

Grammatical Identities at Work: A Case Study of Courtroom Talk

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Chaemsaitong, K. 2017. **Grammatical identities at work: A case study of courtroom talk.** *Korean Journal of English Language and Linguistics* 17-4, 729-752. Viewing grammar choices as pragmatically motivated, this study analyzes the ways in which opposing lawyers manipulate clausal components to construct different identities and alternate versions of reality in the opening event of a high-profile American trial. Drawing upon Halliday's concept of transitivity (1994), or grammatical positioning or social actors, the findings reveal systematic differences between the two sides and ideological bases of the presenters. It is argued that these grammatical choices constitute a powerful instrument in assigning moral agency and negotiating guilt and innocence, thereby potentially striking a profound impact on the outcome of the trial.

Keywords: courtroom, grammar, identity, lawyer, reality, transitivity

1. Introduction

Courtroom discourse is constructed of competing stories (Cotterill 2003, Stygall 1994) that opposing lawyers create to persuade the trier of facts (i.e., the judge and the jury), and each side argues that their version of events is the only valid one. These contrasting representations breed positive and negative evaluations and diverse identities of social actors, including the defendant and the victim. One side may emphasize a certain aspect of a social actor's action, while the other side endeavors to obscure or silence that aspect. This foregrounding

and backgrounding can be achieved grammatically. For example, one side may claim that “the defendant shot the victim”, while the other side may choose the existential construction, as in “There was a shooting”, which removes the agent and the recipient from the clause, thereby obscuring the agency and responsibility.

To date, studies on courtroom communication have focused virtually exclusively on narratives in the witness examination phase, as it is considered the “cornerstone of the adversary system” (Perrin, Caldwell and Chase 2003). This means that other outcome-determining phases have been disproportionately ignored. One of those critical genres is the opening statement — a persuasive monolog in which lawyers present two opposing versions of the same event. Cognitive studies have suggested that many jurors draw at least tentative conclusions at this initial stage (Lind and Ke 1985, Pennington and Hastie 1991, Spiecker and Worthington 2003). Unlike other courtroom genres, the opening statement is not jointly constructed, but solely woven by the presenter in one unified speech. Thus, it is a discursive event where lawyers are highly motivated to manipulate grammatical choices to persuade the jurors early on in the trial for a favorable verdict.

The current study aims to quantitatively and qualitatively compare and contrast the ways in which opposing lawyers manipulate clausal components to construct different identities of the defendant and the victim and alternate versions of reality. Applying Halliday’s concept of transitivity (1994), this study attempts to reveal systematic grammatical differences between the two sides and explain them in terms of the ideological bases of the presenters. It is argued that such grammatical choices constitute a critical instrument in assigning moral agency and aid in the negotiation of guilt and innocence. To such end, this article first discusses some theoretical issues

on transitivity, and proceeds to give a short overview of the data. Finally, I will explicate the quantitative and qualitative differences in clausal patterns.

2. Transitivity

This study adopts a functional perspective and views language as a resource, a meaning potential and grammar as interconnected systems consisting of a describable set of options (Halliday 1994). These options, however, while proffering the same propositional content, are not of equal value, but are shaped by a mosaic of ideological beliefs and institutional practices. As Fowler (1986, p. 27) puts it, “linguistic codes do not reflect reality neutrally; they interpret, organize, and classify the subjects of discourse. They embody theories of how the world is arranged: world-views or ideology”. To illustrate, given that *the government will raise income taxes* and *there will be a rise in income taxes* convey the same propositional content, it is difficult to attribute the grammatical differences to anything other than speaker stances toward the government. The former configuration, with the agent clearly supplied, is likely to be a case of criticism against the government, while the latter merely announces the happening, without any indication of the doer or mention of the physical action and, therefore, is likely to be used in favor of the government.

The particular selections that speakers make are drawn from the system of “transitivity”, which refers to how speakers encode their mental picture of reality in a clause by organizing information and giving different degrees of emphasis regarding “who does what in relation to whom/what, where when, how and why” (Hasan 1988, p. 63). Transitivity therefore makes it

possible for speakers to describe, evaluate and transmit the infinite variety of occurrences in a particular direction. One of the components of transitivity is “process”, expressed mainly through verb phrases. These processes may represent actions (material process); speaking events (verbal processes); states of mind (mental processes); states of being, location or possession (relational processes); physiological and psychological behaviors (behavioral processes); and existence (existential processes), as exemplified in Table 1.

