Transforming Social Actors and Positioning the Jury in the Prosecution and Defence Opening and Closing Statements in the State of Minnesota v. Derek Michael Chauvin Trial [2021]

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The candidate confirms that the work submitted is her own and that appropriate credit has been given where reference has been made to the work of others.

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Abstract

With a specific focus on the Chauvin trial [2021], this study examines the prosecution and defence's opening and closing speeches comparing the positioning and transformation of the jury and key social actors' identities. Critical discourse analysis (CDA), Corpus Linguistics (CL), and Positioning Theory (Davies and Harré, 1990) are used to investigate how the defendant, the victim, and the jury are positioned and transformed. The computational tools *AntConc* 3.5.9 (Anthony, 2020) and *Lexical Feature Marker* 7.0 (Woolls, 2020) identified initial patterns in the data, informing the qualitative analysis.

This thesis concentrates on the barristers' strategic nomination and the surrounding collocations in the opening and closing speeches. According to van Leeuwen (2008), nomination or categorization creates unique identities, drawing on an individual's characteristics, group membership, occupation, and/or role. It is argued that when 'a speaker has many options as to what to call a person and chooses one systematically over the others [...]', they are 'discursively creating' a specific identity and this 'shows what aspects of the person the speaker is highlighting in the discourse at that particular time' (Felton-Rosulek, 2009, p.9). Nuanced nomination is used to shape the social actors within the barristers' desired crime narrative, through the discursive creation of their shifting identities.

Additionally, the positioning of the jury, is explored through the barristers' 'strategic lexicalisation', identified in the transformation of grammar patterns and modality. Positioning, it is argued, '[...] direct[s] our attention to a process by which certain trains of consequences, intended or unintended, are set in motion' (Davies and Harré, 1990, p. 51), signifying the importance of the jury's position, as their role determines the trial's outcome. The jury are positioned as observers in the opening and decision-makers in the closing. The social actors and crime narrative are positioned according to each barrister's ideological stance (blame versus nature).

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Chapter 1

Introduction

The *State of Minnesota v. Derek Michael Chauvin* [2021] criminal trial was a landmark trial in recent US history, as, set against a backdrop of racist incidents involving police and citizens, the death of George Floyd during arrest marked a shift in public opinion amid worldwide protests against police brutality and racism against African Americans. Derek Michael Chauvin's conviction is a 'rare' case of a jury being 'willing to judge a police officer for their on-duty acts of violence' (Berman, 2021). Criminal trials in the adversarial system, such as in England and Wales and the US, involve barristers for the prosecution and defence using professional talk and strategic linguistic techniques to produce differing narrative events of the same alleged crime in their opening and closing speeches to the jury, as they first set out their case and then summarise the facts that have been brought in evidence.

The two main concepts underpinning this thesis are 'transforming' and 'positioning' in relation to the social actors, narrative events, and the jury. The opposing barristers construct different constructions of the same events and position the key social actors (Chauvin, Floyd and others) differently in relation to the alleged crime in order for the jury to make a decision about the defendant's guilt or innocence.

1.1 US trial system

The adversarial trial system used in the United States is comprised of representatives for the opposing parties (prosecution and defence), who present and advocate their case to an impartial person (judge or jury) with the jury trial genre having the following stages:

1. Jury selection
2. Opening statements
3. Presentment of the prosecution and defence cases:
   - Witness examination
   - Cross examination
4. Closing arguments
5. Jury instructions
6. Jury deliberation of the verdict

(US. Department of Justice, 2014)

The many layers of a trial emphasise the 'complex genre' (Heffer, 2005), which Heffer (2010) understands as a 'sequence of genres, each focused primarily on different evidential goals' (p. 200-1) and this 'requires that attorneys be able to hold up their end of verbal exchanges' (Mertz, 2007, p. 190).

At each stage in the trial, strategic language is employed by the barristers. This is notable in the 'competing stories' (Mertz, 2007, p. 106) told in the opening statements and closing arguments, especially when delivered to '[…] an impartial and passive audience which acts as a decision-maker, by assigning criminal liability on the basis of the stories' (Goodpaster, 1987, p. 120).

While the trial itself is complex, different factors in the Chauvin trial complicate the genre further. This is evident in the paradox of a police officer on trial, the complicating factors of race, and the emotive way that Floyd died. The circumstances that led to Floyd's death involved the violation of his 'constitutional right to be free from an officer's use of unreasonable force' (US Department of Justice, 2022), as Chauvin used his knee to apply force to Floyd's neck and back. The nine minutes and twenty-nine seconds that Chauvin 'willfully' applied unreasonable force upon Floyd resulted in 'bodily injury and death' (US Department of Justice, 2022). This is further complicated by the well-documented struggle between police violence and black communitices. In the opening speeches and closing arguments of the Chauvin trial, the prosecution's crime narrative focus is on the use of 'excessive' force, while the defence attempt to justify the use of force as an 'acceptable police practice'.

1.2 Police brutality in the United States and wider

> 'Eric Garner. Michael Brown. Laquan McDonald. Tamir Rice. Freddie Gray. Philando Castile. Elijah McClain. Breonna Taylor. George Floyd. Daunte Wright.'

> (Lawrence, 2023, p. 2)

The names above are all victims of police violence. 'Say Her Name', 'Say Their Name', and 'Know Their Name' are all movements that have stemmed from the countless black lives lost at the hands of police violence. The Black Lives Matter movement fights to 'intervene in violence inflicted on Black communities' (Black Lives Matter, 2023), while reminding people of the importance of keeping their names alive. What is even more disturbing than the idea that police brutality victims become household names, is that '[w]hile some use-of-force incidents become highly publicized centerpieces of public debate, the vast majority never become news at all' (Lawrence, 2023, p. 42). The Chauvin trial raises police brutality as an important and ongoing issue within the United States, as police use of (excessive) force is central to this case. This thesis discusses distressing material that is handled with sensitivity.

'Police brutality' is a term that entered modern English in 1833, according to the *OED* Online (2019), and is defined as 'the use of excessive and unjustified force by the police, esp. when dealing with members of the public'(*Oxford English Dictionary*, 2019). The *excessive* and *unjustified* use of force is central to the Chauvin trial, as Derek Chauvin knelt on George Floyd's neck for nine minutes and

twenty-nine seconds on the 25th of May 2020. Floyd can be heard saying repeatedly, "I can't breathe," in a video of the incident captured by a bystander and then circulated online. Floyd's dying words became a collective cry, influencing Judge Cahill's decision to televise the trial. Both social media and mainstream media has exposed the world to 'a relentless series of deaths and near-deaths of Black and Brown Americans at the hands of police' (Lawrence, 2023, p.2). The United Nations independent human rights experts issued a statement (2021) expressing their alarm on the issue of police brutality and excessive use of force that affects large sectors of society and is often '[…] rooted in political, socio-economic, ethnic, racial, religious, or other tensions specific to particular national or regional situations'. Police brutality is a universal issue, according to human rights organisations who urge law enforcement officials, governments, and political leaders to take preventative measures against violence:

> Police officers engage in unjustified shootings, severe beatings, fatal chokings, and unnecessarily rough physical treatment in cities throughout the United States, while their police superiors, city officials, and the Justice Department fail to act decisively to restrain or penalize such acts or even to record the full magnitude of the problem.
>
> (The Human Rights Watch, 1998)

We will see how 'force' and its excesses dominate the prosecution speeches.

1.3 Opening speeches and closing arguments

The opening statement is the initial point of contact for the barristers and the jury in a criminal trial. Central to each opening statement are the 'storylines' (Davies and Harré, 1990) that are produced. According to Stygall (1994), '[t]he very words both the attorneys and the Judge use to describe this trial segment provide an important cue' using the term "outline" in their description of opening statements (p. 107). This implies that the opening statement is confined to outlining the case and 'how the trial is expected to unfold' (US Courts, 2023). In the closing argument, 'the lawyers fit the different parts of the testimony together and connect up the facts' (Administration Office of the United States Courts, 2011, p. 7). This allows the barristers to 'remind jurors about key evidence presented and to persuade them to adopt an interpretation favorable to their position' (US Courts, 2023). This demonstrates the shift in the function of the storylines produced in the opening statements, as the barristers can refer to factual evidence and assess the credibility of witness evidence in the closing argument. In other words, according to Coulthard, et al (2017) 'if opening statements frame the evidence of witnesses, the closing statements evaluate the validity, reliability, value, truth and significance of witness stories following examination and cross examination' (p. 80). This suggests a shift in the function of the opening statement to the closing argument.

Heffer (2010, p. 201) also suggests that opening statements and closing arguments are categorized as the 'story construction' sections of the trial (See Figure 1.1), which are presented to the jurors through barrister monologue. Heffer (2010) states that the jurors themselves make their own stories from the evidence they are provided with, which they have to consider alongside the law. Essentially, the 'master-narrative' in the trial is the overall story constructed by the counsel for the benefit of the decision-making jury. In this trial, the two master-narratives are the excessive force leading to murder for the prosecution and justifiable force in the line of duty for the defence.
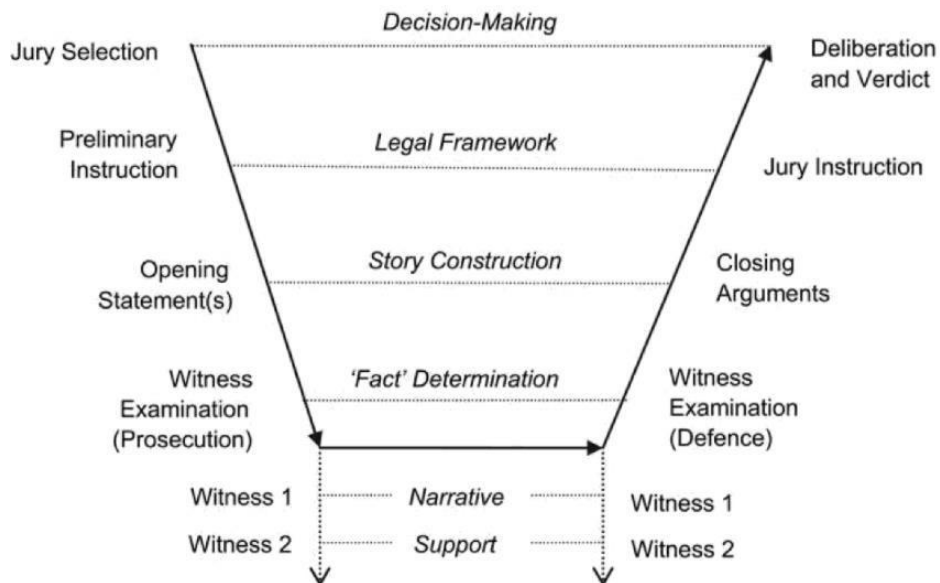
Figure 1.1 Heffer's (2010, p. 201) model of a jury trial as a complex genre

The master-narrative undergoes a transformational process within the trial, from outlining the facts to evaluating the evidence, leading to a shift in the language that the barristers use. With this in mind, this thesis seeks to explore the strategic language used by lawyers, in pursuit of the following questions:

1. What do the lexical and grammatical patterns in the opening statements and closing arguments indicate about the texts' 'aboutness'?

2. How has 'strategic lexicalisation' influenced the positioning of the jury in the opening statement in comparison with the closing argument?

3. How has the nomination of the key social actors (Chauvin and Floyd) influenced the discursive shift in their identity construction from the beginning to the end of the trial?

1.3.1 Multimodality

When looking at courtroom discourse, focusing on speech alone is insufficient, as speech, gesture, and objects are 'co-expressive' (Matoesian and Gilbert, 2021). Matoesian (2010, p. 541) argues that:

'[f]ocusing on just words neglects the role of multimodal activities in legal proceedings – how both language and embodied conduct mutually contextualize one another in a reciprocal dialectic – and leaves the study of forensic linguistics with an incomplete understanding of legal discourse'

Language and multimodal performance work collectively to produce meaning, especially in the modern courtroom where barristers use all of their resources beyond voice to communicate their narrative, evidence, and arguments to the jury. In the Chauvin trial, both the prosecution and defence use a PowerPoint and video footage in the opening statements and closing arguments, illustrating their ideas visually as well as orally. Matoesian and Gilbert (2018) multimodally analyse the opening statement of a sexual assault trial against William Kennedy Smith. There is particular attention paid to a diagram of Smith's home that defence lawyer Roy Black 'traces' with his finger. This '[…] enhances spatial recognition of route alterations, guiding jurors to crucial information […]' (p. 142). The act of tracing and the use of a diagram aid Black in positioning the jury at the scene of the alleged crime. In this way 'multimodal resources play a crucial role in transforming the opening statement from a mere outline of the case to inconsistencies in the evidence and attacks on witness credibility' (Matoesian and Gilbert, 2018 p. 127). This demonstrates how barristers are 'co-expressive' in the courtroom, creating meaning visually and verbally, as well as highlighting the importance of transformation. We will see how this applies to the Chauvin trial, when the prosecution barrister employs images within the PowerPoint to transform the jury's understanding of the nine minutes and twenty-nine seconds that is central to their master-narrative.

1.4 Thesis structure

In the exploration of the research questions, this study reviews the existing literature on Forensic Linguisitics and professional discourse as a basis for analysis of the opening speeches and closing arguments in the Chauvin trial (Chapter 2). This primarily concerns the relationship between language and the law and its convergance with the concepts of transformation in the legal setting and Positioning Theory (Davies and Harré', 1990). Using the concepts of 'transformation' and 'positioning' as a lens for analysis, the strategic linguisitc techniques used by barristers are investigated, to examine the identitiy (re)construction of the jury and social actors.

The corpus-based approach that combines Critical Discourse Analysis (CDA) and Corpus Linguistics (CL) is outlined in Chapter 3, before an overview of the general lexical patterns in the data is established in Chapter 4. This gives a good indication of each opening statement and closing arguments 'aboutness' (Scott, 2017) and the differing ideological stances of the prosecution and defence. It also establishes the general similarities between the prosecution and defence opening statements and then closing arguments, as a basis for in-depth, specific linguistic inquiries.

The following chapters (Chapters 5 and 6) compare how the jury are positioned in the opening statement and then the closing argument, leading into the subsequent positioning of the social actors' identities from the beginning to the end of the trial. Through this investigation, the transformation and discursive shift in the positioning of the jury and Chauvin and Floyd is also examined. The thesis concludes in Chapter 7 by reviewing the key findings, paying particular attention to the research questions outlined in Chapter 1.

Chapter 2

Literature review

This chapter is structured thematically, beginning with a discussion on the intersection of forensic linguistics and professional language, before narrowing the focus to courtroom discourse relating to strategic language use (Cotterill, 2003, Heffer, 2005), and stancetaking (Chaemsaithong, 2017). Keeping the focus within the courtroom, I focus on the use of positioning (Davies and Harré, 1990) and then transformation in the legal setting, concerning strategies used by lawyers such as social actor agency and responsibility (Chaemsaithong, 2021, Wright, 2020), silencing, emphasising, and de-emphasising (Felton-Rosulek, 2015), and nomination and categorization (van Leeuwen, 2008). To conclude, I reflect on the literature that influenced the thesis and identify the gaps in current research that are explored further in this study.

2.1 Forensic linguistics (FL) and professional discourse

For Gibbons and Turell (2008, p. 1), 'the multidisciplinary nature of Forensic Linguistics [is] understood in its broadest sense as the interface of the language and the law'. Olsson and Luchjenbroers (2013, p. 1) define FL as 'the analysis of language that relates to the law, either as evidence or as legal discourse', expressing how, as a field of study, FL is broad in its application to the law. FL looks at authorship attribution, textual borrowing, forensic phonetics, legal documents, police interviews, courtroom interaction (Coulthard, Johnson and Wright, 2017) and so on, to better understand the relationship between language and the law. The analysis of 'the professional language of the law and the language of the law encountered by the lay person' (Olsson and Luchjenbroers, 2013, p. 1) is especially explored in courtroom interaction, where barristers and lay persons interact. Specifically, opening statements and closing arguments are directly addressed to the jury, who observe and then interpret each barrister's crime narrative to aid in their decision-making role. This highlights the importance of understanding professional discourse, as misinterpretation from the lay person could influence the outcome of a trial.

In its plainest sense, 'professional discourse is the language used by professionals including lawyers, doctors and engineers' (Kong, 2014, p. 1), which differs from the everyday use of language, perhaps through the use of 'specialized terminology and linguistic routines' (Holmes and Meyerhoff, 1999, p. 176). Kong's (2014) notion of professional discourse stems from Wenger and Lave's (1991) concept of the 'community of practice', where specific groups of people in society use a 'shared repertoire' deriving from group membership. This suggests that professional discourse is comprised of shared language use and is specific to each profession through shared membership, meaning that 'one thinks

like a lawyer because one speaks, writes, and reads like a lawyer' (Mertz, 2007, p. 3). Profession, relating to occupation, has connotations of 'prolonged training and a formal qualification' (*OED* Online, 2004). It is therefore recognised that:

> Law school is, after all, a training in a kind of language. One of the hallmarks of legal training is the instillation of new norms of adversarial speech, and one canonical legal context in which many lawyers will wind up working (the courtroom) requires that attorneys be able to hold up their end of verbal exchanges.

> (Mertz, 2007, p. 190)

The view that lawyers are trained to use 'adversarial speech' (Mertz, 2007) indicates that there is a distinction between professional language and everyday language. This suggests that while lawyer talk is derived from group membership and shared language, barristers are also trained to speak as adversaries in a contest: prosecution against defence. Adversarial speech is learnt and therefore governed by acquired 'linguistic routines' (Holmes and Meyerhoff, 1999) as well as by pupillage (following a 'master'), which makes their language strategic through being influential and persuasive.

2.2 Transformation in the legal setting

From the opening statement to the closing argument, the crime narrative produced by each barrister undergoes a potential transformation, as the legal proceeding 'unfolds over time' (Heffer, et al. 2013, p. 3). Following the opening statements, the criminal trial begins to 'unfold' through the presentation of evidence and witness examination. Consequently, this impacts how the barristers produce their crime narrative in the closing arguments, as '[…] the crime and investigation stories are viewed through the evidence of the witnesses who gave testimony during the trial' (Heffer, 2010, p. 204). This can be understood through the concept of 'textual travel', which '[…] concerns the way that texts move through and around institutional process and are shaped, altered, and appropriated during their journeys' (Heffer, et al. 2013, p. 4). During this process, the positioning of the social actors are also potentially altered, transforming their identity from the beginning to the end of the trial. This is also true for narrative events, that can be likened to when a text is '[…] uprooted from its original context' and is 'replaced in a new setting; that is, it can be *recontextualized*' (Heffer, et al. 2013, p. 10).

To assess how barristers use language to be strategic and transformative when positioning both the social actors and the jury, this study analyses the patterns found in the data. Scott and Tribble (2006, p.12) note that the creation of a corpus of texts for study is also methodologically transformational:

> The very idea of taking a text or collection of texts and re-casting it in another shape is transformational in the sense that it changes the object being considered radically from a text

which can be read linearly to some other form which will give rise to important insights, pattern recognitions or teaching implications.

