UNIVERSIDAD DE CHILE

FACULTAD DE FILOSOFÍA Y HUMANIDADES

DEPARTAMENTO DE LINGÜÍSTICA

Repeats in the courtroom: An analysis of the pragmatic functions of lawyers' repeats in witness testimonies in the Leonard Peltier trial.

Informe final de Seminario de Grado para optar al grado de Licenciado/a en Lingüística y Literatura Inglesas

Profesor Guía: Pascuala Infante Arriagada

Nicolás Acevedo Neira

Catalina Ayala Saavedra

Nicolás Fernández Ros

Isabel Gutiérrez Montenegro

Fernanda Menares Cisternas

Loreto Murga Rosales

Yihad Nayar Escobar

Tania Suazo Vega

DICIEMBRE, 2019

SANTIAGO, CHILE

Dedicated to Leonard Peltier, and all of those who fight

Acknowledgements

En primer lugar, agradecer a mi mamá, Mary, la mejor madre que cualquier hijo podría desear. Me has dado todo, cosas que ni quería (como nacer), hasta las herramientas y enseñanzas que toda persona necesita en su desarrollo. Si alguien se merece reconocimiento por mis logros personales, eres tú. Papá, Héctor, siempre hemos tenido nuestros desacuerdos (puta que erís terco weon oh), pero no recuerdo haber vivido ninguna situación en la que te haya necesitado y no hayas estado allí. A pesar de no haber tenido nunca un ejemplo modelo de padre a seguir, eres un gran Papá.

Ignacia, la segunda mujer más importante de mi vida, te amo con el alma y agradezco infinitamente todo el apoyo y la paciencia que has tenido. Este proceso habría sido un verdadero dolor en el culo si no fuese por tu cariño y apoyo incondicional. Algún día encontraré la manera de devolverte todo lo que me has dado, incluso los kilos que he subido desde que estoy contigo y por los cuales jamás te estaré agradecido.

En tercer lugar, mi querida y adorada profe Pascualita. Profe, usted es mucho más que una profesional de la educación, es una guía y un ejemplo de como ser mejor persona. Espero poder seguir aprendiendo y creciendo para hacerla sentir orgullosa. También espero, algún día, poder retribuirle todo lo que me ha dado. Profe, porfa no se acabe nunca. Mención aparte para todas y todos los profes de la carrera. Los que están y los que ya no están, son un ejemplo de cómo deberían ser los profesores del mundo: primero personas, luego profesionales.

A mis amigos, tengo pocos, pero buenos. Miquelon, Chico Benja, Aguirrezahdkgal, Luli y Mari; estos últimos años han sido más llevaderos gracias a su presencia en la Uwu. Héctor, maldito bastardo, erís la persona más resiliente y sabia que conozco, agradezco haber cruzado caminos y espero que nunca se distancien. Por supuesto, el mismísimo, él, Compañere Poto, esta tesis no habría sido lo mismo sin ti y el humor básico, gracias por estar ahí y por el mutuo entendimiento, que nunca se acaben los Fifitas ni los sándwiches. A todos ustedes, los amo con la vida.

Como no agradecer a mi nueva familia, mis hijos más peludos que yo (y eso que me tejieron). Arya, fuiste la primera gatita en traer vida (y desastres) al hogar. Ragnar, el mismismo, el mejor vikingato del mundo, el gato-perro. Lagertha, mi regalito de cumpleaños, si sigues en este mundo es de puro aguante, una gata guerrera que le hace honor al nombre, gracias vikingatita. Y el último en sumarse, Theo, gato loco, apareciste de la nada en el estacionamiento y terminaste de llenar el departamento de amor (y pelos).

Debo agradecer también, de manera honorifica, a mi querido abuelo, que en paz descanse. Es gracias a tus consejos que hoy estoy haciendo algo que me gusta. Te prometo, donde quiera que estés, que nunca voy a dejar de soñar con lo improbable ni lo imposible.

Finalmente, mención honrosa a todos los que luchan, sobre todo a aquellos que eligieron morir de pie, que vivir de rodillas. A quienes dieron sus ojos para que otros podamos ver. A todos ellos que eligieron poner su integridad en riesgo para pelear por un mundo mejor. Gracias por enseñarnos cómo vivir. A.C.A.B.

Nicolás Acevedo Neira

Quisiera partir por darle las gracias a mi mamá y a mi hermano chico que me han aguantado en todo este proceso, con todo lo que eso conllevo. Sin los abrazos o muestras de cariño todo hubiera sido más difícil. También quisiera agradecerle a mi gatita Minerva por siempre acercarse a hacerme cariño cuando más frustrada me encontraba.

También quiero destacar a dos de las personas más importantes en mi vida, que conocí gracias a esta carrera, Rayen y Milenko. Gracias por siempre estar ahí para mí cuando más lo necesitaba, gracias por los abrazos, por las palabras de ánimo, por las risas. Sin ustedes dos el proceso hubiera sido mucho más tedioso.

Finalmente, quisiera agradecerles a mis compañeros de seminario y profesora guía. Gracias por las risas, por la comida, por tanta buena onda, pero también por las discusiones porque sin ellas no hubiéramos podido avanzar ni terminar de buena manera este proceso tan largo, pero lleno de aprendizaje.

A.C.A.B.

Catalina Ayala Saavedra

Por fin se acaba esta weá, se pueden decir garabatos aquí ¿verdad? Me informan que no se puede… Anyways. Estoy muy feliz porque se acaba este suplicio llamado Informe de Seminario de Grado, y aquí van mis agradecimientos a aquellxs seres que han hecho mi existencia un poco menos miserable durante los últimos meses.

Parto por agradecerle a mi profesora guía y compañera de humos, Pascuala Infante, por el apañe infinito y todo el amor que me ha dado desde que la conocí. Agradezco a mis otras profesoras de años anteriores, también muy queridas por mí: Xime Tabilo, Fran Bonfanti, Nat Tranchino y Java Adaros (mi influencer favorita de Instagram). Finalmente, le agradezco también a una grande que ya partió: mi querida e inolvidable Miss Coty. Gracias por todo.

Le agradezco a mi mami Eli y a mi papá Marcelo. Gracias por aguantarme, quererme y tratar de entenderme (esto último no pasa). Espero no defraudarles jamás.

Continúo agradeciéndole a mi familia, especialmente a mi Padrino, a mi tía Cecy (mi principal mentora en la Lengua Inglesa), a mis hermanes (Javi y Nacho), y especialmente a mi inolvidable, irrepetible, e inalcanzable hermana mayor, Mane. Te extraño más que la cresta hermana grande, pero te sigo sintiendo a mi lado cada día. No hay día que no piense en ti hermanita. Te amaré por siempre, Mane.

Punto aparte para la integrante más pequeña (y peluda) de la familia. Kory, hijita mía, te amo mucho, mucho. Gracias por darme tanto amorcito siempre. No te mueras nunca por favor. Y a mí gatito hermoso, Doni, que aunque todes le tengan miedo yo siempre lo voy a querer.

Continúo agradeciéndole ahora a John, Paul, George y Ringo. Sin ellos jamás me habría picado "el bichito del inglés", y por ende no habría llegado a donde estoy el día de hoy.

Le agradezco a mis amiges del colegio, ni ahí con poner sus nombres eso sí porque son caleta, después se me olvida un nombre y queda la cagá. También, a lxs amigxs de la U. Esos que quizá no serán pa' toda la vida, pero puta que apañaron pa' transformar mi estadía en la U en una experiencia épica que recordaré toda mi vida: Anto, Chico Benja, Miquel, Aguirre y Mariana. Al equipo de Monitores de la uwu. A mi compadre Gigio, quien probablemente imprimió este documento. Finalmente, a mi grupo de Seminario, especialmente a mi amigo Nico Tatuado, el mismísimo "yo te dije", mi eterno pana y eterno padre en el Fifa. Buenos sándwiches nos sacamos, asies.

Finalmente, quiero agradecerle al Pueblo de Chile. Al 18 de Octubre de 2019. Fecha histórica de aquí en adelante. Gracias Chilito por despertar.

A.C.A.B.

Nicolás Fernández Ros

En primer lugar, agradezco enormemente a mi pastora, la profesora Pascuala Infante. En los pocos años de conocernos ha sabido ser un pilar incondicional de constante apoyo, indispensable para no sucumbir frente a la adversidad, tanto académica como de la vida. Gracias por tener un corazón que no le cabe en el cuerpo y por su paciencia infinita.

A mi mentora, la profesora Rosa Bahamondes, por ser un cable a tierra y siempre tener la palabra indicada para dar aliento y consejo, centrándome en los peores momentos. Por siempre tener el corazón abierto y dispuesto a ayudar, gracias.

A todes les profesores y maestros del Departamento de Lingüística, que compartieron un té, unas galletas, un abrazo. Conversaciones largas o cortas, dependiendo del tiempo. A Giorgos Ioannou, Francesca Bonfanti, Silvana Guerrero, Ximena Tabilo. Su preocupación y cariño me ayudaron como no se imaginan, gracias por haberme brindado un espacio de confianza y risa más allá de su labor como docentes.

En la esfera más personal, a Arlett, por ser la mejor amiga que pude haber encontrado en la universidad. Gracias por permitirme crecer y aprender contigo, te amo. A Kathleen, Valentina y a Jimena, a Mati, Gabriel, Camila, personas hermosas que encontré en este camino: gracias.

A mi madre, la más valiente, generosa y fuerte de las madres.

A Sebastián y Valeria, por su terquedad al acompañarme.

Al Legi.

Isabel Gutiérrez Montenegro

Son muchas personas las que han contribuido con mi progreso y éxito en esta etapa académica. Primero que todo quiero agradecer a mi familia por apoyar mis decisiones de carrera y de vida, por darme cariño y proporcionarme todo lo necesario para desenvolverme en el mejor entorno posible.

Segundo, quiero agradecer a Pascuala Infante, mi profesora guía, por apoyarme de manera personal y académica, además de darme todas las herramientas necesarias para llevar este proyecto a cabo. También a mis compañeritos de tesis: Nicolases, Catalina, Yihad, Tania, Loreto e Isabel, quienes hicieron este proceso más soportable.

También a mis compañeras de carrera Linda Tapia y Carolina Morales por el apañe constante durante toda esta etapa, ya que el apoyo emocional ha sido fundamental para cumplir todas mis metas.

Y finalmente, a cada uno de mis profesores de cátedra que me han otorgado todos los conocimientos necesarios para cumplir esta fase académica.

A.C.A.B.

Fernanda Menares Cisternas

Primero, me gustaría agradecer a mi familia. Gracias por siempre decirme que continúe con mis estudios y por apoyarme tanto como pudieron en el camino, a pesar de que todos todavía piensan que Lingüística Forense es el estudio del idioma de los muertos (probablemente el campo de estudio más interesante que no existe, ni nunca podrá existir).

Me gustaría agradecer a mis amigas más cercanas: Carolina Farias, Catalina Mena, Gabriela Belmar y Nathalia Olivares, por todas las veces que pasamos el rato juntas comiendo toneladas de comida y viendo videos de Youtube o documentales bizarros. Mejor que ir a un spa.

Me gustaría agradecer a todos los profesores (del colegio y universidad) que me han inspirado de una forma u otra.

Gracias, profe Pascuala, por sus palabras de aliento y por la admirable pasión y la invaluable orientación que nos mostró todos los días con respecto a nuestra tesis y nuestra capacidad para completarla.

Gracias, compañeros de seminario que dieron a luz a este bebé conmigo: Catalina, Nicolás x2, Yihad, Tania, Fernanda e Isabel. Realmente espero que estén contentos con nuestro trabajo y que hayan disfrutado nuestro tiempo juntos. Yo lo disfruté.

Y, por último, quiero agradecerle a mi perro, Nero. Gracias por estar siempre ahí conmigo, incluso cuando tratabas de acostarte encima de mi notebook para que yo dejara de prestarle atención y, en cambio, te acariciara. Gracias por apoyarme en silencio, eres el mejor.

A.C.A.B.

Loreto Murga Rosales

Quiero agradecerle a mi familia por haberme apoyado incondicionalmente durante estos cuatro años. A mis amigas de la vida y compañeros, que me apoyaban y subían el ánimo cuando el estrés me pasaba la cuenta. A mi gata, mi bella Sol, que en realidad no me ayudo en nada (de hecho, solo se dedicaba a romperme los papers y resúmenes) pero la amo y solo por eso merece ser mencionada. Finalmente, agradezco a la profesora Pascuala Infante no solo porque nos guio de manera extraordinaria durante este año de seminario y durante la escritura de este trabajo de investigación, sino también por el apoyo que me brindo este año durante momentos difíciles y a su disposición a hablar conmigo de lo que fuera.

A.C.A.B.

Yihad Nayar Escobar

A mi núcleo familiar que desde siempre me ha apoyado: mi mamá, mi papá, mi hermana, mi abuelita, mi tata y mi prima. Gracias a su constante apoyo y contención emocional es que he logrado seguir a pesar de todo. Mis pellos bellos Cuqui y Coco que también me han ayudado con su cariño incondicional y desinteresado. A Martina y Felipe con quienes viví mis dos últimos años de universidad, que me enseñaron cosas importantes de la vida y que marcaron de igual manera mi paso por Santiago junto a risas, llanto y apañe total.

Además, agradecer a las distintas actividades y comunidades de las que fui parte en la universidad que me llevaron a superar mi miedo escénico y a poder hablar frente a otras personas aunque me pusiera nerviosa y me diera vergüenza. A la tía Carolina de la biblioteca, a las profesoras Ximena Tabilo, Pascuala Infante, Rosa Bahamondes, Javiera Adaros y Ángela Tironi por sus consejos, una conversación en el pasillo o sus oficinas y tener siempre un tiempito para escucharme. A mis compañer-s y amig-s de distintas facultades y/o universidades.

A quienes estuvieron, a quienes ya no están y a quienes siguen: gracias de todo corazón por todo el apoyo, el apañe y el aguantarme en los momentos en que debí ser una carga o un pain in the _ _ _, por tener siempre una palabra de aliento, por escucharme y guiarme o simplemente por estar ahí. Gracias de todo corazón a quienes han pasado por mi vida, de tod-s he aprendido algo y tod-s han marcado, de alguna forma, una huella en mí. Desde lo más profundo de mi corazón,

A.C.A.B.

Muchas gracias
Thank you very much

большое Спасибо
ありがとう

Tania Suazo Vega

Abstract

This qualitative study falls under the scope of Forensic Linguistics, which is the interaction of language and the law. The present research examines lawyer-witness interaction inside the courtroom based on an analysis of transcripts from the Trial of Leonard Peltier. Lawyer-witness interaction has been addressed before from many different perspectives (see, for example, Cotterill 2002; Hale 2004; Shuy 2006; Gibbons 2008; Bolden 2009; Robinson and Kevoe-Feldman, 2010; Eades 2016), but previous research has not discussed the possible pragmatic functions deployed by lawyers when they repeat (partially or fully) the witness' previous answer when formulating their questions. The corpus of the study consists of 4 witness statements: two Native American youngsters and two Special Agents from the FBI. These statements are contained in ten volumes that add to 1.659 pages. This study analyzes these courtroom interactions with the objectives of identifying and describing the pragmatic functions of lawyers' *repeats* in the examination of witnesses, and of giving an account into how these pragmatic functions can be categorized in terms of the identified collaborativeness, neutrality or adversativeness of the questions formulated. This research identified five categories in which *repeats* can be classified: *Confirmation*, *For the record*, *Challenging*, *Focusing*, and *Clarification*. Results show that the most common instances of categories among these witnesses were *Confirmation*, *For the record*, and *Challenging*. Additionally, *Confirmation* and *Focusing* had a stronger collaborative character, *For the record* showed more neutrality, and *Challenging* and *Clarification* more adversativeness. The conclusion of this study is that witnesses with a certain amount of status and/or experience in the development of a trial elicit more collaborativeness from the attorneys in their interrogations. Additionally, there

are different reasons for each category to be considered more collaborative, neutral or adversative by taking into consideration its purpose and stage of trial in which it occurred.

Key words: forensic linguistics, repeats, pragmatic function, courtroom interaction, collaborativeness, neutrality, adversativeness, lawyers' questions, witness' statement.

Content Index

Table Index

1. Introduction

The following investigation sets its bases in the field of applied linguistics, more specifically, in its branch of Forensic Linguistics. To carry out this qualitative research, the case chosen was the trial of Leonard Peltier, that took place in 1977 and that ended with his incarceration for life. The transcripts of this trial are available online, from which the corpus for the present work was extracted. This trial was chosen with the idea of developing a taxonomy of the pragmatic functions that are linked with the *repeats* that occur during the lawyers' questioning of witnesses during courtroom examinations. Moreover, it was important to recognize the different pragmatic functions concerning each instance of *repeat*, and to further categorize these *repeats* considering their orientation (collaborative, neutral, or adversarial) toward the witnesses.

Some basic notions must be explained before moving into the more specific ones first *repeats* and then pragmatic function. Regarding *repeats*, in previous research it has been stated that they are produced by an interlocutor involuntarily in a semi-automatic way in conversation (Tannen, 1987). However, in a highly structured setting, such as the interrogation of witnesses in a court hearing, *repeats* become of importance in their own right, since their use no longer seems to be involuntary, on the contrary, it appears to serve very recognizable purposes in the questioning of lawyers and their use is not unconscious at all, as it will be shown throughout this research. In the following subsections, other fundamental concepts will be set forward in order to contextualize the present study and to keep them in mind in the development of this inquiry.

In relation to pragmatic function, it must first be understood what pragmatics is. According to Leech (1983) pragmatics has to do with meaning defined in relation to the speaker, whereas Korta and Perry (2019) state that pragmatics deal with "the intentional acts of speakers at times

and places, typically involving language" (no page). The concept of pragmatic function will be addressed further ahead in section *1.3*.

1.1 Forensic Linguistics: a brief overview of the discipline

Forensic Linguistics has been a subject of interest even before the inception of the term, which took place with the publication of *The Evans Statements case* by Swedish linguist Jan Svartvik in 1968 (Santana and Falces, 2002; Coulthard and Johnson, 2007; Ramírez Salado, 2017). Nevertheless, it was not until the 1990's when the work of linguists, either as expert witnesses or analysts of legal texts, became a more established and productive area, with its own methodologies and a slowly but increasingly livelier academic production, especially in the UK and the US.

This discipline has found little consensus as to its specific fields of action (Santana and Falces, 2002; Ramírez Salado, 2017). However, there seems to be some agreement in the form of two viewpoints: on the one hand, the broad concept of Forensic Linguistics which encompasses the legal language, the judicial procedure language, and language as evidence (that is, language with probative value in court); whereas on the other hand, there is the restricted view, which only takes into consideration language as evidence.

According to Gibbons (1995), linguistics and the law can be interfaced mainly in two aspects: "issues of authorship, and problems of meaning and communication" (p. 165, cited in Ramírez Salado, 2017). Coulthard and Johnson (2007), in turn, identify more specific fields of action for this discipline: forensic phonetics, authorship attributions, plagiarism analysis, and registered trademarks.