Table 1. Process Types in Systemic–functional Grammar

Process types	Examples
Material	The defendant <u>killed</u> Michael Jackson due to negligence. Michael Jackson could not <u>sing</u> .
Behavioral	The victim <u>died</u> .
Mental	Michael Jackson <u>wanted</u> to sleep.
Verbal	The defendant <u>requested</u> spelling pills.
Relational	
– possessive	The defendant <u>had</u> two medical practices.
– location	Dr. Murray <u>was</u> out of the room.
– quality	Dr. Murry <u>was</u> not a specialist.
Existential	There <u>was</u> a Propofol syringe.

Choices of processes are ideologically significant for at least three reasons. First, different processes imply different viewpoints on a particular experience. For example, in recounting the same event, the prosecution may employ a material process, as in *The defendant killed the victim*, while the defense may prefer an existential process for the same event, as in *there was a killing*, or may modify it in some way,

as in *The defendant accidentally killed the victim*, or *The defendant did not kill the victim*. Alternatively, the event may not be mentioned at all. Thus, different or modified processes contribute to creating another version of reality. Second, the same process may be consistently repeated (or avoided), and so speakers can highlight certain messages and create a coherent story for the interlocutor. Finally, processes which are of the same type but which express different degrees of evaluation may be chosen. For instance, the verbal process in *The defendant conceded that he committed the crime* implies that the defendant must have attempted at some point to deny committing the crime, or at least had the intention of so doing, while the verbal process of *The defendant admitted that he committed the crime* portrays the defendant as more honest. These examples show that events may be accurately reported but, at the same time, also showcase the fact that ideological marks of the presenter can be worked into the story through grammatical choices.

Occurring alongside processes are participants, realized by noun phrases. In Halliday's framework, these participants are given different labels, depending on the process type in which they occur (e.g., "actor" and "goal" in material processes; "carrier" and "attribute" in relational processes, etc.). However, broadly speaking, participants are *either* the doers of the process, who I will term "agent", *or* the done-to's, who I will term the "recipient." Like process choices above, choosing to represent a social actor as an agent or a recipient can have an ideological basis. Social actors who are assigned agency show capacity for "action, for making things happen, for controlling others, and so forth" (Fairclough 2003). Table 2 gives examples of how identities of a defendant can be created by manipulating clausal patterns that convey different degrees of agency. In the first column, the lawyer positions the defendant

towards the receiving end, by casting him in the direct object position or denying his involvement in the alleged crime, thereby deflecting agency. In the third column, the lawyer attributes, through the active voice, full agency and responsibility to the defendant. Alternatively, as the middle column shows, agency may be mitigated. In this case, the defendant may be shown to have partial agency in an act: his act is clearly acknowledged through the active voice, but he does not bring about any significant effect in the social world.

Table 2. Continuum and Examples of Agency

Deflecting agency	Mitigated agency	Attributing full agency
Michael Jackson started <u>begging him</u> for propofol. <u>Dr. Murray provided</u> no propofol at all.	<u>Dr. Murray agreed</u> to give propofol but only 25 mg. injection.	<u>Conrad Murray administered</u> propofol to Michael Jackson.

It is worth pointing out that social actors may be removed from a clause through a grammatical operation known as nominalization. This can also constitute an ideological choice because without an agent, responsibility, consequences, and other specific details are removed or become of secondary concern (Fairclough 2000, p. 26). This is well demonstrated in Aldridge and Luchjenbroers (2007). The researchers show how the defense lawyer in a sexual assault case minimizes the violence and abuse that the victim experiences by referring to the event as “a sexual encounter” rather than spelling out the actual processes. Similarly, Rosulek (2015, p. 85) finds that the defense uses nominalization to hide the defendant’s agency and the dynamic nature of events, as in “the incident of the killing of the animals took place” and “in response to Mr. Wilder’s acts of what he did.”

Despite its wide applications in various kinds of texts, the Hallidayan framework of transitivity has not been put to much use in legal discourse, let alone trial talk. One such study is Figueiredo (1998), which examines transitivity choices made by five appellants in rape cases. During the legal proceedings, material processes occur more frequently than other processes, and this is likely because evidence presentation depends on justifying the events of the crime. The victims also use verbal or relational processes more often, so that agency is deemphasized, and as a result the reader can sense their helplessness. Meanwhile, the male attacker is cast in the actor role and consequently viewed as more active and more powerful.