Likewise, the exploration of the lexical and grammatical patterns found in the data is transformational, producing different insights for the jury from opening speech to closing argument.

The crime narrative and the strategic lexical choices used by barristers influence the jury, whose '[…] ongoing perceptions and ultimate decision-making' (Nicholson, 2010, p. 220) are crucial for the outcome of a trial. Like the social actors and narrative events, the jurors' identities are transformed within the legal process. They are transformed from non-institutional to institutional domain positions as lay participants become professional observers in a short space of time.

2.3 Positioning Theory

Positioning Theory concerns how communication shapes our identity. According to Wenger and Lave (1991), our language use is influenced by community of practice and group membership, resulting in a shared repertoire. This notion suggests that the shared language used by barristers in the courtroom positions and shapes identity. Originating in Conversation Analysis (CA), Davies and Harré (1990, p. 48) define Positioning Theory as '[…] the discursive process whereby selves are located in conversations as observably and subjectively coherent participants in jointly produced story lines'. This includes the positioning of oneself and others, where participants 'assign parts and characters' (1990, p. 48) within their story.

Relating to courtroom discourse, such practice can be identified through the use of strategic linguistic techniques that barristers use to manipulate the position of social actors, events, and the jury. Harré (2011, p. ix) notes that '[s]ometimes, positioning is a deliberate act of which the actors are aware— more often it *crystallizes* out of the background of social practices within which people are embedded'. It is fruitful to analyse language patterning as part of the social practices of the courtroom. For Harré (2011, p. 51), '[t]he main relevance of the concept of positioning for social psychology is that it serves to direct our attention to a process by which certain trains of consequences, intended or unintended, are set in motion.' Barristers position and shape themselves, other social actors, the crime narrative, and especially the jury, to fit the desired narrative of their opening statement or closing argument, which ultimately, 'intended or unintended' (Harré, 2011, p. 51), influences the outcome of a trial.

To assess the influence that language has on the representation of the crime narrative and key social actors as presented to the jury, this study concentrates on the use of positioning strategies in the courtroom. This study views positioning as a strategic, social and professional practice based on Davies and Harré's (1990) theory.

2.4 Strategic linguistic techniques

Focusing on the shared repertoire that barristers acquire, it can be argued that barristers use strategic linguistic techniques within the courtroom. Cotterill (2003) explores this in her research on the OJ Simpson trial, explaining that in the opening statements '[a] fundamental ingredient in producing persuasive effect is the *lexical* representation of the acts and actors involved in the crime story' (p. 65). Cotterill (2003) argues that this is achieved through using strategic lexical choices, influencing how the prosecution and the defence depict Simpson differently, according to the associated semantic prosody. For example, Cotterill (2003) explores how the prosecution created two contrasting personas for Simpson – public and private. For Simpson's private persona, the prosecution focused on the verb *encounter* to lexicalise his personality with collocates which included 'prejudice' and 'problems' (p.69). The strategic use of the verb *encounter* and its negative semantic prosody manipulated how Simpson's character was portrayed to the jury, to align with the prosecution's desired crime narrative.

While this shows how Simpson is strategically positioned by lexical choices, Cotterill (2003) also identifies how events are strategically depicted within the trial. The defence describe the alleged assaults of Simpson's wife as *incidents*, that the defence associate with the idea that 'people don't always get along' (p. 81). Cotterill (2003) argues that this massively downplays the severity of the situation. It is through the examination of different strategic lexical choices that Cotterill (2003) shows how barristers 'exploit their respective opening statement in order to orient the jury towards their side's version of the trial narrative' (p. 90), through the framing of Simpson and the alleged crime.

Similarly, Chaemsaithong (2017) argues that '[…] lawyers have complete control over linguistic choices, thereby testifying to lawyers' pragmatic awareness of audience and their needs' (p. 105), particularly through stance. Stancetaking, or evaluation, is used as a persuasive strategy in trial opening statements and can take different forms according to Chaemsaithong (2017), namely through the use of pronouns, attitude markers, hedges, and boosters. Understanding '[…] legal discourse as evaluative and interpersonal' (p. 103), highlights how legal professionals use stancetaking as a strategy to '[…] compare, contrast, and evaluate their claims against opponents' (p. 103). While opening statements are required to be non-argumentative, stancetaking involves subtle evaluation of the claims that are presented to the jury.

Previous research on positioning in trial discourse has concentrated on the role of social actors and their agency in the construction of opposing realities. Chaemsaithong (2021) explores how grammatical choices influence ideological positioning in the courtroom and the positioning of social actors, which ultimately creates opposing realities of the same event. This can be seen in how participants are represented in a narrative and how their agency is portrayed. Chaemsaithong (2021) notes how

'blameworthiness' can be calculated by the agency that is given to an actor, referencing Trew (2018) to illustrate this through this example:

> two British newspapers implicitly position the reader to blame the so-called "rioters" by presenting them as "agent" in a high proportion of the clauses (as in "Rioting blacks shot dead by police."), while another newspaper positions the reader to view the police as more to blame by presenting them as the primary agents and the crowd as acted upon (as in "Police shot 11 dead in Salisbury riot.)

> (Trew, 2018 cited Chaemsaithong, 2021, p. 207)

This demonstrates how the same event can be represented entirely differently based on the positioning of social actors. It also shows that the reader is positioned based on how the social actors are represented through transitivity. Though this example does not relate to a courtroom setting, it highlights how a narrative can be skewed depending on who is presenting it. Chaemsaithong (2021) applies this idea to opening statements to suggest that 'two opposing opening statements are coherently accomplished by attributing different levels of agency to the defendant and the victim(s) in each case' (p. 221) thereby positioning the actors in relation to the alleged crime. Similarly, Wright (2021) explores the relationship between social actors, positioning, and responsibility. In his conference paper, Wright (2021) discussed the roles that people, and companies play in the opening statements of the Grenfell Tower inquiry and looked specifically at how social actors are emphasised or silenced, concerning specific evidence that is used. Silencing, emphasizing and de-emphasizing are strategies that Felton Rosulek (2015) discusses in relation to prosecution and defence closing arguments. Felton Rosulek (2015) argues that evidence, topics, social actors, or narrative events are 'silenced', 'emphasised', or 'de-emphasised' in prosecution and defence closing arguments, to create the desired 'crime narratives' (Heffer, 2010).

The positioning of social actors can also be demonstrated through their nomination and categorization, a model established by van Leeuwen (2008) in CDA. Van Leeuwen (2008) uses the terms 'nomination' and 'categorization' to define how a person is labelled. Nominations are references to a person, using their name with varying levels of formality (e.g., *Mr. Chauvin/Mr. Floyd* versus *Derek Chauvin/George Floyd*). Both *Mr.* and *George* are examples of the nominations used by the prosecution and defence. Nomination creates a unique identity for that individual. On the other hand, categorizations draw on group membership or a person's characteristics. There are different types of categorization, including 'functionalization', which 'occurs when social actors are referred to in terms of an activity, in terms of something they do, for instance, an occupation or role' (van Leeuwen, 2008, p. 42), as in *officer(s)*, *police, bystanders,* or *the defendant.* This indicates group membership or their role in the context, but not their identity outside of it (Felton-Rosulek, 2009). There are also 'somatizations' that refer to a person by their body parts (*his neck, his back, his knees*). An 'identification' refers to a person by what they 'more or less permanently, or unavoidably are' (van Leeuwen, 2008, p. 42). It focuses on aspects

of a person's identity, such as socioeconomic factors, for example, their age, gender, and class (*he, grown men, the younger one*), their relation to people (*a father, a brother, a cousin*) or their physical characteristics, like their hair colour, height, or stature (Felton-Rosulek, 2009). Nomination and categorization position social actors in both the opening statements and closing arguments. Looking comparatively at their depiction from the beginning to the end of the trial indicates how the barristers use language to mould and shape their identity, according to their desired crime narrative.

2.5 Conclusion

Previous studies on strategic linguistic techniques in opening speeches and closing arguments have focused on either the opening speech or the closing argument. The barristers create and 'recontextualise' their crime narratives at the beginning and the end of the trial, which makes the comparison of the opening statement with the closing argument seem like an obvious choice for investigation. Despite this, many studies tend to focus on the opening and the closing separately. Combining the concepts of transformation and positioning, my comparative analysis of the opening speech and closing argument seeks to investigate how the social actors, narrative events, and the jury undergo a transformational process from the beginning to the end of the trial. This study compares the strategic linguistic techniques used by the prosecution and defence in both the opening speeches and closing arguments, building a picture of how the shifting identities and events in the Chauvin trial are portrayed.

Chapter 3

Methodology

With a specific focus on the *State of Minnesota v. Derek Michael Chauvin* trial, this study combines CDA and corpus linguistics (CL), using *AntConc* 3.5.9 (Anthony, 2020) and *Lexical Feature Marker* 7.0 (Woolls, 2020) (*LFM*) to assist the investigation into how Chauvin, Floyd, and the jury are positioned and transformed from the beginning to the end of the trial. This chapter first introduces the trial participants and then outlines the data and the methods used to explore it.

In both the opening and closing speeches, the defendant, Derek Michael Chauvin, is represented by defence lawyer Eric Nelson. For the prosecution, Jerry Blackwell gives the opening statement, and Steve Schleicher delivers the closing argument (Figure 3.1).

Figure 3.1 Derek Chauvin, the defendant (top left), Eric Nelson, defence barrister (top right), Jerry Blackwell, prosecution barrister (bottom left), Steve Schleicher, prosecution barrister (bottom right)

3.1 The data

The live broadcast of the *State of Minnesota v. Derek Michael Chauvin* trial [2021] resulted in public access to the transcripts of all the trial proceedings. The opening statement and closing argument transcript data was downloaded from *Rev.com* (2021) and modified from its original format (.htm) to

plain text (.txt) to ensure compatibility with the computational tool *AntConc* (discussed in section 3.3). Jerry Blackwell's opening statement for the prosecution (8,175 words) was followed by Eric Nelson's opening statement for the defence (3,092 words). Steve Schleicher delivered the prosecution's closing argument (12,994 words) and Eric Nelson (17,689 words) delivered the defence's argument after eleven days of prosecution testimony and two days of defence (Table 3.1).

3.1.1 The MvC Corpus

The opening statement and closing argument transcripts were compiled into a small specialised corpus, *The State of Minnesota v. Chauvin Opening and Closing Statements Corpus* (MvC) (See Table 3.1). Specialised corpora, Knight (2011, p. 206) argues, characterise '[…] a specific discourse context (i.e., 'business language' for example)' with the intent to '[…] fuel the exploration of specific linguistic enquiries' (p. 207). This study uses a specialised corpus to explicitly examine the role of lawyer discourse in the discursive creation and transformation of social actors and the jury's identities at the beginning and end of the trial.

Table 3.1 Summary of the opening statement and closing argument data in the MvC corpus

The State of Minnesota v. Chauvin Opening and Closing Statements Corpus (MvC)	Prosecution		Defence
Barrister:	Jerry Blackwell	Steve Schleicher	Eric Nelson
Opening statement (word count)	8,175	███████	3,092
Closing argument (word count)	███████	12,994	17,689
TOTAL:	21,169		20,781

The MvC corpus is central to the exploration of the research questions that this study seeks to investigate, with a focus on how lawyers use their language strategically. This requires accurate transcription of their language use. The transcripts were initially created using automated speech recognition software on *rev.com* (2021), which is convenient for the speed with which it can transcribe the data that it is given. The transcripts were cleaned to make the data easier to work with, for example replacing the time stamps and the speakers' names with angle brackets (see Figure 3.2). This allowed important information to remain within the transcript, improving the accuracy of the quantitative results using the appropriate settings in *AntConc* that '[…] 'ignores' everything that is put between angle brackets, so that the tags themselves will not be counted as words' (Götz, 2020, p. 70).

While transcription software attempts to produce an accurate word for word transcript, it does not take into consideration the qualities of spontaneous speech, such as how:

> […] people frequently change their minds half-way through a sentence; they frequently add little asides under their breath; they frequently convey part of their message through gesture or implication rather than making everything explicit in words; they use many contractions and colloquialisms. This is true, not just for casual conversational speech, but also for prepared or formal speech.
>
> (Fraser, 2003, p.217)

Meaning is conveyed multimodally such as through pauses, and gesture and, without this information, the transcript may not '[…] accurately reflect the intention of the speaker.' (Fraser 2003, p. 218). To ensure that the transcripts were inclusive of spontaneous speech and multimodal qualities, audio-visual clips were downloaded from *CourtTV.com* (2021), to manually transcribe the incomplete sections and to enhance the parts that the research discusses and analyses in greater depth. Using existing transcripts was fundamental, as the process of compiling, enhancing, and cleaning the transcripts was more efficient than it would have been to transcribe from scratch.

An example of the enhancements made to the transcripts is demonstrated in Figure 3.2, illustrating the use of transcription conventions, such as '(.)' to indicate a slight pause in delivery, and '(( ))' to highlight significant multimodal information. Visual modality offers additional information that cannot always be expressed through speech alone (Matoesian, 2018). As well as this, no changes were made to the actual dialogue; thus, filler words (such as *uh*), repeated words, hesitations, and so on, that the prosecution and defence used remain within the transcripts.
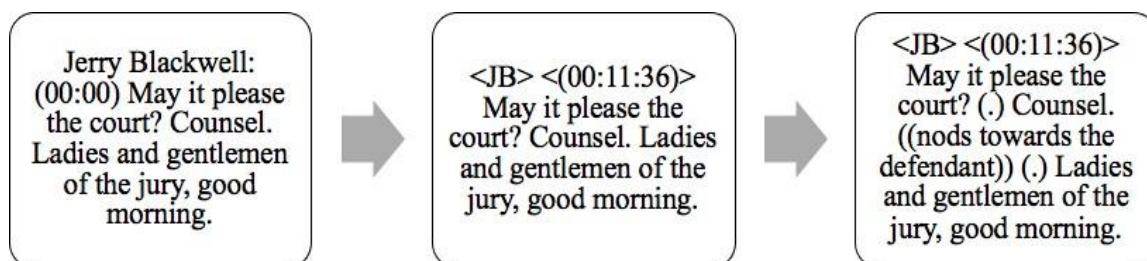
Figure 3.2 Example of the enhancing and cleaning process for the MvC transcripts

Figure 3.3 visually illustrates the organisation of the data into the relevant folders ('MvC Open' and 'MvC Close'), which usefully separated the transcripts into opening statement and closing argument sub-corpora. The filenames are used throughout this thesis in reference to the extracts that are analysed from the MvC corpus (e.g., Extract 1 Open_def_Nelson). The entire corpus is also contained in a compressed zip file, keeping all the transcripts condensed to make storing, backing up, moving, and

copying the data easier. In Chapters 4, 5 and 6, I compare the opening statements and closing arguments, demonstrating the importance of clearly identifiable transcripts.
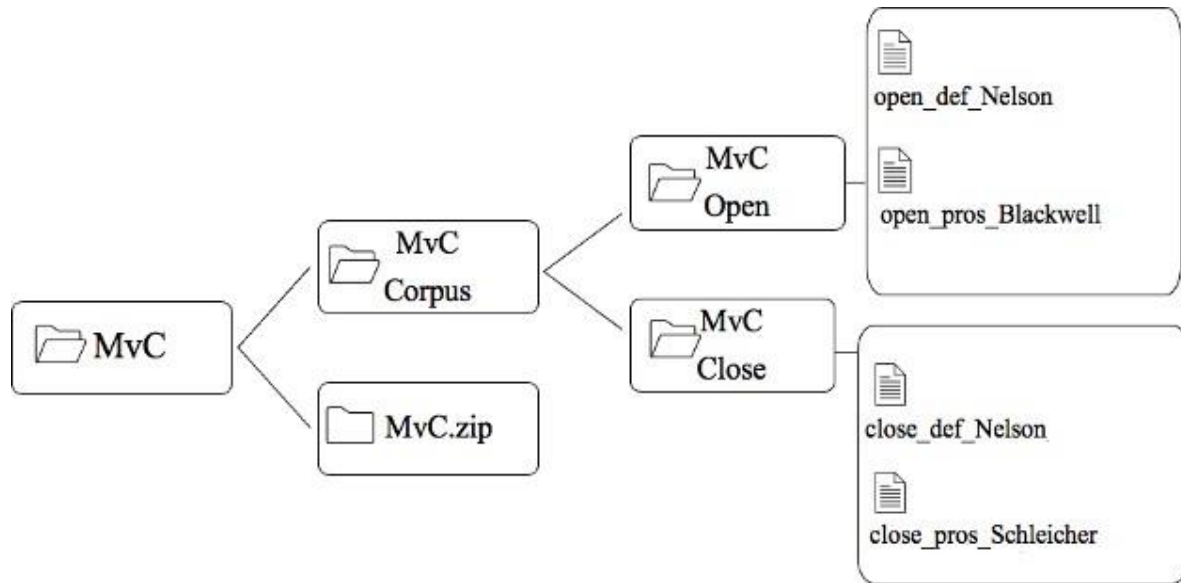
Figure 3.3 The file organisation of the MvC corpus

3.1.2 Reference corpora

This study uses a specific legal reference corpus, compiled to be used as a 'standard' on the 'basis of comparison' (Bodleian Libraries, 2021) with the MvC corpus. *The Corpus of Closing/Opening Statements from U.S Recorded Trials* (COURT) was constructed to represent a variety of other lawyers engaged in opening and closing statements in US trials. COURT consists of written transcripts from two high-profile U.S murder trials with seven lawyers represented (Table 3.2).

Table 3.2 Summary of the opening statement and closing argument data in the COURT corpus

The Corpus of Closing/Opening Statements from U.S Recorded Trials (COURT)	Opening Statements (word count)				Closing Arguments (word count)			
	Prosecution		Defence		Prosecution		Defence	
Barrister	Marcia Clark	Christopher Darden	Johnnie Cochran		Marcia Clark	Christopher Darden	Johnnie Cochran	Barry Scheck
The People of the State of California v. Orenthal James Simpson trial [1995]	3,259	7,551	25,531		46,197	24,751	50,706	38,386
	Prosecution		Defence		Prosecution		Defence	
Barrister	David P. Conn		Leslie Abramson	Charles Gessler	David P. Conn		Leslie Abramson	Charles Gessler
Menendez v. Superior Court (People) retrial [1995]	11,652		25,316	7,705	154,747		97,808	58,509
TOTAL:	81,014				471,104			

The COURT corpus contains all of the opening statements and closing arguments from *The People of the State of California v. Orenthal James Simpson* trial [1995] and the *Menendez v. Superior Court (People)* retrial [1995] (See Table 3.2). There are three prosecution lawyers and four defence lawyers' voices (Erik and Lyle Menendez were represented separately) across the five opening statements and five closing arguments, amounting to a substantial dataset for reference comparison, of a combined total of 81,014 words for the opening statements and 471,104 for the closing arguments, albeit from only two trials. The written transcripts for the Simpson (Walraven, 1995) and Menendez (WayBack Machine, 2014) trials are publicly and easily accessible, making them ideal for compiling the reference corpus. The transcripts from the Menendez trial were sorted by date on the *WayBack Machine* (2014) and downloaded individually as compressed zip files. All files were saved and formatted as (.txt) and sorted using the same system established in Figure 3.2. The transcripts in the COURT corpus are comparable to the MvC corpus, as they were 'cleaned' before use. In particular, all line numbers were removed from the *Menendez v. Superior Court (People)* transcripts. Using a specific trial reference corpus throughout the research was essential for understanding the difference between generic lawyer talk and the distinctive features of an individual lawyer's linguistic toolkit.

