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Preserving Alternative Versions

Interactional Techniques for Organizing Courtroom Cross-Examinations

In courtroom cross-examinations, the adversarial nature of joint participation is revealed through analysis of participants' methods for presenting and preserving alternative versions of past events. By focusing on video recordings and transcriptions of question-answer sequences comprising murder and attempted rape trials, 3 distinct methods employed by witnesses and lawyers are examined: (a) witnesses using "I don't know" and "I don't remember," (b) attorneys' use of prior testimony to induce a witness to change an answer, and (c) attorneys and witnesses challenging alternative versions of reality through insinuations and lexical choice, such as repeated words and pauses. These routinized methods are recruited by interactants as resources for creating and maintaining discrepant orientations to motives and alleged prior actions. Making explicit the interactional and thus achieved character of cross-examination yields an appreciation for the methodical ordering of courtroom speech exchange systems and enhances understandings of the coconstruction of social realities. By locating institutional constraints at work in practical actions, the distinctiveness of both legal and everyday noninstitutional discourse also becomes specifiable.

Cross-examination embodies the adversarial nature of the American system of justice. Attorneys routinely test the credibility of witnesses and evidence, just as witnesses display orientations to their credibility being questioned by answering questions in ways designed to preserve and defend their stated versions of the events being addressed. As Drew (1985) observed, "The work of challenging, defending, and pursuing is what constitutes cross-examination" (p. 142), and there is additional tension involved "as the past is transformed from an unspoken knowledge resource into the predominant explicit topic of

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the present" (Beach, 1985, p. 2). Furthermore, courtroom cross-examination is designed for an overhearing audience, the judge and jury, who rarely participate in the interaction yet must make rulings based on the alternative versions presented. Because of the adversarial nature of the interaction and the obvious overhearing audience, both the legal representatives and witnesses closely attend to the alternative reconstruction of past events.

Prior studies of courtroom interaction have focused on the complex relationship between features contained in the interaction, as well as jurors' decisions and impressions of the courtroom participants. By employing scripts or video recordings of simulated trials, researchers have examined the influence of leading or nonleading questions and demeanor (Gibbs, Sigal, Adams, & Grossman, 1989), level of detail contained in testimony (Bell & Leftus, 1989), and presumptuous cross-examination questions (Kassin, Williams, & Saudera, 1990) on subjects' impression of the courtroom participants. Recordings of actual trials have been encoded to discover patterns of frequency of verbal response modes in direct examination compared to cross-examination (McGaughey & Stiles, 1983). The current analysis extends the examination to recordings of the participants' construction and organization of alternative versions of past reality through speech exchange to generate a better understanding of how courtroom interaction is a social achievement that, consequently, may (or may not) influence the jurors' decisions.

The present analysis focuses on cro aminations conducted during three murder and two attempted rape trials. Included are particularly rich excerpts from a highly publicized murder trial broadcast on Court TV The defendant, the former wife of a well-known attorney who was murdered, did not deny killing her ex-husband and his current wife but described her actions as self-defense. Throughout these interactional moments, analysis reveals multiple instances demonstrating how the interactants accomplished their adversarial and even combative orientations to interrogation and testimony. These actions are understandable as inherently conflictual approaches to presenting and producing alternative versions of the "truth" and often incompatible constructions of past realities'

Methods. Video Recordings, Transcriptions, *and Analysis*

Conversation analysis examines talk in interaction by analyzing ordinary, mundane events, as well as various forms of institutional interaction, to generate knowledge of how participants organize, produce, and respond to

speech exchange. Through repeated and detailed examination of naturally occurring discourse, transcribed from video and audio recordings, analysts have supported assertions with findings in the data by making data available to readers and inviting their inspections. Beach (1990) argues that "upon close inspection, conversation reveals its own technology for getting interactional tasks done-noticeably, in the first instance, by and for the participants themselves as they make available to one another their occasioned orientation" (p. 197). Interaction is "a concerted achievement of the participants" who display orientations to the activities they are accomplishing (Lerner,1992, p. 248). Thus the focus of conversation-analytic study is "what the participants can be heard and seen to be doing" as "analysts aim to describe the ***achieved character*** of a candidate phenomenon" (Beach, 1990-1991, pp. 359-360).

