentiary abuse in Persuasive speaking, authors have offered possible solutions to end the problem. However, as the ongoing focus might suggest, these solutions have not had the intended effect. In this paper, we continue the investigation into evidence use in Persuasive speaking by repeating Frank's original study but offer an unusual solution that may finally effectively address the problem.

It has been three decades since Dr. Robert Frank published the findings from his analysis of the 1981 NFA final round of Persuasive Speaking. This study yielded three types of evidentiary misuse: fabrication, distortion and deception (Frank, 1983). It is doubtful the idea that some students, in some rounds, at some tournaments may have "padded" their sources was completely foreign to the forensics community. However, two specific aspects of Frank's findings were particularly troubling: the misuses of data were so numerous within each speech, and this misuse was occurring at the very highest levels of competition. If these competitors were the very best of our students and they were engaging in evidence abuse, then it seemed more than likely that such conduct was common amongst competitors at all levels.

Many scholars within the forensics community have studied the use of evidence in public address (Cronn-Mills & Schnoor, 2003; Del Casale et al., 2003; Frank, 1983; Perry, 2002; Perry 2003; Thomas & Hart, 1983). Over the course of more than three decades of study, a recurring pattern of evidentiary abuse at the highest level of competition has been found. While no longitudinal study has been done to prove how consistent this problem is, and the sample sizes have been very small (usually final rounds of a national tournament) due to practical constraints, there seems to be enough data to merit the questions:

- Is the ethical use of evidence really important to us as a community, and if so,
- How do we go about teaching it/requiring it/rewarding it in a way that is practical and effective?

In order to address these questions, some of the complicated issues that relate directly and indirectly to the question of ethical use of evidence will be considered. The results of the 2011 National Forensic Association final round of Persuasive Speaking will be examined to see if they yield further corroboration of the trend of evidence abuse. Finally, practical and effective means of controlling evidence abuse in competitive persuasive speaking will be suggested.

The debate over whether forensics should be considered an extra- or co-curricular activity seems to be relevant to any discussion of ethical use of evidence in competition. If we acknowledge forensics activity as a part of the college students' overall education, then the responsibility to maintain high academic standards within the activity is undeniable. We would no more allow unethical evidence use or improper source citation in a forensics speech than a college English department would allow it in a composition class. Kelly et al. (2005) explained

the behaviors condoned and encouraged in the laboratory of forensics competition may have implications far beyond that setting. Kerber and Cronn-Mills (2003) pointed to the importance of emphasizing the educational aspects of forensics in order to strengthen the relationship between our pedagogy and our theoretical basis.

However, it has been posed by some that intercollegiate forensics is not by definition educational (Burnett, Brand & Meister, 2003), but rather an extracurricular activity. If this is true, it could be argued that it is unnecessary to apply the same rigorous academic standards as the classroom. However, even if one views forensics activity to be completely extracurricular, and not an extension of academics, there is still an imperative to "play by the rules." Football is not an academic activity, but it has rules of play, and those who do not follow them are penalized. Similarly, both the National Forensic Association (NFA bylaws, 2013) and the American Forensic Association (AFA code, 2014) decry plagiarism, and AFA goes on to give specific and detailed descriptions of how to properly cite evidence in individual events, making clear that the competitive nature of the national tournaments depends somewhat on compliance with these rules. There is also the consideration of the wider social response to plagiarism. Outside of academia, intentional plagiarism may still result in severe sanctions, including loss of employment or legal action. So, regardless of which side of the co-curricular/extra-curricular debate one favors, there are compelling reasons why forensics students should avoid evidentiary abuse. Yet the abuses continue, as is apparent in this most recent analysis.

In this study, the author has replicated Frank's (1983) original study on the 30th anniversary of its publication by analyzing the final round of Persuasive Speaking from the National Forensic Association's National Tournament held in April 2011. Unlike previous authors, who were attempting to verify the existence of misuse of evidence for the purpose of describing and quantifying it, this study seeks rather to determine whether such abuses continue, in order to discuss possible strategies for ending the practice of evidence abuse. In short, this author is interested in determining if the results from the 2011 tournament corroborate the findings of previous research for the purpose of contextualizing a discussion of possible solutions to the problem of evidentiary abuse.

