

*Communication 696:  
Seminar in Courtroom Interaction*

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Purpose

The goals for this seminar on courtroom interaction are to provide essential grounding for understanding the maintenance of social order in court:

- 1) The distinctive and interactionally achieved character of how judges organize court proceedings, with a particular focus on "judicial control" as a collaborative and practical accomplishment;
- 2) How institutionally provided authority is embedded and displayed in practical yet, compared to everyday conversation, formalized and interactionally constrained communicative tasks comprising the court's business (e.g., pleas, hearings, arraignments, motions; trials);
- 3) The practical (social and legal) consequences of actions resulting from how judges claim, impose, and at times mandate alignment;
- 4) The various formats such imperatives and directives reveal about the negotiated relationships between judges, defendants, and lawyers.

These goals have emerged from ongoing research seeking to identify and examine the range of actions through which judges interactionally achieve their work, including "sanctioning" defendants and lawyers in urban Municipal Courts, asking and answering questions. Attention has been given to those interactional moments in which judges act as though courtroom "order" has been "breached" -- to identifiably unsuitable conduct or "hitches" displayed in the talk and conduct of defendants and lawyers -- and judges' resources for holding others accountable by addressing, remediating, and bringing actions back into alignment. These kinds of efforts by judges will be shown to be understood by court participants as, minimally, attempts to restrict, constrain, and essentially close down certain actions which they have initiated. In the ways judges correct and redirect the focus of court proceedings toward "official" business, as devices for solving practical problems and keeping interaction task-oriented and on track, they also achieve a wide variety of other actions: routinely guiding and directing, reprimanding, praising, sympathizing, informing and educating a variety of court participants. Such actions appear to be recurrent and pervasive in courts most generally, but particularly in high volume courts involving heavy case loads/traffic.

Basic field work and a conversation analytic methodology for observing, discovering, and verifying naturally occurring patterns evident in videorecorded, transcribed courtroom interaction will be employed.

## Readings

A xerox packet is available from Aztec Copy Center, including copies of transcriptions we will be working with. Additional materials will be made available as needed throughout the semester.

## Activities, Grading & Evaluation

Here's a summary of the major activities you will be involved in and responsible for:

Field Observations:	10%
Transcription:	10%
Data Analysis #1:	10%
Paper/Presentation:	10%
Final Research Project:	50%
Seminar Participation:	10%

100%

### **Field Observations**

Early in this semester, you are expected to visit and observe the San Diego Municipal Court (County Court House, 220 West Broadway). You may do this alone or with others, and/or in unison with videorecordings I am collecting in the next several months (which we will discuss). Sit in on several court sessions, take detailed notes stimulated by any behavior, activity, event, occurrence: What activities are getting done, and how so? By what techniques do judges organize court proceedings, and how do others facilitate these proceedings (or not)? What noticeable differences exist between court sessions and other interactional involvements (e.g., family dinners, classrooms)? What routine "troubles" were apparent, and how were they resolved?

The above represent only a minimal listing of questions underlying these on-site field observations. Be creative; view the court from differing perspectives and alternative sense-making strategies for understanding and constructing realities of the court's business.

At the end of or following your visit, generate an extended narrative or series of (somehow connected) narratives from your notes and recollections of the visit(s). Type and hand in these narratives for my reading, but also prepare a handout for the seminar which summarizes your field observations, raises insightful questions, integrates your observations with seminar readings/lectures, and in other meaningful ways draws attention to key issues involved in the social construction of reality in court.

These notes/handouts are not intended as replacements for analyses of actual videorecordings and transcriptions, but as an opportunity to sensitize you, in situ, to preliminary and otherwise unnoticed features comprising routine court proceedings.

## **Transcription**

In order to gain an understanding and appreciation for the task of transforming recorded interactions to transcribed text, and in so doing the logic-in-use of transcription "symbols", you will engage in a brief transcribing exercise. The data will involve a Municipal judge interacting with a defendant. Video and audio-dub will be made available to you in the first few weeks of the seminar, following an in-seminar transcription session. Computers are available for you in ST 202, as is a transcribing machine with headphones, foot pedal, and vari-speed options.