Moments in cross-examinations from five trials are analyzed and contrasted in this study to explicate how participants organize and construct alternative versions of reality in a particularly adversarial arena. Along with the Broderick murder trial, the cross-examination of a psychologist in the Searle murder trial of a mentally unstable individual accused of killing a resident of a halfway house is analyzed. Interrogation and testimony from the televised trial of 0. J. Simpson is examined, specifically the interaction between a prosecuting attorney and a maid working for a neighbor of the . defendant. The fourth trial included in the corpus of data is the trial of a man accused of attempting to rape a high schooll girl while she was working at a golf course. Excerpts of a trial of a man accused of raping a woman he met in a bar are also included from Drew's (1992) article.

Methods of Preserving Alternative Versions

The excerpts of interaction display three methods that participants employ to present and preserve alternate versions of reality in court. Speakers may claim insufficient knowledge via "I don't know" and "I don't remember" to combat alternative versions of reality The attorney may reintroduce prior testimony in the current line of questioning to emphasize information or show that the witness is inconsistent. Both participants insinuate meaning through selected language and paralinguistic features that characterize an event consistent with the alternative versions. These interactional tactics are displayed in the discourse and demonstrate the ways people organize institutional speech exchange patterns while working to attain ends that may be incongruous with those of other participants or the institution itself.

Claiming Insufficient Knowledge

A witness has resources available to avoid certain reconstruction, such as claiming insufficient knowledge in response to attorneys' questions. Drew (1992) provides an example of the use of "I don't remember" from a cross-examination during a rape trial, explicating how the utterance functions to circumvent the anticipated point of the attorney's (A) case:

(1) Da:Ou:2:1 (Drew, 1992, p. 480): 1-7

1	A:	An' at that hma (0.3) he: asked ya to go
2		oua with yu (0.4) isn't that erect
3		(2.1)
4	W:	Yea[h)
5	A:	[Wl)th him. (.) izzn'at so?
6		(2.6)
–, 7	W:	Ah don't remember

Drew states that the witness (W) employs a claim of insufficient knowledge to avoid confirming information that may discredit and damage her case, because *although she may not be able to project precisely how some point is going to work against her story, her suspicion that it might do so may make her reluctant to agree to the point" (p. 481). Drew indicates that "I don't remember" functions in-several ways. It can be used to display the unimportance of the sought-after information, because it was not memorable. Furthermore, not remembering demonstrates, rather than simply claims, the witness' innocence and lack of foreknowledge of information that was only important after the dramatic event. Because the witness was unaware and innocent of the event to take place, she did not notice the information in question or recognize its importance. Finally, although claiming insufficient knowledge does not confirm the lawyer's claim or insinuation, it does not directlydisconfirmor challenge theversion, instead mitigating and neutralizing it as unresolvable, as neither true or false (but implies disconfirmation because ifitwereimpartant,thewitnesswouldremember).'Wot can therefore be an object conveniently used to avoid confirming potentially damaging or discrediting information" (Drew, IM, p. 481).

In lines 5 through 11 of the Broderick trial, "W" claims that the alleged violent events did not happen. The attorney's response is a question about one act that may or may not have been testified as part of the alleged events ("ripping the papers," lines 13-14). "W" orients to the question as though "A" may have been trying to implicate her,, and she responds with "I don't remember" to avoid confirming (line 15):

(2) SDCL: State of California v Broderick: 5-14

5 **W: I** don't really remembered- remember doing that either.
6 I mean I don't really (.) remember that but I know that
7 **those big ydWent things that he's claiming =body**
8 **ever did. those things nyaz** T happened there were not
9 hQaee in walls. and doors off hinges an' things
10 (0.2)
11 W: T Nobody did [those things.]
12 A: (Well) do you remember ripping the- the wrappers
13 off the T pments =
14 W: = I'm **awy I** T dzft

As noted earlier, the response of the interactants will display the functions and actions to which the participants orient in the question-answer sequence. In the Broderick trial, "A" treats the "I-don't-remember" argument as purposive evasion by "W' W demonstrates her orientation to 'W's response as a "manufactured" slip of memory through her quick response, displaying "A"s preparation and expectation of "W" not confirming the alleged events:

(3) SDCL: State of California v. Broderick: 13-17

13 A: (Well) do you remember ripping the- the ymappers
14 off the T pinents =
15 D: = I'm *sary* I Tdpn't =
--- 16 A: = Do **you remember wing** the **la:at?** time. > when you
17 **teemed that you** T remembered doing that. <=

The attorney constructs the question in **lilies** 16 through 17 to stimulate "W"'s **memory by referring to past testimony. This is not the only method that can be used to help a witness remember. In the following data from the Drew (1992) article, a** lawyer tries to elicit memory by giving possible answers (line 6):

(4) Da: On: 3:2 (Drew,1992, p. 482): 1-7

1 A: About 8h:: (.) about how **warm ryas** it.
2 d'yu: (.) remember,
3 (0.3)
4 W: No = I don't.
5 (0.5)
-4 6 A: Seventies:? eighties:?
7 W: I don't remember.