Forensic phonetics is one of the most active areas of Forensic Linguistics, as it has already established several periodic publications and academic events, as well as the International

Association for Forensic Phonetics and Acoustics (IAFPA), devoted to the production and exchange of knowledge among the experts on this matter. Forensic phonetics was, in fact, the first field of linguistics to be recognized as a useful and valid method in forensic and judicial contexts (Ramírez Salado, 2017). In order to illustrate the phonetic aspect of Forensic Linguistics, the case of Pyewacket Enterprises, Inc. v. Mattel, Inc, regarding GUK and GAK, two versions of the same "gooey tactile substance" (similar to slime) must be addressed (Coulthard & Johnson, 2007, p. 123). On the one hand, Coulthard and Johnson, argued that there is only one different sound between GUK and GAK (p. 123). This different sound was the vowel sound /u/ in GUK, and the vowel sound /æ/ in the case of GAK, thus, it may cause some confusion among the potential buyers of the products. On the other hand, Shuy (2002) pointed out that there are not only enough phonetic differences, but also morphological and semantic differences between GUK and GAK. Shuy (2002) reported that he never knew who won the case, but adds that "Mattel simply wanted to avoid the expense of a trial and felt that it would be easier to pay Pyewacket something and make it all go away" (p. 124), although he insists that the terms of this settlement are confidential (Shuy, 2002). Consequently, this dispute fits with the issue of registered trademarks, which will be explained further below (Ramírez Salado, 2017).

Authorship attribution issues have existed, arguably, since the beginning of the written text. When there are cases which raise suspicion as to the author of the text, it is necessary to conduct linguistic procedures (aided by different statistical techniques) to clear up possible ambiguity, intellectual appropriation and/or possible plagiarism (Coulthard and Johnson, 2007). One classic example is the Bible, representing one such case in which authorship has been questioned, long before the emergence of Forensic Linguistics as a discipline (Ramírez Salado, 2017). Another interesting case is the one of Dr. Shipman, explained in Coulthard and Johnson (2007), who was

convicted for several murders in 2000. He had also forged the Last Will and Testament of one of his patients; however, the daughter of the victim, who was a lawyer, investigated this new document. She called attention to several discrepancies found in the Will. It was proved to be altered through phraseology and the study of certain words by a forensic document examiner, who also studied the signature of the deceased. Together with other evidence, the forged Last Will and Testament analysis helped make a compelling case in court. Doctor Shipman was found guilty of murder and forgery and sentenced to life in prison. This event illustrates the way in which Forensic Linguistics can contribute to criminal cases.

Related to the aforementioned area stands plagiarism analysis. The relevant definition of plagiarism and that which linguists are concerned with is "the theft, or unacknowledged use of text created by another" (Coulthard and Johnson 2007, p. 186). This seems to be a common practice, dating back to ancient Greece, "where playwrights often accused each other of plagiarism" (Olsson, 2009, p. 381, cited in Ramírez Salado, 2017). Regarding the role of the linguist in cases of plagiarism, Coulthard and Johnson (2007) mention Johnson's (1997) solution to detect student plagiarism in universities. Her method relied on shared vocabulary and found that the plagiarized texts shared three times the lexical items in comparison to the non-plagiarized texts.

Regarding language as evidence, this is explained by Santana and Falces (2017) as the specific scope of Forensic Linguistics. In this field, the role of the linguist as an expert witness becomes vital. There are now several criminal and civil cases where the expertise of Forensic Linguists has been called upon (Coulthard and Johnson, 2007). A famous civil case on trademarks was reported by Shuy (2002), about McDonald's Corporation and the use of the initial morpheme 'Mc'. As an expert witness, after having carried out extensive corpus research, he testified that this morpheme had become "an independent lexical item with its own meaning of 'basic, convenient,

inexpensive, and standardized'" (Shuy, 2002, cited in Coulthard and Johnson, 2007), and, thus, that the McDonald's Corporation had no legal rights to prevent other companies from using the prefix. However, McDonald's successfully countered with their own legal experts, who argued that "consumers did indeed associate the prefix with McDonald's, as well as with reliability, speed, convenience and cheapness" (Coulthard and Johnson, 2007, p. 122), which was accepted by the court. In sum, the role of the linguist as an examiner of trademarks is achieved mainly through a characterization of the appearance, sound, and meaning of the name under dispute (Ramírez Salado, 2017) with the goal to establish if a counterfeit has taken place and caused confusion (Cicres and Turell, 2014, cited in Ramírez Salado, 2017).

Finally, the focus of this study: courtroom language. This is the most established research interest within Forensic Linguistics and distinguishes two predominant investigation themes: first, questioning between lawyers and witnesses, and second, the interaction between judges and jury (Rock, 2011). In the courtroom, testimonies are "(...) elicited through question and answer routines which, it has been argued, significantly influence perceptions of witnesses and constrain their contributions" (Rock, 2011, p. 145). Rock (2011) further remarks that the testimony itself can say more than speakers might expect, in addition to lawyers' influence on questions, since as it will be seen in more depth in the following sections, lawyers exercise control over the narrative and influence the perception of the diverse entities present during questioning through the use of linguistic strategies, such as *repeats*.

1.2 Repeats in the courtroom

Although *repeats* have been researched on conversational analysis (Tannen, 1987; Hale, 2004; Bolden, 2009; Robinson & Kevoe-Feldman, 2010; Robinson, 2013), they do not seem to have

been studied in institutionalized settings, and so, this phenomenon has not been examined in the speech of any of the participants of a jury trial (which is one of the most systematic settings). Thus, in order to account for this lack of specific knowledge, this research focuses on *repeats* produced by attorneys from witnesses' testimonies, and classifies them in different categories according to the pragmatic function utilized in the lawyer's discourse, excerpted from the reading of the transcripts of the case.

One of the best descriptions of *repeat* found in the literature is the one given by Tannen (1987), already mentioned above. *Repeats* are seen as an involuntary, semi-automatic act in communication. Unfortunately, this description does not address *repeats* in institutional contexts, where courtroom interaction belongs. On the other hand, Bolden (2009) defines a *repeat* as a "communicative strategy for resisting goals or agendas in conversation" (p. 121), which very much applies to this corpus given the highly rigid and adversarial background of trials. According to Bolden (2009), *repeats* serve to highlight and characterize certain portions of the speech as problematic or inaccurate, which causes a misalignment or blocking of the action by the individual realizing the *repeat*. Therefore, the use of them in trials (more specifically, by lawyers in their interrogation of witnesses) aligns more adequately with Bolden's view of *repeats*, as will be shown in the Discussion of this research. *Repeats* are used in the context of a trial in order to corroborate information, clarify some topics (either for the people in the courtroom or readers of the later–to–be transcript of the case) or as a mean to add up animosity. They are produced verbatim, as a *full repeat*; or just one part of it, as a *partial repeat*. These concepts will be explained in further sections.

1.3 Pragmatic function

As mentioned before, to understand what pragmatic functions are, one must first learn about the scope of study of the pragmatics field. According to van Dijk (1980) pragmatics is considered the third component of grammar, as it has a status comparable to that of syntax and semantics within the linguistic theory. He later states that this field "accounts for the systematic uses of such utterances as a particular type of social actions (…) hence also contributes to the theory of meaning for utterances" (p. 50). In other words, for van Dijk, the field of pragmatics deals with the meaning of utterances when used as social actions. Complementing this definition, Leech (1983) focuses more on the speaker rather than the utterances and declares that "meaning in pragmatics is defined relative to a speaker or user of the language" (p. 6).

Similarly, Korta and Perry (2019) state that pragmatics "deals with utterances, by which we will mean specific events, the intentional acts of speakers at times and places, typically involving language" (no page). One of the main objectives of pragmatics is to investigate into the communicative intentions of speakers, and the uses given to language to achieve desired purposes in communicative exchanges (Davis, 1991, cited in Korta and Perry, 2019).

Considering the definitions above, it can be said that the pragmatic field studies the "meaning" behind the utterances made by speakers, taking into account the context in which they were made, and it is this "meaning" which van Dijk refers to as "pragmatic function". According to van Dijk (1980), pragmatic functions can only be assigned to utterances of natural language that are syntactically correct and semantically meaningful. He states that meeting this criterion allows for a pragmatic interpretation of what has been said, while pointing out that this interpretation has to be done considering the context in which the utterance was made. Additionally, van Dijk declares that "pragmatic functions are defined in terms of specific functions of speech acts in

sequences" (p. 58). In other words, van Dijk explains that certain speech acts, when used in sequence, will condition the pragmatic function of a conversation, triggering an appropriate answer to the first sentence uttered in a conversation.

Furthermore, van Dijk (1980) says that "(...) we may promote or obstruct the realization of the intentions and purposes of the previous speaker, e.g., by agreeing or disagreeing, approving or protesting, etc. (...) pragmatic functions in conversation may have a strategical function" (p. 64). Indeed, when looking at the corpus of this study, this definition reflects what attorneys do when repeating some specific words or chunks of words from the witnesses' testimony as to elicit the information needed through the use of categories that will be explained in further sections.

1.4 Rationale of the study

The justification for this research originated from the interest in the analysis of *repeats* regarding institutional settings, in this specific case, inside a courtroom. This setting has a particularly rigid structure, which is the opposite of the focus of the investigations regarding conversational analysis and, as mentioned above, studies regarding this approach have been done several times before (Tannen, 1987; Hale, 2004; Bolden, 2009; Robinson & Kevoe-Feldman, 2010; Robinson, 2013). However, these studies are not very fruitful regarding language in the courtroom, nor do they address lawyer-witness interaction. Therefore, the idea that motivated this research was to set a precedent and contribute to the study of legal language with the analysis of *repeats* in institutional contexts, while specifically focusing on the *repeats* present in lawyer's questions rather than in the *repeats* present in witnesses' answers during the examination stages of a trial.

Furthermore, *repeats* in this institutionalized setting show how attorneys construct their institutionalized speech. Cotterill (2002) addresses these settings as "power-asymmetric contexts"

(p. 149), because one of the speakers possesses more status and control over the other. In the development of the case at hand, it could be seen how the United States attorneys exerted this power over the Native American witnesses, especially during Cross-examination. Additionally, lawyers are able to construct their own witnesses' narratives during Direct examination (Cotterill, 2002), as will be explained in further sections. Thereby, lawyers use this way of employing language to formulate questions derived from witnesses' testimonies (as journalists in a semi-structured interview). Again, Cotterill (2002) points out that "in the courtroom context, one of the most dominant of the narrative voices is that of the lawyer" (p. 149). It is evident that lawyers are in complete control over witnesses during interrogation, especially over those whom have not had previous experience inside a courtroom. Thus, one of the concerns of this research was to address this lawyer-witness interaction. Furthermore, there are other power-asymmetric contexts in which the focus is on the dominant party. These can be the doctor-patient and the teacher-student interactions.

1.5 The case of the United States v. Leonard Peltier

The trial of Leonard Peltier took place in Fargo, North Dakota (US), between March and April, 1977. The accused, Leonard Peltier, is a Lakota activist of AIM (American Indian Movement), an organization founded in 1968 with the purpose of protecting the lives and rights of American Indians across the United States. He was indicted for the murders of Special Agents Jack Coler and Ronald Williams, and on the 18th of April, 1977 Leonard Peltier was found guilty of two counts of murder in the first degree. Then, he was sentenced to two consecutive life terms in prison.

It is also important to bear in mind that Peltier was first indicted along with Native Americans Jimmy Eagle, Bob Robideau and Dino Butler for the murder of the two agents.

However, Leonard Peltier had escaped to Canada (convinced he was not going to receive a fair trial in the United States) and was not present during the Butler-Robideau trial. As Messerschmidt (1983) explains, charges against Eagle were dropped (allegedly because of his collaboration with the FBI to apprehend Peltier) and only Robideau and Butler ended up going to trial in 1976 in Cedar Rapids, Iowa. Their case ended with the verdict that they were both not guilty and acted in self-defense, and since Peltier was not in the United States, he was held for extradition in order to face his own solitary trial in Fargo, North Dakota in 1977.

For the purpose of this research, the context in which the events and the trial itself took place is of the utmost importance. The incidents that transpired on the 26th of June, 1975 shed light into the reality of many Native Americans and their tumultuous relationship with the FBI. On the 26th of June, 1975, at a ranch belonging to the Jumping Bull family in the Indian Reservation of Pine Ridge, in South Dakota, FBI Special Agents Ron Williams and Jack Coler engaged in a firefight with traditional Native Americans. By the time fire had ceased, both FBI agents and one AIM member had died.

The Pine Ridge reservation, where most people were supporters or members of the AIM, had been the scenario of many violent deaths in previous years (Messerschmidt, 1983). They were constantly harassed, threatened, or even killed by members of the Goon ("Guardians of the Oglala Nation") squad, a group of approximately a hundred armed men employed by the Tribal Chairman of the reservation, who was much resisted by the traditionalist Indians for his support to (and by) the federal government (Messerschmidt, 1983). With no help from the Bureau of Indian Affairs (BIA), nor their Tribal chairman, the traditional people turned to the AIM for assistance. They requested AIM to come to the reservation to protect Indians, their property and wildlife because "the reservation had no law" (Peltier Trial Transcript, cited in Messerschmidt, 1983, p. 7). Between

the months of March and May 1975, a total of 13 AIM members arrived at Pine Ridge, committed to preserving the traditional Indian culture, which led them to fight against even fiercer oppression from the government. Therefore, one could see that the circumstances surrounding the incident were complex, with a traditional population struggling to maintain their way of life while being terrorized by the police, the Goons, and the federal government, as there were systematic efforts from the FBI to intimidate and suppress AIM members, in response to the grassroots movement that had emerged as a consequence of their presence in Pine Ridge (Minnesota Citizens' Review Commission on the FBI, cited in Messerschmidt, 1983).

It is in this context that the incident related to the trial that concerns this research must be understood. Most importantly, it is essential to know that the government's most significant witnesses were three young Native Americans, who "had testified to having seen Peltier at the murder scene. None of them, however, would testify he actually saw Peltier shoot the agents" (Messerschmidt, 1983, p. 64). In the court hearings, the FBI's tampering and manipulation of their stories became apparent in their attestations, conflicting with both physical evidence and prior testimony. In turn, the Native American witnesses admitted on the stand to having been interviewed and threatened by the FBI prior to the trial, which derived in a testimony based not on the facts of what they had witnessed, but on what they "thought they [the FBI] wanted to hear" (Messerschmidt, 1983, pp. 73-77). Understanding this coercion in the testimony of the young Indian witnesses will be essential for the discussion of this research study, as it proved to be crucial during all stages of analysis.

2. Theoretical framework

The purpose of this study is to elaborate a taxonomy of the pragmatic functions (as explained in the introduction) associated with the use of *repeats* in lawyers' witness questioning in one specific jury trial. For this reason, it was necessary to become familiar with both legal and linguistic relevant dimensions. Due to this, the topics that are explained within this section consider a basic and instrumental description of the trial and its constituting parts, to then address the topic of turn taking in the courtroom. The last two sections are devoted to more linguistic aspects, a discussion on the definition of questions and the nature of *repeats*.

2.1 The trial

In this investigation, trial is understood as a speech event, which is a type of social, usually institutional action (Verschueren, 2002, cited in Infante, 2018) where language plays a crucial role (Hymes, 1972; Duranti and Goodwin, 1992, cited in Infante, 2018). As one of the most characteristic types of institutional discourse, the trial is composed of a variety of related written and oral genres (affidavits, depositions, witness statements, various types of exhibits, allegations, verdicts, sentences, etc.) that are produced and circulated in a highly ritualized manner, leaving little to no room for changes in its traditional scripts. Through this ritualization, which stems from the rigid legal tradition, is a distinguishing mark of the social (hence, verbal) interaction in trials, which still occurs in real time, under the transforming influence of the dynamism of any communicative situation, and thus, verbal scripts are open to some negotiation as the "courtroom situation" (Kryk-Kastovsky 2006, cited in Infante, 2018) unfolds. This tension between the static institutional forces at play, on the one hand, and the inescapable interactive dynamism of the

situated verbal interaction, on the other, is best captured by the concept of speech event (Infante, 2018), whose adversarial nature will be explained below.

In the United States' criminal trials, the type of judicial system is adversarial. Therefore, it is comprised of two opposing sides where, as Hale (2004b) explains, one presents their own version of the disputed events to fight and win the case, while the counterpart challenges it. This adversarial system is composed of two different and antagonistic parties: the prosecution and the defense. The prosecution is the part that presents charges against someone on behalf of the government (Glossary of Legal Terms, n.d.). The defense, in turn, is(are) the lawyer(s) who represent(s) the defendant —who is the person or entity accused of a crime (USLegal, 2019), which in this case, as already stated, corresponds to Native American activist Leonard Peltier.

The trial is a structured and complex process with its own "key events formed from sequential speech acts" (Coulthard and Johnson, 2007, p. 96) in which many people take part: "judge, jury, clerk, recorder, two lawyers and their teams, the accused, witnesses, ushers, the press and the public" (Coulthard and Johnson, 2007, p. 96). During the trial, the prosecution's Direct examination is presented first, followed by the defense lawyers' Cross-examination. After the prosecution has presented its case, the defense proceeds to do the same: first the "friendly" counsel's Direct examination, and then the prosecution's Cross-examination. This alternation between "sides" constitutes the adversarial system of trials (Coulthard and Johnson, 2007).

2.2 The parts of a trial

Below, the parts of the trial, namely Direct examination, Cross-examination, Redirect examination and Recross-examination, will be briefly defined. A scheme introduced by Cotterill (2002) is presented in order to illustrate and summarize the consecutive stages of a regular trial:

Direct examination → Cross-examination → Redirect examination → Recross-examination → (Further redirect examination etc…)

Fig. 2.1: Stages of a regular trial (taken from Cotterill, 2002)

2.2.1 Direct examination

This type of examination is carried out by the lawyers representing the witness being questioned, so it tends to be a friendlier type of examination compared to that of Cross-examination, which can expectedly be more hostile. The objective of this examination is to strategically display the attorney's interpretation of the relevant facts by means of asking non-confrontational questions. Furthermore, in this type of examination, open-ended questions are frequently used to allow the witness to freely give their own version of the events, thus, producing their own "desired narrative" (Gibbons, 2003; Ehrlich, 2010) and, consequently, enhancing their credibility (Thornborrow, 2012). On the contrary, leading questions –i.e. questions that "suggest a desired answer or put words in the mouth of the witness" (USLegal, 2019) – are not allowed, unless they are non-controversial and/or ask for uncontested information (Hale, 2004b; Shuy, 2006b). In addition, it is important that the attorney gets a convincing and strong story to tell from the witness, so that it can resist unfriendly Cross-examination in court (Coulthard and Johnson, 2007).

2.2.2 Cross-examination

Direct examination is the only type of questioning that must occur in a trial. According to the American Bar Association (n.d.), the other types of examinations are open to the lawyer's strategy and discernment and take place if and only if the lawyer decides so. However, Cross-examination often occurs, in contrast to the much less frequent Redirect and Recross-examinations that will be described further below.

In the process of Cross-examination, attorneys must limit their questions to topics brought upon by the examining lawyer during the previous Direct examination. They also have two main tactics that help them to successfully overpower the opposing party. On the one hand, the goal is to discredit the evidence presented, which they achieve by directly challenging the counterpart's witness that is being Cross-examined (Mauet, 2000, cited in Eades, 2016; Hale, 2004b). On the other hand, according to Mauet (2000), eliciting any testimony in favor of the opposing party would also be part of the Cross-examination purposes (cited in Eades, 2016), because it puts the consistency and credibility of the witness in doubt in front of the judge and jury. The intention of these practices is to weaken the opposing witness' statement and convince the jury that their own case is the absolute truth. In contrast to Direct examination, the cross-examiner focuses on presenting an alternative version of the facts, which is achieved through the management of the form and content of the lawyer's questions, rather than the witness's narrative (Heffer, 2010).