Examining witness examination, Guang (2010) analyzes eight Chinese court cases, and finds that material processes occur most frequently, and are followed by verbal processes, relational and mental processes, respectively. Behavioral and existential processes are scarce. An interesting finding is that the defendant appears as the agent in material processes more frequently in the prosecutor's discourse than in the defense's. This is attributable to the prosecutor's goal to portray the defendant as active and aggressive. What is missing is the roles of victims in the clauses.

Focusing on closing statements, Rosulek (2008, 2015) finds that the prosecution foregrounds the defendants and their agentive roles in the crime more than the defense does. This is because the defendant wants to de-emphasize the defendants' roles in the events. Similarly, the victims also appear in the prosecution's discourse more frequently, while the defense remains silent and includes different and less information about them. While all of the studies above have done much to inform the present study, it remains to be seen whether the tendencies in these genres also hold in the opening

statement.

3. Data and Methodology

3.1 Data

This study draws from the official transcript of *People v Conrad Murray* (16,692 words), which consists of the prosecution's opening speech (9,457 words), and the defense's (7,235 words). In this case, Conrad Murray, a physician, was hired for a six-figure monthly salary to be Jackson's personal physician for his concert tour. However, only weeks after hiring Murray, Jackson died from cardiac arrest due to a lethal dose of anesthetic propofol. His death was ruled a homicide, and Murray was implicated in this incident. During the trial, the prosecution described how Murray abandoned his practice to work exclusively for Jackson, how he ordered gallons of propofol in response to Jackson's complaints about insomnia, how Murray administered propofol on the morning of Jackson's death, thereby delivering the final dose. The defense did not dispute that Murray was responsible for propofol being in Jackson's home, or that Murray left Jackson alone after administering a dose of it on the morning of his death, but suggested that it was Jackson himself who administered that last injection. Murray was ultimately found guilty of just getting Jackson close enough to propofol and giving him the opportunity to take it unsupervised.

3.2 Methodology

The analysis takes the following steps:

- 1) Because the opening statement consists of different types of narratives, I followed Beach (1985) and Rosulek (2015) and first categorized each clause as belonging to the lawyer's crime narrative, investigation narrative, present trial narrative, or future narrative. According to Beach (1985, p. 14), the crime narrative (in which events leading to the crime are recounted) and investigation narratives (where lawyers tell about how law enforcement identifies and pursues the defendant) predominate in courtroom discourse, occurring about 91 per cent and serving a reconstructive function. The present trial narrative, which consists of meta-talk about the here-and-now of the trial process, occurs about 7 per cent and serving an understanding-checking function. The future narrative is made up of procedural requests and orientational statements, occurring about 2 per cent and serving an instructive function. This helped to systematically compare transitivity patterns employed by each side.
- 2) The processes involving the defendant and the victim are then classified using Halliday's approach above, and their frequencies counted. Nominalization and evaluation of these processes will also be taken into account in the qualitative analysis.
- 3) The roles of the defendant and the victim are then analyzed. For the purposes of this study, two broad labels will suffice. A social actor assumes the role of an agent when he is the doer of a process, and the role of a recipient when he is the affected participant of a process. These semantically-based labels are tied to the notions of agency and responsibility, discussed earlier.
- 4) All frequency counts are then normalized to a common basis, per 10,000 words, to allow for comparison of results for different text lengths.
- 5) The qualitative analysis is then performed to investigate in

detail how process choices and participant roles are indexical of the underlying ideologies of each side, and how those choices aid in the shaping of jurors' perception

5. Results

5.1 Overall Frequencies for Defendants and Victims: Quantitative Analysis

The overall frequencies for the defendant, shown in Table 3 (see the appendix), indicate that the defendant occurs in the agentive role more frequently than in the recipient role, in both the prosecutor's and defense's speech and across all the narrative types. Classified according to the side of the presenter, references to the defendant as the agent of a process occur more frequently in the prosecution's discourse than in the defense's (28.46 vs 22.56). This difference may not be statistically significant at first sight, but, as I will explain in detail below, there are qualitative differences in the specific process choices each side selects. In terms of process types, the defendant as the agent occurs most frequently in material processes, followed by relational processes, and verbal processes. There are also some mental and behavioral processes, while existential processes are not found.