The witness responds to the attorney's prompts by still claiming insufficient knowledge. Similarly, even though the attorney in the Broderick trial challenges "W"s claim of insufficient knowledge by referring to past testimony,

the witness avoids confirming the prior testimony and instead modifies her answer in lines 18 through 19:

(5) SDCL: State of California v. Broderick

16 A Do you remember testifying the lit? tame. > when you
17 teatified that you T remembered doing that. < =
18 W: = I T andd've done that. (.) I T mnld've done that. _
19 1 mean that's: no: t some[thing real vi::olentl
20 A: [So you could have] done
a let of these
21 things but you're not remembering them now.

"W" works to retain her credibility after the attorney's challenge by replying that she *could* have done something, such as rip wrappers off of packages (line 18). It is clear that "W" modifies her response to the question in lines 13 through 14 rather than the immediate past turn (lines 16-17) because of the qualification "W" places at the end of her response in lines 18 through 19. By insisting "that's not something real violent" in line 19, we see that "W" is not evaluating possibly violent testimony of remembering the actual ripping of the wrappers. "W" justifies her possible actions as not violent and therefore not one of the events she characterized as violent and nonevents in lines 5 through 11, and so remains congruent in her version of **events.**

The prior excerpts display witnesses claiming insufficient knowledge instead of confirming information thatmaycontradict the alternative version proposed by the witnesses. Even if an alternative version is not overtly stated, by avoiding confirmation, witnesses imply that an alternative version better captures past reality. As the following section explicates, attorneys may evoke past testimony and evidence to combat alternative versions.

The Use of Previous *lbatimony*

One tactic often used in crone-e".minations is bringing up prior testimony in the current line of questioning. This can be done in various ways **and, apparently, to achieve alternative ends. Forinstanee, inExcerpt(6),the attorney** for the prosecution mentions previous testimony to seek confirmation:

(6) SDCL: Searle: 4-9

-a 4 A: Now, you've testified before--and I believe,dn your
6 direct examination you said it as well, but please
6 correct me if I am wrong you're sure that after this
7 was finished that he knew that the act was wrong?

8 W: It's my belief that after it was done then he could realize
9 that it was wrong, yes sir.

"A" produces his question so as to preference confirmation by first referring to two instances in past testimony and then juxtaposing the invitation to correct "A" with the, reporting of past testimony. The question demonstrates an orientation to the information being correct but allows for mistakes with the conditional clause "if I am wrong" (line 6). "W" orients to the question as seeking confirmation by tagging an affirmative "yes air" to his restatement of opinion (line 9).

Previous testimony also can be used to display inconsistency in a statement, as in the cross-examination in an attempted rape trial:

(7) SDCL: California v. Hawthorn: T2:13-15
-4 13 A: Didn't you just testify a minute ago that on the (0.5)
14 second occasion u:mm (1.2) he had **black** boots on?
15 W: Something like that.

The attorney indicates that the witness had just testified that the shoes were a different color than what she is saying now The attorney implies that "W" is an inconsistent, confused witness, and, in response, the witness appears to understand the insinuation. Her defense in line 15 is an ambiguous response, not wanting to specifically contradict herseg which would support the attorney's claim of her confusion. In this way, prior testimony can be used to constrain the witness in that "W's. response is tailored to minimize contradictions she is being made out to have provided.