There are many strategies that attorneys use during Cross-examination. One of them is that while direct examiners move toward open-ended questions, cross-examiners tend to offer more variety and ask three types of questions: mostly yes/no questions, Wh-questions, and leading questions —the latter with the purpose of seeking confirmation rather than full length answers (Shuy, 2006a). Heffer (2010) confirms this by stating that most of the questions in Cross-examination are "confirmation seeking declarative statements". He explains that silence is another commonly used measure in Cross-examination, along with strategically used interruptions. Along these lines, Eades (2002) reported that Aboriginal witnesses treat silence in a different way: they tend to remain silent after a question in order to show respect and that they have fully understood what is being asked (cited in Coulthard and Johnson, 2007)[1].

[1] Though directly relevant to the present research, silence could not be analyzed in the present study, as the corpus consisted of only written transcripts (see the Methodology section).

2.2.3 Redirect - Recross-examination

As already explained, Redirect-examination is not a mandatory type of questioning in a jury trial, and it is quite rare when compared to the equally optional (but much more usual) Cross-examination. It occurs if and only if the cross-examiner mentions something that the opposing party desires to further explore or needs to refute, thus Redirect examination takes place to develop topics discussed in Cross-examination only, as no new topics can be brought upon after Cross-examination. The purpose of this type of examination is often to clarify conflicting or confusing aspects during the preceding examination phase, so that the jury does not get the wrong impression of their version of the facts. Likewise, if the original cross-examiner is not satisfied with the outcome of Redirect, a final Recross-examination can also be requested (Shuy, 2006a), that is, a final opportunity to cross-examine the witness yet again regarding points made during the Redirect examination.

2.2.4 Turn-taking in trial examination

The different types of examination just described unfold in well-defined turns. The most basic definition of turn, but that serves the purpose of this study, is Crook's (1990) explanation, who defines it as "one or more streams of speech bounded by speech of another, usually an interlocutor" (cited in Markee, 2000, p. 185). Considering the turn-taking nature of institutional language, in trials every participant has a previously determined space and time to speak (Verschueren, 2002, cited in Infante, 2018; Coulthard and Johnson, 2007, Holt and Johnson, 2010). Nevertheless, this highly fixed turn-taking structure, which is a specific feature of legal talk, is always open to some level of negotiation, as the institutional nature of the trial speech event does not prevent the

language produced there from being shaped by the dynamic (thus, modifying) force of the context (Infante, 2018).

As this study focuses on the pragmatic functions (which, as explained before, are the intended meanings of utterances with consideration of the context in which they are realized (Davis, 1991, cited in Korta and Perry, 2019)) of the lawyers' *repeat* of what the witnesses have said in the preceding turn, the jury, judge, and expert witnesses' interventions will not be considered and analyzed, thus, they will not be defined. Now, in relation to the turns produced by lawyers and witnesses, it must be stated that the lawyers' (and, with them, judges') are usually longer than those of witnesses, and there is little to no interruption to their speech (Holt and Johnson, 2010). As claimed by Coulthard and Johnson (2007), the legal professionals will have longer turns, since these participants elicit information from a position of institutional power. Witnesses, instead, usually produce shorter turns, barely responding with "Yes", "No", or some exclamations, always from a relatively more disempowered position. The main reason behind this difference is due to the norms of interaction, power and control, which all together become the explanation behind the asymmetry that exists between lawyers and witnesses in the courtroom (Coulthard and Johnson, 2007). However, as suggested before, in some cases, these norms of turn-length expectations can be subverted in the dynamic discourse negotiation that is part of any and all verbal interactions (Infante, 2018), especially (but not only) in the case of witnesses that hold some type of social, political, religious or professional status (Coulthard and Johnson, 2007). This study focuses on one specific type of turn: questions, which the next section is devoted to explaining.

2.3 Questions in the Legal Context

Questions are often used in everyday speech with the goal of eliciting unknown information from somebody. However, as indicated above, this is not always the case in courtrooms, especially during the interrogation of witnesses, where a power imbalance between the participants involved in the interrogation process becomes apparent. As Gibbons (2008) states: "the social relationship, rather than being roughly equal, is one of power asymmetries in which the lawyers have control of the questioning process and witnesses are obliged to reply." (p. 116). Lawyers possess leeway into how to present the questions to the witness they are interrogating in order to achieve an expected response. Moreover, as the lawyer is the only agent contemplated to produce questions during this type of institutional interaction, it is easier for them to maneuver the narrative toward the intended one by modifying the amount of pressure and information that is included in the question. Gibbons (2008) found that: "the more information that is included in the question, the less the witness is able to communicate a version of events that differs from that of the questioner." (p. 123).

Supporting this statement, Hale (2004a) found that questions are used by lawyers in order to manipulate the evidence given by the witnesses in the courtroom, even when these questions are not grammatically presented as such. Due to the institutional nature of the legal context and the neatly defined role played by lawyers and witnesses, it is understood that any intervention on the part of lawyers is first and foremost designed and expected to elicit information from their witness interlocutors, whom also understand that all and every utterance directed at them by a lawyer demands an answer. Thus, in this rigid institutional context, eliciting information —the most basic function of a question— is accomplished in full knowledge of both interlocutors

involved, even when the grammatical form of the sentence is canonically declarative and not interrogative.

Consequently, Hale (2004a) defined question in the courtroom as "any turn taken by the lawyer in addressing the witness, whether in the interrogative form or otherwise" (p. 38). As a result, she concludes that questions and answers are not always produced in interrogative and declarative form, respectively. In fact, she notes that it is common not to find them in these forms as "the pragmatic functions of lawyers' questions differ according to the intention behind them" (p. 31). This point is later corroborated by field observations in Eades (2016), where it is stated that "it is commonplace for lawyers, magistrates, and judges to refer to whatever a lawyer has said to a witness as a question." (p. 80).

The pragmatic functions, that is, the intended meaning that the speaker wishes to convey in his/her message (Levinson, 1983), can vary depending on the type of examination. This means that the intentions of the lawyers are different when questioning in Direct examination or Cross-examination. Therefore, as already explained, questions in Direct examination tend to be non-confrontational and open with the objective of allowing the witnesses to speak more freely so that they, by and for themselves, present the evidence of the case. In contrast, Hale (2004a) indicates that, during Cross-examination, questions are more aggressive and coercive, with the goal of restricting, to a certain degree, the possibilities of answers that the witness can provide.

To identify the types of questions that are asked by lawyers during trials, Hale (2004a) analyzed and classified every turn of a lawyer in her corpus (constituted by 13 English-Spanish interpreted Local Court Hearings held in New South Wales, Australia between the years 1993 and 1996). Hale proceeded to classify the turns of the lawyers in the hearings by assigning them the following three characteristics: level of control (if it limits the answer or not), tone (friendliness

versus hostility), and their illocutionary force (or IF) vs their illocutionary point (or IP) —if one is more forceful than the other[2]. Questions were then grouped into three grammatical categories: imperatives (exemplified by the usual "*Please tell the Court your full name and occupation.*", that is often told to witnesses as soon as the interrogation begins), interrogatives (which can be Wh-questions, like "*And what were you doing outside at that hour?*"), and declaratives (the most diverse and fruitful type of category established by Hale, exemplified by questions like: "*You saw the killer that night, right?*"). On the one hand, the imperative form was the one with the less variety of types of questions, while on the other hand, the declarative form had the greatest number of varieties, with the interrogative form placing in the middle. She found that in Cross-examination more types of questions (especially the most answer-controlling types) were produced, whereas in Direct examination the types of question were more unrestricting in relation to the answers, as they allow the witnesses to give longer answers, when compared to the ones asked in Cross-examination.

In summary, questions in the legal context differ greatly with questions from everyday life. Inside the courtroom, there is an evident and important power imbalance between the interlocutors where only the attorneys can ask the questions, and so even when what is said by them is not presented in an interrogative form, it will still be considered as such. Additionally, questions will differ in their pragmatic functions depending on which type of examination is being executed — Direct Examination, Cross-Examination, Redirect or Recross. However, this is not surprising as they are being used in a highly institutional context that has a specific goal, which is to establish

[2] Austin defines IF as "the performance of an act in saying something as opposed to performance of an act of saying something" (1962, p. 99). On this basis, Hale distinguishes between IF and IP following Searle (1976), who states that "Illocutionary point is part of but not the same as illocutionary force. Thus, e.g., the illocutionary point of request is the same as that of commands: both are attempts to get hearers to do something. But the illocutionary forces are clearly different." (p. 3).

one definite version of the facts being judged. For this purpose, it is important for attorneys to arrange the facts that witnesses provide, before and during the trial, as clearly as possible for the jury and the judge. This results in attorneys making use of different tactics, and one of them (and the focus of this investigation) is the repetition of what has been said, which will be explained in the following section.

2.4 Repeats

Repeats have been studied in conversational contexts (Tannen, 1987; Hale, 2004; Robinson & Kevoe-Feldman, 2010; Robinson, 2013), but they have not been examined with similar depth in institutional circumstances such as the courtroom. As a primary description of *repeat* in conversational studies, and as anticipated in the introduction, Tannen (1987) has argued that "speakers repeat, rephrase, and echo (or shadow) others' words in conversation without stopping to think, but rather as an automatic and spontaneous way of participating in conversation" (p. 236). Nonetheless, that description does not consider the pragmatic functions of these *repeats*, and the available literature in general fails to acknowledge the specific pragmatic functions served by *repeats* within a specific speech event, for instance, a trial or institutionalized conversations/interviews in various settings (e.g., doctor-patient, journalist-politician, etc.). This study aims at contributing to the study of legal language by shedding light on the use of *repeats* in the institutional context of a courtroom, while focusing on the *repeats* of answers in questions rather than the *repeat* of questions in answers. It is important to highlight at this point, that the *repeats* being analyzed are from attorneys after the statements of witnesses, thus, attorneys *repeat* the entire (*full*) or some parts (*partial*) of these statements.

The notions of *full* and *partial repeats* will now be addressed, although the extension of the *repeat* was not considered as a relevant factor in this analysis. These concepts still must be introduced, however briefly, because they help to better understand the phenomenon this research is focused on. The sample selection criteria are bound to the definition of *repeat*, that is to say, for the purposes of this study, a thorough description of the concept of *repeat* was necessary. The present study draws from the notions of *full* and *partial repeats* proposed by Robinson & Kevoe-Feldman (2010) and Robinson (2013).

Robinson & Kevoe-Feldman (2010) understand the concept of *full repeat* as a virtually identical, final-rising-intoned *repeat* of a sentential turn-constructional unit. A *partial repeat,* on the other hand, is described as the incomplete, virtually identical, final-rising-intoned *repeat* of a question. It is used as a practice of other-initiation of repair[3] and, in contrast to the full *repeat*, it locates just one component of a question as the repairable (Schegloff et al., 1977 as cited in Robinson, 2013). A repair is somewhat a suggestion by the hearer (in this case, the attorney), when the speech of the witness is considered insufficient or imprecise. Quirk et al. (1985, cited in Robinson, 2013) pointed out that the final-rising intonation in partial questioning *repeats* contributes to their understanding as types of interrogatives (although it must be mentioned that in this research, the prosodic factor is not going to be considered, as explained later in the Methodology section). Grammatically, a partial questioning *repeat* is a request for (dis)confirmation that initiates a sequence of action that makes (dis)confirmation conditionally relevant. For conditional relevance, see Schegloff and Sacks (1973), cited in Robinson, 2013.

Now, Robinson and Kevoe-Feldman (2010) and Robinson (2013) focused on the repetition (*partial* or *full*) of part of the question in the subsequent answer, thus showing that the questioning

[3] An *other-initiation of repair* is a type of repair that results from a process that was begun by the addressee of the repaired utterance (SIL Glossary of Linguistic Terms (2003).

action was somehow problematic; they did not examine the repetition of part of the previous answer in the question that follows. In view of such interesting research gap, and considering that renowned authors such as Tiersma (2008) affirm that "the careful repetition of words can sometimes be useful" (p. 21) in order to deliver consistency and completeness in legal contexts, e.g., in examination stages, police interviews, etc., this study intends to contribute to the identification of the pragmatic forces present when a lawyer's question repeats what a witness has just stated.

Albeit these definitions were taken from conversation analysis, the use of *repeats* in court speech interaction has been identified by the scientific literature, though not subsequently described. Hale (2004b) argues that "the cross-examiner combines a number of different tactics to achieve his purposes. These include the use of discourse markers, question type, modality, repetition and carefully chosen lexis" (pp. 69-70). She addresses the use of *repeat* (repetition) as a tactic used by the lawyer in Cross-examination. She also argues that the lawyer "uses repetition (...) to emphasize the fact that there was no notation made" (p. 70), thus acknowledging the function of that repetition in the case at hand; in other words, lawyers may use *repeats* as a resource to add validity to their narrative of events. Although she mentions its general importance, the author does not consider the prosodic factor in her analysis; neither did the present study, as will be explained below.

3. Methodology

3.1 Procedures

For the purpose of this research, it was fundamental to become familiar with the context and the specifics of the Peltier case to responsibly continue with its analysis. The sources that were first

consulted in depth are the transcripts of the trial, the documentary "*Incident at Oglala"* (1992), and the book "The Trial of Leonard Peltier" by Jim Messerschmidt (1983). Even though this book has a strong political tinge and purpose, it proved to be very informative in order to become familiar with the facts of the case. However, to avoid one-sided accounts of the relevant events of it, the official website of the FBI regarding the murders and the investigation were consulted as well. Then, and on the basis of having already identified who the central witnesses during the trial were, it was possible to suggest a list of testimonies to analyze, and those of two FBI Special Agents and two Native American teenagers were chosen: Gary Adams', Frederick Coward's, Michael Anderson's and Norman Brown's.

Once there was clarity as to which specific testimonies were to be analyzed, it was followed by a first identification of the *repeats* present, and so all the *repeat* instances were highlighted for subsequent, more refined analyses. For this, both the context and co-text of said instances were considered. This seemingly ambitious task was possible due to the profound knowledge of the case and the trial transcripts which was gained during the initial phase of this study. It is with this imperative in mind that the testimonies of the four witnesses were analyzed yet a second time, now with the objective to preliminary identify the pragmatic functions the *repeats* showed to serve. A third, increasingly meticulous analysis of the instances followed in order to categorize all the instances of *repeat* that complied with the criteria of sample selection described further below. Through this process, some instances originally considered were finally eliminated from the final analysis.

After these analytical stages were completed, five categories of pragmatic functions were established: *Confirmation, For the record, Challenging, Focusing,* and *Clarification,* which will also be explained below. Subsequently, all the instances were matched with the categories where

they belonged, paying special attention to the precise final classification of each and every instance. Then, the collaborative, adversative or neutral orientation of the question where the *repeat* occurred was identified, together with an analysis of the type of examination where these orientations usually manifested. Finally, a recount of the instances encountered was made and different conclusions related to their pragmatic functions, their relation to the stage of trial in which they appeared, and their role in the overall adversativeness/collaborativeness of the interrogation were drawn. In addition to this, it was concluded that some more research can be done regarding the Peltier case, either as including more witnesses, or addressing other linguistic features.

3.2 Research questions

The research questions that guided this research study are presented below:

1. Which are the specific pragmatic functions associated with lawyer's *repeats* during witness questioning in the jury trial analyzed?
2. How can the different pragmatic functions of the lawyer's *repeats* be further categorized in relation to the adversarial, neutral, or collaborative orientation of the lawyers' questions toward the witness?

3.3 Objectives

The main objective of this study is to elaborate a comprehensive taxonomy of the pragmatic functions and orientations associated with the use of *repeats* in the questioning performed by a lawyer in a jury trial.

The specific objectives are hereby presented:

1. To identify and describe the pragmatic functions conveyed by the use of *repeats* in lawyers' witness questioning.
2. To categorize all the instances of *repeats* in lawyers' witness questioning on the basis of their adversarial, neutral, or collaborative orientation toward the witness.

3.4 Corpus description

The criminal case and trial against Leonard Peltier has attracted much attention throughout the years, as it seems to be a remarkable example of questionable handling and behavior from the federal authorities in the context of the Native American conflict, a matter that is yet to receive proper attention in courtrooms, the media and in a worldwide scale. The death of two FBI agents triggered a mass request from the public and the authorities to apprehend the culprit, and as Kunstler puts it in the foreword of *The Trial of Leonard Peltier* (Messerschmidt, 1983), the Government had become determined to obtain at least one conviction out of a total of four Native American men originally accused (Butler, Robideau, Eagle, and Peltier), from which two were tried and acquitted months before the trial at hand (Butler and Robideau), while Eagle's charges were dropped before the trial here analyzed had begun, allegedly as a result of his cooperation with the FBI.

Given the nature of the corpus, which will be explained later, it was only possible to work with the words transcribed from the actual interactions that took place in the courtroom. Walker (1990), Eades (1996), and Tiersma (1999) (cited in Cotterill, 2002) argue that "the transformation of a dynamic speech event into a written representation necessarily involves the elimination of most prosodic, non-verbal and paralinguistic features of the original" (p. 156). These elements are

not part of the records, and therefore they could not be analyzed. This piece of research is, then, limited to the textual transcripts of the trial[4].

The transcriptions of the testimonies of the witnesses of this trial, which are compiled in 84 volumes, were taken from the official website of "The Fargo Trial"[5]. For the purpose of this study, where the aim is to analyze lawyers' *repeats* on the basis of witnesses' statements, the testimonies of four witnesses, who will be properly described in the section below, were analyzed.

The first witness is Michael Anderson, whose testimony was composed of one volume of 256 pages consisting of Direct examination and Cross-examination only. The second testimony is Norman Brown's, which had three separate volumes making a total of 677 pages, composed of Direct examination, Cross-examination, Redirect examination and Recross-examination. Gary Adams is the third witness whose testimony was analyzed, which consists of 460 pages in two volumes with Direct examination, Cross-examination, Redirect examination and Recross-examination. Finally, the last testimony belongs to Frederick Coward, Jr., with 266 pages in four volumes comprised of Direct examination, Cross-examination and another Direct examination as an adopted witness (see below). This makes a total of 1,659 pages[6] of statements analyzed. In the following table a summary of the pages is depicted, in which "X" stands for the type of examination that the witness went through.

[4] It must be stated here that the examples from the corpus were taken just as they appear in the transcripts of the trial, thus, some of them may contain misspellings that are present in the original document.
[5] For further information about the case and a full recollection of the transcripts of The Fargo Trial, see webpage: https://www.whoisleonardpeltier.info/trial-transcripts/
[6] The number of pages informed corresponds to the full volumes, regardless of external contents that were not analyzed.

Table 3.1: *Total number of pages of transcripts*

Witness	*Number of volumes*	*Direct examination*	*Cross-examination*	*Redirect examination*	*Recross-examination*	*Number of pages*
Michael Anderson	1	X	X	-	-	256
Norman Brown	3	X	X	X	X	677
Gary Adams	2	X	X	X	X	460
Frederick Coward	4	X	X	-	-	266
Total	10					1659

3.5 Witnesses and lawyers description

As already anticipated, the four testimonies of the Peltier Trial analyzed in this investigation are two Native American teenagers and two agents of the FBI. The first witness was Michael Erwin "Mike" Anderson, born on September 19th, 1958 in Ford Defiance, Arizona, who was eighteen years old when he gave his testimony and sixteen in June of 1975. Mike Anderson testified for the government that he observed Peltier at the scene of the killings. In addition, he testified under Cross-examination that he feared life imprisonment and beatings in jail if he did not cooperate with the FBI (Messerschmidt, 1983).

The second witness was Norman Brown, born on March 17th, 1960 in Minifarms, Arizona. At the time of his first testimony for the case against Leonard Peltier on March 27, 1975 he was

seventeen years old. Brown testified for the government and stated that he observed Peltier shooting at the two FBI agents, Jack Coler and Ronald Williams, from a treeline nearby, returning the fire the agents had directed at him. Additionally, he testified under Cross-examination that he was scared of the FBI and that he feared for his life (Messerschmidt, 1983).