In comparison to the agentive role, the recipient role attributed to the defendant is clearly lower, and is even absent or almost absent from the lawyers' narratives. In the defense's discourse, the recipient role of the defendant does not appear to differ much in both sides' speech (2.24 for the prosecution vs 3.75 for the defense). With respect to the process types, the defendant is mostly represented in material processes in all the types of narratives of both the prosecution's and defense's

speech. This is followed by relational, behavioral, and verbal processes. Mental processes occur at times, while existential processes do not occur.

References to the victim, presented in Table 4 (see the appendix), exhibit a different pattern. It is the defense team that makes more references to the victim as the agent (17.82 vs 9.22). This is attributable to the defense's motivation to construct the identity of the victim (in this case, Michael Jackson) as actively involved in and, hence, being held responsible for his own death.

When the victim is represented as the recipient of processes, the two sides fare similarly (6.27 for the prosecution vs 5.4 for the defense), and for both sides, the victim is seen to be engaged in mostly material processes, followed by relational, behavioral, verbal and mental processes.

While the frequencies do reveal much about the differences between the representational strategies of the two sides as well as the roles of the main social actors, the polarized constructions of the events and the participant roles in courtroom narratives go further than sheer frequencies, and strongly have to do with degree of agency and authorial stances on the process types. This is the topic I turn to below.

5.2 Transitivity Patterns for Defendant: Qualitative Analysis

5.2.1 Crime narratives

In line with the overall frequencies, the prosecution in each case shows a stronger emphasis on the defendant's agency in crime narratives. The predominant pattern appears to be that of the defendant performing a material process that affects another entity, which oftentimes is realized as the victim. Example 1 shows how the prosecution lawyers represent the defendants as

determined agents that execute various material processes. This unmitigated agency is enhanced through the use of “would” to indicate a repeated past activity. As a result, the defendant is held morally responsible for what happened to the victim.

(1) Conrad Murray would do this nightly infusions of propofol ... roughly everyday for over two months of his care that he was administering to Michael Jackson... (Pro)

The defense, in contrast, proffers a different account of reality by mitigating the defendant’s agency. That is, some degree of agency is attributed to the defendants so that they can carry out certain material processes, but they do not affect (or minimally affect) other participants. This occurs when the defense counteracts the claim of the prosecution by claiming that the defendant, aware of his patient’s condition, gave a proper dose of the substance (2).

(2) He [Murray] knew that he [Jackson] had Lorazepam and Midazolam already in his system. He knew that. He agreed to give propofol but only 25 mg injection. (Def)

There are also times when the defense creates an opposing identity of the defendant by casting him as an agent capable of affecting other social actors, including the victim—but in a benevolent way, as shown in (3). Here the affected social actors, patients and Jackson, become beneficiaries of Dr. Murray’s acts, rather than mere goals.

(3) Dr. Murray was helping patients... Dr. Murray did treat Michael Jackson. He treated him things like to efungus ... He treated him for a broken foot, tested his heart to see if that was okay, did blood test to see if his liver was okay ...

Every week what Dr. Murray does, he performs angioplasty procedures, where he sifts a catheter through an artery ... He literally saves lives. He only takes care of people who had a heart attack. (Def)

Similar presentational patterns are observed with respect to other process types, as exemplified in (4). Here, the prosecution downgrades Dr. Murray's medical identity to a service provider, who would do anything for money (including catering and administering propofol to his patient) and his expert identity as a cardiologist, while the defense portrays him in the opposite fashion.

(4)

Prosecution	Defense
- <u>Dr. Murray requested</u> payment of \$5million for 1 year of medical service... (verbal)	- <u>Dr. Murray is</u> no celebrity doctor.(quality)
- <u>He was not</u> board certified... (quality)...	- He <u>doesn't have</u> an office in Beverly Hills dispensing pills to rich and famous. (possessive)
- <u>his administration</u> of propofol... (possessive)	- <u>He is</u> a cardiologist. <u>He is</u> an interventional cardiologist. (quality)

In comparison to the agentive role, the recipient role of the defendant does not appear as frequently in either side's discourse. When the defendant assumes a recipient role, it is mostly for each side to supply more details that collaborate the theory of the case. For example, as shown earlier, the identity that the defense team wants to create for Dr. Murray is a dedicated doctor, and he is cast in the recipient role to explain how he and Jackson first met (5). The prosecution, in contrast, portrays Dr. Murray as a mercenary doctor, and so Dr. Murray

is cast as the recipient of money in exchange of his service
(6)

(5) One of Michael Jackson's children was sick and Dr. Murray was called out to the hotel. (Def)

(6) Dr. Murray was going to receive \$150,000 a month, airfare to and from London and housing in London. (Pro)

5.2.2 Investigation narratives

The representation of the defendant in the investigation narratives is much similar to that in the crime narratives above. That is, the defendant in the role of an agent appears more frequently in the prosecution's discourse than in the defense's, except for Jackson's trial, where the defense lawyer endeavors to construct an alternate identity of Dr. Murray as a professional physician who does everything in the best interest of Jackson and other patients.