If past testimony is different from prior testimony yet is given under oath, which implies telling the truth, then revealing inconsistency seems to be catching the witness in an interactionally generated "lie." Excerpt (8) contains a four-part sequence in which past testimony is invoked for such purposes (lines 16-17):

(8) SDCL: State of California v. Broderick: 13-19
13 A: (Well) do you remember ripping the- the wrappers
14 off the T penis = E-direct **question**
16 W = i'm &9 I T don't = 4-denial
16 A: Do you remember ratifying the **last?** time. > when you
17 testified that you t remembered doing that. < = E-rephrase
18 W: = I T could've done that. (.) I T could've done that.
19 I mean that's: no: t something real yi::olent **E-concession**

In lines 13 and 14, "A" directly asks "W" if she remembers a particular past event. "W" responds by claiming that she does not remember the event

in question (line 15). As the examiner, the attorney asks the questions and is thus empowered to essentially reject answers that are unacceptable, at times by repeating or rephrasing the question and invoking prior testimony. The attorney challenges the witness' response in line 15 by introducing evidence from the witness' prior testimony that is contrary to "W"s current claim of not remembering. "A" asserts that "W" specifically testified that she remembered the particular incident in prior testimony-"W" didn't just testify that she had ripped the.wrappers off the presents but that she ***remembered*** **doing** it.' Emphasizing "W""s previous testimony as contradictory to the immediate prior answer in line 15 forces "W" to admit the possibility of "ripping the wrappers off the presents" to avoid displaying inconsistency and losing credibility. This technique of raising "W"s prior testimony demonstrates that although "W" does not appear to want to give the sought-after response, she must nevertheless make a concession or sacrifice-at least for the moment-to provide a consistent and believable version of prior events. In this way, the question-answer sequence can be used to constrain the witness and give prevalence to the attorney's version of the events.

The following excerpt from the televised trial of O. J. Simpson demonstrates the attorney's bringing past testimony into the current interaction to depict the witness' credibility as suspect:

(9) SDCL: Simpson: Lopez: 1-31
1 A: you f ld. us (.8) ((sniff)) that you had made reservations
daa t Friday
2 morning>correet, 4-past testimony
3 I: ((Spanish))
4 W: si
5 I: yes,
6 A: but you had not,
7 I: [pero-l
8 A: [corriect?
9 I: ((Spanish))
10 W: si
11 I: yes?
12 A: and T you knm that. [correct? 1
13 I: [((Spanish))-]
14 1: ((Spanish))
15 W: si
16 I: yes, i
17 A: a:nd T you lived. E-assessment of past testimony
18 I: ((Spanish))
19 W: no t-rejection of assessment
20 I: no
21 (11.0)

22 A: well >what do ysu 1 call it.< E-invite for alternative assessment
23 1: bueno (2.0) ((Spanish))
24 W: ((Spanish)) ((shaking head))
25 I: because? one doesn't asad, to make reservations to T911 **E-alternative**
26 around this time.
27 W: ((Spanish))
28 I: 1go with my Tmo=? (.) I buy the TLiCketi. (,)
29 and they 1 give it to me (.) for the evening.
30 (24.0)
31 A: not T only did you not make reservations last Friday morning.

In lines 1 and 2, the prosecutor brings up that during the prior week's testimony, "W" claimed to have made plane reservations to leave the country for her homeland that evening. In actuality, as a news article reported, she had not made plans reservations ("Simpson Trial Evokes," 1995). "A" establishes the gist of the past testimony in a stepwise progression and then juxtaposes reality with what has just been established in line 17 ("and you lied"). In line 19, "W" denies the assessment of her activity as lying, although her previous answers support the attorney's implication of purposeful misrepresentation.

"A" allows time for the claim of lying to sink in during an 11-second pause while he formulates his next question, asking the witness to provide an alternative assessment of the established event (line 22). "W" responds to the question as a directive to explain her actions and claims that reservations are not necessary during that particular time of year for the flight she would take. After a long pause, "A" treats the explanation as irrelevant because it does not refute the established fact that "W did not have reservations, as she had claimed the week prior. The accusation of purposeful misrepresentation of these facts has been stated (which seems to be enough for "A"s purposes), and so "A' uses the fact that "W" had not done the action claimed as a segue into the next offense he will present and further questioning of other inconsistencies.

The prior excerpts of moss-examinations demonstrate that past testimony can be invoked by the examiner as a method of attacking the witness'czedlbility. Witnesses' past testimonies were brought into the present interaction and portrayed by the attorneys as.lies. In Excerpt (9), the attorney, as the director of the questions, portrayed the witness as lying and treated her explanation as unimportant by continuing his questioning without indicating that her explanation influenced his orientation to her original "lie." In this manner, attorneys have past testimony available to deconstruct a witness' version of events.