3.2 Ethics

The British Association for Applied Linguistics (BAAL) (2021) outlines good practice and researchers' responsibilities when dealing with any data, especially sensitive data, even when publicly available. As the trial was publicly broadcast, consent from and anonymization of participants, as suggested in section 2.2 'Informed consent' (p. 4) and 2.4 'Anonymity and confidentiality' (p. 6) of *Recommendations on Good Practice in Applied Linguistics 2021* (BAAL, 2021) was 'impossible' (p. 6). In these cases, it is suggested that '[…] decisions should be made on a case-by-case basis, with the support of a strong rationale that considers informants' rights and sensitivities' (BAAL, 2021, p. 5), which this thesis aims to do. This research uses distressing material that is handled with sensitivity and the project gained ethical approval from the AHC Research Ethics committee (FAHC 21-032).

3.3 Quantitative and qualitative methods

To analyse the data, an integrated corpus-based approach is used that combines qualitative, quantitative, and computational methods. CDA (an approach discussed below) is combined with Corpus Linguistics (CL), as computational tools help identify points of interest and patterns in the data, which then informed the qualitative analysis.

3.3.1 Critical discourse analysis (CDA)

Language '[…] is taken to be not simply a tool for description and a medium of communication (the conventional view) but as a social practice, as a way of doing things' (Wood and Kroger, 2000, p.4), thus implying that language involves meaningful social action. McGregor (2013) develops this notion, suggesting that meaning is conveyed through current societal, political, and historical circumstances, which highlights the importance of using CDA when analysing real world texts. Building on this, Gee (2011, p. 176) states:

> [p]eople talk and act not just as individuals, but as members of various sorts of social and cultural groups. We do not invent our language; we inherit it from others. We understand each other because we share conventions about how to use and interpret language.

This concept denotes a shared understanding within society, as evidenced by group membership, and this is reflected in our language use.

It is important to assess how lawyers use their shared language, as well as individual strategies, especially in the opening statements and closing arguments that directly address the jury, because their language impacts how the jury perceives the crime narrative, the victim, and the defendant, which ultimately influences the outcome of a trial. This is reinforced by the idea that '[…] talk has a performative quality, that we can do things with words' (Wood and Kroger, 2002, p. 5), which highlights the power of language and the influence it has.

The CDA approach draws on the influence of '[…] *critical linguistics*, which is a branch of discourse analysis that goes beyond the description of discourse to an explanation of *how* and *why* particular discourses are produced.' (Teo, 2000, p. 11). The advantage of looking at *how* and *why* discourse is produced uncovers the persuasive and manipulative aspects of language and ideologies that are created in particular contexts. CDA deals with the transformation and/or 'the (re)production of power relations through language as a central concern for investigation' (Heydon, 2005, p. 17), which typically explores oppressive discourse, particularly from the view of the underdog. According to Fairclough (2013) '[i]deology is, first, a relation between meaning (and therefore texts) and social relations of power and

domination. It is one modality of power (another is physical force). And ideology is, first, a matter of representation' (p. 79). With this in mind, this study highlights how ideologically powerful discourse is produced for the already powerful institutional participant. This is through the courtroom focus on the prosecution and defence opening statements and closing arguments.

It is important to recognise that '[f]or CDA, language is not powerful on its own - it gains power by the use people make of it and by the people who have access to language means and public fora' (Baker, et al., 2008, p. 280). This thesis analyses not simply how the prosecution and defence use language strategically when directly addressing the jury, but how their awareness of the wider audience in the public gallery and behind the live broadcast of the trial are indexed. This will demonstrate how their language gains 'power', effectively transforming the identity of social actors, positioning the social actors concerning the differing crime narratives, and the jury as observers and decision-makers.

3.3.2 Corpus Linguistics (CL)

To determine how lawyers use their shared repertoire to create opposing discourses, this study uses a corpus-based approach. As established by Tognini-Bonelli (2001, p. 66),

> corpus-based linguists adopt a 'confident' stand with respect to the relationship between theory and data in that they bring with them models of language and descriptions which they believe to be fundamentally adequate, they perceive and analyse the corpus through these categories and sieve the data accordingly.

While CDA thinks about how and why language is used, CL depends on the use of software to look for patterns in the data. The quantitative results that the computational tools produce can then be used to guide and inform the qualitative analysis. One advantage of using CL is that '[i]t requires the analyst to provide empirical evidence in the form of data drawn from language corpora in support of any statement made about language' (Brezina, 2018, p. 2). This ensures that the qualitative analysis of the opening speeches and closing arguments in the MvC corpus is based on the statistical and concordance evidence provided by the computational tools.

AntConc has several functions that are useful for the computational analysis of language. Figure 3.4 shows an example of how the N-gram clusters (MvC sub-corpus) are displayed in *AntConc*; this shows the most commonly used bigrams in the prosecution opening statement. The list is sorted by frequency, demonstrating how frequently they appear together. The bigram *you will* statistically ranks as the most frequent cluster in the prosecution opening speech. From this, we can look at the concordance of *you will* to determine how it is used in the context of the trial, which '[…] enables us to identify the lexical patterns which realise an ideology' (Kemppanen, 2005, p. 93).

Total No. of N-Gram Types			4444
Rank	Freq	Range	N-gram
1	77	1	you will
2	76	1	going to
3	53	1	mr floyd
4	50	1	in the
5	45	1	you ll
6	41	1	of the
7	40	1	mr chauvin
8	40	1	on the

Figure 3.4 Screenshot of the N-gram clusters from the prosecution opening (MvC sub-corpus)

Figure 3.5 illustrates concordance lines that include the bigram *you will*, visually highlighting the words that appear directly before and after the cluster. Looking at the collocation of N-grams or keywords (see Figure 3.5) tells the researcher more about how a speaker is using certain words or phrases. Collocates '[…] i.e., the words occurring recurrently together with the node word, generate either positive or negative semantic prosody, and load the word with a certain value' (Kemppanen, 2005, p. 93), to create the desired interpretation of what the speaker is saying. This demonstrates how patterns are revealed in the data using the N-gram and concordance features, which usefully pinpoints potentially interesting patterns for further qualitative analysis.

en blood is no longer coursing through the veins,	you will hear the	body gasp as an involuntary reflex.
causes. A heart attack, it's a natural death	you will learn. A	fatal arrhythmia, is a natural cause
nger breathing when he's making these movements,	you will learn about	something in this case called an
. A fatal arrhythmia, is a natural cause of death	you will learn.	Accident, a drug overdose, is an example
rce the law courteously and appropriately. And as	you will learn as	it applies to this case, never
rs then they have a different tolerance level. Uh	you will learn, for	example, that 11 nanograms of fentanyl
bcage to expand to breathe. Because at this point	you will learn he's	pancaked, with the hard pavement
that, uh heart disease, uh that he had. What	you will learn is	is that George Floyd years for
of this matters tremendously to this case because	you will learn that	on May 25th of 2020, Mr. Derek
nutes and 51 seconds. During this period of time,	you will learn that	Mr. Chauvin is told that they
is your duty to care for that person. And	you will learn that	caring ladies and gentlemen is not
r, for using excessive force against George Floyd	you will learn that	the use of excessive and a
his heart uh that was partially uh clogged, uh	you will learn that	there was no damage to Mr
, uh that there was no clotting in his heart,	you will learn that	the medical examiner, when he was

Figure 3.5 Concordance lines (14 of 77) for *you will* in the prosecution opening (MvC sub-corpus)

While solely looking at the data in the MvC corpus and sub-corpora is fruitful, *AntConc* can also be used to compare the corpus with a larger reference corpus, such as COURT. Once both corpora have been loaded into the software, generating a keywords list can show us the words that are statistically unusual within the MvC corpus (see Figure 3.6), when compared with a wider corpus of courtroom opening and closing speeches. Ensslin and Johnson (2006) explain that keywords are '[…] identified by comparing word frequencies within a text or corpus of texts with word frequencies of another (usually much larger) reference corpus' (p. 157).

Keyword Types:	346		Keyword Tokens:	14145	Se:
Rank	Freq	Keyness	Effect		Keyword
1	375	+ 1974.51	0.0175		floyd
2	259	+ 918.62	0.0121		officer
3	170	+ 894.34	0.008		en
4	174	+ 794.08	0.0082		force
5	138	+ 714.19	0.0065		george
6	122	+ 641.69	0.0057		ss
7	124	+ 555.1	0.0058		uh
8	278	+ 538.35	0.0129		police
9	102	+ 536.45	0.0048		chauvin
10	130	+ 437.23	0.0061		officers
11	104	+ 433.56	0.0049		seconds
12	69	+ 362.85	0.0033		minneapolis
13	202	+ 328.25	0.0094		reasonable
14	84	+ 314.83	0.004		learn
15	68	+ 253.06	0.0032		training
16	128	+ 253	0.006		death
17	46	+ 241.87	0.0022		oxygen
18	322	+ 238.37	0.0146		mr
19	47	+ 237.56	0.0022		breathe
20	128	+ 227.38	0.006		use

Figure 3.6 Keywords list generated from the comparison of the MvC and COURT corpora

For example, Figure 3.6 shows that *force* is a particularly salient word in this trial. Similarly, *LFM* can be used to directly compare unique words with common or shared vocabulary. When using *LFM*, all of the texts can be loaded and analysed at one time, which is beneficial for looking in-depth at the MvC sub-corpora. Using the function and content words feature, LFM shows statistically the most common and uncommon words used in a text; Figure 3.7 shows examples of this in the defence closing argument. As shown, *reasonable* is indicated as the most frequently used content word (see Figure 3.7, left), versus *the* which is predictably the most frequently occurring function word (see Figure 3.7, right).

reasonable	140	0.75%		the	968	5.18%
police	127	0.68%		of	549	2.94%
officer	120	0.64%		to	478	2.56%
right	106	0.57%		that	406	2.17%
know	74	0.40%		a	378	2.02%
Floyd	74	0.40%		and	368	1.97%
Use	61	0.33%		is	268	1.43%
force	58	0.31%		in	227	1.21%
take	51	0.27%		you	182	0.97%
officers	51	0.27%		this	170	0.91%
evidence	49	0.26%		at	137	0.73%

Figure 3.7 Content and function word results generated from *LFM* (2021) using the MvC sub-corpus (defence closing argument)

The limitation of using programs such as *AntConc* and *LFM* is that the software is particularly designed for written data. The audio-visual clips have to be looked at manually, so a multimodal approach to the data can be used.

An advantage of comparing and using computer-readable corpora is that '[…] a corpus can find differences that intuition alone cannot perceive […] and a corpus can yield reliable quantitative data' (McEnery, et al., 2006 p. 7). This data can be used to distinguish generic lawyer talk from distinct and perhaps unusual language in the opening speeches and closing arguments of MvC. So, while *evidence* is a top content word identified by *LFM* (Figure 3.7)*,* when looking at the keyword list (Figure 3.6), we see that *evidence* is not in the top keywords, as this is a generic part of the lawyer trial register.

3.3.3 Combining CDA and CL

CL allows researchers to objectively identify widespread patterns of naturally occurring language through evidentially based observations. This shows the researcher how language behaves in a given context, through the quantitative results that indicate patterns within the language use itself and uncovering the unseen. CDA tells us how and why the language is behaving in a certain way, taking into consideration the surrounding context, i.e., the legal community, courtroom setting, or activity (opening speech, or closing argument). Both of these approaches are used in this study to work together in the analysis of lawyer talk. Baker, et al. (2008) view CL and CDA as complementary methods, as 'most CL methods require considerable human input, which often includes qualitative analysis (such as examining concordance lines)' (p. 274). Recognising the complexity of language and the implication of using CDA or CL alone, I agree with the idea that '[t]he key to using corpus data is to find the balance between the use of corpus data and the use of one's intuition.' (McEnery, et al., 2006 p. 7).

3.4 Conclusion

I have discussed the importance of combining CDA and CL methods to work collectively in the exploration of clean and organised data. The computational tools reveal and highlight patterns that can then be subjected to more detailed qualitative analysis. This approach seeks to uncover trends in the data, demonstrating strategic language use, to understand how the jury/key social actors are positioned within the opposing crime narratives and how their identities are transformed by the barristers from the beginning to the end of the trial. Chapter 4 begins to explain the process of uncovering the unseen, looking at lexical patterning and differences, which is the crucial starting point for exploring the research questions that this study poses.

Chapter 4

Patterns of 'Aboutness' in MvC Corpus

4 Introduction

This chapter explores the data-driven approach, which uses *AntConc* and *LFM* to discover lexical patterns in the opening and closing statements in the MvC corpus. This study uses a combination of a bottom-up and top-down approach, examining the data's grammatical and lexical patterns and the similarities and differences between the prosecution and defence opening statements and closing arguments, as well as seeking answers to research questions. In this chapter research question one is the focus: what do the lexical and grammatical patterns in the opening statements and closing arguments indicate about the texts' 'aboutness'. This gives scope for insights into how lawyer talk is used in the MvC corpus to begin formulating the specific research questions. The corpus-driven approach allows the data to speak for itself, looking broadly at the patterns produced, rather than focusing on specific language use. *AntConc* is particularly helpful here, as its purpose is to find frequency patterns and word sequences within a corpus.

The patterns uncovered using the computational tools provide a way into the corpus, to explore ideas that are key in the trial. Mike Scott (2017) relates keyness to the concept of 'aboutness', by thinking about what constitutes a main point in a text. Most texts relate to a clear field of knowledge or a topic. To find the main point of a text, it is important to identify repeated words and then keywords (Scott, 2017). With this in mind, we expect the corpus's 'aboutness' to reveal key ideas in the corpus. This chapter aims to outline what the MvC corpus demonstrates about its 'aboutness', to identify the focus of the prosecution and defence opening statements, and then closing arguments. The 'aboutness' of the opposing crime narratives delivered in the opening statements indicates each barrister's narrative focus, to explore how this influences the positioning of the key social actors and the jury and is compared with the 'aboutness' of the closing arguments.

4.1 Opening statements: *what are the texts about?*

To begin analysing the data using a bottom-up approach, I used *AntConc* to establish the most commonly used lexical items in the MvC corpus. The data was split into sub-corpora, looking specifically at either the prosecution or defence opening speeches and then closing arguments. Wordlists were created using *AntConc,* demonstrating the most frequently used words. *AntConc* ranks the words using raw frequency, which does not take into consideration the different sizes of sub- corpora. To be able to look effectively and comparatively at the prosecution and defence barrister's language use, it is important to normalize the data. Using the relative frequency (see Figure 4.1) of each

word provides a better insight into the similarities and differences. This is because the frequency of each word is relative to the size of the (sub) corpus. In each table (see Figure 4.1), the first column shows the raw frequency, followed by the normalized frequency, relative frequency, and then the word.

Raw Frequency	Normalized Frequency	Relative Frequency	Word		Raw Frequency	Normalized Frequency	Relative Frequency	Word
377	0.04611621	4.6116208	the		191	0.06177232	6.17723157	the
289	0.03535168	3.5351682	to		136	0.04398448	4.39844761	and
278	0.03400612	3.40061162	you		102	0.03298836	3.29883571	of
246	0.03009174	3.00917431	that		101	0.03266494	3.26649418	to
236	0.0288685	2.88685015	and		80	0.02587322	2.58732212	that
197	0.02409786	2.40978593	of		69	0.02231565	2.23156533	mr
143	0.01749235	1.74923547	in		64	0.02069858	2.0698577	will
129	0.01577982	1.57798165	a		64	0.02069858	2.0698577	you
128	0.01565749	1.56574924	he		54	0.01746442	1.74644243	floyd
119	0.01455657	1.45565749	uh		48	0.01552393	1.55239327	a
119	0.01455657	1.45565749	was		38	0.01228978	1.22897801	in
110	0.01345566	1.34556575	will		36	0.01164295	1.16429495	s
101	0.01235474	1.23547401	on		35	0.01131953	1.13195343	this
100	0.01223242	1.22324159	mr		31	0.01002587	1.00258732	is
98	0.01198777	1.19877676	s		30	0.00970246	0.9702458	they
87	0.0106422	1.06422018	for		28	0.00905563	0.90556274	officers
87	0.0106422	1.06422018	is		28	0.00905563	0.90556274	what
79	0.00966361	0.96636086	going		27	0.00873221	0.87322122	evidence
77	0.00941896	0.94189602	floyd		24	0.00776197	0.77619664	at
76	0.00929664	0.92966361	his		24	0.00776197	0.77619664	he
73	0.00892966	0.89296636	it		24	0.00776197	0.77619664	was
66	0.00807339	0.80733945	this		22	0.00711514	0.71151358	see
64	0.00782875	0.78287462	ll		20	0.00646831	0.64683053	hear
64	0.00782875	0.78287462	see		20	0.00646831	0.64683053	learn
					19	0.00614489	0.614489	his

Figure 4.1 Prosecution (left) and defence (right) opening statements normalised wordlist

As shown in Figure 4.1, *the* is the most frequent lexical item in both the prosecution and defence opening statements. Obviously, *the* is commonly used in everyday speech and is always ranked first in any wordlist, as it is the most frequent word in English; however, this does not mean that *the* is without interest in this study. The top collocations surrounding *the* in the prosecution (left) and defence (right) opening statements are shown in Figure 4.2. The focus on *the police* (prosecution) versus *the evidence* (the defence) gives an indication of each opening statement's 'main points', suggesting the 'aboutness' (Scott, 2017) of each crime narrative, and a different focus for the prosecution and defence.