A salient feature of this narrative type is the frequencies of verbal processes attributed to the defendant in the prosecution's speech, and in fact, approximately half of the other processes that occur in investigation narratives constitute the messages of these verbal processes. Here the lawyer recounts what the defendant says during the investigation, and in more than half of the occurrences, these highly evaluated verbal processes function to represent the defendant as incriminating himself or hiding the truth, as in "he makes no mention" and "Michael was physically and emotionally fine" (7). Oftentimes these reported verbal utterances are followed by outright invalidation after the presentation.

(7) Conrad Murray's own tape-recorded interview, he makes no mention of using the ambubag; He said things to Kenny

Ortega when concerns are expressed, he said things such as “I am the doctor, not you. You direct the show and leave Michael’s health to me.” He said “Michael was physically and emotionally fine. Don’t let it be your concern. I am the doctor.” (Pro)

With respect to the defendant’s recipient role, this tends to occur in the defense’s discourse. For example, Dr. Murray’s defense team creates a story in which their client was a recipient of Jackson’s verbal processes in order to attribute the cause of Jackson’s death to the singer’s persistent complaints about his sleep problems and his requests for a more powerful sleep aid.

(8) Dr. Murray told the detectives about Michael Jackson’s problems ... in the spring of 2009 when Michael Jackson came to him and asked him for help... Michael Jackson told Dr. Murray that he had inability to sleep and the only way he could sleep was on propofol and that he had always slept on propofol when he was touring. Dr. Murray told the investigators, this took him back. This didn’t make any sense to him. Michael Jackson told Dr. Murray how propofol was applied, he told Dr. Murray that it needed to be used with lidocaine, he told Dr. Murray that he had a nickname for propofol... Michael Jackson told Dr. Murray that you had to give it with Lidocaine other wise it would burn ... (Def)

5.2.3 Present trial narrative

Also in the trial narratives, similar patterns emerge. The prosecution emphasizes agency of the defendant. What is notable about the present trial narrative is that the emphasis on the defendant as an impactful agent occurs when the prosecution gives personal comments on the case. Cued by

metadiscourse expressions such as “also note ...” (9), these here-and-now comments function to highlight important points of the crime narratives.

(9) Also note the relationship between the doctor and the patient. There was no doctor patient relationship... there was an employer–employee relationship where Conrad Murray was working not for the best interests of Michael Jackson ... Dr. Murray was working for \$150,000 a month. He was an employee, he acted as an employee, he did not act as a medical professional using sound medical judgement. (Pro)

In contrast, mitigated agency and deflected agency are observed in the defense’s discourse, as shown in (10), where irrealis modality is used to suggest impossibility, and in (11), where the defendant is portrayed as a responsible doctor, while the victim as a person who caused his own death.

(10) If Dr. Murray had actually given him the amount of Lorazepam, it would require 4mg. of Lorazepam shot every 30 minutes for 5 hours. We obviously don’t think that anybody would do that much less our client Dr. Murray. (Def)

(11) We believe that Michael Jackson wanted to sleep for 10 hours, was frustrated... And his doctor would not give him propofol, the drug that he wanted and Michael Jackson swallowed... without telling his doctor, without permission from his doctor. (Def)

5.2.4 Future narratives

In future narratives, the prosecution also foregrounds the

actions of the defendant more frequently than the defense does. This usually appears at the conclusion of the speech, when the lawyer predicts what the counter-narrative will be (12).