Insinuations and Lexical Choice

Drew and Heritage (1992) note that "choices among descriptive terms are almost universally context-sensitive" (p. 29). Furthermore, 'Because there is always a range of alternative ways of saying something, a speaker's selection of a particular formulation will, unavoidably, tend to be heard as `motivated` and perhaps chosen' (p. 36). The prior excerpt, (9), demonstrates that attorneys not only invoke past testimony to deconstruct the witness' version of events but will employ lexical devices such as word choice to present alternative versions. By using the word *told* in line 1("you told us that you had made reservations last Friday'), "A' does not give the information status of presumed factual evidence that the word ***reported*** or even *said* may have done. instead, it characterizes the information as "W"'s (incorrect) perception at best or a purposeful misrepresentation. "A' compares "W"s current state of knowledge to what she testified earlier with the emphasized word *knew* in line 12. The witness also employs specific words to support her alternative version, such as the emphasis on *need* ("one doesn't need to make reservations to go around this time," line 25), allowing that reservations are possible but not necessary. *Go is* also emphasized, perhaps displaying her orientation and reframing the issue as her desire to leave rather than the misrepresentation as a wrongdoing.

Participants thus attend carefully to specific words as lexical, devices to build a version of events by eliciting or emphasizing connotations or recharacterizing an element (i.e., ***bar vs. club, big violent things, nobody, never,*** **and** ***ripping.)*** In Excerpt (10), drawn from an attempted rape trial, when the counsel for the defense describes the location of the meeting as a *bar,* he leaves unspecified a scene as one where "pick-ups" happen, should be expected, and may even be pursued. The witness displays an understanding of this insinuation and counters with "It's a club"-by innuendo, an elite and classy establishment requiring membership and where the possibility of sexual liaisons overtly negotiated is by no means eliminated, but neither is it made out to be "sleazy," as might be associated with a bar.

(10) Da: Ou: 45/2B: 2 (Drew, 1985, p.138):1-4
– 1 C: An you went to a: uh (.9) ah you went to a bah? (in)
2 B ton (.6) iz that correct?
3 (1.0)
4 W: It's a dub.

As demonstrated in Excerpt (10), words can be recruited as vivid, compelling, useful tools for both the lawyer and witness when framing specific yet

alternative versions of "the facts." Danet (1980), for example, studied a manslaughter trial of a doctor who performed a late-term abortion; a good portion of the trial concerned "negotiation over whether the object of abortion *had* ever been a `person; a `male child; a baby boy" (p.187). The participants of the trial demonstrated attention to possible social meanings and very different connotations of the words *baby* or *fetus* when referring to the object of abortion. Similarly, in Excerpt (11), the witness defines the alleged actions as "big" and 'violent,' the clear insinuation being that she would not be capable of having produced them:

(11) SDCL: State of California v Broderick. 6-13

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      5    W: I don't really remembered- remember doing that either.
      6       I mean I don't really (.) remember that but I know that
-*    7       those bigXWent things that he's claiming nobody
->    8       ever did, those things never T b      there were not
      9       haaea in walls. and doors off hinges an'things
     10       (0.2)
     11  W:   T      v did [those things.]
     12  A:          [(Well) do] you remember ripping the- the      ppers
     13       off the t presents =
```

In line 7, "W" characterized the alleged past events as extreme (big violent things") as a means for making them less likely to have occurred and thus less likely that she had committed them because "nobody ever did, those things never happened." And again, by repeating "nobody did those things" (line 11), "W" reemphasizes her position with the lexical term *nobody*.

In lines 12 and 13, "A" challenges the idea that "W" was not involved in. the vandalism by proposing that "W" was at least involved in a minor Part-"ripping" the wrappers off the presents. The word *ripping* portrays uncontrolled, semiviolent activity that may conjure up images of the potential chaos that can occur when unwrapping presents for birthdays, holidays, and the like. In this way, "A" works to mitigate 'W's insinuated argument that she is not a violent, uncontrolled person doing big violent things" (line 7). In addition, "A" displays her disagreement with "W "s characterization of the alleged events and claim of innocence with a typical form of disagreement (Pomerantz, 1984), that of a pause (line 10) and filler word (well), followed by a question designed to challenge and thereby reject 'W's denial of having engaged in such "violent" things.

It may not be in the best interests to explicitly contradict an alternative version, so instead, a witness may qualify the answer, as "W" does in lines 18 through 19 of Excerpt (12), when she admits she could have ripped the wrappers off the presents because that is not a violent activity:

(12) SDCL: Broderick: 18-23