Work through various drafts, seeking to capture as many interactional details as possible. Hand in a copy of your nth draft.

## **Data Analysis #1**

Your first brief data analysis begins by focusing on the interaction you have just transcribed. This exercise will transform the materials you had previously transcribed into a resource for analytic description. In short: Select a small portion of the transcription (e.g., 2-4 turns-at-talk), and describe the orientations displayed and resources employed by participants in the course of getting their work done. What actions are achieved, in what ways, and with what consequences as judge and defendant interactionally engage one another? How does each speaker's utterance (and portions thereof) project and thus make available the possibility of some next action? In turn, how does recipient design their talk to some prior action(s)?

Analyze your selected segment in 2-3 typed pages. Next, search the transcriptions in your reading packet (both ELAMC and those available in readings) and San Diego Conversation Library (SDCL) materials, and make a collection of (roughly) 5 similar instances across other court occasions. Compare and contrast your initial segment with the small collection you have made, noting similarities, differences, and overall how you might justify that the data you have selected constitute a reasonable corpus of similarly shaped phenomena (and if not, why). In 2-3 pages, argue your case from the evidence assembled and made available in the interactions. Conclude your analysis with a summary of findings and key insights generated about courtroom interactions.

## **Paper/Presentation**

Ten percent of your grade will be generated from a position paper integrating key issues across the seminar readings with external materials generated by your own interests/research (e.g., a book or series of articles). This 5-10 page paper should carefully examine the assumptions and findings of these materials, be designed to inform seminar participants of a body of research they might not otherwise be aware of, and address how judicial behavior per se is central to these institutional interactions (and whether, in your estimation, judges' actions have been adequately examined).

Organize a one-half hour presentation of your paper to the seminar, including handouts.

## **Final Research Project**

Fifty percent of your grade will be tied to a final research project. The goal is to work together to produce a grounded and thorough analysis of a collection of some interactional "phenomenon" central to judges' work in court, and in so doing to carefully integrate relevant literature. Issues such as what counts as a "phenomenon", how many instances comprise a sufficient collection, and more will be addressed from the beginning of the seminar. These discussions will include accessing the SDCL (and, perhaps, the University of Texas Conversation Library -- UTCL), as well as other recordings and transcriptions. As to what kinds of interactional activities are available for study, we will focus on basic features: questions, answers, turn-taking and floor-access, pro-terms (e.g. "Your Honor", "Sir"), and more. Considerable assistance will be offered in identifying and locating relevant studies (and references in general) that are particularly suited to each investigation (beyond those available in the class readings).

Considerable time will be spent working on these projects throughout the semester, including "progress reports", with the overall goal being co-authored convention presentations and eventual publication of findings.

## **Seminar Participation**

Finally, ten percent of the final grade will be based on seminar participation: Regular and prompt attendance, preparation (i.e., critical examination of readings, data analysis), individual innovativeness and motivation, and constructive yet detailed participation throughout the seminar.

Though not required, students wishing to refine their analytic skills are encouraged to attend the bi-monthly "Conversation Play Group" meetings. These sessions involve unmotivated data analyses of a wide variety of interactional materials, both casual and institutional, audio and video, and often lead to diverse and interesting discussions regarding method, data, theory, and in general the central relevance of interaction studies to the social sciences.

## **Seminars**

What follows is a general organization of the seminar. We will be flexible in the time given to these readings/issues. Though additional readings will be assigned and are expected, an effort has been made to minimize reading and maximize data analysis, i.e. working directly with recordings and transcripts in each seminar. Data handouts will be provided during many seminars to emphasize the interactional phenomena being examined.

## **I. Justice and Judging:**

### **Theoretical Considerations, Alternative Approaches**

#### **A. Fairness**

John Rawls (1971). Justice as fairness. In A Theory of Justice (pp.3-53). Cambridge, Mass: Harvard U. Press.