Freq(R)	Stat	Collocate		Freq(R)	Stat	Collocate
15	2.48749	police		14	3.06936	evidence

Figure 4.2 Prosecution (left) and defence (right) most frequent collocate (R1) of *the* in the opening statements

The prosecution focus on the severity of the alleged crime, as Blackwell suggests that *bystanders* and the *first responder* (see left-hand context) on the scene *called the police on the police* (see Figure 4.3, penultimate line).

done in her career. She called, the police on	the police, a 911 dispatcher, she called sergeant David Plea
the evidence, that there was no excuse uh for	the police abuse of Mr Chauvin. We're going to
25th, uh you will be able to see how	the police approach them in his vehicle over the fake
do that. But above all, you know, they uh	the police are trained in the side recovery position that
put on the neck he called the police, on	the police. But not only that, you're going to
to come here to talk with you, he was	the police chief at the time he's the chief
mber of the bystanders there, call the police, on	the police. Genevieve Hanson the first responder called the
in handcuffs, he was completely in the control of	the police, he was defenseless. <JB> <(00:14:36)> You will
You will learn, from witnesses we will call, that	the police officers could have written him a ticket and
're going to see any number of videos from	the police officers who had body worn cameras on. But,
earn that, a number of the bystanders there, call	the police, on the police. Genevieve Hanson the first respon
lice. Genevieve Hanson the first responder called	the police on the police, you'll learn that Donald
pressure that was put on the neck he called	the police, on the police. But not only that, you'
she had never done in her career. She called,	the police on the police, a 911 dispatcher, she called serge
e Hanson the first responder called the police on	the police, you'll learn that Donald Williams, uh the

Figure 4.3 Concordance lines (15 of 15) for *the police* in the prosecution opening statement

The severity of the situation is further enhanced by *the prone position* that *Floyd* was put in and *the (excessive) force,* also identified in the prosecution wordlist (see Figure 4.1). The use of *excessive force* while *Floyd* was in the *prone position* suggests why the police were called to report the behaviour of the police. Figure 4.4 shows the concordance lines of *the force,* which Blackwell characterises as *eminently dangerous* and *the prone position,* used to get someone under *control.*

took place. He is going to tell you that	the force against Mr. Floyd should have ended as soon
aging in behavior that was eminently dangerous in	the force that he applied without regard for its impact
force expert. He's going to tell you that	the force that Mr. Chauvin was using was lethal force.
asonable in light of the facts and circumstances.	The force used shall be consistent with current Minneapolis

squad car, putting him on the ground in the	prone position and when the nine minutes and 29 seconds
are under arrest, should never be put in the	prone position, except only momentarily to get them und
on your stomach face down, putting him in the	prone position handcuffed like this in the first place
him uh on the ground we call that the	prone position on your stomach face down, putting him i
. She will tell you that the dangers of the	prone position, putting people face down on the ground
don't put persons to leave them in the	prone position that way, let alone with a man's
to run away and who was put in the	prone position this way with five grown men, armed poli
that if you have to put somebody in the	prone position to get them under control, you turn them
on the stand, that putting a man in the	prone position with handcuffs behind his back, somebody

Figure 4.4 Concordance lines for *the excessive force* (3 of 3), *the force* (4 of 4) and *the prone position* (9 of 9) in the prosecution opening statement

This depicts the power imbalance between Chauvin and Floyd, as the use of *excessive force* as well as *the prone position* highlights that institutional dominance is at play. This is another clear indication of Blackwell's police focus, as he repeatedly refers to police practice. Meanwhile, in the defence opening statement, the focus is on *the evidence.* Figure 4.5 shows that Nelson repeatedly says *the evidence will show*, which he directly addresses to the jury.

29 seconds. In this case, you will learn that	the evidence has been collected broadly and expansively, Minne
this case is ultimately about; it's about	the evidence in this case, the evidence that you
I cause in this courtroom. <EN> <(00:01:55)> But	the evidence is far greater than nine minutes and 29
bt? As such reason, dictates and necessitates how	the evidence must be looked at and analyzed in
and common sense, and how that applies to	the evidence that you're about to see during
; it's about the evidence in this case,	the evidence that you will see in this case
, but it is a necessary component of policing.	The evidence will, again, demonstrate that the Minnesota Burea
officers and Mr. Floyd say to each other.	The evidence will show that when confronted by police,
oyd to the third location; Minneapolis Squad 320.	The evidence will show that as officers King and
in the car. You can't win." <EN> <(00:12:03)>	The evidence will show that Mr. Floyd and the
you have to make. To answer these questions,	the evidence will show that the Bureau of Criminal
r final location; Hennepin County Medical Center.	The evidence will show that officers made two calls
Mr. Floyd was pronounced dead. <EN> <(00:20:39)>	The evidence will show them that Dr. Andrew Baker
was Mr. Floyd's actual cause of death?	The evidence will show that Mr. Floyd died of

Figure 4.5 Concordance lines (14 of 14) for *the evidence* in the defence opening statement

This positions the jury as future observers of the evidence and prepares them for what they can expect to see throughout the trial. The certainty in the epistemic modal *will* creates confidence in his assertions, as Nelson not only alludes to future *evidence* but also evaluates how the jury *will* perceive it. While the opening statement should be non-argumentative and 'limited to outlining the facts' (US Courts, 2023), Nelson (for the defence) uses what *the evidence will show* to begin pushing his narrative. For example, Nelson says:

Extract 1 Open_def_Nelson

[00:23:25]

> What was Mr. Floyd's actual cause of death? (.) The evidence will show (.) that Mr. Floyd died of a <u>car</u>diac arrhythmia […]

The assertion that *Mr. Floyd died of a cardiac arrhythmia* (see Extract 1) is made before the actual evidence is given, yet Nelson establishes this narrative under the guise of what *the evidence will show*. This allows Nelson to be direct in his claims about Floyd's cause of death, while the prosecution insinuates that *the (excessive) force* and use of *the prone position* contributed to his death. There is a clear difference in the prosecution and defence crime narrative focus and the ideological positions created (blame versus nature, discussed in Chapter 5), despite the fact that they depict the same version of events. This is clearly present in the patterns unveiled through the qualitative analysis. The modal verb *will* is not only used to evaluate what the defence's *evidence will show* but it is also used frequently by the prosecution (see Table 4.1). For both the prosecution and defence *you will* is the most frequently used N-gram cluster in the opening statement and this shifts to *you can* in the closing argument, as seen in the frequent use of *can* in Table 4.2 (discussed in Chapter 5).

Table 4.1 The prosecution (left) and defence (right) modal verbs used in the opening statements, displaying both raw and relative (%) frequencies

Opening modals	Prosecution		Defence	
Will	107	1.34%	63	2.02%
Can	15	0.19%	2	0.06%
Would	8	0.10%	2	0.06%
May	6	0.08%	0	0%
Must	1	0.01%	2	0.06%
Can't	5	0.06%	0	0%
Could	4	0.05%	2	0.06%
Shall	3	0.04%	0	0%
Need	2	0.03%	1	0.03%
Might	1	0.01%	1	0.03%
Should	3	0.04%	1	0.03%
Must	1	0.01%	2	0.06%
Total	153	1.94%	74	2.38%

Table 4.2 The prosecution (left) and defence (right) modal verbs used in the closing arguments, displaying both raw and relative (%) frequencies

Closing modals	Prosecution		Defence	
Can	32	0.25%	72	0.42%
Could	29	0.23%	11	0.06%
Need	24	0.19%	23	0.13%
Would	22	0.17%	72	0.41%
Should	13	0.10%	13	0.08%
May	9	0.07%	19	0.11%
Must	6	0.05%	7	0.04%
Might	5	0.04%	0	0%
Will	3	0.02%	32	0.18%
Cannot	1	0.01%	5	0.03%
Can't	0	0%	2	0.01%
Shall	0	0%	1	0.01%
Total	144	1.14%	257	1.48%

For the prosecution and defence in both the opening and closing statements, there is also frequent use of *would* (see Table 4.1 & 4.2). In the defence closing argument, *would* most frequently collocates with *officer,* in the N-gram cluster *a reasonable police officer would* (see Figure 4.6), indicating that the defence barrister is using *would* in an epistemically hypothetical sense to compare Chauvin's actions with those of (other) reasonable police officers.

Figure 4.6 Concordance lines (15 of 21) of *would* and *officer* in the defence closing argument

In terms of modality, Figure 4.7 illustrates how both the prosecution (1.53%) and defence (2.11%) use epistemic modality (*will, would, might, may*) notably more than dynamic and deontic modality in their opening statements, while in the closing arguments, there is increased use of dynamic and deontic modality for the prosecution and defence. The prosecution uses dynamic and deontic modality more than epistemic modality in the closing, whereas the defence maintains their use of epistemic modality.

Epistemic modality concerns certainty, possibility, and hypotheticality, especially in the context of the courtroom, where the barristers construct their crime narratives for the opening statements ahead of evidence and cross-examination. This indicates how both prosecution and defence barristers use epistemic possibility at the beginning of the trial, to evaluate the evidence that the jury *will* be shown while appearing to remain non-argumentative in the opening statement. The use of epistemic modality positions the jury as future observers of the prosecution's narrative events, where the *(excessive) force* and *the prone position* resulted in a hostile situation. This led to the *bystanders* calling *the police on the police*.

Figure 4.7 Chart (top) illustrates the different modal verb types in the prosecution and defence opening statements. Chart (bottom) illustrates the different modal verb types in the prosecution and defence closing arguments

The jury is also positioned as future observers in the defence opening of *the evidence* that *will* unfold within the process of the trial. The use of dynamic modality (*you can*) highlights the transformation in

the jurors' identities, as they are transformed from observers to decision-makers. This is further enhanced through the use of the deontic modality (*you must/need/have to/should*), which emphasises the obligation of the jury to make a decision based on what they have seen and heard throughout the trial. This exemplifies the shift from possibility to ability. A similar shift is identified in COURT (see Table 4.3), through the depleted use of *you will* in the closing arguments when compared with the opening statements. There is also an increased use of *you can* from the opening statements to the closing arguments. This suggests that the grammatical patterning (*you will* and *you can*) is a feature of lawyer talk, found in both the MvC (specialised corpus) and COURT (specific reference corpus).

Table 4.3 The frequency of *you will* and *you can* in the COURT opening and closing sub-corpora

Raw Frequency	Normalized Frequency	Relative Frequency	N-Gram
276	0.00336902	3.36901725	You will (open)
280	0.0005899	0.58990214	You will (close)
59	0.00072019	0.72018847	You can (open)
548	0.00115452	1.15452276	You can (close)

The subtle difference in each barrister's language use seeks to create different roles for the jury and different versions of the same events. This is also apparent in the semantic sets that are identified within the keywords for both the prosecution and defence. Keywords are unusually statistically more frequent (or less frequent) lexical items, revealing further patterns in the prosecution and defence barrister's language use. For the prosecution, the keywords were categorised into ten semantic sets: *fillers, time, nomination/categorization, the jury, police/legal terms, professionals, breathing, alleged crime, drugs,* and *police* (see Figure 4.8). Each lexical item was categorised according to the context that it was used. For example, *the jury* semantic set consists of *going, you, you/re, you/ll, learn, able, bring, see,* and *for.*

The semantic sets surrounding *time* and *breathing* are both prominent in the prosecution's opening statement and absent in the defence (see Figure 4.9). The prosecution quantified the alleged crime repeatedly, focusing on the specific *seconds* and *minutes* that *Chauvin* knelt on *Floyd's* neck. This relates to the prosecution's police focus, which identified *(excessive) force* and *the prone position* (see Figure 4.4) as complicating factors in the situation, that resulted in the police being called to report on the police behaviour. This is further enhanced by Floyd's difficulty *breathing*, getting *oxygen,* and the eventual loss of *pulse*, which the prosecution argued was a direct effect of Chauvin's actions. Both semantic sets refer to the 'aboutness' of the prosecution's opening statement, which relates to the police

and Chauvin's actions. Specifically, Blackwell focuses on the nine minutes and twenty-nine seconds that Floyd was on the ground.

119	0.84428135	uh	64	0.45406728	ll
77	0.54629969	floyd	12	0.08513761	cause
100	0.70948012	mr	13	0.09223242	bring
43	0.30507645	chauvin	9	0.06385321	medical
28	0.19865443	seconds	9	0.06385321	prone
79	0.5604893	going	9	0.06385321	squad
278	1.97235474	you	9	0.06385321	trained
57	0.40440367	re	9	0.06385321	um
36	0.25541284	force	9	0.06385321	video
24	0.17027523	george	11	0.07804281	putting
23	0.16318043	minneapolis	61	0.43278287	what
22	0.15608563	heart	8	0.05675841	opioid
61	0.43278287	learn	8	0.05675841	thomas
30	0.21284404	able	8	0.05675841	training
21	0.14899083	use	10	0.07094801	care
16	0.11351682	nine	15	0.10642202	number
14	0.09932722	bystanders	98	0.69529052	s
20	0.14189602	department	40	0.28379205	who
25	0.17737003	minutes	11	0.07804281	moment
13	0.09223242	breathe	87	0.61724771	for
13	0.09223242	excessive	7	0.04966361	breathing
58	0.41149847	police	7	0.04966361	chief
28	0.19865443	death	7	0.04966361	experts
18	0.12770642	neck	7	0.04966361	forensic
12	0.08513761	yourself	7	0.04966361	homicide
11	0.07804281	ground	7	0.04966361	overdose
64	0.45406728	see	101	0.71657492	on
10	0.07094801	oxygen	10	0.07094801	somebody
10	0.07094801	pulse	59	0.41859327	from

Legend:
- ■ Fillers
- ■ Nomination/categorization
- ■ Police/legal terms
- ■ Breathing
- ■ Drugs
- ■ Time
- ■ The Jury
- ■ Professionals
- ■ Alleged crime
- ■ Police

Figure 4.8 Prosecution opening statement keywords, dividing into semantic sets according to colour

For the defence, there are similar semantic sets for the opening statements, in comparison with the prosecution (e.g., nomination/categorization, time, police/legal terms, the jury). The contrast here involves the mention of *drugs* and *cars,* which stand out (see Figure 4.9). The established 'aboutness' of *the evidence* in the defence opening statement is apparent through Nelson's repeated referral to *drugs*, such as *pills, fentanyl,* and *methamphetamine,* as it is suggested by the defence that these drugs were a contributing factor to Floyd's death.

54	1.01293661	floyd
28	0.52522639	officers
20	0.37516171	learn
69	1.29430789	mr
13	0.24385511	lane
13	0.24385511	squad
18	0.33764554	officer
10	0.18758085	minneapolis
9	0.16882277	chauvin
10	0.18758085	king
13	0.24385511	car
9	0.16882277	common
7	0.1313066	agents
7	0.1313066	benz
7	0.1313066	crowd
7	0.1313066	mercedes
6	0.11254851	foods
8	0.15006468	struggle
18	0.33764554	police
7	0.1313066	force
7	0.1313066	pills
7	0.1313066	seconds
7	0.1313066	martin
5	0.09379043	fentanyl
5	0.09379043	methamphetamine
5	0.09379043	pm
64	1.20051746	will
9	0.16882277	sense
6	0.11254851	location
5	0.09379043	baker
5	0.09379043	hill
191	3.58279431	the

4	0.07503234	bureau
4	0.07503234	cigarettes
4	0.07503234	efforts
4	0.07503234	hall
4	0.07503234	hennepin
22	0.41267788	see
6	0.11254851	department
6	0.11254851	including
7	0.1313066	minutes
5	0.09379043	cup
5	0.09379043	reasonable
6	0.11254851	interviewed
5	0.09379043	investigation
3	0.05627426	apprehension
3	0.05627426	approached
3	0.05627426	assist
3	0.05627426	bates
3	0.05627426	code
3	0.05627426	draw
3	0.05627426	paramedics
3	0.05627426	shawanda
3	0.05627426	technique
7	0.1313066	second
4	0.07503234	arrived
4	0.07503234	cause
4	0.07503234	doubt

Legend:
Nomination/categorization — Police
The Jury — Car
Professionals — Police/legal terms
Alleged crime — Drugs
Time

Figure 4.9 Defence opening statement keywords, dividing into semantic sets according to colour

Interestingly, the defence initially refers to the drugs as *pills*, a general term, in the opening statement (see plot (a), Figure 4.10). As Nelson progresses, he is more specific, moving from the hypernym to the co-hyponyms *fentanyl* and *methamphetamine,* as shown in the distribution plots (see Figure 4.10).

(a) *pills*

Hits: 7
Chars: 18559

(b) *fentanyl*

Hits: 5
Chars: 18559

(c) *methamphetamine*

Hits: 5
Chars: 18559

Figure 4.10 Distribution plots for *pills* (a), *fentanyl* (b), and *methamphetamine* (c) in the defence opening statement

There is a clear use of *fentanyl* and *methamphetamine* at the end of the opening statement and not *pills* (see Figure 4.10). The switch from general *pills* to specific *fentanyl* and *methamphetamine* is shown in Extract 2 below:

Extract 2 Open_def_Nelson

[00:18:07]

> You will learn that in the second search of Squad 320, (.) agents recovered several pieces of partially dissolved pills. You will learn that these pills were again analyzed (.), were again shown to be consistent, or similar, to the pills found in the Mercedes-Benz = and that they contained methamphetamine (.) and traces of fentanyl. Moreover, these pills contained the DNA and saliva of George Floyd.

This shows how Nelson compares *pills* found in *Squad 320*, with the *Mercedes-Benz* that Floyd was sitting in when the officers arrived at the scene. From this point on Nelson disregards the general use of *pills* and replaces this with *fentanyl* and *methamphetamine*. Instead of simply taking medication (*pills*), Nelson strategically positions Floyd as a drug abuser. This aids the negative construction of Floyd's identity, through behaviour that would be considered socially deviant in the eyes of the jury. Incidentally, the investigation of the *drugs* revealed its link to the *cars* that are also key to the defence opening statement. The defence refers to the *squad (320) car* and the *Mercedes-Benz* in Extract 2, making a direct correlation between the drugs found and their association with Floyd. Both cars are associated with the location of the incident and the site of *struggle* that Nelson refers to (see Extract 3 & 4).

Extract 3 Open_def_Nelson

[00:09:26]

> You will see the officers (.) <mark>struggle</mark> with Mr. Floyd (.) to get him <u>out</u> of the <mark>Mercedes-Benz</mark> (.) and handcuffed, (.) and you will see and hear everything that these officers and Mr. Floyd say to each other.

Extract 4 Open_def_Nelson

[00:13:46]

> […] you will be able to <u>see</u> (.) the Minneapolis police <mark>squad car</mark> ((rocking motion with hands and body)) rocking back and forth, <u>ro</u>cking back and forth during the <mark>struggle</mark>. (.) So much so that it catches the attention of the 911 dispatcher Jenna Scurry = this was not an easy <mark>struggle</mark>.

The defence use different locations, such as at the *squad car* and the *Mercedes-Benz,* to suggest that Floyd was resistant and non-compliant several times, resulting in a *struggle* with the officers and further constructing a socially deviant persona. Particularly in Extract 4, Nelson uses a rocking motion with his hands and body, emphasising the motion and the force of the *struggle* he is describing (see Figure 4.11) to amplify the resistance.

Figure 4.11 Screenshot of defence barrister (Eric Nelson) enacting back and forth motion in opening statement as seen on CourtTV.com

The relationship between the *pills* with both cars implies that the *struggle* was a result of Floyd being under the influence of *fentanyl* and *methamphetamine*. Both semantic sets indicate the 'aboutness' of the defence opening statement, referring to *the evidence* focus that is underpinned by Nelson's reference to contributing factors – the *pills* and the *struggle* with *Floyd.*

The semantic sets derived from the keywords usefully identify the opposing factors that the prosecution and defence present as key in their crime narratives. This gives further indication of each opening statement's 'aboutness'. A further contrast in each version of events is through the prosecution's reference to the *bystanders* and the defence's use of *crowd* in the opening statements. The difference in each version of events is also 'key' to each opening statement (see Figures 4.8 & 4.9). The 'keyness'

of *bystanders* and *crowd* highlights how both the prosecution and defence refer to the other people at the scene of the crime. For the prosecution, Blackwell's use of *bystanders* connotes a sense of individuality, as different people stood and witnessed the alleged crime. Blackwell then refers to the *bystanders* as *normal folks* (see Extract 5), which further humanises them, portraying their individuality and supportiveness as people through the use of informal *folks.*

Extract 5 Open_pros_Blackwell

[00:34:09]

> But (.) you're also going to see videos from, (.) uh the bystanders. Normal folks = the bystanders. (0.7). ((Image displayed)) (.) You're going to see these bystanders, (.) a veritable bouquet of humanity, = these bystanders.