```
·a   18  W:   = I T rDuld've done that. (.) I  T fOuld've done that.
     19        I mean that's: no: t some[thing real vi::nlent ]
     20  A:                             [So you could have ]done a lpt of these
     21        things but you're not remembering them now.
     22             (0.8)
->   23  W:   I tuld've but I don't think I did
```

Again in line 23, she qualifies her answer that she could have been involved in violent things but does not think so ("I could've but I don't think I did."). In these instances, the attorney is soliciting a confession or concession from "W" that she was responsible for the alleged incidents of vandalism, and because of the adversarial nature and the high stakes of a murder trial, "W" does not just say "yea, you are correct." Instead she admits the possibility but also justifies it (lines 18-19) and lessens the degree of possibility (line 23).

Not only are particular words and their: timing important, but words can be repeated and emphasized for the jury. In the prosecution's redirect in ***California v. Hawthorn,*** **the word** worse is used four times in lines 12 through 14:

(13) SDCL: Hawthorne: T2:11-18 .

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     11  A    Is your recollection of events better today than:n (0.8)
-+   12       just after they occurred (0.4) or wo[rsel
a    13  W:                                      [Wolrse.
-~   14  A:   Worse. They were worse. And your (1.1) do your uh
     15       recollections tend to change over time?
     16  W:   Yes.
     17             (1.5)
     18  A    No further questions on re-direct your honor.
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In the Broderick trial, both ⁻A⁻ and "W" repeat words for emphasis. "W" **uses the word *nobody* twice in** Excerpt (11) (lines 7,11), with an emphasis on both words. She also emphasizes the phrase "never happened" (line 8). "W" is claiming the impossibility of she or anyone else doing the alleged vandalism, repeating it in various ways so the jury will notice, remember, and believe. The prosecutor also repeats and emphasizes words in her attempt to sway the jury to believe her alternative version of the truth. In her question in lines 16 through 17 of Excerpt (14), **"A"** uses tenses of the words *testify* and *remember* twice, with vocal emphasis ('Do you remember testifying the last time when you testified that you remembered doing that"):

(14) SDCL: Broderick: 16-23