METHOD OF ANALYSIS

The author analyzed transcripts of the speeches, which were produced by students in an introductory level public speaking class by watching the final round recordings available for order from the National Forensic Association. Each speech was independently transcribed by at least three students, and these transcripts were then compared and verified by the author.

The author then tallied and catalogued the factual claims in each speech. Factual claims were defined as any statement containing information, which was beyond the scope of common knowledge, especially those containing references to individuals, locations, publications, legislation or actual events. The total number of factual claims in the 6 speeches was tallied at 117. This author makes no claims with regards to the perfect accuracy of the number of "factual claims," as such a definition is open to interpretation by individual readers. However, the measurement provides a baseline for estimating the scale of the problem of evidence abuse within this particular round of competition.

Factual claims that were accompanied by a source citation were then tallied, and those citations were investigated. The author and several student assistants attempted to locate the sources cited. It was then noted whether the source was locatable with the information given in the speech, and if so, if it contained the information that was being cited by the students.

RESULTS

The results of this study are similar to those found previously. All six of the speakers engaged in

evidence abuse. The total number of claims was 117. The total number of claims in which sources were correctly cited was 31, or 26.5%. The number of claims in which a source is cited, but that source either could not be found or did not contain the data suggested was 45, or 38.5% of the total. And in 41 cases, claims or statements of fact were made for which no citation was given. This made up 35% of the total claims.

This represents an overview of the use of evidence in the rounds. However, breaking the analysis down by speaker reveals an even more troubling story. None of the speeches were free of errors. Each of them contained factual claims for which no source of evidence was given, and each of the speeches contained citations for sources of evidence that could not be verified, either because the original source could not be located at all, or because once located, it did not contain the data that was being used by the speaker. The overall accuracy of the source citations within a particular speech ranged from a high of 76% to an astonishing low of 0%. To be clear, this number represents accuracy of citation and should not be construed to mean an accusation of intentional wrongdoing. The fact that sources cannot be located using the citation given in the speech should not be taken to mean that the source does not or did not exist at all, but it definitely does establish that the student failed to give an effective and accurate citation as required by both AFA and NFA.

IMPLICATIONS

The purpose of this analysis was to establish the existence of evidence abuse within this particular round of competition, not to measure the exact amount or nature of it. The analyses conducted do establish the existence of evidentiary abuse and are therefore useful. While it may be interesting to further analyze the data from these speeches to ascertain if the types or degree of evidence abuse has changed over time, a more pressing concern for this author is how to address this ongoing problem.

It would be difficult, and detrimental to the forensics community, to attempt to point fingers at individual speakers, programs, or coaches with an eye to laying blame. It is nearly impossible to tell from a speech transcript alone if a missed source citation is intentional or accidental, or if information wrongly attributed to one source rather than another is a deliberate deception or due to a mere error in memorization; in short, there is no way to *prove* anyone is *intentionally* doing something wrong. And yet, the speeches contain inaccuracies, incomplete citations, and references to sources that cannot be found and verified. These misuses of evidence are unacceptable from an academic standpoint, are not examples of the writing and research we should be rewarding, and may be in direct violation of the guidelines for fair competition. Though this study, like others before it, analyzes only a small sample of speeches, there is every reason to believe the same misuse of evidence is occurring at all levels of competition. Previous research on the existence of unwritten rules or conventions of competition indicates that, whatever the successful competitors are doing, everyone else is trying to emulate (VerLinden, 1996). Thus the credibility of all forensics competitors is compromised when we find evidence of evidentiary abuse at the highest levels of competition.

It is difficult to determine what the causes of this problem may be. Some have suggested that poor judging is to blame for undesirable trends in competition (Cronn-Mills and Schnoor, 2003; Paine, 2005). In particular, questions have been raised about the relative value of inexperienced or "lay judges" who may or may not know what to look for when judging (Mills, 1983). Regardless of one's opinion on the value of decisions and criticisms offered by lay judges, most tournaments are dependent upon them. The reliance on lay judges to make tournaments work is not a variable that many have the power to manipulate. An argument can be made that the fresh perspective offered by the relatively inexperienced judge can be beneficial to competitors (Ballinger and Brand, 1987).