Consistent with this, is the positive semantic prosody of *bystanders* in the Corpus of Contemporary American English (COCA) (see Figure 4.12). Figure 4.12 shows a selection of the collocates of *bystanders,* which build positive semantic prosody (e.g., *civilian, helpful, innocent, rescuers,* and *vulnerable*). Particularly the repetition of *innocent* indicates the harmlessness associated with *bystanders* which is often symbolically associated with children and which Blackwell describes as 'a veritable bouquet of humanity'.

Figure 4.12 Concordance lines showing the collocates of *bystanders* in the COCA corpus

The metaphor is combined with a screenshot taken from police body-worn footage (see Figure 4.13) which is shown to the jury. The imagery derived from the metaphor *a veritable bouquet of humanity,* suggests that these were a bunch of ordinary people going about their daily lives, yet each of them stood

up for something they believed to be wrong. This is enhanced by the image (see Figure 4.13), showing the different people who were present, including a child, further highlighting their *innocence*.

Figure 4.13 Image of the 'bystanders' at the scene of the crime displayed during prosecution opening statement

On the other hand, Nelson describes a *crowd*, grouping people and assuming collective agency. Nelson describes how a *crowd [began] to develop* (see Extract 6), implying that a significant number of people were there. The *crowd* is depicted as a social actor, who watches and records Chauvin and the officers. Nelson says that they were *initially fairly passive,* before they *began to grow angry* (see Extract 6), heightening the intensity of the situation that Nelson depicts. A situation that involves crowding often has connotations of being unsafe and uncomfortable, with the potential for the crowd to become unruly and the situation, hostile. This implies that the *crowd* could have been a threat to the officers, influencing how the situation was handled. For the prosecution, Blackwell portrays the opposite, depicting the *bystanders* as *normal* supportive people (see Extract 5), going about their everyday lives and trying to help as they took videos of the unfolding events.

Extract 6 Open_def_Nelson

[00:14:59]

> You will see and hear that a crowd begins to develop, watching and recording officers, initially fairly passive. (.) As the situation went on (.) the crowd (.) began (.) to grow angry.

According to the COCA corpus, *crowd* tends to have negative prosody in comparison with *bystanders* (see Figure 4.14). The collocations of *crowd* refer to size, depicted through *massive, the biggest, growing, packed, pressed, overruns,* and *entire* (see Figure 4.14). This associates *crowds* with a multitude of people, who are grouped tightly. As well as this, the *crowd's* behaviour is highlighted through *unruly, cheering, heated, sprawling, worst, problems, yell, roared, roaring,* and *tumultuous* (see Figure 4.14), which has negative connotations.

." He instructed the | crowd | on the paramount imp
n joined the massive | crowds | on 16th Street Mall wh
," Bronko greets the | crowd | once more , as if he ha
collective behavior , | crowds | or fads in urban , indu
bs , wild and unruly , | crowd | or partially obscure th
All right . Nice -- nice | crowd | out here . This is just a
ic consequences of a | crowd | out of control . Althou
vn to be a myth . The | crowds | outside Buckingham P.
hild , told a cheering | crowd | outside the White Hou
lictment , the heated | crowd | overruns the embassy
it over the sprawling | crowd | packed into an airport
me through ! " # The | crowd | parted just in time for
es One of the biggest | crowd | pleasers , sweet potat
n his face . A growing | crowd | pressed in around the
ind all the " church " | crowd | pretty liberal . Virulent
ight the worst of our | crowd | problems were over .

ind or yell for | crowd | reaction . They 're just so i
it already the | crowd | reactions have been fanta
n considerable | crowd | response and enthusiasm
e , where the | crowd | ripped off his clothes , pul
d . The entire | crowd | roared with excitement as
his face . The | crowd | roared with laughter as th
ist ? - and the | crowd | roared , " he says gleefully
ore . With the | crowd | roaring in Tulsa 's BOK Ce
a tumultuous | crowd | roaring its approval , Mr. F
e competition | crowd | sees opportunity and pote
others in the | crowd | she supposed it was . As s
ed . Then the | crowds | shock turned to anger aga
ng in with the | crowd | since kindergarten . Not m
25-and-under | crowd | since the 1973-74 campaig
s in weather , | crowd | size or other factors that e

Figure 4.14 Selected concordance lines showing the collocates of *crowd* in the COCA corpus

For further comparison of the prosecution and defence's opening statements, the opposing wordlists were used as a reference corpus. This generated comparative keywords (see Figure 4.15), highlighting which words were key in the prosecution compared with the defence and vice versa.

(a)

Rank	Freq	Keyness	Effect	Keyword
Keyword Types: 8			Keyword Tokens: 576	
1	119	+ 76.83	0.0287	uh
2	101	+ 17.66	0.0244	on
3	87	+ 27.01	0.021	for
4	79	+ 37.29	0.0191	going
5	64	+ 41.2	0.0155	ll
6	57	+ 17.46	0.0138	re
7	41	+ 26.36	0.01	she
8	28	+ 17.99	0.0068	tell

(b)

Rank	Freq	Keyness	Effect	Keyword
Keyword Types: 13			Keyword Tokens: 155	
1	28	+ 26.53	0.0179	officers
2	27	+ 16.61	0.0172	evidence
3	18	+ 25.73	0.0116	officer
4	13	+ 33.66	0.0084	lane
5	10	+ 25.88	0.0064	king
6	9	+ 23.29	0.0058	sense
7	8	+ 20.7	0.0052	struggle
8	7	+ 18.11	0.0045	agents
9	7	+ 18.11	0.0045	benz
10	7	+ 18.11	0.0045	crowd
11	7	+ 18.11	0.0045	martin
12	7	+ 18.11	0.0045	mercedes
13	7	+ 18.11	0.0045	pills

Figure 4.15 Keywords for the prosecution (a) and defence (b) opening statements, using the prosecution and defence wordlists as a reference corpus

For the prosecution, there are no obvious semantic patterns. *Uh* is identified as having the highest keyness value, yet fillers are commonly used in speech, so we expected this as part of the spoken speech 'style' (Baker, 2004). Beyond this, *on* stands out for its high frequency which relates to the alleged crime. The N-gram clusters reveal that *on the ground* (see Figure 4.16) is a common cluster, referring

to the moments that Floyd was restrained and *on May 25th,* which is both the date of the alleged crime and Floyd's death. Other clusters include *on the/his neck, on the/his back,* and *on somebody's neck,* describing the actions of Chauvin who was *on top of George* (see Figure 4.16). This suggests that the prosecution emphasised Chauvin's actions and the time that Floyd spent restrained, especially on his neck and back. This is an indication of the crime narrative's focus and the prosecution's blame ideology, which positions Chauvin and his actions at the centre of the alleged crime.

Total No. of Cluster Types	156		Total I
Rank	Freq	Range	Cluster
1	11	1	on the ground
2	5	1	on may 25th
3	5	1	on top of
4	4	1	on the neck
5	4	1	on the police
6	3	1	on his back
7	3	1	on his neck
8	3	1	on mr floyd
9	3	1	on the back
10	3	1	on the scene
11	2	1	on his neck and
12	2	1	on may 25th of
13	2	1	on mr floyd's
14	2	1	on mr. floyd
15	2	1	on mr. floyd's
16	2	1	on somebody's
17	2	1	on somebody's neck
18	2	1	on the ground in
19	2	1	on the stand
20	2	1	on top of george
21	2	1	on top of him
22	2	1	on. you will
23	1	1	on an individual
24	1	1	on an individual, uh
25	1	1	on and you
26	1	1	on and you'll

Figure 4.16 N-gram clusters (min. 3 max. 4) including *on* in the prosecution opening

She (see Figure 4.15) is also interesting and stands out, as both key social actors within the trial are male. Looking at the keyword in context reveals that *she* refers to professional witnesses that the prosecution calls. This includes *forensic pathologist, Dr. Lindsey Thomas* and *Minneapolis police commander, Katie Blackwell.* This shows how the prosecution interweaves the discourse of the important witnesses into their opening statements, describing to the jury what they will *tell* (see Figure 4.15) them in witness examination. Reference to a medical professional and a representative of the Minneapolis Police Department gives scope for the prosecution to address both Floyd's condition, as well as Chauvin's police practice. This allows the prosecution to evaluate Floyd's health and cause of death, along with Chauvin's use of force.

For the defence, more keywords were identified than for the prosecution. Unlike the prosecution's opening statement, there are identifiable semantic sets in the defence keywords (see Figure 4.15), relating to the *officers* (*officer, lane, king*), the alleged crime (*evidence, crowd, struggle, pills*), and Floyd's car (*mercedes, benz*). This differs from the prosecution's focus on Chauvin and the role he plays within the alleged crime, in an attempt to attribute blame. Instead, the defence deflects blame through their focus on the other considerations and their nature ideology. Key to the defence opening statement is the other police *officers* (*King* and *Lane*) at the scene. This immediately differs from the prosecution, whose sole focus is on Chauvin, demonstrating how the defence attempt to deflect blame. This continues in Floyd's resistance, through the *struggle* that the *officers* have with him, suggesting that using force was necessary. This is emphasised further by the supposed *pills* that Floyd had taken, implying that he was under the influence and out of control, which could imply resistance and failure to comply with the police, resulting in the use of force. Nelson also refers to *Mr. Martin,* who is the Cup Foods clerk that Floyd initially interacted with. The defence concluded that this witness believed Floyd was *under the influence of something* (see Extract 7).

Extract 7 Open_def_Nelson
[00:05:40]

> You will hear from Chris Martin, = who is the store clerk at Cup Foods. Mr. Martin (.) <u>ob</u>served Mr. Floyd. (.) He <u>watched</u> his (.) body language. = He <u>inter</u>acted with Mr. Floyd in this moment, and Mr. <u>Mar</u>tin formed the opinion (.) that <u>Mr. Floyd</u> ==was under the== <u>in</u>==fluence of something.==

Not only does the defence attempt to attribute blame to the other officers, but Nelson also uses the location of the crime to his advantage. Referring to the bystanders watching the incident as the *crowd* and Nelson's reference to the struggle at the car, the *Mercedes Benz*, seeks to focus on other contributing factors to Floyd's death - unrelated to Chauvin's actions. Unlike the prosecution, the defence combines the *cardiac arrhythmia,* the other *officers*, the *struggle*, the *pills*, the *crowd*, and the *Mercedes Benz* in their crime narrative to evaluate the 'blameworthiness' (Chaemsaithong, 2021) of Chauvin and his actions and push their nature ideology. The semantic sets in the defence opening statements are examples of how the defence deflects blame using the *evidence*, that they suggest the jury will be presented with throughout the trial. To evaluate this *evidence*, the defence proposes that the jury needs to use *common sense,* revealed through the keyness of *sense* (see Figure 4.15). Nelson says to the jury that:

Extract 8 Open_def_Nelson
[00:04:48]

> I suggest that you let ==common== sense (.) and ==reason== (.) guide you.

Nelson puts emphasis on *common* and *reason,* highlighting the importance of his point. This relates to the legal concept of *reasonable doubt* that the defence refers to in their closing argument, as 'reasonable doubt is a doubt based upon reason and common sense' (US Courts, 2023). This is discussed in further detail in section 4.2.

When referring to the social actors for both the prosecution and defence, *Mr* and *Floyd* stand out for their high keyness value (see Figure 4.17). For the defence, *Floyd* (1.01%) has a higher keyness value than for the prosecution (0.55%) (see Figure 4.17). Interestingly, while *Mr* is also used by both sides, it is particularly 'key' for the defence (1.3%).

(a)

Raw Frequency	Normalized Frequency	Relative Frequency	Word
119	0.01455657	0.84428135	uh
77	0.00941896	0.54629969	floyd
100	0.01223242	0.70948012	mr
43	0.00525994	0.30507645	chauvin

(b)

Raw Frequency	Normalized Frequency	Relative Frequency	Word
54	0.01746442	1.01293661	floyd
28	0.00905563	0.52522639	officers
20	0.00646831	0.37516171	learn
69	0.02231565	1.29430789	mr

Figure 4.17 Prosecution (a, 4 of 58) and defence (b, 4 of 58) opening statement keywords lists

Given the courtroom context, there is an expected reference to social actors' surnames and formal nominations, indicating the context and 'style' of the text (Baker, 2004). Upon further investigation, *Chauvin* does not rank as highly as *Floyd* for the prosecution (0.53%) and even more so for the defence (0.29%) (see Figure 4.18), yet he is still a 'key' component of the opening statements. This instils an idea of each barrister's focus regarding the social actors. Greater emphasis on *Floyd* in comparison to *Chauvin* in the opening statements indicates an interesting pattern to explore further qualitatively. As well as this, both barristers lend more focus to the opposing social actors.

Raw Frequency	Normalized Frequency	Relative Frequency	Word		Raw Frequency	Normalized Frequency	Relative Frequency	Word
43	0.00525994	0.52599388	chauvin		9	0.00291074	0.29107374	chauvin

Figure 4.18 Prosecution (left) and defence (right) opening statements wordlist displaying 'Chauvin'

The use of the formal *Mr. Floyd* creates distance between the barrister and the social actor and given the context of the alleged crime, seeks to show a degree of respect. The combination of an honorific

and a social actor's legal name could also 'refer to their legal identity' (Felton-Rosulek, p.6, 2009) foregrounding them within the context of the courtroom. Exclusive reference to this identity could seek to position the social actor within the trial, 'silencing' their life outside of the legal setting (Felton-Rosulek, 2009) and their role within the crime itself. In comparison, this is also reminiscent of the infrequency of *Chauvin*, which lends itself to the idea of 'silencing' (Felton-Rosulek, 2015) his actions to evaluate the 'blameworthiness' (Chaemsaithong, 2021) to the jury. What is perhaps more interesting is how each social actor is depicted by both the prosecution and defence.

Ultimately, the keywords reflect the focus of the defence opening statement, clearly differing from the prosecution. This shows how both sides attempt to attribute blame differently in their crime narratives through the crime versus nature ideologies, according to the crime narrative's 'aboutness'.

4.2 Closing arguments: *what are the 'recontextualized' texts about?*

Turning to the closing arguments, once again, *Floyd* remains frequently used and 'key' (see Table 4.4) for the prosecution (0.99%) and for the defence (0.66%) (see Table 4.5). However, there is a shift in the use of *Mr,* which is only retained by the defence (0.73%), with the more personal nomination, *George* (0.83%), used by the prosecution. This shows a contrast in the prosecution and defence closing arguments, as the nomination, *George Floyd* creates a sense of closeness and familiarity for the jury, while the continuation of *Mr. Floyd* maintains distance and formality. This demonstrates how both the prosecution and defence (re)produce ideologically powerful discourse in the closing argument, to position *Floyd* according to their desired crime narratives. *Chauvin* does not rank as key in either closing argument. Instead, *the defendant* (0.85%) is used by the prosecution, which is also 'key' to their closing argument (see Table 4.4). This illustrates both continuity and transformation from the opening speeches to closing arguments, through changes in how the key social actors are depicted, which is discussed in greater detail in Chapters 5 and 6. According to COURT, there is also use of *the defendant* in the prosecution opening statements, with greater use in the closing arguments. It is important to note here that lawyers have personal styles in the courtroom, especially as Nelson delivers both statements, whereas the prosecution consists of Blackwell (opening) and Schleicher (closing). The shift in identity construction is discussed in greater detail in the following chapters.

Table 4.4 shows the keywords identified in the prosecution's closing argument. In comparison to the opening statement, there are similarities in the semantic sets. The focus on time remains 'key', through the use of *nine, seconds* and *minutes.* This establishes that the prosecution continue to focus on the nine minutes and twenty-nine seconds that *Chauvin* knelt on *Floyd's* back. Similarly, *breathe* and *oxygen* refer to the difficulty that *Floyd* had in sustaining his life. In addition to this, the semantic field of injury

and mortality is used (*murder, assault, harm, pain, killed*), which evaluates *Chauvin's* actions that the prosecution introduces in the opening statement.

Table 4.4 Prosecution closing arguments keyword list (58 of 180)

Raw Frequency	Normalized Frequency	Relative Frequency	Word				
259	0.01993228	1.99322764	s	19	0.00146221	0.14622133	minutes
170	0.01308296	1.30829614	not	18	0.00138525	0.13852547	heart
146	0.01123596	1.12359551	they	17	0.0013083	0.13082961	bodily
137	0.01054333	1.05433277	on	17	0.0013083	0.13082961	common
128	0.0098507	0.98507003	floyd	17	0.0013083	0.13082961	harm
111	0.0085424	0.85424042	defendant	17	0.0013083	0.13082961	neck
108	0.00831153	0.83115284	george	17	0.0013083	0.13082961	required
105	0.00808065	0.80806526	him	17	0.0013083	0.13082961	top
64	0.00492535	0.49253502	force	16	0.00123134	0.12313375	act
54	0.00415576	0.41557642	police	16	0.00123134	0.12313375	officers
51	0.00392489	0.39248884	dr	16	0.00123134	0.12313375	oxygen
45	0.00346314	0.34631368	officer	15	0.00115438	0.11543789	beyond
39	0.00300139	0.30013853	use	15	0.00115438	0.11543789	died
37	0.00284747	0.28474681	reasonable	15	0.00115438	0.11543789	prone
36	0.00277051	0.27705095	death	15	0.00115438	0.11543789	restraint
35	0.00269355	0.26935509	car	14	0.00107742	0.10774203	dangerous
32	0.00246268	0.24626751	training	14	0.00107742	0.10774203	pain
30	0.00230876	0.23087579	heard	14	0.00107742	0.10774203	policy
30	0.00230876	0.23087579	wasn	13	0.00100046	0.10004618	actions
27	0.00207788	0.20778821	saw	13	0.00100046	0.10004618	continued
25	0.00192396	0.19239649	need	13	0.00100046	0.10004618	elements
25	0.00192396	0.19239649	position	13	0.00100046	0.10004618	help
24	0.00184701	0.18470063	breathe	13	0.00100046	0.10004618	level
23	0.00177005	0.17700477	assault	13	0.00100046	0.10004618	looked
23	0.00177005	0.17700477	nine	13	0.00100046	0.10004618	third
23	0.00177005	0.17700477	seconds	12	0.0009235	0.09235032	asphyxia
22	0.00169309	0.16930891	state	12	0.0009235	0.09235032	bystanders
22	0.00169309	0.16930891	tobin				
21	0.00161613	0.16161305	trying				
20	0.00153917	0.15391719	doubt				
19	0.00146221	0.14622133	cause				

In the defence's closing, there is also continuity with the focus on drugs (*pills, fentanyl, methamphetamine*) and the car (*squad, car, mercedes, benz*) in Table 4.5. This suggests that the defence continues to focus on alternative contributing factors to *Floyd's* death, such as being under the influence of drugs and struggling with the officers, influencing their decision to restrain him.