```
->   16  A:   Do you remember teatifying the last? time. > when you
```

17 testified that you T remembered doing that. < =
18 W: = I T could've done that. () I T muhI've done that.
19 1 mean that's: no: t some[thing real vi::olent J
20 A: [So you could have]done a Id of these
21 things but you're not remembering them now.
22 (0.8)
23 W: I mld've but I don't think I did

"A" is highlighting the defendant's inconsistency in today's testimony, compared to her prior testimony, while insinuating that "W" has a convenient memory, thus lessening "W"s credibility as a witness.

The attorney's talk beginning on line 20 demonstrates the intricate interactive nature of the talk by the exact positioning of her turn to overlap and eliminate the possibility that "W"'s explanation or justification is attended to or even heard. "A" begins her formulation when "W" offers some sort of justification for the possibility of her involvement in "ripping' the wrappers off presents. In lines 20 through 21, "A' formulates the gist or uptake of "W"s prior utterance, beginning her turn at talk with the conclusionary so, summarizing her argument that "W"' did do the violent things and that "W" is remembering conveniently "A" even recycles "W"s own words "couldhave done" in the formulation. By tagging the qualifier *now* at the end of her summary, "A" emphasizes that "W" had remembered incidents in prior testimony but now could not recall them. Implying that "W"s memory is not a reliable resource and thus she is not a credible witness is one means of relying on the here-and-now actions to challenge prior reconstructed versions of reality. In short, "A' is relying on the local environment and activities comprising talk in interaction to undermine the very position "W" is attempting to substantiate.

Consider the 0.8-second pause on line 22 of the prior excerpt before "W" answers the question. Atkinson and Drew (1979) explain that pauses before a witness answers may lead to inferences that "the intended next speaker has not heard, that he does not know the answer to a question, is stalling, or being 'evasive' or 'awkward,' etc." (p. 68). Several things could be inferred from the pause on line 22: (a) "W is assessing the damage this question has done to her alternative version, and she is formulating the least damaging response; (b) she is being cautious because this question insinuates unreliability as a witness; or (c) "W" is caught off guard by the direct nature of the summarization of the lawyer's attack against "W"s claim.of not remembering. '

Through actual word choice and such things as repetition and emphasis, events may be characterized in particular ways to support or challenge an alternative, reconstructed version of reality. The timing of the talk, such as pauses and overlapped talk, also displays the combative nature of presenting

alternative versions while mitigating or emphasizing particular aspects of the reconstruction. The local environment is thus employed to present a particular version of events in courtroom examination, and, at the same time, the talk may be directed to past testimony.

Conclusion

This study displays how a variety of social actions are achieved in cross-examination question-answer sequences. As observed by Atkinson and Drew (1979), "such actions as Accusations, Challenges, Justifications, Denials, Rebuttals and so on may be packaged in the design of questions and answers" (pp. 69-70). The identification of activities, such as the attorney accusing or the witness denying, is not the key issue, but rather it is seeing how the participants display knowledge of other activities and how they "attend to the occurrence of such sequences through the design of their turn" (At inson & Drew, 1979, p. 71). For example, the witness in the Broderick excerpts attends to the attorney's accusation of wrongdoing by justifying the actions as not violent and mitigating her admission with "1 don't think I did" (line 24).

Numerous devices can be used to package other activities into a turn. Claiming insufficient knowledge via "I don't know or remember" is one technique that a witness may use to avoid confirmation, support claims of innocence, or purposefully refuse to cooperate with the construction of a particular version of events. The lawyer has a variety of options when responding to those activities, such as constraining the witness'contributions or treating them as inappropriate and using lexical choice and pauses to present insinuations that discredit the witness or evidence while building the alternative version of the past. Clearly, other adversarial arenas could be compared with what this study has articulated, such as direct examination in court, arbitration, and police interrogation. Examination of these and other situations in which alternate versions are constructed may reveal similar techniques used by participants with asynchronous orientations. Even casual interaction, such as family discussion about illness, can display cross-examination-like features in the construction of talk (Beach,1996).

Because of the adversarial nature of cross-examinations, the, side that wins the case usually has constructed the mostbelievable version of the facts. As Pomerantz (1987) notes, "In institutions that handle conflict, there is an expectation of the possibility or probability of discrepant 4'ersions, particularly concerning matters that bear on the outcome of the case" (p. 226). In an attempt to be fair and just, there are constraints on courtroom interaction, and thus structure is imposed on the proceedings-methods to help juries make decisions based on the "facts" presented rather than just the style and

appearance of one speaker compared to another. One such method or "rule" is that cross-examination is constrained to question-and-answer sequences. 'Whatever else these utterances may be heard to do ... speaker turns should be designed at least *minimally* as either questions or answers" (Atkinson & Drew, 1979, pp. 61-62). Second, the interaction consists of rigidly preallocated turns. Legal counsel produces a question to which the witness must respond, giving the floor back to legal counsel to produce another question: "Sequential ordering of these turns is relatively fixed, even to the point where if a witness asks a question, court reporters tend to 'label' such utterances as answers" (Beach, 1985, p. 6). The fact that disruptions of the question-answer chaining are sanctionable by the court further enforces the institutional nature of the interactional task and regulates the production of task-relevant material (see Drew & Heritage, 1992).

From the analysis of the data excerpts herein, it can be observed that attorneys and witnesses work around these constraints and rules while constructing their alternative versions. Maynard (1989) argues that "paying attention to the sequential organization of the talk ... provides a better understanding of the fundamental structure" of the phenomenon (p. 129). Furthermore, knowledge of the organization of institutional talk is vital. "In contemporary society, institutional settings such as clinics, hospitals, welfare agencies, and the courts, are places that deal with social problems, handle deviance, and thus make public, control, perpetuate, channel, or reproduce various group and individual traumas" (Maynard, 1989, p. 127). The distinction of institutional discourse from casual talk is emphasized when comparing the basic nature of everyday talk with that of interaction in an institutional context. The differences between ordinary and institutional talk provide recognizability to the talk as a nonconversational event for both the participants and analysts (Heritage & Greatbatch,1991). Hence one central impor. tance of understanding the organization of cross-examination lies in its translatability to everyday interactions and the increased insight into the societal organization of various interactive situations.

Vote

1. It is possible that the prosecutor is paraphrasing the past testimony to advance her alternative version *of* reality. The attorney suggests that the witnessiis conveniently not able to recall events that she was able to remember in past tsetiniony by stating that the witness testified that she had remembered. Did the witness testify about the event or specifically that she had remembered it? It would be interesting to see the actual transcript of the prior testimony referred to in tines 16 through 17 of the Broderick trial.

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