Data -- ELAMC: Adams Hearing

#### **B. Tasks & Responsibilities, Philosophical & Linguistic Concerns**

Michael J. Sacks & Reid Hastie (1978). The judge. In Social Psychology in Court (pp.23-46). NY: Van Nostrand Reinhold Co.

Paul Wice (1984). The criminal court judge: The art of judging. Criminal Law Bulletin, 20:189-216.

Lief H. Carter (1988). What legal reasoning is, and why it matters. In Reason in Law (pp. 1-24). NY: Harper Collins.

Lawrence M. Solan (1993). Introduction: Judging language; The judge as linguist. In The Language of Judges (pp.1-9; 28-63). Chicago: U. of Chicago Press.

Data -- ELAMC: Adams Hearing

Wayne A. Beach (1990a). Orienting to the phenomenon. In James Anderson (Ed.): Communication Yearbook 13 (pp.216-244). Beverly Hills, CA: Sage.

## **II. Attacking the Problem of Social Order in Legal Contexts**

A. Locating Order in Language Use and Practical Actions

J. Maxwell Atkinson & Paul Drew (1979). Analysing court proceedings: Sociological and ethnomethodological approaches. In Order in Court: The Organization of Verbal Interaction in Judicial Settings (pp.1-33). London: Macmillan.

B. Locating Order Within Institutional Interactions

Paul Drew & John Heritage (1992). Analyzing talk at work: An introduction. In Talk at Work: Interaction in Institutional Settings (pp.1-58). Cambridge: Cambridge University Press.

C. Situating Judicial Behavior Within Law and Language Studies

Judith N. Levi (1990). The study of language in the judicial process. In Judith N. Levi & Anne Graffam Walker (Eds.): Language in the Judicial Process (pp.3-35)

Data--ELAMC: Adams Hearing

### **III. Participation and Attentiveness in Court**

A. Explicative Transactions

Melvin Pollner (1979). Explicative transactions: Making and managing meaning in traffic court. In George Psathas (Ed.): Everyday Language: Studies in Ethnomethodology (pp.227-255). NY: Irvington.

B. Shared Attentiveness

J. Maxwell Atkinson (1979). Sequencing and shared attentiveness to court proceedings. In Psathas (Ed.): (pp.257-286).

Data--ELAMC: Misc.

#### **IV. Clearing the Docket: Assembly Line Production of Justice**

- A. Pleas, Arraignments, Preliminary Hearings

Data--ELAMC

#### **V. Maintaining Order: Judges' Sanctions**

- A. Gaining Access to and Holding the Floor: "Interruptions", Inappropriate Conduct, Speaker Self-Corrections

Data--ELAMC & Misc.

#### **VI. Plea Bargaining and Negotiations**

- A. Narrative Structure

Douglas W. Maynard (1990). Narratives and narrative structure in plea bargaining. In Levi (Ed.): (pp.65-95).

- B. Judge as Third Party

Susan U. Phillips (1990). The judge as third party in American trial-court conflict talk. In Allen D. Grimshaw (Ed.):

Conflict Talk: Sociolinguistic Investigations of Arguments in Conversations (pp.197-209). Cambridge: Cambridge U.

Press.

#### **VII. Small Claims Court**

- A. Litigant Satisfaction & Legal Adequacy

William M. O'Barr & John M. Conley (1990). Litigant satisfaction versus legal adequacy in small claims court narratives. In Levi (Ed.): (pp.97-131).

B. Displaying Neutrality

J. Maxwell Atkinson (1992). Displaying neutrality: Formal aspects of informal court proceedings. In Drew & Heritage Eds.): (pp.199-211).

### **VIII. Court Interpreters**

A. Bilingual Court Proceedings

Susan Berk-Seligson (1990). Bilingual court proceedings: The role of the court interpreter. In Levi (Ed.): (pp.155-201).

Wayne A. Beach (1990b). Intercultural problems in courtroom interaction. In Larry A. Samovar & Richard E. Porter (Eds.): Intercultural Communication: A Reader (6th edition) (pp.215-221). Belmont, CA: Wadsworth.