(12) Whatever theory the defense puts forward whatever the evidence the defense puts forward, it will be clear that Conrad Murray abandoned Michael Jackson when he needed help, it was Conrad Murray's gross negligence, it was Conrad Murray's unskilled hands and his desire to obtain this lucrative contract of \$150,000 a month that led Dr. Murray not only to abandon his patient but to abandon all principles of medical care. (Pro)

5.3 Transitivity Patterns for Victims: Qualitative Analysis

5.3.1 Crime narratives

Regardless of the roles, the victim overall appears much less than the defendant does and is most concentrated in crime narratives. The presentation of the victim as the recipient occurs frequently in the prosecution's speech, and this is, to a great extent, related to the presentation of defendant. That is, the prosecution's emphasis on the defendant as an impactful agent often requires the presence of a direct recipient of the defendant's processes, as we saw earlier. This also includes when the defendant is portrayed as having the power or knowledge over the victim (13).

(13) Michael Jackson literally put his life in the hands of Conrad Murray. (Pro)

In contrast, in the defense's speech, the victim's identity is created such that Jackson becomes an agent of various

processes, thereby assigning responsibility to Michael Jackson for his own death (14).

(14) On two occasions, Michael Jackson told Dr. Murray “I have anxiety and I have trouble sleeping.” Michael Jackson had a problem that no amount of determination, no dedication, no talent would ever overcome. And he knew that he needed help. In the spring of 2009 Michael Jackson went out looking for that help. (Def)

5.3.2 Other narratives

References to the victim in either role in other narratives are scant, and the representation patterns are much similar to those in the crime narratives. The defense frequently references Jackson as the agent of processes in the investigation narrative. Here, as they are emphasizing the benevolent actions of the defendant (see my discussion of references to the defendant earlier), the defense team also supplements their version of reality by giving some agency to the victim in order to assign responsibility to him for causing his own death. For example, in the investigation narrative (15), the jurors are told that Jackson had been battling with chronic sleep problems, physically and psychologically and that, to solve these problems, he had used propofol on his own before and even taught Dr. Murray how to use it. In the trial narrative (16), Jackson is metaphorically presented as progressing to a desperate point. In the future narrative (17), Jackson emerges as the person who may have abused propofol himself, unbeknownst to Dr. Murray.

(15) At this meeting with Detective Martinez and Detective Smith, Dr. Murray told the detectives about Michael Jackson’s problems, about his sleep problems ... in the spring of 2009

when Michael Jackson came to him and asked him for help ... Dr. Murray talking about Michael Jackson's desperation, Michael Jackson's need. Michael Jackson told Dr. Murray that he had in ability to sleep and the only way that he could sleep was on propofol and that he had always slept on Propofol when he was touring ... Michael Jackson told Dr. Murray how Propofol was applied, he told Dr. Murray that it needed to be used with Lidocaine, he told Dr. Murray that he had a nickname for Propofol. He called it his milk. (Def)

(16) We intend to you, in this case, provide to you answers to two questions: First how did Michael Jackson get to this desperate point? And second what happened when Dr. Murray was out of the room? (Def)

(17) We will ask every single expert that the prosecution presents, everyone, this question, "If the drugs that Michael Jackson received on the 25th was exactly what Dr. Murray said, would that have killed Michael Jackson? Everyone of them will tell you no, we believe. And every of them will tell you that there had to have been more propofol delivered, provided, taken by Michael Jackson after the period of time that Dr. Murray left that room. (Def)

6. Conclusion

This study quantitatively and qualitatively explicates how lawyers construct different versions of events and identities of the social actors in the opening speech. While it is based on one case and it is the first attempt to analyze grammatical choices in the opening statement, this study does provide concrete evidence that the grammatical choices lawyers make

critically contribute to creating a selective depiction of the defendant and victim, and the analysis deconstructs the struggle over the cause and effect in each side's storytelling.

My analysis exhibits that the two sides differ greatly in their presentation of both the defendant and the victim. Two opposing opening statements are accomplished by attributing, mitigating and deflecting agency to the defendant and the victim. In particular, the prosecution tends to assign full agency to the defendant, so that he appears, both quantitatively and qualitatively, as a determined agent of processes that ultimately lead to the alleged unlawful act that he is tried for. In contrast to the defendant, the victim is attributed limited agency so that he appears as an agent who does nothing wrong and simply needs professional medical help, and yet is affected by the defendant's negligent acts and decisions.