Table 4.5 Defence closing arguments keyword list (58 of 191)

Raw Frequency	Normalized Frequency	Relative Frequency	Word		Raw	Normalized	Relative	Word
1037	0.058624	5.86240036	the		27	0.00152637	0.15263723	baker
556	0.03143196	3.14319634	of		27	0.00152637	0.15263723	beyond
429	0.02425236	2.42523602	a		26	0.00146984	0.146984	actions
191	0.01079767	1.07976709	officer		26	0.00146984	0.146984	ems
154	0.00870598	0.87059755	reasonable		26	0.00146984	0.146984	training
148	0.00836678	0.83667816	police		25	0.00141331	0.14133077	department
144	0.00814065	0.81406524	at		25	0.00141331	0.14133077	role
129	0.00729267	0.72926678	mr		24	0.00135678	0.13567754	cause
116	0.00655775	0.65577478	floyd		24	0.00135678	0.13567754	minneapolis
79	0.00446605	0.44660523	right		22	0.00124371	0.12437108	heart
78	0.00440952	0.440952	an		22	0.00124371	0.12437108	perspective
71	0.00401379	0.40137939	officers		22	0.00124371	0.12437108	three
67	0.00378766	0.37876647	dr		21	0.00118718	0.11871785	body
67	0.00378766	0.37876647	force		20	0.00113065	0.11306462	based
66	0.00373113	0.37311323	into		20	0.00113065	0.11306462	neck
62	0.003505	0.35050031	use		20	0.00113065	0.11306462	oxygen
60	0.00339194	0.33919385	death		20	0.00113065	0.11306462	tobin
52	0.00293968	0.293968	take		19	0.00107411	0.10741139	crowd
48	0.00271355	0.27135508	again		19	0.00107411	0.10741139	moment
48	0.00271355	0.27135508	chauvin		19	0.00107411	0.10741139	scene
46	0.00260049	0.26004862	seconds		19	0.00107411	0.10741139	single
45	0.00254395	0.25439539	person		18	0.00101758	0.10175815	brain
42	0.00237436	0.23743569	state		17	0.00096105	0.09610492	circumstances
38	0.00214823	0.21482277	car		17	0.00096105	0.09610492	experience
35	0.00197863	0.19786308	minutes		17	0.00096105	0.09610492	lane
33	0.00186557	0.18655662	doubt		17	0.00096105	0.09610492	medical
32	0.00180903	0.18090339	consideration		17	0.00096105	0.09610492	methamphetamine
30	0.00169597	0.16959692	information		17	0.00096105	0.09610492	perception
28	0.0015829	0.15829046	described		17	0.00096105	0.09610492	played

One similarity in the prosecution and defence closing argument keywords is the 'keyness' of *Dr*. For the prosecution, *Dr* and *Tobin* are 'key' and for the defence, *Dr* and *Baker* are 'key' (see Tables 4.4 & 4.5), correlating with the professional witnesses that each side called. While both the prosecution and defence refer to other professional witnesses in their closing argument, *Tobin* and *Baker* are highlighted through their keyness values. This also demonstrates that the medical evidence is 'key' to both prosecution and defence closing arguments. While medical evidence is discussed in both closing arguments, the prosecution and defence narratives surrounding this differ.

For the prosecution, the reference to *Dr. Baker* concludes that Floyd's cause of death was homicide (see Figure 4.19, line 3). Schleicher cites Dr Baker's opinion that there is *no medical evidence of a heart attack* (see Figure 4.19, line 2):

> lung capacity, lung volume. He could do that.   Dr. Baker couldn't do it. Didn't do
> cardiac arrhythmia. That's not how this looks.   Dr. Baker, no medical evidence of a heart attack.
> . Dr. Langenfeld told you that Mr. Floyd died.   Dr. Baker ruled this a homicide and told you

Figure 4.19 Concordance lines (3 of 3) for *Dr. Baker* from the prosecution closing

Figure 4.20 is a pictorial example of how Floyd did not die, used by the prosecution in their closing argument. The slide shows photographs of five different doctors who gave evidence for the prosecution, with the suggestion that they collectively agreed that the death was 'Not a Sudden Cardiac Arrythmia' and Dr. Andrew Baker's view that it was 'Not a Heart Attack' (see Figure 4.20). This was synchronous with Schleicher's stating: 'This wasn't a sudden cardiac arrythmia, right, Dr. Smock told you that, Dr. Thomas, Dr. Rich, Dr. Tobin, = they agreed. Not a sudden cardiac arrythmia.' The collective listing of the doctors, the verbal emphasis on *not,* and the repetition used emphasises the conclusion of the medical evidence.
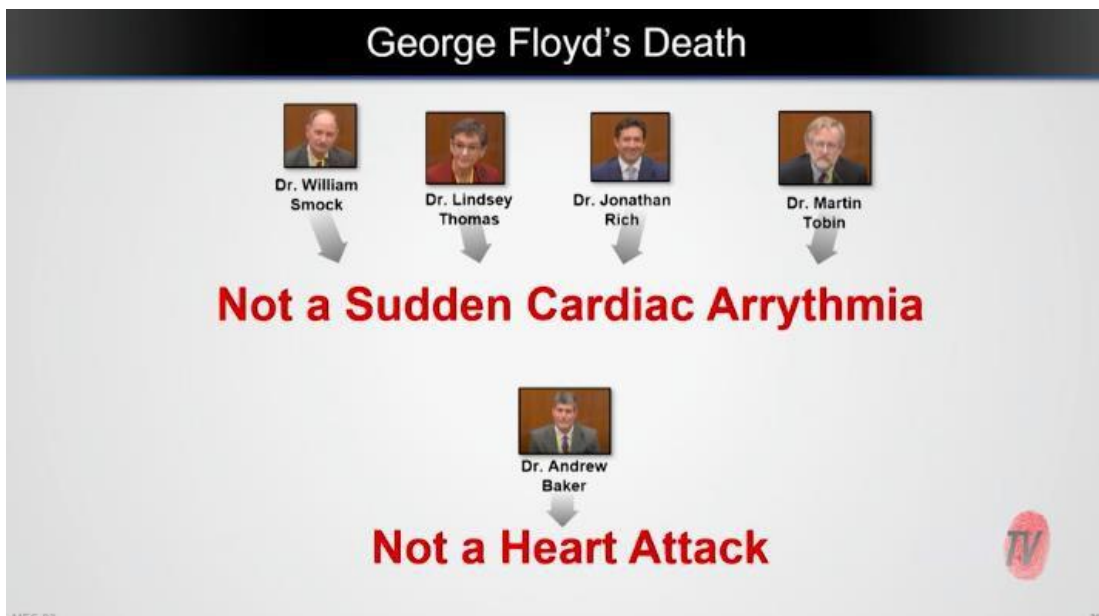
Figure 4.20 Screenshot of PowerPoint used by Schleicher in prosecution closing statement as seen on CourtTV.com

In addition, referring to *Tobin* as a *pulmonologist* (see Figure 4.21, lines 1 & 13)*,* Nelson emphasises the doctor's respiratory knowledge, which suggests that his opinion is crucial to this specific trial. Through indirect speech, Nelson asserts that Floyd's death was due *to hypoxia* resulting in *low oxygen in the brain* (see Extract 9).

will include Dr. Baker. The state first called	Dr. Tobin, a pulmonologist. Dr. Tobin said that you
, the State did that. They went and hired	Dr. Tobin, all right? A pulmonologist. Now, despite all
after Mr. Floyd was placed on the ground.	Dr. Tobin also explained that Mr. Floyd went on
first air is pumped into Mr Floyd, per	Dr Tobin at 20 35 06. That is 10 minutes after Mr Floyd
In rebuttal to that testimony, the state brought	Dr. Tobin back in and he told you, we
has concluded or found during the actual autopsy,	Dr. Tobin concluded emphatically that Mr. Floyd's death
, you are breathing. It doesn't mean effectively.	Dr. Tobin described how even medical doctors have problems
and it defies common sense and reason. Now	Dr Tobin describes the death of Mr Floyd essentially
. I submit to you that the testimonies of	Dr. Tobin, Dr. <Issenschmidt 02:21:13>, Thomas and Rich, it
xia in 39 seconds. 27 seconds later, according to	Dr. Tobin, Mr Floyd takes his last breath. It'
moment in this case. If you recall from	Dr. Tobin's testimony, and nobody disagreed, that Mr.
see a increased ventilation or respiratory rate,	Dr Tobin said it is a completely normal respiratory
he state first called Dr. Tobin, a pulmonologist.	Dr. Tobin said that you need to apply common
absolutely no role in the death according to	Dr. Tobin. State called Dr. Isenschmid, a toxicologist to
someone is experiencing hypoxia to the brain, as	Dr Tobin stated, you would see a increased ventilation
. I want to illustrate two brief things that	Dr. Tobin testified about and I want to illustrate
t 8:24. <EN> (01:09:27)> This is the point where	Dr. Tobin testified that Mr. Floyd had an anoxic
or that. If medical doctors make these mistakes,	Dr. Tobin told you it provides a false sense
reathing. Again, compare that to the testimony of	Dr. Tobin, who told you that same thing. That

Figure 4.21 Concordance lines (19 of 19) for *Dr. Tobin* from the defence closing

Extract 9 Close_def_Nelson
[2:38:21]

> They just want you to ignore ((motions X shape with arms)) (.) ((continuous beat gestures)) significant medical issues that presented (.) to Mr Floyd. And the failure of the state's experts to acknowledge any possibility, any possibility at all, that any of these other factors in any way contributed to Mr Floyd's death, defies medical science (.) and it defies common sense and reason. Now (.) Dr. Tobin describes the death of Mr Floyd (.) essentially as I understand again, (.) to hypoxia. Low oxygen (.) resulting, uh, in brain = going to the brain, (.) low oxygen to the brain.

Nelson comments on how the prosecution fails to acknowledge these statements, initially given by *Tobin* (see Extract 9). The emphasis on and repetition of *any* seek to undermine the prosecution (*the state*), as the defence argues that they fail to acknowledge the contributing factors of Floyd's death. In response to this, Nelson introduces the legal concepts of the 'reasonable person standard' and 'reasonable doubt'. This is discussed in further detail later in the chapter, in relation to the closing arguments' 'aboutness'.

There is continuity within the prosecution and defence wordlists for the closing arguments. Like in the opening statements, the collocations of the most frequent word, *the,* can help to indicate the main points and the 'aboutness' of the closing argument. For the prosecution, *defendant* was the most frequent collocation of *the,* while for the defence, *state* ranked as the most frequent (see Figure 4.22), a shift in focus from the opening to the closing.

Freq(R)	Stat	Collocate	Freq(R)	Stat	Collocate
106	4.08929	defendant	39	3.98545	state
26	3.72694	car	28	3.06683	evidence
21	2.79321	police	20	2.46010	use
19	3.94428	state	19	3.09236	car
11	4.03025	pavement	16	2.18547	death
11	3.52775	law	15	3.41429	minneapolis
11	4.15578	ground	14	3.89972	ground
10	3.57082	point	14	4.09236	defendant
10	4.01828	judge	13	3.98545	natural
10	2.30779	death	13	3.88591	course
9	2.62527	back	12	3.77044	suspect
8	2.98586	second	12	3.42940	scene
8	3.24889	restraint	12	0.41054	reasonable
8	3.24889	prone	12	2.42940	other
7	1.96314	training	12	0.09990	officer
7	3.96314	scene	11	3.64491	squad
7	3.79321	rules	11	3.96683	same
7	0.96314	force	11	3.22987	neck
7	3.37818	bystanders	11	3.30387	crowd
6	3.04031	third	10	3.50740	struggle
6	3.28131	side	10	3.95486	risk
6	2.65328	neck	10	3.71385	prone
6	3.57082	lungs	10	0.20484	police
6	3.15578	first	10	3.24437	brain
6	3.93339	experts	9	4.09236	totality
6	4.15578	ambulance	9	3.80286	instructions
5	3.47771	way	9	2.35540	information

Figure 4.22 Prosecution (left) and defence (right) collocates (R1) of *the* in the closing arguments

The shift from *the police* and *police practice* to a direct focus on Chauvin, *the defendant* (see Figure 4.22) silences his identity outside of the courtroom and concentrates the jury's attention on his legal status and defendant identity. According to Mertz (2007, p. 100), it is important to:

> [n]otice that in the process, legal narratives convert people into speaking subjects whose primary identity is defined by their location in an argument (plaintiff, defendant, appellee, appellant, party, plaintiff's attorney, judge, public defender, prosecutor, drafter, etc.). With this focus comes a concomitant, often tacit characterization of people as strategists: as organized around a strategic calculus regarding which arguments or actions will put them in the best position to win.

The repeated use of *the defendant* reflects how the prosecution tactically position *Chauvin* using 'strategic calculus', underpinning their blame ideology. Similarly, the use of *the state* by the defence seeks to 'put them in the best position to win', as they deconstruct, analyse, and counter the prosecution's crime narrative, capitalising on their sequentially final position in the trial process. When Nelson shifts focus to *the state*, his adversary, he draws the jury's attention to how *the state has tried*

to convince or failed (see Figure 4.23) to establish *Chauvin's* guilt, indicating a shift in the 'aboutness' (Scott, 2017).

context of the subdual and restraint. Apparently	the State, as they just argued, wants you to
undreds of trainings over the years. He corrected	the state at certain times in terms of how
that testimony. In rebuttal to that testimony,	the state brought Dr. Tobin back in and he
e in the death of Mr. Floyd. (02:02:40)> Third,	the state called Dr. Smock, an emergency room physician,
about Dr. Baker in a minute. And finally,	the state called Dr. Rich, a cardiologist who concluded
the presumption of innocence and see how far	the state can get. I submit to you that
see is what you should believe. And so,	the State did that. They went and hired Dr.
. Really five, but I will include Dr. Baker.	The state first called Dr. Tobin, a pulmonologist. Dr.
I get one bite at the apple here.	The state has an opportunity to rebut my statement
to Mr. Floyd's death. That is why	the state has brought in expert after expert after
uence of the deceased's actions. (02:01:17)> So	the state has called six experts. Really five, but
state can get. I submit to you that	the state has failed to meet its burden of
thin this, all within a thorough honest analysis,	the state has failed to prove its case beyond
ities? So throughout the course of this trial,	the state has focused your attention on nine minutes
example. That is the burden of proof that	the state has in that type of a case.
the course of your deliberations until and unless	the state has proved its case beyond a reasonable
into the 9 minutes and 29 seconds at this point.	The State has really focused on the 9 minutes and 29
same way. We call the ingredients, the elements.	The state has the burden of proving each and
roof beyond a reasonable doubt. Essentially, what	the state has to convince you is that the
that Mr. Chauvin is innocent of these charges.	The state has to advance substantial evidence to convince
that contributed to the cause of his death.	The state has to convince you beyond a reasonable
. Floyd. And throughout the course of this trial,	the state has tried and called numerous witnesses to
consequence of the defendant's acts. And so	the state has tried to convince you beyond a
oronary heart disease? Not relevant, according to	the state. Hypertensive disease? Not relevant. Drugs acting
sonable doubt. Mr. Chauvin has been charged as	the state indicated with these three charges, and the
was not contributing to the cause of death.	The state must convince you beyond reasonable doubt that

Figure 4.23 Concordance lines (39 of 39) for *the state* in the defence closing argument

The defence does not explicitly nominate *Chauvin* in their closing argument. For the defence, Nelson refers to an *officer*, which is frequently comprised of the trigram *reasonable police officer* (see Figure 4.24) and is used to implicitly refer to *Chauvin* - a marked difference from the opening statement.

two guys can get this under control. A	reasonable officer will hear the words that the suspect
? Should we elevate our use of force? A	reasonable officer would continue to evaluate whether the su
that we've heard about so much. A	reasonable officer would know that these are two rookies
of the use of force and what a	reasonable officer would know. It was Seth Stoughton, the
would be known to a reasonable officer? A	reasonable officer would look at the size of the
controlled substance? These are the actions of a	reasonable police officer. A reasonable police officer would
look at it from the perspective of a	reasonable police officer. (01:21:57)> A reasonable police
response to what the crowd is saying. A	reasonable police officer, again, will rely on his training.
of this information would be known to a	reasonable police officer." And it goes into and factors
that were known to the police officer, the	reasonable police officer at the precise moment the force
expected time if I call EMS? Because a	reasonable police officer at times, they got to put

Figure 4.24 Concordance lines (11 of 97) for *reasonable (police) officer* in the defence closing argument

In doing so, Nelson's crime narrative involves what *a reasonable police officer* would do in the situation, forming an inference that *Chauvin* is *a reasonable police officer* and justifying his actions as

acceptable police practice. In terms of legal discourse, the 'reasonable person standard' is defined by (Kunter, 2023, my bold):

> The amount of **care** and **caution** that an ordinary person would use in a given situation […]. The reasonable person standard depends on the situation. It's a fictitious legal standard that applies to **evaluate the behavior** of each person involved in an accident. The trier of fact, usually the jury, looks at what each person did to see if their **actions were at least as careful as a reasonable person**.

Attributing the reasonable person standard to *Chauvin* and his actions seeks to establish that he used 'care and caution'. The legal genre is apparent through the use of the reasonable person standard and upon further investigation, is also demonstrated through the defence's repetition of *reasonable doubt* (see Figure 4.25). The presence of this also tells us that we are looking at the trial genre, rather than just this specific trial.

proof beyond a reasonable doubt. Proof beyond a	reasonable doubt.	Essentially, what the state has to convince
t the presumption of innocence. Proof beyond a	reasonable doubt.	Here's the definition that the judge
, the presumption of innocence and proof beyond a	reasonable doubt,	I would submit to you that it
act upon in their most important affairs. A	reasonable doubt	is a doubt that is based upon
the judge just read you, "Proof beyond a	reasonable doubt	is such proof as ordinary prudent men
caused this death. That's fanciful. Beyond the	reasonable doubt,	it is the highest standard in the
resumption of innocence, and what proof beyond a	reasonable doubt	means. The presumption of innocence, the defendan
to meet its burden of proof beyond a	reasonable doubt.	Mr. Chauvin has been charged as the
of proving each and every element beyond a	reasonable doubt.	Not just some global proposition that they'
e evidence in this case completely eliminates any	reasonable doubt.	Or in other words, leaving only unreasonable
standard in this country is proof beyond a	reasonable doubt.	Proof beyond a reasonable doubt. Essentially, wh

Figure 4.25 Concordance lines (11 of 27) for *reasonable doubt* in the defence closing argument

This legal concept of reasonable doubt is defined by the US Courts (2020):

> Proof beyond a reasonable doubt is proof that leaves you firmly convinced the defendant is guilty. […] A reasonable doubt is a doubt based upon reason and common sense and is not based purely on speculation. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence.

Defining *Chauvin* as a *reasonable police officer* seeks to convince the jury that his '[…] actions were at least as careful as a reasonable person' (Kutner, 2023), to provide *proof beyond a reasonable doubt* that he is innocent.