Concerning the two teenagers it is relevant to establish that both were AIM supporters, as Peltier was and still is. It is due to this that both witnesses had to face oddities during Direct examination and Cross-examination. Since both witnesses were AIM members, they reluctantly testified against someone who was important to them and who was part of their community and shared the same beliefs. Hence, it is paramount to understand that even though both were witnesses for the prosecution, their statements were not so beneficial for the prosecution's case. Furthermore, Anderson and Brown alleged they testified against their own will by being forced to do so by FBI members. They were afraid for their lives. They were menaced with physical punishment, torture, and even death, if they were not willing to testify. The last point will be illustrated in this study by showing how both witnesses tended not to cooperate or often got confused in the different types of examination, as will be shown in the examples in the discussion of results. Therefore, these facts will clearly have implications considering this investigation's focus on the collaborative and adversarial orientation of the different lawyers' *repeats* of these reticent witnesses on the stand, since, even though Direct examination tends to be a friendly stage of examination and Cross-examination an aggressive one, this was not always the case during this trial.

The third witness whose testimony this study considered is Gary Adams, an FBI Special Agent crucial for Peltier's trial. He was the first agent to arrive at the crime scene where agents Williams and Coler (along with the only AIM supporter killed during the relevant events of the case) were found dead. This witness testified that he saw Peltier's pickup truck leaving the area

after the killings and it is suspected that he coerced the testimonies of the Navajo teenagers by threatening their physical integrity.

The last witness' testimony this study focused on is Frederick Coward, Jr. At the time of Leonard Peltier's trial, he was a Special Agent for the FBI and a close colleague and friend of the deceased agents Williams and Coler. Prior to the events of June 26, he was a part of the massive law enforcement concentration that existed in Rapid City and the Oglala area due to the rising tensions with Native Americans and the AIM. He testified at trial that he saw Leonard Peltier (his profile, to be exact) fleeing the scene through the scope of his rifle from over half a mile of distance (800 meters approximately), which the defense promptly contested as physically impossible. During his Cross-examination as a witness for the prosecution, he was adopted[7] by the defense and was close to being impeached[8] during his testimony.

For the purpose of organizing the *repeats* of the witnesses, each one will receive a distinctive codification to be used in the exemplification and analysis of the results of this investigation.

Table 3.2: *Witnesses codification*

Witness	*Codification*	*Code meaning*
Michael Anderson	*NAW1*	*Native American Witness 1*
Norman Brown	*NAW2*	*Native American Witness 2*
Gary Adams	*SAW1*	*Special Agent Witness 1*
Frederick Coward Jr.	*SAW2*	*Special Agent Witness 2*

[7] Due to the fact that the defense wanted to make reference to evidence that was not presented by the prosecution during Coward's Direct examination, the defense was forced to adopt (i.e. hold him as their own witness) in order to pose the intended questions.

[8] "To attack a witness' credibility by cross-examination or by the introduction of evidence such as prior inconsistent statements." ("Legal Definitions", 2018) In Coward's case, it was the latter.

The lawyers that participated in the different questioning stages the witnesses were subjected to, will also be codified in Table 3.3 to facilitate the analysis that will be presented in the following section. The first attorney was Evan Hultman, member of the prosecution team and in charge of the Direct examination of NAW1, NAW2, and SAW1. The second was Robert Sikma, who also belonged to the prosecution team and Direct examined SAW1 and Cross-examined SAW2. The third attorney was Elliot Taikeff, member of the defense team in charge of the Direct examination of SAW2 as an adopted witness and the Cross-examinations of NAW2, SAW1 and SAW2[9]. Lastly there is John Lowe, who also belonged to the defense team and Cross-examined NAW1. The following table shows the codification given to each lawyer presented above:

Table 3.3: *Lawyers codification*

Attorney	*Codification*	*Code meaning*
Evan Hultman	USA1	United States Attorney 1
Robert L. Sikma	USA2	United States Attorney 2
Elliot Taikeff	DefA1	Defense Attorney 1
John Lowe	DefA2	Defense Attorney 2

3.6 General criteria of sample selection

3.6.1 The repeats analyzed were exclusively taken from lawyer-witness interaction

For the aim of this research, it was relevant to study court interactions limited to the lawyers' interrogation of the witnesses. Generally, these interactions are oriented to eliciting evidence from

[9] Taikeff first cross examined SAW2 and later proceeded with his Direct examination as an adopted witness.

the witness, by means of heavily structured questioning led by a lawyer. Consider two examples of what was not analyzed, as they show an exchange between lawyers and between lawyers and judge, and not an attorney-witness interaction and/or answer-question (with a *repeat* on it from the previous answer) dynamic:

> **Example 1: Extracted from NAW2 cross-examined by DefA1**
> **DefA1**: Your Honor, may I have a moment to confer with Mr. Hultman?
> **THE COURT**: Very well.
> (Whereupon, Mr. Taikeff conferred with Mr. Hultman.)
> **DefA1**: Your Honor, with Mr. Hultman's consent and subject to Your Honor's ruling, I'm going to give to the witness a duplicate of what has been previously marked Defense Exhibit 110 for identification to facilitate the questioning.

> **Example 2: Extracted from SAW1 direct examined by USA2**
> **USA1**: Fine. Everybody is familiar with this, Your Honor, and we'll follow it.
> **USA2**: I am certain opposing counsel knew precisely what I was dealing with.
> **DefA1**: The exhibits are all marked so we will all know which, we each have a list of them.
> **USA1**: I didn't make any remarks to the following until you mentioned to the Court what the specific function of that memorandum was and we wanted to make sure what it was.
> **USA2**: We have also filed a memorandum in this regard, with regard to these exhibits and this is in response to the defendant's motions.

Considering both examples, it is fundamental to mention that it was not infrequent to find in the corpus that both prosecution and defense lawyers engaged in arguments with one another; due to the scope of this research, this type of discourse was not considered. The same applies for the conversations that took place between the lawyers and the judge when they asked to approach the bench.

3.6.2 The repeats analyzed were exclusively produced by the lawyers

It was decided that it was the lawyer's *repeat* that was interesting to analyze, considering the relations of power that occur inside a courtroom —i.e., the power imbalance resulting from the fact that the attorneys are in charge of the examination, and thus get to formulate their questions in expectedly strategic manners. Since it is mainly the lawyers who moderate the witnesses' interventions, it was compelling to analyze the *repeats* produced by them from the witnesses'

statements because it was apparent that lawyers centered their attention on one specific word or chunks of words from the statement with a certain purpose. In this sense, the witness' answers themselves were not relevant to analyze, though it is their *repeats* by the lawyers which are the focus for the analysis presented here. As explained before, every intervention from the lawyers has been considered as a question, and depending on what the lawyer asked, it was classified into one of the five categories that will be defined further below.

3.6.3 The repeats analyzed followed witnesses' statements

Given that the interest of this research lies in the pragmatic functions deployed by the lawyer in the interrogation context, and since the lawyer is the one who has the control of this specific communicative situation, it was decided to focus exclusively on the repetitions where the lawyer is repeating fully or partially the answer given by the witness. Therefore, the repetitions where the lawyer is repeating himself were not considered, because the interest is in the pragmatic forces at play when and once the lawyer has chosen to *repeat* the witness's answer, and its function in his interrogation and in the overall trial that is taking place. Below an example of this will be given:

Example 3: Extracted from NAW1 cross-examined by DefA2
DefA2 Isn't it a fact, Mr. Anderson, that the first time you saw two people down by those cars, they were lying prone and you thought they were both dead already?
NAW1 The first time?
DefA2 The first time.
NAW1 No.

In example 3, it can be appreciated what was not considered as an instance of *repeat* due to the fact that DefA2 is actually repeating himself. In this case, NAW1 simply *repeats* what DefA2 was saying and then the lawyer *repeats* it once again.

3.6.4 Repeats with purely cohesive purposes were not considered

Though naturally related concepts, *repeats* must not be confused with reiterations. Reiteration, as defined by Halliday and Hasan (1976), corresponds to "a form of lexical cohesion which involves the repetition of a lexical item, at one end of the scale; the use of a general word to refer back to a lexical item, at the other end of the scale; and a number of things in between -the use of a synonym, near-synonym, or superordinate" (p. 278). For the purpose of the analysis, however, this study has not considered *repeat* instances produced plainly on the basis of cohesive purposes, i.e., those instances in which the lawyer repeats what has been said purely on account of one lexical item referring back to another, to which it is related by having a common referent.

The following is an example of what is considered as a *repeat* with purely cohesive purposes:

> **Example 4: Extracted from SAW2 direct examined by USA2**
> **SAW2** Well, I had maintained a position in the pumpkin seed house in the back and suddenly my attention was called upon by Bureau of Indian Affairs officer Marvin Stoldt. He was in the front window of the house and I was in the back. We were watching the activity determining, you know, to see what was going to happen and suddenly he called out for me to come to the front portion of the window, the front window, which I did and he said there was some activity, there was some people running from the Jumping Bull house and for me to take a look, so I did.
> **USA2** And how did you view the people running from the house?
> **SAW2** First of all I did it with my naked eye. I could see people running from the area away from the house towards the woods, towards the creek.

Example 4 was considered purely cohesive because SAW2 was narrating his course of action the day of the murders (more specifically, after the shootout and before allegedly seeing Peltier running away from the crime scene), while USA2's only objective was to steer the narrative of the witness toward the "how" of the action. The interest did not lie in the "people running from the house", which is the repetition present, but on continuing the witness' account. Therefore, it is safe to assume that the only reason as to why the repetition happened was to stimulate the narration of events coming from SAW2. It is also worth noting that this example occurred during Direct

examination, which is usually amicable and one of its goals is to help the witness state the version of events they believe to be correct in court.

3.6.5 The repeats were considered up to a maximum of four turns

The last criterion used to select an instance was to agree on a specific number of turns between the original mention by the witness and the *repeat* by the lawyer. The definition of turn adopted is that of Crook's (1990): "one or more streams of speech bounded by speech of another, usually an interlocutor" (cited in Markee, 2000, p. 185). A maximum of four turns has been established, taking into account both the witness' original turn and the lawyer's *repeat* turn. Therefore, those lawyers' *repeats* that are more than four turns apart from the witness' original mention were not considered. This decision was made mainly to focus on consecutive *repeats*, and an example of what was not considered as one is presented below:

Example 5: Extracted from SAW2 cross-examined by DefA1
SAW2 Oh, maybe a thousand yards.
DefA1 About three thousand feet?
SAW2 No, one thousand yards.
DefA1 I said about three thousand feet.
SAW2 Yeah, okay. Three thousand feet.
DefA1 You were at one time somewhat closer to those residences than a thousand yards away, correct?
SAW2 Yes, sir.

In the previous example, the first allusion to "a thousand yards" is made by SAW2 and, if it were to be considered, the repeat by DefA1 should be maximum referred to after the fourth turn (where, in this case, DefA1 says "I said about three thousand feet"). Therefore, this instance was not considered as a repeat, since the maximum 'distance' between the first mention of a word/phrase and its *repeat* by the attorney was up to four turns, which here, occurs at the sixth turn.

By establishing and taking into consideration these criteria for the selection of samples, the identification and organization of the selected *repeats* was straightforward and fundamental for their further categorization, which will be explained below.

3.7 Definition of categories

In order to classify the instances of *repeats* that were identified within the corpus (according to their pragmatic functions), it was necessary to propose categories that describe and globalize the specific objectives of each pragmatic function, and the characteristics that make them different from each other. On the basis of the relevant literature consulted and, most importantly for the following classifications, of the profound knowledge of the facts of the Peltier case and the trial transcripts, five categories were established: *Confirmation*, *For the record*, *Challenging*, *Focusing,* and *Clarification*. In the following subsections, the five categories, the characteristics of each one, and the criteria that were used to classify the instances will be initially described, to be fully illustrated and discussed later in the Discussion of Results.

3.7.1 Confirmation

Confirmation is a type of *repeat* produced by the lawyer that incites the witness to confirm or deny what is being asked, either by replying "Yes", "No", or by repeating what was asked. However, there are times in which the witness answers with "I don't know" or "I can't remember", by indicating at something (exhibit or map), or simply with no response at all.

Although the identification of this category proved to be rather uncomplicated, sometimes it overlaps with *Clarification* (used to elucidate on topics mentioned by the witness, if the answer was considered ambiguous) and *For the record* (used to establish names, places, times, and/or

evidence for future readers of the trial's transcript) categories which are explained in more detail in *3.7.2* and *3.7.5*. This made it difficult to decide in which category the *repeat* better accommodates. If overlapping, the criterion used to decide in which of these categories the *repeat* fitted more naturally was whether the instance was produced purely as to confirm information, or else to clear up something for the jury or other future readers of the transcript, in which case it overlaps with *For the record* (since this category refers to names, places, time, and/or evidence, as mentioned above). Below, an example of overlapping with the category *For the record* is presented.

Example 6: Extracted from NAW2 direct examined by USA1
USA1 You were also asked some questions about the event at Farmington, is that right?
NAW2 Right.
USA1 And you indicated this was an event that -- where is that from, where is Farmington or the place where this event took place from your Reservation?
NAW2 About two hours' drive, two and a half.
USA1 Two hours' drive?
NAW2 Two and a half.
USA1 Are there many Reservations in this general area where Farmington is located?

In example 6 above, the argument of the place in which one event took place could be presented in the category of *For the record*, but it does not constitute an instance of that category because the *repeat* here was intended to simply confirm the place of the event, rather than repeating it for the sake of the transcript and the future reader of it (which, as will be introduced below, is the pragmatic function of *For the Record*). As to continue exemplifying, below there is an example of the overlapping with *Clarification*.

Example 7: NAW2 direct examined by USA1
NAW2 You mean right there (indicating)?
USA1 Yes. Tell us what it is you saw and observed.
NAW2 Well, I saw two cars were coming in. When they were coming in we started shooting at those two cars.
USA1 You say "we started shooting;" is that right?
NAW2 (No response.)
USA1 And who do you mean by "we"?
NAW2 Me and Norman Charles.

In the example above, it can be seen that the attorney starts the *repeat* with "You say…", which as will be explained further down is typical in the category of *Clarification*. However, here the relevant part is that the lawyer seems to be trying to confirm what he had just been told, instead of trying to clear up possible ambiguities. As was previously mentioned in *3.1*, it is not possible to know whether the attorney was emphasizing "we" or any other word, since there are no audio recordings of the trial, and it would have been interesting to know if NAW2 did not respond because he repented saying something or if it was just because he did not want to answer.

3.7.2 For the record

The instances in which names, places, times and exhibits mentioned by the witnesses were subsequently repeated by the lawyers were grouped into the category *For the record*. It should be pointed out that even if the *repeat* instances that fall into this category could be confused with other somehow overlapping categories, its distinct trait —that the *repeats* refer to names, places, time and evidence, as stated before— aids in its precise classification. In this case, the lawyer *repeats* (part of) the witness' answer not with the intention of eliciting more information about a topic for the sake of clarity for the present audience, but instead for the benefit of the recorded transcript of the court and, thus, for the future reader of said transcript. According to the government website of the United States Courts, the record refers to "the written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted in the course of the case" (Glossary of Legal Terms, n.d.). There is no doubt for the participants of the ongoing interaction as to the information repeated itself, but it is repeated for the sake of this record, which must be a faithful representation of what was considered admissible testimony in the courtroom for the benefit of the future reader (lay or professional), who would need this official transcript in

order to, for instance, file an appeal or proceed with any other subsequent legal action. Therefore, it is essential for the official transcript to be as explicit as possible, because of the institutional value it holds.

For the most part, the portions of repeated discourse represent key information for the development of the narrative the lawyer aims to tell. Who, when, where, how, are all questions that help to sustain the story in its most structurally basic way. Because the lawyer is the one in charge of this narrative, it is vital for them to restate the pieces of witness' answers which could be beneficial to their own interests.

This restating of key pieces of information is realized in the majority of the cases by means of a turn in which the lawyer *repeats* a small piece of the witness' speech, as it has been said, referring to names, places, time or a certain piece of evidence; and the witness saying "Yes", uttering an equivalent expression, or employing another form of positive response in their subsequent turn. The essence of the differentiation of this category is explained through the following examples:

Example 8: NAW2 direct examined by USA1
USA1 And does Wish have another name?
NAW2 Yeah, Wilford Draper.
USA1 Wilford Draper. You know him by "Wish", is that right?
NAW2 Yes.

Example 9: Extracted from NAW1 direct examined by USA1
USA1 And would you tell us where it was that you saw it and what was the occasion?
NAW1 Oklahoma.
USA1 About when was this?
NAW1 It was somewhere in Kansas.
USA1 Somewhere in Kansas?
NAW1 Yes.

As discussed above, both examples were categorized as *For the record* since in example 8, USA1 *repeats* a name and in example 9, he *repeats* a place. Furthermore, in some cases, the lawyer explicitly requests that the witness *repeat* some portion of speech (usually short), stating

that it is for the benefit of the record. In some other cases, the lawyer states “let the record show that…” before asking the next question.

> **Example 10: Extracted from NAW2 direct examined by USA1**
> **USA1** Do you remember seeing any junked cars or abandoned cars that were in the area at all? Do you recall any junked or abandoned cars at all?
> **NAW2** You mean these here (indicating)?
> **USA1** Well, anywhere.
> **NAW2** Yeah. These here junked cars (indicating).
> **USA1** There were some junked cars.
> **USA1:** And let the record show that the witness refers to a row of sis approximately objects in the area just to the West and a little south of the intersection which is marked with a "P".
> **USA1** Do you remember any other junked cars of any kind?

The example above is considered to be evidence and was further categorized as *For the record*, since USA1 even says that he is repeating what NAW2 said for the benefit of the record.

3.7.3 Challenging

This pragmatic function is characterized for having an adversative tone toward the reporting witness; thus, *Challenging* has the intention to dispute the information delivered in order to confirm or to reject it. However, *Challenging* is different from the category *Confirmation* (defined shortly above) because its illocutionary force aims to defy rather than corroborate the matter of facts narrated by the witness. Some of these *Challenging* questions could have been objected by the counterpart lawyer in each case. Hence, *Challenging* is characterized for providing information about the adversative linguistic behavior of lawyers (DefA1, DefA2, USA1, USA2), since it takes into account the power relations inside a courtroom from a confrontational point of view, and the repercussions that those segments of the individuals’ speech might have for the purposes of the final judgment.

Finally, a higher occurrence of *Challenging* instances is expected in Cross-examination, due to the fact that this is the part of the trial where the lawyer has the chance to find and highlight weaknesses and inconsistencies in the narrative of the reporting witness. The category

distinguishes an animosity toward the witness, since the lawyer's aim is to discredit their testimony, threatening the "positive face" and "negative face" of the hearer (Brown & Levinson, 1987; Culpeper, 2011). "Positive face" is explained as the desire to belong to a community, which involves feeling understood, approved and liked, while "negative face" is defined as the desire of an individual that their actions are not rejected or impeded by others. Below, there is an example in which the lawyer challenges the sufficiency of the witness' memory as a response to his reticence to give a straight answer.

Example 11: Extracted from SAW2 direct examined by DefA1 (as an adopted witness)
DefA1 Was High Bull a Federal prisoner or a state prisoner?
SAW2 I am not sure. I possibly might have been both.
DefA1 Do you know what charges he was facing?
SAW2 Well, I am not sure, sir.
DefA1 Does that mean your memory is not sufficient when you say you are not sure?
SAW2 No.
DefA1 Or is there some other basis for confusion?
SAW2 Well, there is some basis for confusion because he was incarcerated there, and I don't know if he was incarcerated for a Federal or state charge or what they were; but I recall going there with Special Agent Hughes to interview him about the shooting deaths.