Others have pointed to particular judging criteria as having a detrimental effect on the public address events. Richardson (1994) suggested the familiarity of the competitor may have some effect on ranking. "Source counting" (Billings, 2002) or privileging of recency in source citation (Kelly et al., 2008), instead of critical evaluation of the number and credibility of sources cited, are also concerns. The sheer volume or recency of sources should not be the primary criteria for judging evidence, though Ziegelmueller and Kay (1997) find it often is. Freely and Steinberg (2005) urged judges to look at the quality of argument, rather than the "cite count," though cite count remains a reliable predictor of rank (Billings, 2002). As students search for more variety and uniqueness in their source citations, all the while adhering to the privileged recency standard, they may find themselves turning to sources that are biased, obscure or even irrelevant (Billings, 2002; Cronn-Mills and Schnoor, 2003). This places an even higher burden of evaluation on the judge, who may or may not be familiar with the sources being cited.

The existence and proliferation of conventions or unwritten rules of competition may also have some bearing on the behaviors of individual competitors with regard to evidence abuse. There is a large body of research on the unwritten rules of specific forensics events (Ballinger and Brand, 1987; Crawford, 1984; Billings, 2002; Paine, 2005; Sellnow and Ziegelmueller, 1988; Reynolds, 1983; White and Messer, 2003; VerLinden, 1996). VerLinden (1996) explained that conventions are based on students' perceptions of why other competitors are successful, not any theoretical or pedagogical basis. Kelly and Richardson (2010) added that heeding these unwritten rules "maintains a high potential for abuse, thus compromising the pursuit of theory-supported educational outcomes." It is possible students are merely mimicking the behavior of other successful competitors. Billings (2002) and Gaer (2002) each described the manipulation of conventions in order to increase competitive success, even though adherence to this convention may stifle creativity. And, judges may be just as hemmed in by convention as competitors. When a judge must render a decision and a justification for that decision in the scant amount of time available during a round of competition, referring to conventions or unwritten rules may serve to simplify things (Paine, 2005). It may be "more sources" is not just an arbitrary and unenlightened comment on a ballot (Cronn-Mills and Schnoor, 2003), but a shorthand for "your argument is underdeveloped; you need more evidence to support your claims." Billings (2002) suggested judges should focus on argumentation, not the evidence citation. Previous research has pointed to the possibility that student competitors are simply not being taught how to properly construct an argument, much less how to properly cite the source of the evidence one uses to support it (Perry, 2002).

Even the most discerning judge, applying the most thoughtful analysis can be easily fooled, if that is the speaker's intention. Judges, no matter how determined, principled, and experienced, simply do not have the time to check the veracity of competitors' sources during a round of competition. Nor do they have the time or resources to look up obscure or little-known media outlets to judge credibility and appropriateness within a round of competition. The judges cannot be the last line of defense against evidence abuse.

It bears mentioning that there is a first line of defense against evidence abuse: the forensic coach. Coaches who are working with students in the research and writing phases of competitive preparation should be intimately acquainted with the sources of evidence being used by their students, and in a position to direct the students in the proper usage and citation of sources. This ideal situation, however, is often far from the reality for many teams, for a variety of reasons: insufficient coaching staff, inexperienced coaches, late additions to the team, or students who reject advice, to name a few. So how might the community address the persistent problem of evidence misuse and abuse?

In his original study, Frank (1983) hinted at a solution that may have merit. He suggested the national tournaments require students to submit a transcript of their speeches, just as the Interstate Oratorical competition does, and similar to the American Forensic Association's rule that competitors submit proof of eligibility for their national tournament. Perry (2003) echoed

this idea, suggesting competitors be required to "verify the accuracy of citations" (p. 63). A policy such as this would definitely have the effect of discouraging intentional evidentiary abuse at the national tournaments. However, there are several difficulties with this proposal: it would be difficult to achieve consensus on this matter within the various national forensics associations, which would be necessary in order to compel cooperation; while it would create a disincentive for evidentiary abuse, this policy would still not address sloppy or inaccurate source citations within the text of speeches; and, this policy would not directly address evidentiary abuses occurring at qualifying or regional tournaments. A competitor could easily "cheat" his or her way to qualification, and then clean up the speech before nationals.