4.3 Conclusion

Looking at the overall patterns in the wordlists and keyword lists using *AntConc* and *LFM*, this chapter demonstrated the key focal points of the prosecution and defence opening statements and closing arguments. Answering the question 'what are the texts about?*',* Mike Scott's (2017) definition of

'aboutness' is useful and we have seen that keywords demonstrate what the 'main points' of a text are, indicating how themes characterize a text's 'aboutness'. While most analysts overlook the importance of function words (*the, of, on,* etc.), this analysis has shown how important *the* and its collocates are to the meanings of the opening and closing arguments and shows that it is a good indicator of 'aboutness'. Similarly, the collocates of *on,* while having 'little referential meaning' (Scott and Tribble, 2006, p. 58), can point toward the overall focus of the opening statements and closing arguments.

The comparative investigation of *the* demonstrated each barrister's narrative focus. For the prosecution, *the police* focus within the opening statements led into a discussion of the *(excessive) force* and *the prone position* that Floyd was subjected to. Relating to this, the semantic sets of *time* and *breathing* further emphasised *the police* focus, as the prosecution focused on the nine minutes and twenty-nine seconds that Chauvin knelt on Floyd's neck and the difficulty Floyd had breathing. The 'keyness' of *on* in the prosecution's opening statement also related to the time that Chauvin was on top of Floyd. For the defence, *the evidence* focus of the opening statement related to the semantic sets identified in the keywords (*drugs* and *car*). This demonstrated how the defence referred to contributing *evidence* that related to Floyd's death, deflecting the blame from Chauvin and his actions while positioning the jury as future observers (through the epistemic modality expressed in *you will*).

In the prosecution's closing argument, the narrative shifts its focus from *the police* to *the defendant*. Rather than focusing on what *the police* did and the need to *call the police on the police*, they focus specifically on what Chauvin did, assigning blame. The shift in social actor identity is important, especially for the prosecution through *Mr. Floyd* to *George* and *Mr. Chauvin* to *the defendant.* While the defence remains fairly consistent in their use of nomination, there is a shift from *the evidence* focus to *the state* focus, as they take a strong adversarial position, exploiting their advantageous position of being the last to speak. The defence deconstructs and argues with the prosecution's (*the state*) closing argument, bringing legally relevant concepts of the 'reasonable person standard' and 'reasonable doubt' to the fore for the jury to evaluate Chauvin's behaviour.

In sum, this chapter demonstrates the 'aboutness' of the prosecution and defence opening statements and closing arguments through the analysis of frequently used words, keywords, and collocational patterns with these words. This reveals a shifting discursive focus from the beginning to the end of the trial which powerfully positions the jury to observe the evidence and then decide the fate of the defendant. Having examined the general aboutness of the opening and closing speeches, Chapter 5 focuses more specifically on the positioning of the jury at the beginning and the end of the trial, according to the strategic linguistic techniques employed by the barristers, while Chapter 6 investigates the changing identities of the defendant and the victim, building on issues raised here.

Chapter 5

Positioning the Jury: opening speech to closing argument

5 Introduction

This chapter compares the prosecution and defence's opening statements in the Chauvin trial with the closing arguments, to examine the discursive creation of the jury's shifting identity. Throughout this chapter, CDA, CL, and Positioning Theory (Davies and Harré, 1990) are employed to investigate how the jury is positioned at the beginning and end of the trial.

In a broad sense, positioning in conversational storytelling is the construction of identity through '[…] the discursive process whereby selves are located in conversations as observably and subjectively coherent participants in jointly produced story lines' (Davies and Harré, 1990, p. 48). Positioning can therefore be thought of as how people locate themselves and others within a story, which is constructed through language use. While both prosecution and defence barristers produce a crime narrative, they often differ; As Davies and Harré (1990, p. 59) say: '[s]ince many stories can be told, even of the same event, then we each have many possible coherent selves.' In terms of the courtroom each barrister constructs, events and people according to their potentially dramatically different perspective. This is primarily achieved through strategic language use, which involves the employment of a range of grammatical patterns that can be revealed by corpus analysis and which are discussed below.

In the opening statements, the barristers are 'limited to outlining facts', as they '[provide] a general road map of how the trial is expected to unfold' (US Courts, 2023). The jury listens to the crime narrative and is '[…] positioned as outside the story looking in' (Davies and Harré, 1990, p. 49). The closing arguments 'remind jurors about key evidence […] and persuade them to adopt an interpretation favourable to the [parties'] position' (US Courts, 2023). The key difference is that in the opening statements, each party is 'restricted to stating the evidence', whereas in the closing they can 'argue the merits' (US Courts, 2023). With this in mind, we expect the barristers' positioning of the jury to differ in the opening statements when compared with the closing arguments.

In this chapter, research question two is the focus: how has 'strategic lexicalisation' influenced the positioning of the jury in the opening statement in comparison with the closing argument? I first examine grammatical patterns in the opening statements and then in the closing arguments to see how the jury is positioned by the opposing barristers at the beginning versus the end of the trial. I used computational tools to identify patterns in the data, before manually analysing how they are used by the prosecution and defence in context. This includes transcript extracts and audio-visual clips to illustrate the contrasting positioning of the jury.

5.1 Grammatical patterning in the opening statements

The prosecution commenced the trial with their opening statement, delivered by Blackwell, which was followed by Nelson for the defence. As the opening statements directly address the jury, we expect the frequent use of personal pronouns, particularly *you*. Through the quantitative analysis of the N-Gram clusters found in the opening speeches (see Figure 5.1), we can see that the prosecution and defence's most commonly used phrases are revealed, including *you will and you'll*.

Total No. of N-Gram Types			4445	Total No. of N-Gram Types			2211
Rank	Freq	Range	N-gram	Rank	Freq	Range	N-gram
1	77	1	you will	1	53	1	mr floyd
2	76	1	going to	2	49	1	you will
3	53	1	mr floyd	3	23	1	to the
4	50	1	in the	4	20	1	of the
5	45	1	you ll	5	18	1	will learn

Figure 5.1 The N-gram clusters from the prosecution opening (left) and defence opening (right) sorted by frequency

Interestingly, both of the barristers use the bigram *you will,* suggesting that this is a generic feature of openings. This cluster ranks as most frequent in the prosecution opening and the second most frequent in the defence opening. The personal pronoun *you* directly addresses the jury and positions them as having a central role in the opening of the trial, even though they are silent observers. *You will* is typically followed by a verb of perception (*see, hear*) or a cognitive verb (*learn*) (see Figure 5.2).

as he could get a breath. And uh and   you will see and hear more about that uh during
blood is no longer coursing through the veins,   you will hear the body gasp as an involuntary reflex.
causes. A heart attack, it's a natural death   you will learn. A fatal arrhythmia, is a natural cause

Figure 5.2 Selected concordance (3 of 77) lines of *you will* in the prosecution opening

Both types of verbs used in this construction express aspects of the human experience, such as physical senses, or a person's mental activities or state, in keeping with the lexical field of observation. This opens a line of communication between the barrister and the jury, as they make direct reference to them as observers of the crime narrative. Establishing this relationship is important, as the jury is also the decision-making body. The barristers claim, with certainty, what the jury can expect to *see, hear*, and *learn* and the frequency suggests that the bigram is part of a lawyer's repertoire (see Figure 5.3). This corresponds with the argument that Gee (2021) proposes, suggesting that social groups use a shared language to communicate. To look closely at the identified verbs that follow *you will,* Figure 5.3 illustrates the prosecution and defence's use of the verbs *hear, see,* and *learn* in the opening statements.

Except for *see*, which is used more than twice as frequently by the defence (0.35%) than the prosecution (0.15%), the verbs are used fairly evenly.
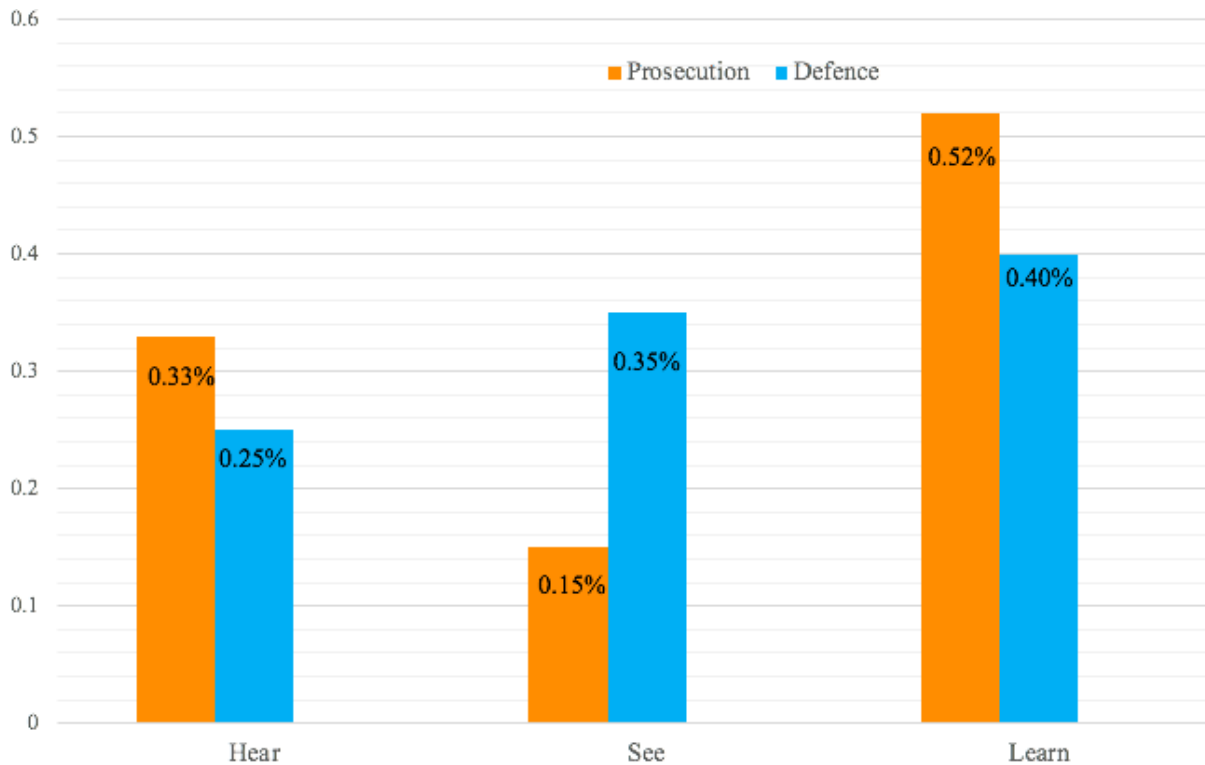

Figure 5.3 Verb frequency (*see, hear, learn*) following the bigram *you will* in the opening statements

Figure 5.4 shows the concordance plots for the bigram *you will,* illustrating how the phrase is distributed throughout both of the opening statements and visually suggests if it is 'likely to be [a] general featur[e] [...] or concentrated at a particular poin[t].' (Culpeper, 2015, p.4) While both plots show a relatively even distribution of the bigram, the first plot (prosecution opening) displays dense sections towards the beginning, prompting an investigation of why.

(a) Prosecution's use of *you will*

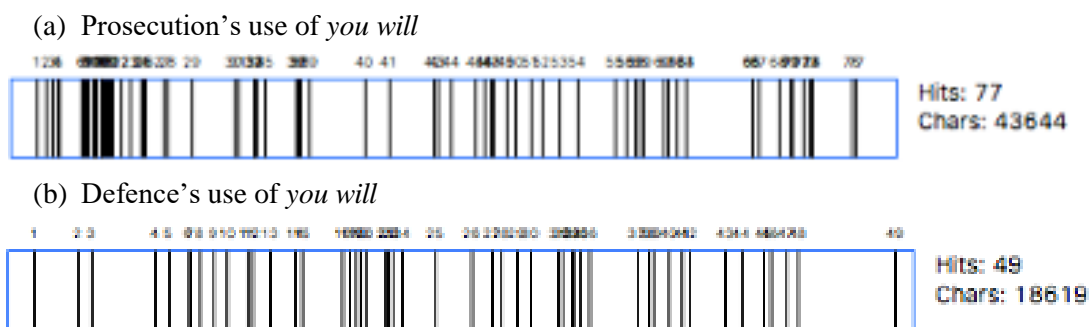

(b) Defence's use of *you will*

Figure 5.4 Screenshots of the concordance plot in *AntConc* for the bigram *you will* in the prosecution opening (a) and defence opening (b)

To investigate this question further, Extract 10 is taken from the prosecution opening demonstrating how densely the bigram is used. Note, too, the collocations with 'hear', 'see', and 'learn'.

Extract 10 Open_pros_Blackwell
[00:15:50]

> So, let's begin by focusing, then, on what we will learn about this nine minutes and twenty-nine seconds (.) and you will be able to hear Mr. Floyd saying ((beat gestures begin)) "Please, I can't breathe. Please man, please" ((beat gestures end)). In this nine minutes and twenty-nine seconds (.) you will see (.) that as Mr. Floyd ((ppt begins)) is handcuffed there on the ground, he is verbalizing twenty-seven times, you will hear (.) in the four minutes and forty-five seconds (.) "I can't breathe, please. I can't breathe." (.) You will see that Mr. Chauvin is kneeling on Mr. Floyd's neck and back. He has one knee on his neck (.) and the knee on his back is intermittently off and on, on his back as you will be able to see for yourself (.) in the video footage. You will (.) hear Mr. Floyd as he's crying out, you will hear him at some point cry out for (.) his Mother = as he's being squeezed there ((ppt ends)) = very close to his Mother, you will learn.

Extract 10 captures the essence of the prosecution's narrative in the opening statement. The repetition of the clusters *you will see,* and *you will hear* use strong epistemic modality to position the jury as observers of the evidence that they are about to *see* and *hear*, with a focus on Floyd and his struggle for survival, while also implying futurity. The duality of *will* (Salkie, 2010) is shown through epistemic possibility and simple futurity, referring to the possible evidence that the jury *will see* and *hear* in the near future (witness and cross examination) of the trial.

Not only does Blackwell tell the jury what they *will hear,* but he also marks this through the use of the reported speech of George Floyd as he is dying. It is argued that '[…] a reported utterance has a narrative function when it constitutes the speaking turn of a particular character in the lawyer's story, thereby contributing to the development of her narrative and a new element being introduced into the discourse' (Chaemaisthong, 2017, p. 5). Relaying Floyd's cries for help is emotive, adding another dimension to the speech and enhancing how the alleged crime is outlined at the beginning of the prosecution's speech to the jury as he opens his case. This is important, as it is argued that '[…] to create a successful opening statement, lawyers need to arouse the interest of jurors, build rapport, and, at the same time, come close to being argumentative' (Tanford, 2009, p. 147). Blackwell relives Floyd's experience through his dying words, *"Please, I can't breathe. Please man, please"* and *"I can't breathe, please. I can't breathe",* positioning the jury as observers of the dying cries of the victim and the alleged crime. When Blackwell uses direct reported speech, he puts emphasis on *please,* depicting the desperation of Floyd's pleas.

Blackwell uses beat gestures to accentuate Floyd's pleas (Figure 5.5). Beat gestures 'are described as movements that do not present a discernible meaning' and typically involve 'small, low energy, rapid flicks of the fingers or hand' (McNeill, 1992, p. 80). While it is argued that beat gestures do not produce meaning on their own, it is clear that Blackwell uses them in combination with his verbal emphasis to add further weight to Floyd's dying words and his appeal for help.

Figure 5.5 Screenshot of Blackwell's (prosecution) beat gestures used in opening statement in combination with 'please' as seen on CourtTV.com

Blackwell also uses visual modality during this extract. A PowerPoint is displayed while Blackwell begins to detail Floyd's struggle (see Extract 10, line 4). It is typical that '[i]n addition to using their voice as tools for conveying their message, lawyers often also use other materials, particularly visual aids' (Felton Rosulek, 2015, p. 4). This further enhances the events and people that they are describing. The PowerPoint consists of one slide containing a timeline with two still images (see Figure 5.6).

Figure 5.6 Screenshot of a PowerPoint slide of an event timeline, used by Blackwell in prosecution opening statement as seen on CourtTV.com

Figure 5.6 displays a timeline from 8:19 PM to 8:29 PM. Beginning at 8:19:14, the blue box indicates the initial moment that Floyd is handcuffed, and then during this time his verbalisation "I can't breathe" twenty-seven times. Directly above is the red box, symbolising how at the same time, Chauvin was kneeling on Floyd's neck and back. The still images displayed are taken from a video that was recorded by a bystander; they are shocking in nature and give the jury a sense of the situation, before they are

presented with the actual video evidence. The diagram can be interpreted in several ways. For example, it could be argued that the colour palette differentiates the social actors. Red, which is typically associated with danger or warning, is associated with a focus on Chauvin and his actions, whereas blue has connotations of sadness and is associated with our viewing of Floyd's endangered position. The positioning of the boxes is also symbolic, with the top box visually recreating the imagery of Chauvin kneeling on top of Floyd, while the bottom box positions Floyd as powerless, through his inability to move.

These moments are also intensified by the numerical *nine minutes and twenty-nine seconds, twenty-seven times,* and *four minutes and forty-five seconds,* which the prosecution uses to quantify the entirety of the alleged crime and Floyd's repeated attempts at verbalising his struggle, leading up to Blackwell's use of reported speech. This is further enhanced with the visual aid, including the timeline of events, encapsulating the specific moments that the prosecution focuses on in their opening speech and highlighting their narrative focus that the jury *will* observe. In terms of narrative, Blackwell is creating contrastive social actors exemplified through the stark contrast of Floyd, crying out for help, and Chauvin, who never moves from his neck. Blackwell contrasts Chauvin's unprofessional, brutal, and criminal police practice with Floyd's inability to breathe, pushing their blame ideology.

Further enhancing Floyd's vulnerability, Blackwell uses indirect reported speech, along with the PowerPoint images, to reference the relationship with his mother, as he says:

Extract 10 (final lines) repeated

> You will (.) hear Mr. Floyd as he's crying out, you will hear him at some point cry out for (.) his Mother = as he's being squeezed there ((ppt ends)) = very close to his Mother, you will learn.

As the PowerPoint ends, Blackwell emphasises Floyd's verbalisations of his inability to breathe with his cries for his mother, reminiscent of a child calling out for comfort. While the opening statement outlines each party's crime narrative, it is argued that '[b]y reanimating various voices in the so-called direct or indirect reporting format, [lawyers'] step from the narrating frame into the character frame and perform the roles of characters within their narratives' (Chaemsaithong, 2018, p. 90). This is important within the opening statement, as the 'performance' of Floyd in his dying moments is explicitly directed towards the jury. These moments are striking and emotive, seeking to imbue Floyd with the vulnerability and innocence of a child. *You will learn* is tagged onto the end of Blackwell's statement that Floyd was *very close to his Mother*. Not only does Blackwell predict the evidence that the jury *will see* and *hear*, marking their perceptions, but he also suggests what they *will learn* from it, evaluating their experience.