Regarding Example 11, it must be considered that it occurred during the Direct examination of SAW2 as an adopted witness. It is not common to find *Challenging* instances during Direct examination, but the fact of taking SAW2 as an adopted witness changes this situation, and turns this examination stage into a borderline hostile one, despite the constant objections from the prosecution and the warnings from the judge toward DefA1. Nevertheless, this attitude could be explained by SAW2's resistance to questions and his increasing use of dismissive and avoiding "I don't know" answers. DefA1's use of reported speech, that will be explained in the upcoming sections, aids to the adversarial environment present in this case.

3.7.4 Focusing

This category deals with *repeats* whose main purpose is to problematize a very specific topic, usually of legal importance for the case. Therefore, followed by the *repeat*, there will be a sense of topic specification, mainly because the focus is set on what the attorney strategically wishes to further develop while interrogating the witness. Hence, the examples that are categorized as *Focusing* present themes that are crucial to the corpus that is being investigated, due to their legal relevance regarding the sentence of the defendant Leonard Peltier.

Focusing may contain several full or partial *repeats* within a single example. In said cases, only the first *repeat* will be considered as such, while the ones that follow will be regarded as simply cohesive for the purpose of maintaining the referent already focused on by the first *repeat*. Nevertheless, it is this sense of topic specification that causes certain examples to be categorized as *Focusing*, as the example below demonstrates.

Example 12: Extracted from NAW1 cross-examined by DefA2
DefA2 What kind of weapon did you see Joe Stuntz using?
NAW1 A .44 Ruger.
DefA2 How do you know it was a .44 Ruger?
NAW1 Because it was short.
DefA2 How do you know it was a .44, for example?
NAW1 Well, I noticed it, and he showed it to me.
DefA2 How do you know it was a Ruger?
NAW1 Because he showed it to me.
DefA2 He told you?
NAW1 Yes.

As it can be seen, DefA2 persists on the topic of the weapon, therefore, even though this example is categorized as one *repeat*, for clarity purposes, more than one *repeat* occurs on the same issue regarding the weapon. The last point is what differentiates *Focusing* from the other categories described in this study as, for example, the matter of the gun is repeated more than once by the lawyer (even after the four turns considered) with the purpose of centering the attention of witness, judge and jury on this particular topic.

Under *Focusing*, in some cases, the repetition of a single word has been considered an instance of *repeat*. These cases are actually instances of *partial repeats*. Consequently, *Focusing* is different from other categories, where the minimal *repeat* of a sole term was considered as purely cohesive in nature. This happens due to the relevance of the topics that this type of *repeat* deals with and that are significant and played an important role in this case, as explained in the Introduction.

Lastly, *Focusing*, as explained above, has the particularity of dealing with *repeats* that are decisive regarding legally relevant information presented in the case. Thus, some *repeats* that superficially could be classified as *Confirmation* or *For the record* could be categorized as *Focusing* in view of its focalized topic and the reference to it as the testimony progresses.

3.7.5 Clarification

From the five categories established in this research, *Clarification* has been understood as an instance of a lawyer's *repeat* where the main purpose was to simply elucidate certain parts of a witness answer that were not completely understood or that appeared odd to the attorney. The category has one objective that is specific to the moment of questioning, in the sense that the lawyer and the witness being interrogated have to understand each other to continue with the task at hand without confusion about the topic discussed in court.

There are several ways in which instances of this category were recognized and then grouped together under one common label. One of them is when lawyers looked for elucidation of topics mentioned by the witness, as their answers proved to be ambiguous. Another method to identify these instances is in situations where it is believed that there was some extent of

communicative interference in the exchange, which resulted in confusion about what was said and, therefore, there was a need of clarification for the lawyers, judge and/or jury.

One of the key features of this type of *repeat* was the frequent use of reported speech, which is a way "to quote the speech of another, 'directly' or 'indirectly'" (Banfield, 1973, p. 3). Direct Reported Speech (or DRS) is defined as an exact repetition in the first person of the utterance heard, while Indirect Reported Speech (or IDRS) is defined as just an approximation of what was heard in the third person (Griswold, 2016). Nevertheless, the presence of reported speech is not exclusive to this category, it can also be found in *Challenging*.

A proper method to recognize and classify this category is to take into account the context of the *repeat*. Although context has been considered during the entire analysis of the corpus, it becomes more relevant within this category. If the *repeat* with reported speech is uttered to clarify an aspect of the answer that has a strong legal weight for the case, making the witness explain further what has been stated, then it will be classified in this category. On the contrary, if a *repeat* was produced without asking further details and information, as has been mentioned before, then it will be classified in *For the record*. The following example shows an instance of *Clarification* where USA2 is asking SAW1 for further explanation of what he said:

Example 13: Extracted from SAW1 redirect examined by USA2
USA2 What are those things that you relate it to?
SAW1 The visit of Joanne La Deau to the crime scene
USA2 And this happened before or after Joanne visited the crime scene?
SAW1 My recollection, it had happened after she was at the crime scene.
USA2 Now you say "after she was at the crime scene." Is that after she arrived at the crime scene or after she left the crime scene?
SAW1 After she departed about 1:30 in the afternoon.

In this example, it can be seen how USA2 is using reported speech to repeat a section of SAW1's answer. The aim of this *repeat* is to clarify at what time exactly did the event that the witness is speaking of took place, something that he had not specified before during his recollection of events, making his previous answers seem vague and incomplete. So, USA2 asks the witness to

further explain and clarify if what happened was before "Joanne La Deau" had arrived at the crime scene or after she visited it.

4. Discussion and results

In this section, the results of the analysis will be presented in tables and graphics that will help understand the data analyzed. Each table will have its discussion, along with illustrative examples of the instances identified in the corpus.

It must be restated that not all witnesses went through the four stages of examination during the trial (that is, Direct examination, Cross-examination, Redirect examination and Recross-examination). The only two witnesses that went through all the stages were SAW1 and NAW2. Hence, in the tables below, "x" indicates that the witness did not undergo that type of examination. Also, the row labeled "*SAW2**" indicates Special Agent Coward's Direct examination as an adopted witness for the defense.

The intricacies of the long-lasting animosity between the Government of the United States and the members of AIM will not be discussed here, as they are well beyond the scope of this research. However, there are a few details concerning the development of the trial that draw attention to the inconsistencies of the version of events provided by the FBI, and that have proved to be relevant for the analysis here reported.

4.1 Analysis of repeats

The following subsections describe the *repeat* instances identified and analyzed by: (a) category presented from the most frequent to the least frequent one as found in the corpus analyzed (*Confirmation, For the record, Challenging, Focusing, and Clarification*); (b) examination stage

(whether the *repeat* occurred in Direct examination, Cross-examination, Redirect examination or Recross-examination); and (c) witness (NAW1, NAW2, SAW1 and SAW2) that is giving the testimony where the lawyer's *repeat* occurs.

The following table sums up the total number of *repeat* instances found and analyzed in the development of this research. It also shows which category they belonged to.

Table 4.1: *Total number of instances in each pragmatic category*

Confirmation	*For the record*	*Challenging*	*Focusing*	*Clarification*	*Total*
90	97	59	42	26	304

4.1.1 Confirmation

Table 4.2 shows the *repeats* that lawyers produced with the intention to confirm or deny what the witness was asked about, up to four turns before the lawyer's *repeat* itself, as explained before in *3.7.1*. It is fundamental to bear in mind that the goal of *Confirmation*, as previously described, is for attorneys to corroborate the information given by the reporting witness.

Table 4.2: *Confirmation instances*

Reporting Witness	*Direct examination*	*Cross-examination*	*Redirect examination*	*Recross-examination*	*Total*
NAW1	11	15	x	x	26
NAW2	51	0	0	0	51
SAW1	5	0	0	0	5
SAW2	1	5	x	x	6
*SAW2**	2	x	x	x	2
Total	70	20	0	0	90

From a total of 90 instances of the pragmatic function of *Confirmation*, 70 occurred in Direct examination, primarily in the questioning of the two NAWs. One possible explanation for these results relates to the specific structure that Direct examination takes on in this specific trial, where both NAWs were highly-coerced witnesses for the prosecution, while the two SAWs (also witnesses for the prosecution) exhibited a clear display of their institutional power through their discourse, as will be explained below.

In the case of *Confirmation* in the Direct examination of the two NAWs, it must first be remembered that in this stage of the trial, witnesses usually provide their own versions of the events that are being judged in a much freer style than that which is typical of more adversarial types of questioning (Gibbons, 2003; Ehrlich, 2010). However, in the trial analyzed, it is safe to say that

the number of *Confirmations* is particularly high during Direct examination of the two reluctant teenage witnesses, who usually produce very brief statements[10] from which the prosecution lawyers (USA1 and USA2) extract and repeat the information that allows them —and not the witnesses— to build their case. Therefore, in this specific trial, the resulting narrative of the Direct examination of the NAWs gets constructed by the lawyers, rather than by the witnesses themselves. The following example illustrates what has been discussed:

> **Example 14: Extracted from NAW2 direct examined by USA1**
> **Q** And do you remember, did he have any weapon of some kind t that time?
> **A** Yeah.
> **Q** And would you describe it to the jury for us, please.
> **A** Well, it was long rifle. Just a long rifle.
> **Q** It was a long rifle of some kind. Now you also indicated that there was another person here when you got there. Do you remember who that was?

In here, it can be noticed that USA1 is in charge of the narrative by asking comparatively longer questions and eliciting information off of NAW2's testimony. Also, NAW2's turns are quite brief and are mainly following what USA1 wanted him to answer. Moreover, it is important to notice that this dynamic between USA1 and NAW2 is usual in this case, since NAW2 is young, scared and has no political or professional status, which allows USA1 to absolutely control the agenda.

On the other hand, rarely were *Confirmations* found in the *repeats* of both USA1, USA2 and DefA1 (present in SAW1 and SAW2 examinations), probably due to the authority as federal government agents these witnesses possessed. As Coulthard and Johnson (2007) explain, powerful witnesses usually demonstrate some resistance to questioning, which is evidenced in longer turns (rather than the concise turns typically produced by witnesses), varying degrees of reluctance to certain topics brought upon during examination, and the raising of topics of their own. Also,

[10] The identification of shorter turns on the part of the two NAWs and longer ones in the case of the two SAWs goes in line with what Coulthard and Johnson (2007) explain in relation to the length of turns produced by disempowered and empowered witnesses, respectively.

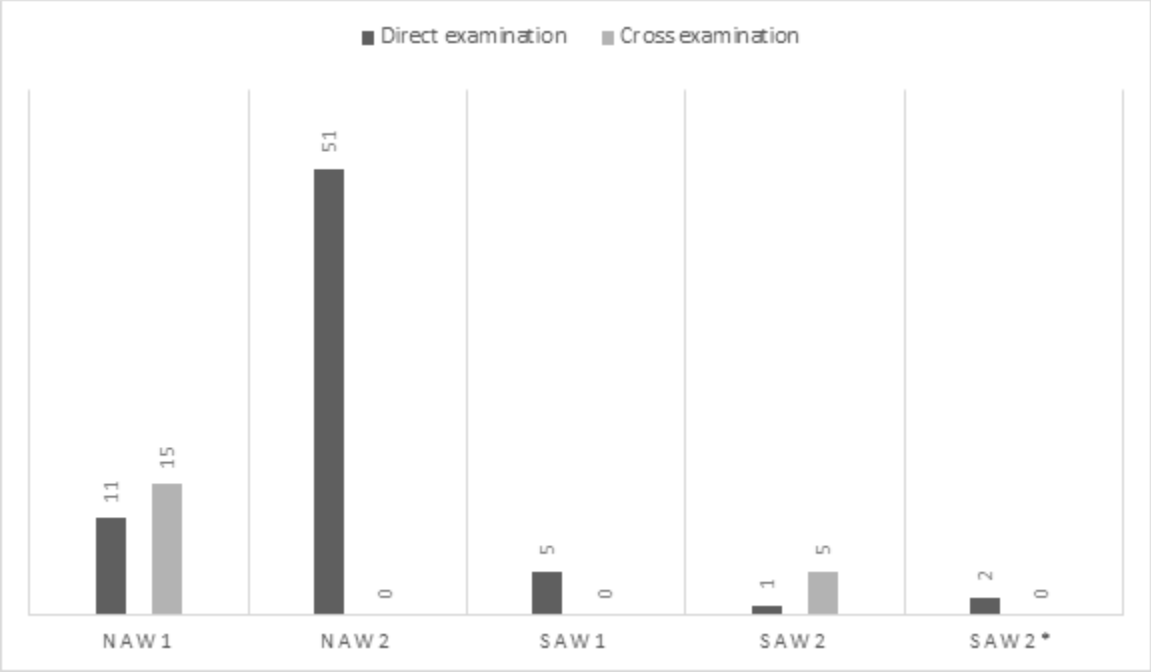
according to Lewis (2006), organizations with long lifespans, such as the U.S. Army and the FBI, possess subcultures that influence the behavior and decision making of their indoctrinated individuals, who develop identities in function of their institutions. For this reason, the FBI witnesses tended to display their institutional power with the additional confidence that they were being supported by their institution, thus, resulting in even more room to resist questioning and, ultimately, constructing discourse in such a way that less *Confirmations* were elicited from the respective attorneys conducting either type of examination.

It is from this solid institutional position that the FBI agents sit on the stand, and so the number of instances of *Confirmation* are almost non-existent when compared to the amount of *Confirmation* occurrences found in the examination of NAWs. In line with what was stated by Coulthard and Johnson (2007), another reason behind the comparatively reduced number of *Confirmation* instances has to do with the fact that usually the testimonies of both SAWs were narrative in content and long turns were part of their speech, in contrast with NAWs' typically shorter answers, which somehow end up naturally triggering frequent *Confirmations* from the lawyers in charge of the interrogation. An example of *Confirmation* in the examination of SAW1 is given below:

Example 15: Extracted from SAW1 direct examined by USA2
SAW1 Yes. He finally told me that he was at some houses behind Jumping Bull Hall.
USA2 Did he say he was at some houses?
SAW1 Yes. He was at some houses in the vicinity of Jumping Bull
USA2 Did you know where Jumping Bull Hall was?

In this example, the answer of SAW1 is quite straightforward and short, which allowed USA2 to *repeat* a chunk of speech in order to confirm what SAW1 had just stated. Nevertheless, as mentioned before, this type of answer is not especially typical of witnesses who have power and status, as is the case of both SAWs. Besides, it is important to highlight that this *repeat* also occurs during Direct examination, which tends to be non-confrontational and collaborative instead.

Graphic 4.1 shows the frequency of instances of *Confirmation* separated into the different stages of trial in which they occurred: Direct or Cross-examination.



Graphic 4.1: *Confirmation instances considering type of examination*

It was anticipated that *Confirmation* was going to be more present in all the cases of Direct examination. The results show a higher amount of *Confirmation* instances in the Direct examination of two witnesses (NAW1 and NAW2).

In addition, the difference between the frequency of instances considering both the testimonies of the FBI agents and the Navajo teenagers is remarkable, especially with NAW2. In the case of both NAWs, the questioning lawyers produced many times more instances, albeit, there is an important difference between the two teenagers. Furthermore, in NAW2's testimony there were no instances of *Confirmation* during Cross-examination, while NAW1's testimony had more cases of *Confirmation* during Cross-examination than in Direct examination. This occurrence can be explained because during NAW2's Cross-examination, DefA1 asked questions to NAW2 by mainly following with the story of what NAW2 was responding, without the use of *repeats* since

probably DefA1 did not think that it was necessary. Also, all the instances found there were categorized as *Challenging*. More information about this will be presented in the discussion of the results of the *Challenging* category.

In examples 16 and 17, extracts of two instances of *Confirmation* that can clarify the way in which it occurs either in Direct examination or Cross-examination can be found.

Example 16: Extracted from NAW1 direct examined by USA1
NAW1 I don't know. I guess the guy with the shirt off was trying to help him, bandage him up or something.
USA1 Were both of the men standing at this particular time?
NAW1 One was.
USA1 One was. Which one was standing?
NAW1 I don't know.
USA1 All right. But one of them was standing and one was not standing. Could you tell the jury what kind of a position the second one was in?

Example 17: Extracted from NAW1 cross-examined by DefA2
DefA2 Was he near twenty or was he older? Teenager, a young kid, what was he?
NAW1 A young guy. About ten years old.
DefA2 About ten years old?
NAW1 Yeah.

As it can be appreciated in the examples from Direct (example 16) and Cross-examination (example 17) above, the purpose of this category does not seem to be affected by the differences between types of examination. In both examples, the main aim behind the lawyer's repetition is that of confirming information given by the witness. Hence, even in Cross-examination, almost no true hostility can be perceived in the *repeat*, but rather an eagerness to confirm the information that was presented.

4.1.2 For the Record

The following table displays the instances of *repeat* under the category of *For the record.* As already addressed, the goal of this category is mainly to repeat relevant information (places, names, times, and to indicate the use of visual exhibits) for the benefit of the transparency of the court

transcripts, as these texts have immense institutional value in any possible future legal action that either party may want to follow, during and/or after the ongoing trial.

Table 4.3: *For the record instances*

Reporting Witness	*Direct examination*	*Cross-examination*	*Redirect examination*	*Recross-examination*	*Total*
NAW1	19	21	x	x	40
NAW2	31	0	0	1	32
SAW1	4	0	0	1	5
SAW2	5	5	x	x	10
*SAW2**	0	x	x	x	0
Total	59	26	0	2	87

Table 4.3 shows some interesting results, as out of a total of 87 instances, 72 of them occurred during the examination of both NAWs. Thus, considering the lawyers' *repeats* in the examination of the two SAWs, only a few instances of *For the record* are produced. Also, it is unusual that NAW1 shows several instances of *For the record repeats* in Cross-examination, more than in Direct examination. As this category aims to highlight specific information, with the purpose of being explicit in the transcript, this is why most of the places, names, etc., are usually already stated during Direct examination (because it is the very first stage of examination to occur).

One of the reasons that might explain the increased number of instances in NAW2, is the fact that he was interrogated at the beginning of the trial. Therefore, the names, locations, times, etc., were considered as new information that needed to be perfectly clear in the records. The second reason is that NAWs were somehow forced to testify against a member of their own community, and consequently were less cooperative about their testimony in Direct Examination, which is usually a more neutral/collaborative type of questioning. Regarding the difference between the number of *repeat* instances uttered by lawyers over the NAWs' (72) and SAWs' (15) statements, this may be due to the fact that NAWs were more familiar with the names, places and events involved at the trial. Because of this, NAWs referred to them in a colloquial manner, by their nicknames, causing attorneys to address the witnesses in order to fulfill any lack of information their statements may have produced. This filling of information is needed because the transcripts must be completely clear in terms of names, locations, time, etc. As it can be seen in the example below, NAW1 is asked to leave a full record of the places where he went during Cross-examination:

Example 18: Extracted from NAW1 cross-examined by DefA2
DefA2 All right. Now, you went to Crow Dog's, you say, and where did you go from Crow Dog's?
NAW1 Pine Ridge.
DefA2 And where did you go at Pine Ridge?
NAW1 Ted Lame.
DefA2 And where did you go from Ted Lame?
NAW1 Jumping Bull's.
DefA2 All right, and where did you go when you went to Jumping Bull's, what part of Jumping Bull's?
NAW1 Down the wooded area.
DefA2 And who was it that was down in the wooded area with you, if there were any other people?
NAW1 Me, Norman Brown, Wish Draper, Leonard Peltier, Dino Butler, Rob Robideau, Jeannie Bordeau, Jeannie Zimmerman and Jean Day, Anna Mae, and that's about all.