However, if the intention is to reduce evidence abuse while restoring the educational integrity of an event that is riddled with arbitrary and undesirable unwritten rules, then why not do this by intentionally encouraging the development of a new unwritten rule? Burnett et al. (2003) stated that, because we already believe ourselves to be engaged in an educational activity, we are unmotivated to make systemic changes, which would lead in the direction of increasing educational value. The likelihood of creating consensus for a rule change in Persuasive Speaking (NFA) or Persuasion (AFA) seems low. But unwritten rules emerge every season, whether it applies to how an interper should hold the script book, or how many sub points one should have in an impromptu speech. Burnett et al (2003) argued there are "no educational unwritten standards," instead they are all competition-oriented. But this does not have to be the case. If a small but significant percentage of students were to engage in a new "convention" in persuasive speaking that addressed the abuse of evidence and impressed their judges with their commitment to academic honesty and ethical communication, this behavior would be rewarded, and, more importantly, emulated.

The behavior suggested is the preparation of an annotated bibliography of the sources of evidence used in the competitor's speech, prepared alongside the speech itself, and available in each round of competition, with enough copies for any judge who wanted to keep it. The effort and ability required to produce this bibliography would be well within the normal academic requirements of any college student, and the creation of this document could serve as an excellent teaching tool for the competitor and coach. Additionally, the presence of an actual printed copy of this bibliography, offered to the judge before the student begins presenting her or his speech, would enable students to reduce the amount of specific detail of each individual citation, thereby improving the auditory experience of the speech and drawing forensics speech more in line with real world communication (VerLinden, 1996). The proffering of such a document within a round of competition is likely to have a powerful effect on the judge and competitors, as well, reinforcing for each of them the importance of ethical research and attribution.

The presence of this bibliography would not, by itself, stop evidence abuse. It would, however, address the problem in the following ways:

1. The production of this document and the use of it in rounds of competition would serve to remind competitors, judges and coaches of our commitment to ethical communication and academic honesty.
2. The existence of a document that could be examined later for accuracy would deter students who may be tempted to fabricate, deceive or plagiarize, as well as serve as a way of weeding out speeches which may contain evidentiary abuse long before they get to a national competition.
3. It would be easier for inexperienced judges to focus on other aspects of the speech such as argument structure, if the sources were presented to them at the beginning.
4. It would reduce the need for specific detail in verbal citations, thereby reducing the danger of accidental mistakes and bringing the delivery style of forensics speech more in line with what is accepted outside forensics.

5. The necessity of justifying the source in the annotation of each entry would discourage adding sources just to increase the "cite count."

The use of a simpler reference list or basic bibliography would serve all the above purposes, but an annotated bibliography, with its summary or justification of each source listed, will have the additional benefit of requiring the student to state exactly why the source merits inclusion in the speech. This provides an opportunity and means for more critical thinking in the development of argument structure. The practice of using and citing evidence that contributes nothing to the building of an argument, merely to increase the number of sources, would be laid bare by the addition of an annotated bibliography.

Coaches could use the production of this bibliography as a developmental tool when teaching novices how to put together a persuasive address. It offers them an easy opportunity to broach the subject of academic honesty with their students and provides the student with a tangible reminder of this important lesson. Having the coach "sign off" on the annotated bibliography before competition is a useful way of assuring that all competitors on a team are adhering to the community standards and rules of competition.

If anyone, coach, competitor or judge, had reason to suspect that an individual competitor had engaged in evidentiary abuse, then the existence of this bibliography would facilitate the investigation of the situation, as well as protecting individual competitors against false accusations. Competitors would feel empowered to hold each other to a higher standard of evidence use and argument construction. Such discussions could occur throughout a season of competition, resulting in speeches being thoroughly vetted by both coaches and the competitors themselves before they make it to a national tournament. This emphasis on proper use of evidence in persuasive speaking may even carry over into other forensic events, ushering in an era of student-led insistence on ethical communication.

The abuse of evidence in persuasive speaking has been a problem for decades, and unless we take action to stop it, there is no reason to believe it will not continue. A practical approach to solving this problem is to use our community's tendency to create conventions and unwritten rules to actually increase the educational merit of our activity, rather than to obscure it. If educators and coaches were to introduce this idea to their teams now, we could have persuasive speakers using bibliographies by next season. We have seen this evolution of conventions happen time and time again with regard to performance details and style. Paine (2005) wrote that conventions are a "numbers game" – if enough students embrace a convention, judges become more likely to reward it. It is about time we ensure that honest, ethical, educationally sound student work has a chance to be rewarded.

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