The defense, in contrast, creates an opposite identity of these social actors. The defense attributes full agency to the defendant, but this agency is for the benefits of other social actors. Alternatively, the defense may mitigate or deflect the agency of the defendant, so that he and his actions appear as being influenced by another agent. As a result, the defendant's alleged negligent acts are backgrounded or dismissed as not true. With regard to the victim, the defense team appears to emphasize his mental processes (such as needing and wanting to sleep, and his decision to administer medical substances himself. All in all, this study gives strong evidence that a lawyer's account can only be a representation of the scene, the crime, and its aftermath, and as such has distinct properties that vary from the actual experience of the crime itself.

In addition to the specific differences in presentational strategies, what this analysis of transitivity does is to deepen our understanding of how linguistic choices are ideologically entwined with the presenter's communicative goals. While this

may sound common-sensical, it is precisely how such common sense works that has to be critically inquired and systematically scrutinized. In addition, this study provides evidence that language is organized not as rules, but as a “potential for meaning”, to use Halliday’s term (1978). With its attention to the process of selection, this study offers a concrete methodology for a close examination of structural aspects of texts, yielding insights into the relationship between the covert operations of the structure of grammar and the underlying motivations, intentions and goals that shape the individual choices made by the language use.

Last but not least, because the outcome of a case depends in large part on how narratives are constructed and presented to the jurors, the findings of this study will have practical implications for training jurors and the public at large to be aware and more critical of the power of grammar in constructing and shaping courtroom experiences. A future topic to be pursued is to also consider the roles of reference terms (such as the defendant, last name, first name, title, etc) that lawyers employ together with transitivity patterns in the creation of competing representations of the same social actors.

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Appendix

Table 3. Frequencies of References to the Defendant

		Defendant as agent		Defendant as recipient	
		PRO	DEF	PRO	DEF
Crime	Mat	5.41	2.49	0.53	0.28
	Qual	1.17	1.38		

	Poss	0.64	0.28		0.14
	Loc	0.32			
	Verbal	2.44	0.28	0.64	
	Mental	0.64	0.28		
	Behav				
	Total	10.62	4.71	1.17	0.42
Investiga-	Mat	3.72	4.98	0.11	0.55
tion	Qual	0.53	0.97		0.14
	Poss	0.21	0.14		
	Loc				
	Verbal	2.23	3.32		1.38
	Mental	1.06	2.35		0.28
	Behav	0.21	0.28		
	Total	7.96	12.04	0.11	2.35
Present-	Mat	3.29	0.83	0.32	0.28
Trial	Qual	0.42	0.69		
	Poss	1.49		0.21	
	Loc	0.11	0.14		
	Verbal	1.17	0.28	0.32	
	Mental	0.74		0.11	
	Behav				
	Total	7.22	1.94	0.96	0.28
	Mat	1.59	2.35		0.28
Future	Qual	0.11	0.55		
	Poss	0.64	0.55		0.28
	Loc		0.14		
	Verbal		0.28		0.14
	Mental	0.21			
	Behav	0.11			
	Total	2.66	3.87		0.7
Overall Total		28.46	22.56	2.24	3.75

Table 4. Frequencies of References to the Victims

		Victim as agent		Victim as recipient	
		PRO	DEF	PRO	DEF
Crime	Mat	2.23	2.35	1.27	0.55
	Qual	1.27	1.24	0.21	0.28
	Poss	0.74		0.21	
	Loc	0.11			
	Verbal	0.21	0.28		
	Mental	0.32	0.55	0.11	0.14
	Behav	0.32	0.55		

	Total	5.20	4.97	1.80	0.97
Investiga- -tion	Mat	0.53	2.76	1.17	1.52
	Qual	0.42	0.83	0.21	0.14
	Poss	0.21	0.69	0.42	0.41
	Loc		0.41		
	Verbal	0.21	1.52	0.11	0.14
	Mental	0.53	0.28	0.32	
	Behav	0.53	1.94		0.14
	Total	2.43	8.43	2.23	2.35
Present- Trial	Mat	0.85		0.11	0.28
	Qual		0.14	0.11	
	Poss	0.21		0.32	
	Loc	0.11			
	Verbal				
	Mental			0.21	
	Behav	0.42			
	Total	1.59	0.14	0.75	0.28
Future	Mat		1.24	0.64	1.38
	Qual		0.55	0.32	
	Poss		0.69	0.42	0.28
	Loc				
	Verbal				
	Mental		0.83	0.11	0.14
	Behav		0.97		
	Total		4.28	1.49	1.80
Overall Total		9.22	17.82	6.27	5.4

Examples in: English
 Applicable Languages: English
 Applicable: Tertiary

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