In the previous example, four instances of *repeats* are shown to illustrate the nature of this category in NAWs. DefA2, in this case, decided to point out almost every name and place mentioned by NAW1 with a specificity that was not observed in the questioning of SAWs, thus, highlighting the argument of the prosecution and defense not fully understanding the Native Americans' statement and the need for further corroboration.

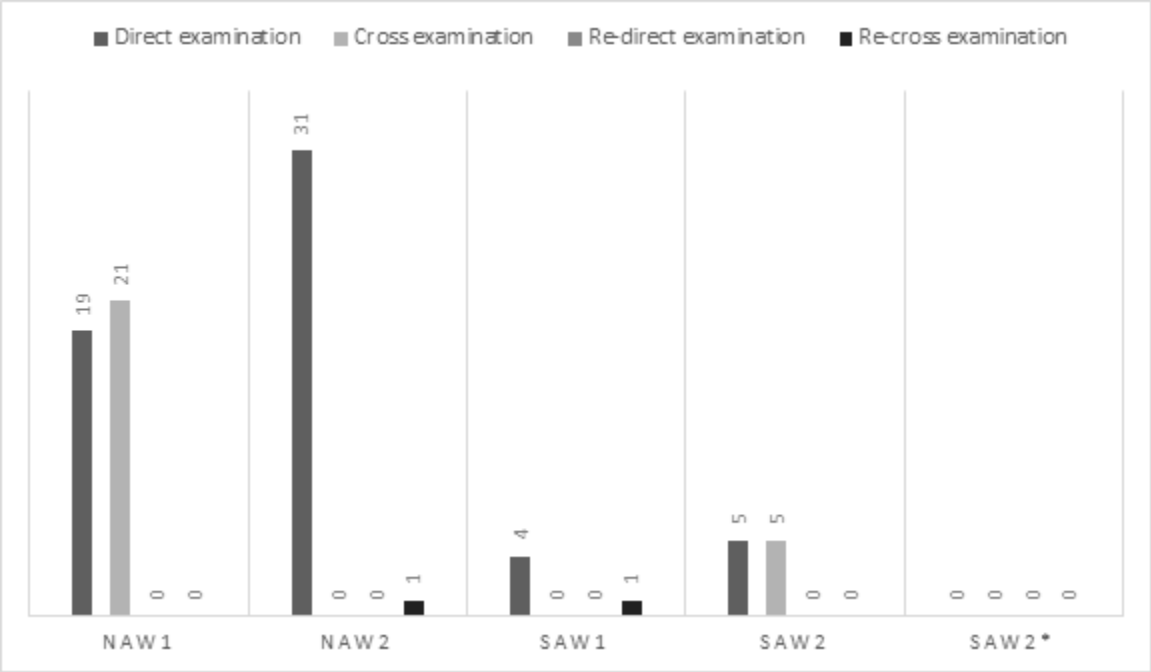
It is also noticeable that in the testimonies of SAWs the lawyers produce very few *For the record repeats*: SAW2 results show 10 instances (5 in Direct examination and 5 in Cross-examination), while SAW1 has only 5 *repeats* (4 in Direct examination and 1 in Recross-examination). This might be due to a variety of reasons. One is the already mentioned fact that both SAWs testified well into the trial, thus, the information they presented had already been discussed during the earlier interrogations of other witnesses. Another reason might be that both SAWs were professional adults, and therefore, had much more control over their speech in this highly institutional setting with which they were already familiar, which results in less *For the record* instances from their respective attorneys, as both SAWs already knew how to testify in a courtroom and knew to be clear when referring to certain moments or actors relevant for the case.

The final argument found to justify the lack of *For the record* instances could be that the testimonies of both SAWs were well crafted and well-rehearsed, in comparison with their statements in the Butler-Robideau trial. As mentioned in the Introduction, the Butler-Robideau trial uncovered several types of FBI misconduct, such as perjury and witness and evidence tampering. This encouraged the federal institution to portray an exemplar image this time around (Messerschmidt, 1983), prompting the FBI to be exceptionally assertive when giving names, places or events that mattered for this case. Thus, it resulted in fewer instances of *For the record*, because the need to emphasize for the benefit of it was already accomplished by the witness in the answers provided during the interrogation. An example of *For the record* in Direct examination is given below:

Example 19: Extracted from SAW1 direct examined by USA2
SAW1 It was just a matter of minutes.
USA2 Matter of minutes?
SAW1 Yes. Two or three minutes.
USA2 And what was, let's say from the second to the third communication, how long was it?
SAW1 It was, from the first to the second communication was again one or two minutes. It was just all in sequence.

As it can be seen from example 19, instances of *For the record* in SAWs are not only fewer than NAWs', but the lawyers resort to them to resolve minor ambiguities in SAW's testimonies that are legally relevant regarding places, names and exhibits. As it was explained in section *3*, *For the record* overpowers other categories such as *Confirmation* or *Clarification* on the grounds of mentioning relevant names, places, times and the use of visual evidence in court.

The following graphic illustrates the instances of *For the record* in each stage of trial.



Graphic 4.2: *For the record instances considering type of examination*

Considering graphic 4.2, one main conclusion that could be drawn is that this type of *repeat* usually occurs during Direct examination, since its presence in Cross-examination is reduced to the testimonies of NAW1 and SAW2, as mentioned above. Furthermore, two instances of *For the record* are found during Recross-examination, first in SAW1 and then in NAW2. This mainly happens because *For the record* usually tends to be more neutral than other categories, since the main purpose of it is related to *repeats* produced by the lawyers for both the benefit of the recorded

transcript and the future reader of it. An example of *For the record* in Cross-examination is given below:

> **Example 20: Extracted from SAW2 cross-examined by DefA1**
> **SAW2** They were running.
> **DefA1** And in which direction?
> **SAW2** Well, southwesterly direction.
> **DefA1** In a southwesterly direction. Trace on the chart with the tip of the pointer the approximate route they were running as you viewed it.

The example above displays one of the functions of this category: to repeat locations given in trial, with the help of maps, charts, or other types of visual aids, for the benefit of the transcript. Furthermore, as explained above, *For the record* does not frequently occur during adversative types of examination; nevertheless, when it does, it is safe to conclude that its aim does not differ greatly across different types of examination, maintaining a fairly neutral position, regardless of the questioning phase in progress.

4.1.3 Challenging

The instances of *Challenging repeats* by lawyers are presented in Table 4.4. As discussed earlier, the purpose of this category is to dispute the information given by the witness. In the corpus analyzed, all the witnesses were challenged at least once.

Table 4.4: *Challenging instances*

Reporting Witness	*Direct examination*	*Cross-examination*	*Redirect examination*	*Recross-examination*	*Total*
NAW1	1	32	x	x	33
NAW2	1	5	0	0	6
SAW1	0	9	0	1	10
SAW2	0	8	x	x	8
*SAW2**	2	x	x	x	2
Total	4	54	0	1	59

Table 4.4 sparks interesting observations. The main conclusion is that, in line with expectations, *Challenging repeats* are undoubtedly more present in Cross-examination than in Direct examination. There are 54 instances in Cross-examination out of a total of 59, and that number rises to 55, considering the instance found in Recross-examination.

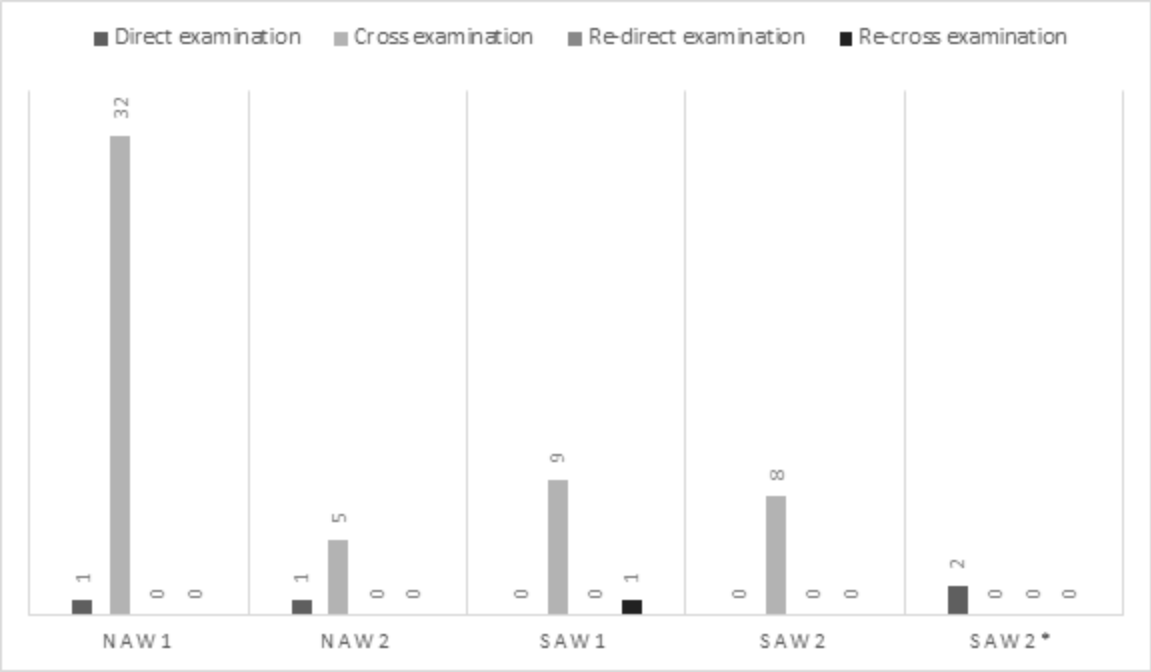
More specific conclusions that have been extracted are, first, the total number of instances of *Challenging repeats* asked by DefA2, who was in charge of NAW1's Cross-examination. The number takes relevance since more than half of the instances that occur in Cross-examination were directed toward this witness. Moreover, it might become even more relevant considering that NAW1 had previously stated on the stand to having been scared of the FBI and that he feared for his life. Expectedly, this kind of *repeat* does not frequently occur during Direct examination, since

usually the aim of this type of examination is not to challenge what the witness testifies, but to usually help the witness to express his version of events. An example of a *Challenging repeat* by the DefA2 in Cross-examination is presented below:

Example 21: Extracted from NAW1 cross-examined by DefA2
DefA2 And then what did you do?
NAW1 I don't know. I don't remember.
DefA2 You don't remember?
NAW1 No.
DefA2 What's the next thing you do remember?
NAW1 I don't know. I think I ran back down to the camp.
DefA2 You think you ran back down to the camp?
NAW1 Yes.

In example 21, there are two instances relatively close to each other, but they are presented as one example for illustrative and clarity purposes. These instances were considered *Challenging* mainly due to the fact that both *repeats* are probably produced with the intention of disputing the witness' testimony. Moreover, in both *repeats* it can be appreciated that the witness seems quite unsure of what he is stating, by saying that he does not remember or that he thinks that he did something but might not be completely sure of it. Therefore, the lawyer tried to discredit the witness' version by challenging his credibility. Also, it can be seen that the witness is not sure of his answers and tries to avoid the questions by saying "I don't know" and "I don't remember", clearly demonstrating confusion and uncooperativeness.

The following graphic presents the *Challenging* instances separated into the different stages of a trial.



Graphic 4.3: *Challenging instances considering type of examination*

Regarding graphic 4.3, and as seen in table 4.4, the results also show four *Challenging* instances in Direct examination. All of them must be considered adversative in nature. Albeit, Direct examination tends to be less stressful and friendlier toward the witness than the other stages of examination, evidence of somehow *Challenging* attitudes during this stage have already been recognized. The only purpose of being challenging in Direct examination is to give reliability to a witness (Cotterill, 2002), by preventing them from failing their answers in the examinations to come. This assumption would be valid in this case only in the Direct Examination of SAWs. It is undeniable that witnesses are usually re-examined to check the internal consistency of their story and to prove that their statement matches with those of the other witnesses (Cotterill, 2002; Infante, 2018). During Direct examination, lawyers are looking to show their witnesses' consistency and credibility. Thus, according to Cotterill (2002), "lawyers need to test the quality of the account presented" (p. 148) by their witnesses, and they frequently do so by adopting an apparently confrontational attitude, somehow anticipating (thus, neutralizing) the actions that their

counterparts may subsequently display during their Cross-examination. However, this is not the case of the *Challenging repeats* found in SAW2's statements, who was being direct-examined by the defense as an adopted witness, and not by the prosecution that originally called him to testify, which resulted in a more confrontational Direct examination. Therefore, in this case, the Direct examination displays the usual pragmatic functions of the more adversative Cross-examination and, consequently, a much more defiant nature.

Another important observation drawn from both the table and graphic is that the very few *Challenging repeats* present in Direct examination might occur because of the leading and authoritative role of the lawyers in the courtroom. This is especially evident in the examinations of NAW1 and NAW2 by the prosecution, that called them to testify against their will, as both NAWs were adolescents intimidated into providing testimony by different powerful officials, against a man that was familiar to them and a respected member of their community.

Finally, an example of *Challenging repeat* in Direct examination will be given below:

> **Example 22: Extracted from SAW2 direct examined by DefA1 (as adopted witness)**
> **DefA1** Was High Bull a Federal prisoner or a state prisoner?
> **SAW2** I am not sure. I possibly might have been both.
> **DefA1** Do you know what charges he was facing?
> **SAW2** Well, I am not sure, sir.
> **DefA1** Does that mean your memory is not sufficient when you say you are not sure?
> **SAW2** No.
> **DefA1** Or is there some other basis for confusion?
> **SAW2** Well, there is some basis for confusion because he was incarcerated there, and I don't know if he was incarcerated for a Federal or state charge or what they were; but I recall going there with Special Agent Hughes to interview him about the shooting deaths.

Again, this example is different from other *repeats* instances in Direct examination, since SAW2 undergoes Direct examination by the defense lawyer as an adopted witness. Therefore, even though it has been explained that Direct examination is usually a friendlier instance of courtroom interrogation, in this case this does not seem to apply, since the witness was adopted by the counterpart, with all the adversativeness that this may engrave into the actual examination

in progress. Furthermore, in the example above, the purpose of confronting the witness and discrediting what he was testifying is clear regarding the way in which the lawyer decides to ask the question, stating that he might be unreliable due to his lack of good memory.

4.1.4 Focusing

The following table shows the *Focusing repeat* instances produced by lawyers in their questioning of witnesses. As stated before, this category deals with the topic problematization and specification of certain segments of speech of the witness that represent crucial information for the development of the trial.

Table 4.5: *Focusing instances*

Reporting Witness	*Direct examination*	*Cross-examination*	*Redirect examination*	*Recross-examination*	*Total*
NAW1	0	7	x	x	7
NAW2	4	0	0	0	4
SAW1	10	1	9	1	21
SAW2	2	7	x	x	9
*SAW2**	1	x	x	x	1
Total	17	15	9	1	42

As seen in Table 4.5, most instances of *Focusing* occur during Direct examination and Cross-examination, adding up to 32 out of 42 of the instances. However, a closer review reveals that it is in Direct examination where 17 of the 32 instances take place. Moreover, 10 out of the 17 previously mentioned instances of *repeats* were produced during the questioning of SAW1, while in SAW2 only 2 instances could be found (3, if the instance of Direct examination as an adopted witness is considered). Furthermore, it can be seen that through NAW1's questioning no instance of *repeat* was produced by USA1. In addition, it was during the Cross-examination of NAW1 and SAW2 where most instances of *Focusing* were used by DefA2 and DefA1 respectively, almost accounting for the total of the 15 instances, with the exception of one belonging to SAW1. In the extract below, an example of *Focusing*:

Example 23: Extracted from NAW1 direct examined by USA1
USA1 Would you tell the jury what that is.
NAW1 Government Exhibit No. 12 is a photo of the red and white van.
USA1 And did you see that red and white van?
NAW1 I saw that in the tent area.

The importance of the example above is that one of the main topics of Leonard Peltier's trial is presented, which involves what has come to be widely known as "the red and white van/pickup problem". As noted by Messerschmidt (1983), the government maintained that the dead agents had been following a "red and white van" when they entered the Jumping Bull area. This is a key topic in the trial. It is said that the FBI tried to manipulate the model of the vehicle, whose owner was, allegedly, Leonard Peltier, in order to incriminate him at the moment the chasing of the vehicle began. In this sense, the government's attorneys used to talk about a "vehicle" or "van" and avoided using the term "pickup", while almost all witnesses used to talk about a "pickup" (Messerschmidt, 1983). This was due to the fact that the term did not serve in the case against Peltier during the trial, because the term "pickup" was used to refer to Jimmy Eagle's vehicle (who, as mentioned in *1.5*, was allegedly collaborating with the FBI to apprehend Peltier).

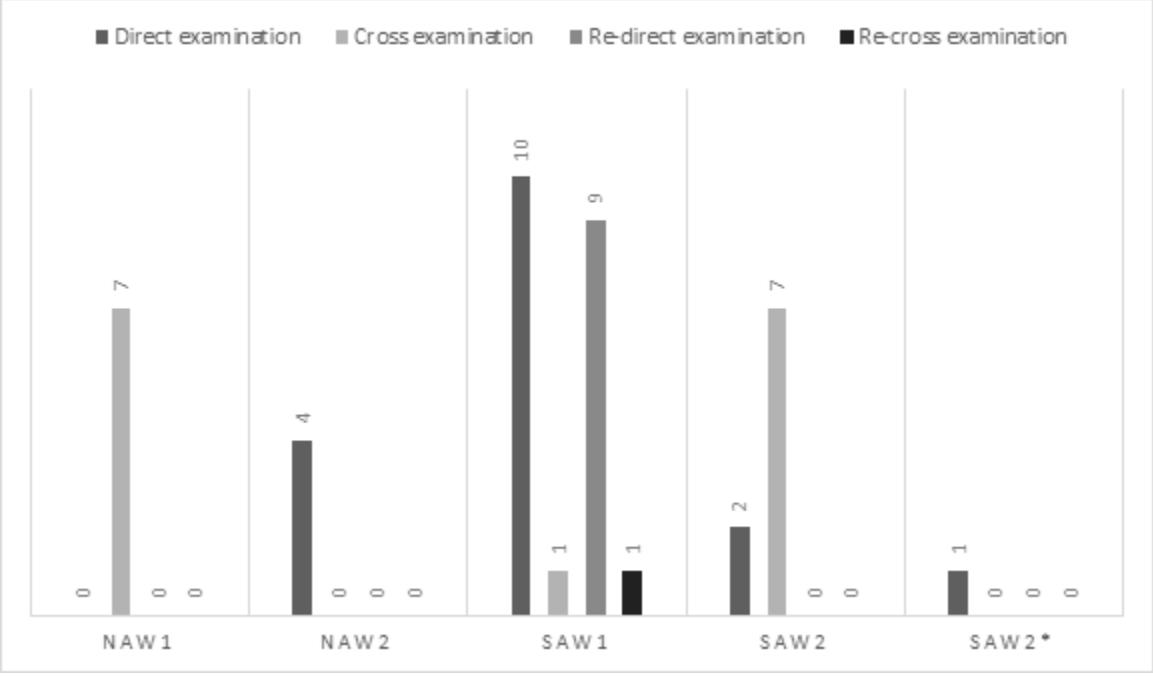
Example 24: Extracted from NAW2 direct examined USA1
USA1 They were there when you got there, is that right?
NAW2 Yeah.
USA1 Now what if anything did you observe them doing at this particular time?
NAW2 They were loading a van. It was a van.
USA1 Had you seen the red and white -- van at some time on any other day that you're now referring to? Did you see that red and white van before?
NAW2 (No response.)
USA1 The van that you're referring to that they were loading.
NAW2 Yes.
USA1 When had you seen it before?
NAW2 I don't know. It was before June 24.

Then, the questioning attorney drops the subject. He stops referring to the vehicle with the full description he had chosen: "red and white van", because it may have brought confusion about the "red pickup truck". As Messerschmidt (1983) states, the government attorneys USA1 and USA2 used to refer to the vehicle as "either 'vehicle' or 'van' and avoided ever using the term 'pickup'" (p. 49), as can be seen in example 24. With the two examples presented above, the pragmatic function of *Focusing* can be observed clearly. The topic of the van might have been proposed by the FBI to incriminate Leonard Peltier, so both USAs' focused on it and problematized it. However, it is in the second example where this can be better observed, as the word "van" is repeated a number of times by USA1 with the objective of further developing this account where NAW2 claimed he had seen Peltier loading the van.

These examples also shed some light on the matter of the color of the vehicle, which was another important topic in the development of the trial. In Messerschmidt (1983), it is said that agents Coler and Williams were pursuing a "red and white van" –which was, possibly, carrying Jimmy Eagle. The topic of the van's color is rather important since, for example, in the first trial (Butler-Robideau), SAW1 testified about a "red pickup truck" to then, in Leonard Peltier's trial, say that the "red pickup truck" did not exist, while Gerard Waring (another FBI Special Agent) said that the first emissions on the radio coming from Agent Williams were "that there is a *red and white vehicle*" (Messerschmidt, 1983, p. 44). This argument clearly demonstrates the manipulation

of information from the FBI, embodied by the prosecution attorneys, and the "lexical perversion" –what Eades (2006) defines as the overt correction or covert substitutions of certain expressions present in the witnesses' testimony– about the two topics: the type of vehicle and the color it had.

By looking at graphic 4.4 below, most of the *Focusing* instances of *repeat* made by the lawyers are located in the interrogations of the SAWs, especially during SAW1's. This occurrence indicates that, in this case, just these witnesses were asked to delve further into details when mentioning crucial information. Certainly, a degree of preference toward the SAWs testimonies can be detected, mainly on the part of the USAs, because the information these witnesses were providing could be considered as the one having the most weight toward the result they were aiming for. In other words, the information that SAWs possessed was considered more important and valuable because it had harder facts and pieces of evidence, while NAWs could provide only visual accounts of what had happened the day of the incident.



Graphic 4.4: *Focusing instances considering type of examination*

From the total of instances in this category, approximately a quarter of the lawyer's *repeats* appear in the Direct examination of SAW1, which was also the examination where the most instances overall were produced -in fact, twice the amount of the *Focusing* instances of SAW2. Additionally, approximately a quarter of the instances produced by the lawyers were also found in Cross-examination; however, in this case the majority of them do not belong to a sole witness' testimony, but to two of them —SAW2 and NAW1. Hence, it could be concluded that *Focusing* occurs mainly in Direct examination and Cross-examination in this particular trial. This claim could be further supported by seeing how, in Redirect examination and Recross-examination, the instances of *Focusing* are almost non-existent, with the exception of one instance found in SAW1. However, it must be taken into account that for this analysis there were less samples of Redirect and Recross-examination than of Direct examination and Cross-examination, and this could be the reason why there were almost no instances of *Focusing* during the former two stages of examination.

4.1.5 Clarification

Table 4.6 shows the instances of lawyers' *Clarification repeats*. As stated before, *Clarification repeats* have the pragmatic function of explaining problematic aspects of the information given by the witness, so as to avoid any possibility of doubt or 'ambiguity' for the judge and the jury.

Table 4.6: *Clarification instances*

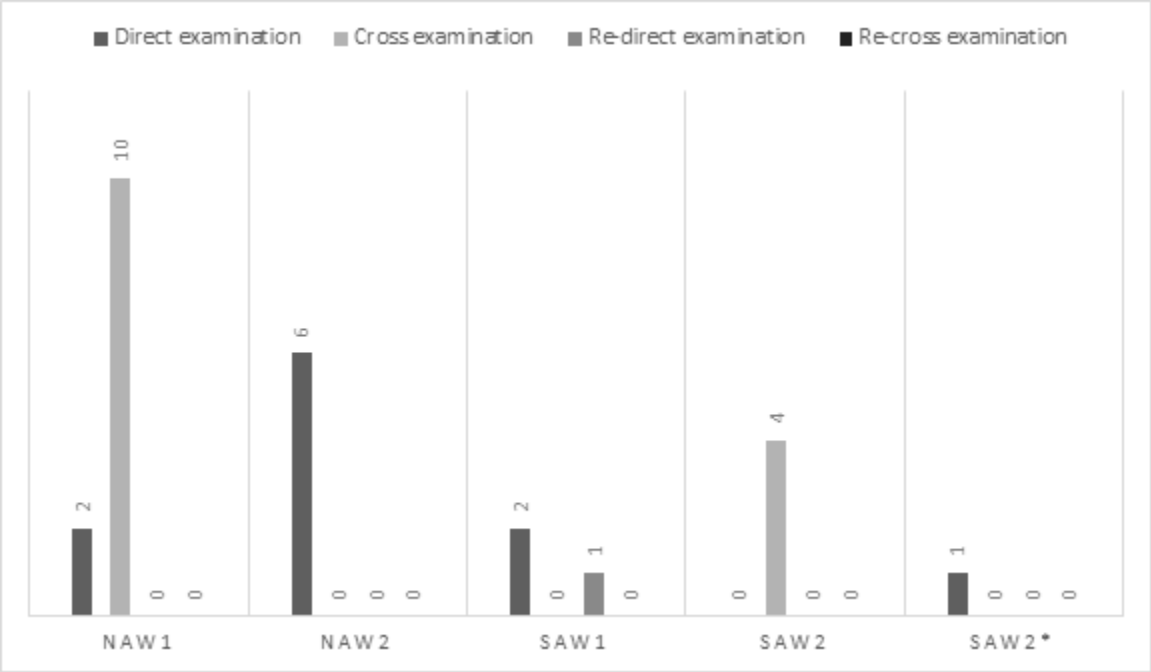
Reporting Witness	*Direct examination*	*Cross-examination*	*Redirect examination*	*Recross-examination*	*Total*
NAW1	2	10	x	x	12
NAW2	6	0	0	0	6
SAW1	2	0	1	0	3
SAW2	0	4	x	x	4
*SAW2**	1	x	x	x	1
Total	11	14	1	0	26

As it can be observed in this table, most of the instances of *Clarification* occurred during Cross-examination, with 14 instances out of 26. It must be noted that DefA2, who cross-examined NAW1, produced 10 out of the 14 instances of Cross-examination and out of 12 instances found in the same testimony. On the other hand, in the case of NAW2, there were 6 instances of *Clarification*, all of them occurring during Direct examination. The following is an example of *Clarification repeats* extracted from NAW1 Cross-examination:

> **Example 25: Extracted from NAW1 cross-examined by DefA2**
> **DefA2** Now if I was to suggest to you that there -- strike that. You saw the red and white van come in and where did you see the red and white van go or stop when it first came in there and you were on the roof?
> **NAW1** Stopped behind a house.
> **DefA2** Now when you say "behind a house," are you referring to this house, first of all, the residence?
> **NAW1** Yes.

The example above illustrates the collaborative orientation of this category. DefA2 used reported speech in order to clarify what had just been said by the witness, as with the answer that NAW1 had given the information about what residence he was referring to was not clear. As it has been mentioned previously, the use of reported speech is particularly common among *Clarification repeat* instances and, contrary to what happens with reported speech in *Challenging*, it does not present any trace of adversativeness by part of DefA1 towards NAW1.

The following graphic shows the instances of *Clarification* in each stage of trial.



Graphic 4.5: *Clarification instances considering type of examination*

As shown in the graphic, most of the *Clarification* instances occurred during the examinations of NAWs. This suggests that their statements needed more specificity, as the lawyers requested them to be more precise in their answers. The preceding graphic helps to evidence that NAWs statements are markedly more disputed than those of SAWs, as these witnesses' statements faced more confrontation from the questioning attorneys. The following example is drawn from SAW1's testimony:

Example 26: Extracted from SAW1 direct examined by USA2
SAW1 They were primarily all felony violations which occurred near the Pine Ridge Indian Reservation
USA2 By a felony do you mean such as robbery --
SAW1 Robbery, kidnapping, assault, rapes, murders.

In this case, USA2 is contextualizing the matter of events, as it is crucial for the prosecution to portray the Pine Ridge Indian Reservation as a vicious environment. As already stated in the *Introduction*, this contextualization involves describing the reservation as a place where criminal activity was normalized and there was a need for the authorities to control the unruly population. Thus, *Clarification repeats* can serve the purpose of criminalizing the activities of the defendant.

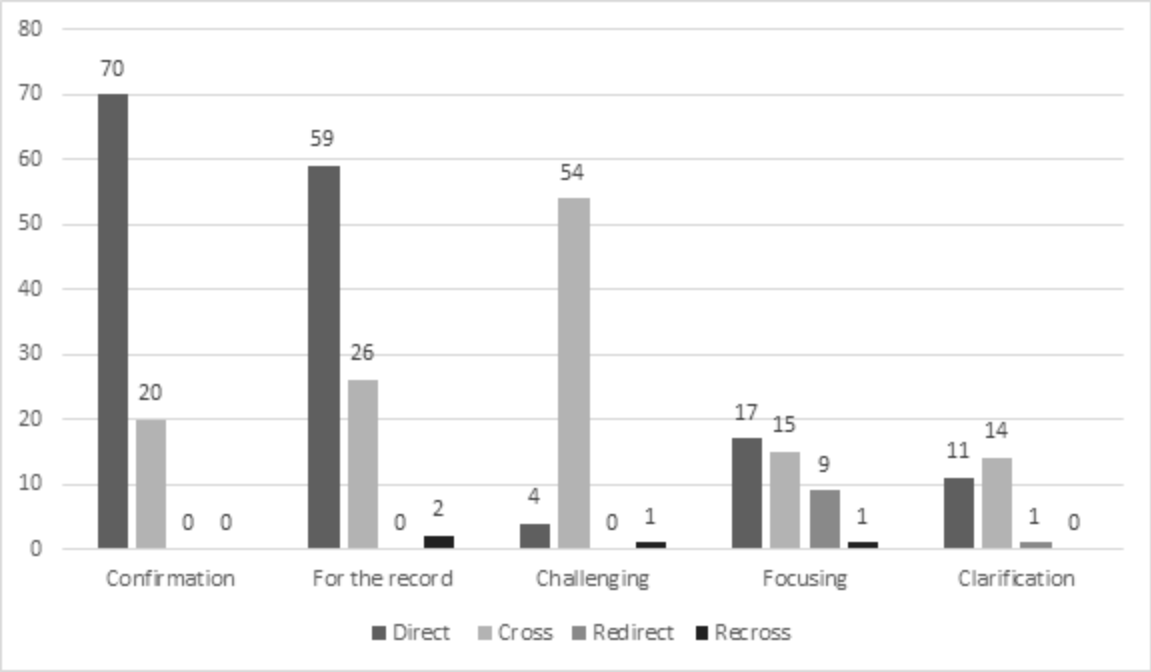
4.2 Repeats frequency according to examination type

In this section, an analysis of the frequency of each pragmatic category within the examination stages of the trial will be provided. The aim is to determine where each category can be more commonly found; in other words, in which examination stage each of the five categories presented occurs. The focus of this section was set on the number of occurrences of every category in each of the different types of examination. Due to this, the witnesses will not be considered.

Table 4.7: *Repeats frequency in examination stages*

Category	*Direct examination*	*Cross-examination*	*Redirect examination*	*Recross-examination*	*Total*
Confirmation	70	20	0	0	90
For the record	59	26	0	2	87
Challenging	4	54	0	1	59
Focusing	17	15	9	1	42
Clarification	11	14	1	0	26
Total	161	129	10	4	304

From table 4.7 and graphic 4.6 below, some conclusions can be drawn. In the first place, considering *Confirmation,* it is possible to infer that, as explained before, it mainly takes place during Direct examination. From a total of 90 instances of *Confirmation*, more than half of them occurred in the more collaborative situation of Direct examination. On the contrary, only 20 of the instances took place during Cross-examination. These results were expected, considering that *Confirmation* is inclined to be a non-aggressive type of *repeat*, which usually serves the purpose of validating the witness' testimony for the benefit of the friendly counsel's theory of the case.



Graphic 4.6: *Repeat instances considering type of examination*

Secondly, it can be established that just as *Confirmation*, *For the record* occurs more frequently during Direct examination. However, in this case the difference between the instances across examination stages is less drastic than in *Confirmation*, with 56 instances within Direct examination and 25 instances in Cross-examination. Once more, it is safe to conclude that this phenomenon occurs primarily due to the collaborative nature of Direct examination, in addition to the lack of hostility of *For the record*.

Thirdly, in the category of *Challenging*, a change can be observed when analyzing the graphic. In contrast to the previous two categories, nearly every instance of *Challenging* (54 out of a total of 59) occurred in the context of Cross-examination. However, this situation was expected since this type of *repeat* was extremely unsympathetic toward the witnesses, as they were used by lawyers to try to discredit the version of the story that witnesses were presenting on the stand.

In the fourth place, an interesting conclusion arose in connection to *Focusing repeats*. This category seems to be almost equally distributed among the different types of examination. Only 9 more instances in Direct examination and 1 in Redirect were found in comparison with those found in Cross-examination. A reason behind this can be, as explained earlier, that the purpose of *Focusing* is to highlight relevant topics to the case, which can take place regardless of the different stages, with an equal chance of being adversative or collaborative.

Finally, *Clarification* seems to work in a very similar fashion to *Focusing*, since this category is also equally distributed across examination stages. Nevertheless, it is important to highlight that a few more instances of *Clarification* occur during Cross-examination and this might be due to the essential nature of this type of examination, in which the witness is constantly questioned about the trustworthiness of their narrative.

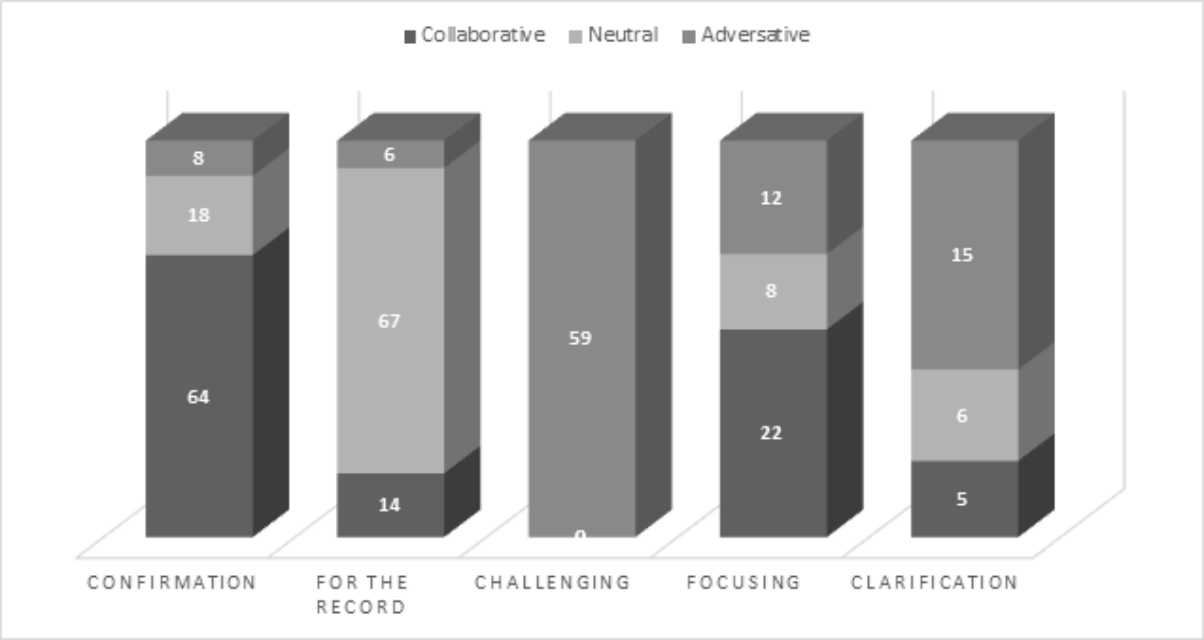
4.3 Type of orientation of the repeat: collaborative, neutral or adversative

In this section, the focus was set on the idea of collaborative, neutral or adversative orientation of the *repeats* present in lawyers' questions, now by taking into account the different types of categories and their respective pragmatic functions rather than having the examination stages as a central point of reference. Hence, the following table and graphic will show all 5 categories and their orientation considering collaborativeness, neutrality and adversativeness, but without the witnesses list nor the stages of examination (Direct examination, Cross-examination, Redirect examination and Recross-examination).

Table 4.8: *Collaborative and adversative instances*

Category	*Collaborative*	*Neutral*	*Adversative*	*Total*
Confirmation	64	18	8	90
For the record	14	67	6	87
Challenging	0	0	59	59
Focusing	22	8	12	42
Clarification	5	6	15	26
Total	105	100	99	304

In this part of the analysis, as shown in Table 4.8, *repeat* instances are organized taking into consideration their collaborative, neutral or adversative inclinations only. It will be necessary to understand that even though the different examination stages definitionally and descriptively embody adversative or collaborative attitudes toward the witness, in the specific corpus analyzed this was not always the case, as the participation of coerced and reluctant witnesses had a profound impact on the way the parts of this trial actually unfolded in the courtroom. It is, then, pertinent to remember that both NAWs testified for the prosecution because they were allegedly threatened to do so, and that SAW2 (originally called by the prosecution) was adopted by the defense and a Direct examination was conducted.



Graphic 4.7: *Collaborative, neutral, and adversative instances in the different categories established*

By analyzing both table 4.8 and graphic 4.7, it can be stated that in *Confirmation*, most instances are actually collaborative in nature. This was expected taking into account the description of this category, which, in short, established that the main purpose of this type of *repeat* was to corroborate the information given by the witness in a collaborative way. Nevertheless, it is also important to mention that 18 of the instances were categorized as neutral, since neither a sense of friendliness nor hostility was found, and only 8 instances of adversativeness were encountered. The numbers regarding adversative instances, in turn, were not expected, since normally a category like this should not be hostile, but as it has been discussed before, the Peltier case showed some differences in comparison to how collaborativeness and adversativeness usually work.

Following with *For the record*, 67 instances out of 87 were neutral. This is due to the nature of this category, which entails that the attorney in charge *repeats* for the benefit of the transcript. Therefore, it cannot be classified as collaborative or adversative. However, a few instances of collaborativeness were indeed identified; in these cases, the main purpose was to enhance the

transparency (thus, the future usefulness) of the record, with the difference that the attorney conducting the examination made an extra effort to aid the witness into giving an accurate testimony. Finally, 5 *For the record* adversative instances were detected; in these cases, even if the *repeats* were produced for the sake of the transcript, a trace of adversativeness could be spotted mainly through the way in which the lawyer presented and elaborated the question.

Regarding the orientation of *Challenging repeats*, graphic 4.7 depicts some interesting results. There were no instances oriented toward neutrality or collaborativeness. The pragmatic function behind this category is very powerful and has to do with how lawyers, through the use of *repeats*, are able to discredit and dispute what the witness testifies. They usually accomplish this by repeating parts of the witness' speech that can lead to concluding that what the witness is saying during examination could be false or inconsistent.

Now, in relation to *Focusing repeats*, the table and graphic show that the categorization of instances is considerably more varied. An inclination to a more collaborative orientation is identified with 22 instances, followed by 12 adversative cases, to finish with 8 neutral ones. *Focusing* is a category that mainly serves to highlight topics that were relevant for the specific case analyzed, as explained in the definition of this category; however, emphasizing these topics can be strategically useful for different purposes, depending on what the lawyers wish to accentuate and accomplish. Therefore, even though the majority of the instances are collaborative by highlighting topics that help to develop the side of the story of the witness, the analysis also identified instances where the lawyers used the focalized point to be hostile toward what the witness was stating. Lastly, regarding the neutrality of some instances it can be concluded that neither collaborativeness nor adversativeness was intended, but rather to highlight a certain aspect of the witness' narrative to further inquire on it.

Finally, in *Clarification*, a tendency for adversativeness was identified, as the table depicts that almost half the instances were adversative in nature. Firstly, it was unexpected to find more adversativeness in *Clarification*; nevertheless, the use of reported speech (mentioned in *3.7.5)* makes specific reference to a certain part of what the witness just stated and defies it. On the other hand, it was predicted to present collaborative instances, since this category helps the lawyer elucidate some topics stated in the witnesses' testimony without antagonizing him. Here, neutral instances can be found too, where, as it happened before in *Focusing*, there seems to be no necessity to be hostile or downright defying with the witness and the testimonies provided.

5. Conclusion

To conclude this investigation, a brief summary of the results will be presented. The first question analyzed, regarding the specific pragmatic functions associated with *repeats* used by lawyers during witness questioning in the jury trial analyzed, was fully addressed in section *4.1*. As stated in previous sections, this study proposed five categories according to the pragmatic functions found in lawyers' speech: *Confirmation*, *For the record*, *Challenging*, *Focusing,* and *Clarification*. These categories are presented according to the highest frequency and were described thoroughly in section *3.7*.

As mentioned before, the most frequent categories were *Confirmation* and *For the record*. The results have shown that the considerable disparity in both, the power status and overall contextual conditions, during the examinations of the FBI agents and NAWs, greatly influenced the number of *repeats* uttered by the attorneys in these witnesses' statements. During the questioning of NAWs, a great number of *repeat* instances were found in comparison with the interrogations of SAWs. However, in *Focusing,* SAWs' statements were confronted with more

repeats by the attorneys than NAWs' statements. This is due to the fact that SAWs' testimonies in Direct examination unfolded more *repeats* in order to problematize specific topics, such as the type and color of the vehicle driven by Peltier; or the amount of people present at Pine Ridge during the shooting, among others. These topics were directly used by USAs to incriminate Peltier and finally win the trial.

As seen in the *Discussion and results* section, *Clarification* was the category with less instances of *repeats,* which were also heavily concentrated on attorneys' utterances of NAWs' Cross-examination. This investigation concluded that NAWs faced more confrontation for two reasons: on the one hand, their position as Native Americans set them in a disadvantageous position (in opposition to the SAWs), and on the other hand, the lack of specificity in NAWs' testimonies made the lawyers prone to use *repeats* to construct their narrative. That is to say, *Clarification* repeats were mainly used by attorneys to elucidate on some topics in the testimony and clear up ambiguities, and also to occasionally criminalize the accused, Leonard Peltier, via witnesses' testimony in adversative examination.

The second question proposed, which entails how the pragmatic categories just mentioned can be further categorized in relation to the adversarial or collaborative nature of the lawyers' questions, was also fully discussed in sections *4.2* and *4.3*. The main conclusions are that the categories of *Confirmation* and *Focusing* tend to occur more during Direct examination, and that they also have a more collaborative orientation. As discussed in those sections, this mainly happens since, in the case of *Confirmation*, the repeats occurred mainly to validate the testimony of the witnesses, whereas in the case of *Focusing,* the main purpose was to highlight topics that were relevant for the Peltier case and to further develop them.

Finally, it must be stated that *For the record* tends to be a rather neutral category, although there was a presence of collaborative and adversative instances within this category. This is because of the purpose of it, which is repeating names, places, dates and exhibits for the benefit of the transcript rather than assisting the developments of the trial. As stated in section *4.1.2*, *For the record repeats* occur more frequently in Direct examination. Another significant conclusion drawn from this category is the higher occurrence of it during NAWs' Direct examination. This is mainly due to the fact that NAWs were well-acquainted with the area of Pine Ridge and its surroundings, while, at the same time, they called people involved in the case by their nicknames. On the other side, SAWs had a more detached knowledge about the area and subjects involved in the case.

As for *Challenging* and *Clarification*, both took place during Cross-examination for the most part, although as it has been addressed, they may occur in Direct examination as well. Nevertheless, it is important to bear in mind that *Challenging* overpowers *Clarification* considering that *Challenging* was the only category to be purely adversative. As stated before, this is because, in *Challenging*, lawyers try to discredit the witness' account of events: USAs against NAWs in Direct examination; and all of the attorneys against the witnesses they were cross-examining during Cross-examination. Thus, resulting in an attack to the witnesses' consistency, reliability, and credibility. Meanwhile, *Clarification* tends to be more adversative overall, but other orientations were also present in this category. This is because *Clarification* is a versatile category, which may serve different purposes; some are more collaborative in nature (to aid the witness in the clear narration of events), others are more neutral (to clear up ambiguities in the narrative of witnesses), and the adversative regards one of the main strategies of lawyers, which consists in manipulating and steering the narrative to the benefit of their own case.

5.1 Limitations

As it has been stated, the corpus consisted in a text transcript of the original courtroom trial, from which audios or recordings of it do not exist. Consequently, the prosodic factor could not be considered for the analysis, and thus, factors such as accent and intonation could not be addressed. Therefore, the absence of the recorded audio tapes of the trial constituted the principal limitation of this study. Cotterill (2002) confirms what Tiersma has pointed out about the transcript of a case, it "becomes the definitive record of what occurred" (Tiersma 1999, as cited in Cotterill, 2002, p. 149), and so it was the case for this study: the transcripts became the ultimate record of what actually happened at Fargo, North Dakota in 1977. Moreover, it would have been interesting to have video tape records of the trial, in order to address paralinguistic features of the speakers, such as grins, hand-movements, and physical behavior in general.

Another limitation, although minor compared to the prosodic factor, was the presence of issues in the transcripts of the trial, as there were several spelling mistakes that might confuse the reader. In some cases, not only they may confuse the reader, but they can also prove to be unintelligible.

Finally, the last limitation of this study was the amount of testimonies that could be analyzed, in this case, there were only 4 testimonies of 4 witnesses scrutinized. It would have been ideal to have examined more statements, considering that there were 84 witnesses that gave testimony during Peltier's trial. It is assumed that a larger analysis, thus, a larger sample, might have shown an even more solid interpretation of the results.

5.2 Further Research

As further research, it would be interesting to analyze other linguistic features that may take place within courtroom interaction. A good example of this is the frequent use of some discourse markers which, although proved to play a common prefacing role in the configuration of *repeats*, were not analyzed in view of the limited scope of this investigation. Discourse markers as prefaces have been deeply studied over the last decades (Heritage and Sorjonen 1994, Heritage 1998, Fraser 1999, Cotterill 2002). These authors have also studied institutional settings, such as courtroom interaction (Matsumoto 1999, Johnson 2002; Bolden 2010; Nguyen 2016), nevertheless, they have not considered the preface of a repeat-question in the courtroom, specifically.

Now, regarding the Peltier case itself, it would be interesting to address more testimonies of witnesses of the case, in order to enlarge the sample. Plus, it might be useful to draw upon the many appeals and petitions of clemency of this case to cross reference data.

As this piece of research was not delimited by partial and full notions, it could also be interesting to research on the differences between the use of *full* and *partial repeats* and its impact on the consequent response. Also, it would be interesting to address the idea of the importance of the color and model of the vehicle as well. According to Messerschmidt (1983), the more specific references to a "red pickup" going around the Jumping Bull area did not fit conveniently into the case against Peltier. Regarding the linguistic importance of this feature, Cotterill (2002) addresses different "degrees of intervention" (p. 148) in the narratives of witnesses. Thus, lawyers shape, in a certain way, what they want to hear from witnesses, since they are aware of the power they have in court. So, they are able to manipulate language.

Finally, language manipulation, more specifically "lexical perversion" (Eades, 2006), is present in the speech of lawyers along their interactions in court, not only in this case, but in most

of the cases, especially those that involve Aboriginal people (Eades, 2006). For this particular case, the perversion of the use of the words “van/pickup” and “red and white/orange and white”, might be studied as further research.

As a final suggestion, the analysis done for this study could also be replicated to address other cases that have caused controversy over the years and that also present social relevance. Some examples of controversial trials could be the following: John Demjanjunk, a Nazi officer in charge of the gas chamber in concentration camps during the Holocaust. He was accused of executing thousands of Jews, although he was found not guilty during his first trial; O.J. Simpson, an American football player, who allegedly murdered his ex-wife and her boyfriend. O.J.’s trial is considered the “Trial of the century” because of the media coverage and a number of situations that brought controversy to the case, which ended with a not guilty verdict; finally, the case of Oscar Pistorius, a former South-African Paralympic athlete, who killed his girlfriend arguing that he confused her with an intruder. He was found guilty of the murder but was sentenced to house arrest solely. Lately, during one of the appeals of this case, his sentence was increased to 13 and a half years of effective jail, in addition to the year and a half he had already served by that time. To summarize, it would be interesting to replicate the study here presented in one of these cases, or in many other controversial ones.

References

American Bar Association. (n.d). *How Courts Work.* Retrieved December 13, 2019 from https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/crossexam/

Apted, M, director. *Incident at Oglala*. Miramax Films, 1992.

Austin, J. (1962). *How to do things with words*. Oxford: Oxford University Press.

Banfield, A. (1973) "Narrative Style and the Grammar of Direct and Indirect Speech". *Foundations of Language 10*(1), pp. 1-39.

Bolden, G. (2009). Beyond Answering: Repeat-Prefaced Responses in Conversation. *Communication Monographs, 76*(2), pp. 121-143.

Bolden, G. (2010). "'Articulating the unsaid' via *and*-prefaced formulations of others' talk". *Discourse Studies 12* (5), pp. 5-32.

Brown, P. and Levinson S. (1987). *Politeness: Some universals in language usage*. Cambridge: Cambridge University Press.

Cotterill, J. (2002). "'Just One More Time…': Aspects of Intertextuality in the Trials of O.J. Simpson". In Janet Cotterill (Ed.), *Language in the Legal Process*. Hampshire, England: Palgrave Macmillan, pp. 147-161.

Coulthard, M., and Johnson, A. (2007). *An Introduction to Forensic Linguistics: Language in Evidence.* Abingdon: Routledge.

Culpeper, J. (2011). "Politeness and Impoliteness". In Karin Aijmer and Gisle Andersen (Eds.) *Sociopragmatics, Handbooks of Pragmatics 5.* Berlin, Germany: Mouton de Gruyter, pp. 391-436.

Eades, D. (2006). Lexical struggle in court: Aboriginal Australians versus the state. *Journal of Sociolinguistics 10*(2), pp. 153-180.

Eades, D. (2016). "Erasing Context in the Courtroom Construal of Consent." In Susan Ehrlich, Diana Eades and Janet Ainsworth (Eds.), *Discursive Constructions of Consent in the Legal Process.* New York, U.S.: Oxford University Press, pp. 71-90.

Ehrlich, S. (2010). "Rape victims: The discourse of rape trials". In Malcolm Coulthard and Alison Johnson (Eds.), *The Routledge Handbook of Forensic Linguistics*. Oxford, England: Routledge, pp. 265-280.

Fraser, B. (1999). "What are discourse markers?". *Journal of Pragmatics 31*, pp. 931-952.

Gibbons, J. (2003). *Forensic linguistics: An introduction to language in the justice system.* Malden: Blackwell.

Gibbons, J. (2008). "Questioning in common law criminal courts." In: John Gibbons and M. Teresa Turell (eds.), *Dimensions of Forensic Linguistics:* AILA Applied Linguistics Series *5*. Amsterdam, The Netherlands: John Benjamins Publishing Company, pp. 115-130.

Glossary of Legal Terms. (n.d.). *Prosecute.* Retrieved 17 November 2019, from https://www.uscourts.gov/glossary

Glossary of Legal Terms. (n.d.). *Record.* Retrieved 17 November 2019, from https://www.uscourts.gov/glossary

Griswold, O. (2016). "Center Stage: Direct and Indirect Reported Speech in Conversational Storytelling." *Issues in Applied Linguistics 20*(1), pp. 73-90.

Hale, S. (2004a). "Courtroom questioning and the interpreter". In Sandra Beatriz Hale (Ed.), *The Discourse of Court Interpreting: Discourse practices of the law, the witness and the*

interpreter. Amsterdam, The Netherlands: John Benjamins Publishing Company, pp. 31-59.

Hale, S. (2004b). "The use of discourse markers in courtroom questions". In Sandra Beatriz Hale (Ed.), *The Discourse of Court Interpreting: Discourse practices of the law, the witness and the interpreter*. Amsterdam, The Netherlands: John Benjamins Publishing Company, pp. 69-82.

Halliday, M., & Hasan, R. (1976). *Cohesion in English*. London: Longman.

Heffer, C. (2010). "Narrative in the trial. Constructing crime stories in court." In Malcolm Coulthard and Alison Johnson (Eds.), *The Routledge Handbook of Forensic Linguistics*. Oxford, England: Routledge, pp. 209-210.

Heritage, J. and Sorjonen, M. (1994). "Constituting and maintaining activities across sequences: *And*-prefacing as a feature of question design". *Language in Society* 23, pp. 1-24.

Heritage, J. (1998). "Oh-prefaced responses to inquiry". *Language in Society 27*, pp. 291-334.

Holt, E. and Johnson, A. (2010). "Legal talk: Socio-pragmatic aspects of legal talk: police interviews and trial discourse". In Malcolm Coulthard and Alison Johnson (Eds.), *The Routledge Handbook of Forensic Linguistics*. Oxford, England: Routledge, pp. 23-31.

Infante, P. (2018). *La inconsistencia narrativa en el evento de habla* juicio oral penal*: análisis de declaraciones en juicios anulados y propuesta de perfiles de declarante inconsistente* (Doctoral dissertation). Pontificia Universidad Católica de Chile, Santiago, Chile. Retrieved from https://repositorio.uc.cl/bitstream/handle/11534/22039/Tesis%20Pascuala%20Infante%20%28enviada%20a%20Biblioteca%29.pdf?sequence=1&isAllowed=y

International Leonard Peltier Defense Committee. (2019). *Trial Transcripts.* Retrieved December 23, 2019 from https://www.whoisleonardpeltier.info/trial-transcripts/

Johnson, A. (2002). "*So* . . .? Pragmatic Implications of So-Prefaced Questions in Formal Police Interviews". In Janet Cotterill (Ed.), *Language in the Legal Process*. Hampshire, England: Palgrave Macmillan, pp. 91-110.

Korta, K. and Perry, J. (2019). "Pragmatics". In Edward N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Fall 2019 Edition). Retrieved December 19, 2019 from https://plato.stanford.edu/archives/fall2019/entries/pragmatics/

Leech, G.N. (1983). *Principles of Pragmatics.* New York: Longman Inc.

Legal Definitions. (2018). *Impeachment of a Witness*. Retrieved October 29, 2019 from http://www.fedbar.org/For-the-Media/Legal-Definitions.aspx

Levinson, S. (1983). *Pragmatics*. Cambridge: Cambridge University Press.

Lewis, A. (2006). *The American Culture of War*. New York: Routledge.

Matsumoto, K. (1999). "*And*-prefaced questions in institutional discourse". *Linguistics 37* (2), pp. 251-274.

Markee, N. (2000). *Conversation Analysis.* Mahwah: Lawrence Erlbaum Associates, Inc.

Messerschmidt, J. (1983). *The trial of Leonard Peltier.* Cambridge: South End Press.

Nguyen H.T. and Nguyen M.T.T. (2016). ""But please can I play with the iPad?'': The development of request negotiation practices by a four-year-old child". *Journal of Pragmatics 101*, pp. 66-82. Retrieved from https://www.sciencedirect.com/journal/journal-of-pragmatics

Ramírez, M. (2017). “Antecedentes de la lingüística forense: ¿desde cuándo se estudia el lenguaje como evidencia?”. *Pragmalingüística 25*, pp. 525-539.

RESMURS Case (Reservation Murders) | Federal Bureau of Investigation. (n.d.). Retrieved April 25, 2019 from https://www.fbi.gov/history/famous-cases/resmurs-case-reservation-murders

Robinson, J., Kevoe-Feldman, H. (2010). “Using Full Repeats to Initiate Repair on Others’ Questions”. Q*uestions, Research on Language & Social Interaction 3*(43). Oregon, United States: Portland University Press, pp. 232-259.

Robinson, J. (2013). “Epistemics, action formation, and other-initiation of repair: the case of partial questioning repeats”. In Makoto Hayashi, Geoffrey Raymond and Jack Sidnell (Eds.), *Studies in Interactional Sociolinguistics: Conversational Repair and Human Understanding 30*. London, England: Cambridge University Press, pp. 261-292.

Rock, F. (2011). Forensic Linguistics. In James Simpson (Ed.), *The Routledge Handbook of Applied Linguistics*. London, England: Routledge: pp. 138-152

Santana, J. and Falces, M. (2002) “‘Any statement you make can be used against you in a court of law’: Introducción a la Lingüística Forense”. Retrieved December 10, 2019 from https://www.ugr.es/~jsantana/publicaciones/linguistica_forense.htm

Searle, J. (1976). “A Classification of Illocutionary Acts”. *Language in Society, 5*(1). London, England: Cambridge University Press, pp. 1-23.

Shuy, R. (2002). *Linguistic Battles in Trademark Disputes.* London: Palgrave Macmillan.

Shuy, R. (2006a). “Cross-examination testimony”. In Roger Shuy (Ed.), *Linguistics in the Courtroom: A Practical Guide*. New York, United States: Oxford University Press, Inc., pp. 109-122.

Shuy, R. (2006b). “Giving testimony in the direct examination”. In Roger Shuy (Ed.), *Linguistics in the Courtroom: A Practical Guide*. New York, United States: Oxford University Press, Inc., pp. 83-107.

SIL Glossary of Linguistic Terms. (2003). *Other-Initiated Repair.* Retrieved December 05, 2019 from https://glossary.sil.org/term/other-initiated-repair

Tannen, D. (1987). *Repetition in conversation as spontaneous formulacity*. Amsterdam: Mouton de Gruyter, pp. 215-243.

Tiersma, P. (2008). “The nature of legal language”. In John Gibbons and M.Teresa Turell (eds.), *Dimension of Forensic Linguistics.* AAILA Applied Linguistics Series *5*. Amsterdam, The Netherlands: John Benjamins Publishing Company, pp. 7-25.

Thornborrow, J. (2012). “Narrative Analysis”. In James Paul Gee and Michael Handford (Eds.), *The Routledge Handbook of Discourse Analysis*. Oxford, England: Routledge, pp. 51-65.

USLegal. (2019) *Leading Question Law and Legal Definition*. Retrieved November 20, 2019 from https://definitions.uslegal.com/l/leading-question/#:~:targetText=A%20leading%20question%20is%20a,of%20a%20party's%20own%20witness

Van Dijk, T. (1980). “The semantics and pragmatics of functional coherence in discourse”. In J. Boyd and A. Ferrara (Eds.), *Speech Act Theory: Ten Years Later.* Special issue of Versus 26/27. Milan, Italy: Bompiani, pp. 49-65.

Appendix

The following link contains the Appendix for this study:

https://drive.google.com/drive/folders/1_-SsJZbzjGLoxuxZ4kXuaz6lCgyDbjBP