Later in the opening statement, Blackwell plays the bystander video evidence to the jury, as shown in Extract 11:

Extract 11 Open_pros_Blackwell
[00:37:43]

> I'm going to show you the video evidence ((raises hands)) (.) the video evidence I think will be very (.) helpful and meaningful to you, ((clasps hands)) because you can see it for yourselves without lawyer talk, lawyer [inaudible], lawyer anything = you can see it for yourselves [00:37:58] ((video begins)) [00:46:37] ((video ends))

The repetition of *you can see it for yourselves* and *without lawyer talk...* seeks to confirm Blackwell's previous statements and evaluation of the jurors' independent experience through the video.

For the defence, Nelson tends to use the literal meaning of *see* and specifically introduces the *actual video,* the *body-worn camera* footage, and the *surveillance video* (see Figure 5.7) that the jury will watch when the evidence is given. In these moments, Nelson contrasts Blackwell's use of stills and the bystanders' video, categorising the defence's use of video footage through an authoritative and institutional lens. Consequently, Nelson questions the authenticity of the bystander video, as he refers to the police video from the bodies of the police officers.

Figure 5.7 shows how *you will see* is attributed to the trial's evidence. In these moments, Nelson directly positions the jury as future observers of the evidence that they *will see.* The futurity expressed through the modal *will* simply suggests what is to come in the witness and cross-examination. This is further enhanced by the additional consideration for the epistemic modality expressed through the modal *will* when combined with *see*, which expresses confidence in the idea that the jury is going to be presented with the evidence Nelson proposes.

legal system, and it forms the foundation, and	you will see and hear that repeatedly throughout the
passenger side. During the course of this trial,	you will see and hear the body-worn cameras
out of the Mercedes-Benz and handcuffed, and	you will see and hear everything that these officers
not an easy struggle. As the struggle continues,	you will see and hear both what Mr. Floyd
, and Officer Lane was at the feet, and	you will see and hear them continue to struggle
's what you will also see and hear;	you will see and hear the conversation between the
the evidence in this case, the evidence that	you will see in this case during this trial.
Mr. Floyd, as he's attempting to kick.	You will see in here that it crowd begins
ntire interaction with Mr. Floyd and his friends.	You will see Officer Lane draw his service weapon
Lane. And he helps in detaining the passengers.	You will see Officer Chang's body-worn camera,
hear from, and every piece of evidence that	you will see or hear during this trial and
er and more serious event. Eric Nelson: (10:17)	You will see surveillance videos near Squad 320 from a
efforts to get him into the squad car.	You will see that three Minneapolis police officers could
e influence of something. Eric Nelson: (05:43)	You will see the actual video from inside Cup
learn that that is an acceptable police practice.	You will see the officers struggle with Mr. Floyd
into the plexiglass partition of the squad car.	You will see the blood evidence in the squad

Figure 5.7 Concordance lines (16 of 16) for *you will see* from the defence opening

The defence uses both sentence-initial and sentence-medial *you will see* (bottom of Figure 5.7 and top, respectively). In most cases, the sentence-medial construction is followed by *and hear* (see Extract 12).

Extract 12 Open_def_Nelson
[00:08:54]

> ((maintains eye contact with the jury throughout - glances to look at notes)) During the course of this trial, <mark>you will see and hear</mark> the body-worn cameras of these officers that fully capture the entire interaction with Mr. Floyd (.) and his friends.

Here, the jury is positioned through simple futurity and epistemic possibility, which promises the jury the evidence that they *will see* and *hear,* positioning them as future observers. Nelson plays on the authenticity of the body-worn footage through the emphasis in the final clause: *that fully capture the entire interaction with Mr. Floyd and his friends.* The emphasis reinforces the reliability of the institutional capture, which, as Nelson argues, portrays a different perspective on the narrative. The connotations of *fully capture* and *entire* seek to question the authenticity of the prosecution's use of stills, suggesting that this evidence is partial or strategically selected.

Nelson maintains eye contact with the jury during this moment (see Figure 5.8). This behaviour is typically '[…] a good way of creating rapport, or a friendly and positive connection between people' (Jones, 2012, p. 172) and rapport is particularly important in building a different relationship with the jury, as the defence follows the prosecution. Nelson is not only building rapport but trying to build trust and solidarity, to persuade the jury to have confidence in his statements. This continues in Extract 13, which immediately follows, using clause-initial *you will see,* as Nelson says:

Extract 13 Open_def_Nelson
[00:09:07]

> <mark>You will see</mark> Officer Lane draw his service weapon (.) after Mr. Floyd failed, several times, to respond to his commands to show him his hands. (.) <mark>You will learn</mark> that that is an acceptable police practice.

Nelson puts verbal emphasis on specific words/phrases: *you, show,* and, particularly *acceptable police practice*, contrasting with what Blackwell showed as unreasonable use of force, and continues to maintain eye contact with the jury (see Figure 5.8). Similarly, the relationship between *you, show,* and *acceptable police practice* draws the jury's attention to their observational and evaluative responsibilities. He invites them to evaluate Chauvin's actions as acceptable rather than criminal, which is enhanced through the evaluative use of *you will learn.*

Figure 5.8 Screenshot of Nelson's (defence) eye contact used in opening statement as seen on CourtTV.com

In sum, the repeated use of *you will* followed by *see, hear* and *learn* is attributed to futurity and has demonstrated the observational, but also evaluative role that the jury is positioned in. The use of strong epistemic modality by both barristers informs the jury about the evidence that they will perceive and evaluates how it should be understood in relation to their desired crime narrative. The simple futurity of *will* promises the jury that they *will see* and *hear* the mentioned evidence. The barristers are strategic in how they attempt to 'arouse the interest of jurors' (Tanford, 2009, p. 147), through the integration of strategic language use (in grammar patterns), reported speech, gesture, gaze, and visual aids. This demonstrates how the '[…] opening statement manages to 'bypass' argumentative constraints through a dynamic integration of speech, gesture and material objects, a multimodal configuration that encodes motion events crucial to the case' (Matoesian and Gilbert, 2018, p. 124). This is particularly important in the Chauvin trial, as 'motion events' are central to the alleged crime, particularly in the prosecution's opening. This also manifests itself in the defence opening, through Nelson's mention of video footage and repeated use of *you will see* and also in Blackwell's diagram (see Figure 5.4), which details the physicality of the situation. Blackwell's use of direct and indirect reported speech seeks to highlight Floyd's vulnerability while reliving these moments. This adds a new dimension to the prosecution's opening speech. Ultimately, throughout the opening statements, the jury is positioned as observers and evaluators of what they *will see, hear*, and *learn* throughout the trial.

5.2 Grammatical patterning in the closing arguments

For the prosecution, the closing argument is given by Schleicher, while Nelson continues for the defence. From the epistemic, observational, and evaluative *you will see, hear*, and *learn* in the opening statements*,* there is a clear transformation shown in the closing arguments with the switch to *you can*. Epistemic modality is replaced by dynamic modality. The jury is shifted from their position of possibility to ability. This shows the change in the power that they are given from the beginning of

the trial to the end. It is important to note that, at this point in the trial, the jury has witnessed all of the evidence through the prosecution's examination of all of their witnesses and the defence's questioning of all of theirs; a total of 45 witnesses are examined and cross-examined by the prosecution and defence. The shift in how the jury is positioned at the end of the trial is evidenced through the change in modal verbs for both the prosecution and defence.

Table 5.1 Modal verbs in prosecution (left) and defence (right) closing arguments using *LFM*

Closing modals	Prosecution		Defence	
Can	32	0.25%	72	0.42%
Could	29	0.23%	11	0.06%
Need	24	0.19%	23	0.13%
Would	22	0.17%	72	0.41%
Should	13	0.10%	13	0.08%
May	9	0.07%	19	0.11%
Must	6	0.05%	7	0.04%
Might	5	0.04%	0	0%
Will	3	0.02%	32	0.18%
Cannot	1	0.01%	5	0.03%
Can't	0	0%	2	0.01%
Shall	0	0%	1	0.01%
Total	144	1.14%	257	1.48%

Using *LFM,* it was established that the modal *will* was replaced by *can, could, need, and would* for the prosecution and that *can* and *would* were favoured over *will* for the defence (see Table 5.1). This change prompted further exploration into the 'strategic lexicalisation' (Cotterill, 2003), demonstrating how the jury was positioned in the closing arguments and how this compared with the opening statements. Figure 5.9 shows the most frequent collocates of *you*, showing that *can* ranks first in both prosecution and defence closing arguments, while also highlighting *have, heard, saw* (prosecution) and *have/ve, heard* (defence).

Rank	Freq	Freq(L)	Freq(R)	Stat	Collocate	Rank	Freq	Freq(L)	Freq(R)	Stat	Collocate
1	25	0	25	4.63739	can	1	39	0	39	4.97604	can
2	21	0	21	5.00253	heard	2	27	0	27	3.93095	have
3	20	0	20	4.70975	re	3	17	0	17	1.33437	that
4	18	0	18	4.93214	saw	4	10	0	10	4.94545	ve
5	17	0	17	4.17830	know	5	10	0	10	4.15696	see
6	12	0	12	2.81666	have	6	10	0	10	3.81992	re
7	11	0	11	0.28304	that	7	9	0	9	4.39490	heard
8	9	0	9	3.82904	don	8	7	0	7	4.13542	beyond
9	8	0	8	-0.13395	to	9	6	0	6	-0.25095	to
10	7	0	7	4.62402	ve	10	6	0	6	3.66792	look

Figure 5.9 Collocates of *you* in prosecution (left) and defence (right) closing arguments using *AntConc*

When looking at the concordance lines of *you can* in the prosecution closing, there is frequent and continued use of *see* (see Figure 5.10). This demonstrates how it is used in context and the transformation of the jury's identity within the context of the trial through the subtle, but nuanced change in the barrister's language use from possibility to ability.

```
<SS> <(01:18:20)> You can look for yourself, and    you can see exactly what was happening. The bystanders
                    car. George Floyd is a big guy, right?    You can see here, he's almost as big
                and talking about murder in the third degree,    you can see that there's some elements in
           k about manslaughter in the second degree. Again,    you can see that there's some elements in
                    the car. He's explaining himself repeatedly. And    you can see, this is where the defendant and
                    have to be Dr. Tobin to recognize this.    You can see this with your own eyes. You
           mories. They gave you those precious recording so    you can see this, you can see this from
                those precious recording so you can see this,    you can see this from every single angle. They
```

Figure 5.10 Concordance lines (8 of 8) of *you can see* from prosecution closing argument

An example of this follows in Extract 14:

Extract 14 Close_pros_ Schleicher
[01:01:45]

> You can see this (.) with your own eyes. = You could see (.) what happened, (.) that he couldn't breathe. He said he couldn't breathe. The defendant was on top of him, on his (.) on his back, on his neck with his knees, pressing down. = Of course. You saw how his body just sort of deflated (.) into the ground, (.) past the point of consciousness.

It is important to note that Schleicher uses both literal and metaphorical senses of *see*. The extract begins with Schleicher saying *you can see this with your own eyes. You could see what happened, that he couldn't breathe.* This refers to the moments when Floyd couldn't breathe, as Chauvin kneeled on top of him. Starting with *can see* is an enabling assertion that the jury has witnessed the moments he refers to and this is reinforced with the personalised *your own eyes*. Schleicher continues to say *you saw how his body just sort of deflated.* The switch in tense indicates that the jury has already seen the evidence and can continue to see the impact that Chauvin's actions had on Floyd. The prosecution's previous use of epistemic modality in the opening is replaced here with dynamic modality.

```
    step it up, get there fast.  <EN> <(00:30:28)> So    you can see again, based on the records that 8:10:08, 20:1
        fficer understands the intensity of the struggle.    You can see at points when Mr. Floyd's
        Am I doing this?  <Video plays>  <EN> (01:25:26)>    You can see Officer Chauvin's body language tells
            're backing up Officer Kueng and Lane. And    you can see Peter Chang respond at 8:10 and 21 seconds.
            here," right? "Go over there."  <EN> <(00:34:38)>    You can see right at about 8:17, and I apologize
                did not like Dr. Baker's conclusions. And    you can see the process Dr. Baker talked about
                    my right foot. You watch this video and    you can see the dynamic shifting, and you can
            and you can see the dynamic shifting, and    you can see the placement of the toes, right?
```

Figure 5.11 Concordance lines (8 of 8) of *you can see* from defence closing argument

Figure 5.11 shows the concordance lines of *you can see* in the defence closing argument. This is demonstrated in Extract 15 when the defence uses the trigram *you can see,* as a video is played of Chauvin kneeling on Floyd's neck.

Extract 15 Close_def_Nelson
[01:24:27]

> [01:24:27] ((Video begins)) [01:25:26] ((Video pauses and remains on image displayed)) You can see (.) Officer Chauvin's (.) body language tells us a lot. Right? That's what we just heard. Looking down, looking up, looking around. Looking down ((moves head down)), looking over ((moves head to side)), looking around ((continues moving head around)). He is comparing a reasonable police officer = he's doing what a reasonable police officer would do = he's comparing his actions, his own actions, in response to (.) what the crowd is saying.

Like the prosecution, the use of visual aids enhances the statements of the defence. Here, the trigram is didactically pointing towards the still shown in Figure 5.12. Nelson is showing the jury an example of Chauvin's body language while describing how this is what a *reasonable police officer would do.* While the defence previously references the *actual body-worn footage,* Nelson then uses stills from the bystanders' footage, like the prosecution, producing opposing storylines. Constructing Chauvin as a *reasonable police officer,* while using a still from the bystander video footage to show the power imbalance, demonstrates how multiple coherent selves are produced. The association between the video, the still, and the dynamic modality expressed through the verb *can,* obliges the jury to act upon what they have already seen and *just heard,* shifting from an observational to a decision-making stance. This clearly demonstrates the shift from using epistemic modality, to dynamic, as the jury is required to recall this moment and evaluate *Officer Chauvin's body language*.

Figure 5.12 Photograph of Chauvin, kneeling on Floyd from defence closing argument as seen on CourtTV.com

The video played (see Extract 14) shows how Chauvin is kneeling on Floyd's neck, with his hands in his pockets, looking around. Nelson chooses to pause the video, while Chauvin is looking down at Floyd (see Figure 5.12). This differs from the prosecution's use of the video, as Nelson selectively

displays around one minute of footage. In the prosecution's opening statement, Blackwell plays the entire video, lasting over nine minutes (see Extract 11). In both instances, Chauvin can be seen kneeling with his hands in his pockets. The subtle difference between the prosecution and defence's use of the video footage is the emphasis on Chauvin's gaze. Here, Chauvin is looking down, focusing on Floyd. This could imply that he is paying close attention to Floyd, as he is looking directly at him and this tells the jury that Chauvin is acting responsibly, assessing Floyd in this moment, reinforcing their nature ideology: that Floyd died of natural causes. As well as this, Nelson also recalls how Chauvin looks down, around, and over, recreating these moments (see Figure 5.13).

Figure 5.13 Screenshot of Nelson's (defence) body language used in closing argument as seen on CourtTV.com

Le Van (1984, p. 94) suggests that '[c]ertain non-verbal cues have been correlated to the intention to persuade and the appearance of confidence', which seems to be Nelson's approach here. While explaining *how* Chauvin's actions (looking down, looking around, looking across) constitute what a *reasonable police officer* would do, Nelson acts them out for the jury. This seeks to confirm that this was what Chauvin was doing in the video they had previously watched, reinforcing these actions to the jury and giving them confidence in his statement.

For the most part, the prosecution and defence focus on the visual, by displaying PowerPoint, stills, video footage, and their gestures and body language. Despite this, the prosecution and defence closing arguments also focus on what the jury can *hear*. As previously noted, the bigram *you will hear* is used by both the prosecution and defence in the opening statements. For the closing argument, a pattern emerges with the repetition of *you heard* (see Figure 5.14), particularly for the prosecution.

Floyd shared during his life. <SS> <(00:01:40)>	You heard about their relationship, how he would always
you met George Floyd's brother, Philonise, and	you heard all about Sissy Floyd. She was George
was in his system and the toxicology report.	You heard from Dr. Isenschmid and what he testified
called the police. Donald Williams, he saw this,	you heard him, he testified. He called the police.
: no superhumans, impervious to pain, nonsense.	You heard him, you saw him, he was not
car, in the squad car, in his car,	you heard questions about, "Is he chewing gum? Does
, just being in the prone position, even though	you heard some studies from the defense saying the

Figure 5.14 Concordance lines (7 of 21) for *you heard* in the prosecution closing argument

Extract 16 demonstrates how *you heard* is used in the prosecution's closing argument, as well as the repetition of *you know*. The shift from *you will see and hear* to *you know* and *you heard* encapsulates the jurors' position as observers in the opening to knowledgeable decision-makers in the closing.

Extract 16 Close_pros_ Schleicher
[00:56:58]

> ==You know== (.) why George Floyd died, ==you know== how he died. ==You heard== a lot about drugs. = ==You heard== about his struggle with addiction. = There's some things (.) um, ==you know== George Floyd was obviously (.) not a perfect man, = who is? No one is. (.) So ==you heard== about drugs. = ==You heard== about drugs in the car. = Some pills in the car, (.) in the, in the squad car, in his car, (.) ==you heard== questions about, "Is he chewing gum? Does he have a pill in his mouth?" Based on his = none of that matters, (.) because ==you know== what his (.) level (.) ((turns page)), the drug level was, (.) ==you know== that from the toxicology report.

Firstly, Schleicher's repeated use of *you know* (see Extract 16) is reassuring, suggesting that the jury has already seen, *heard,* and learned enough about the situation to *know* how to make their decision. The initial uses of *you know* are followed up with the verb *died*, as Schleicher insists that the jury knows *why* and *how* this happened. This emphasises the knowledge that the jury possesses to make a decision. This is reassuring and empowering, seeking to give the jury confidence in their role.

When compared with the following repeated use of *you heard,* Schleicher changes his reassuring approach. Instead, the prosecution insists that what the jury *heard* about *drugs* may be unreliable. The declarative *you heard a lot about drugs, you heard about his struggle with addiction,* and *you heard about drugs in the car* refers to the defence crime narrative. Not only does the prosecution emphasise the difference between what they heard from the defence witnesses and what they know from the prosecution witnesses, but the difference between *you will hear* and *you heard* also reflects the difference between the opening statement and closing argument, highlighting the transformation in the jurors' roles. Interestingly, Schleicher uses *you heard*, which refers to defence witnesses, rather than *you saw,* which would refer to visual evidence. This is an attempt to discredit the defence's claims about Floyd's drug use and its involvement in the alleged crime. This is reinforced by the assertion that *none of that matters, because you know what his level, the drug level was, you know that from the toxicology report,* questioning the authenticity of the defence's arguments and returning to his reassuring approach. Ultimately, Extract 16 demonstrates how the jury is strategically encouraged to use or disregard certain information to make their decision. This is determined through the contrast in giving reassurance (*you know*) versus creating doubt (*you heard*).

In comparison, the defence lends more focus on what the jury *have to* do with the evidence, rather than what they have *heard* or *know*. The frequent use of *you have to* in the defence closing demonstrates

how the jury should *address, analyze, compare,* and *decide* (see Figure 5.15) to fulfil their obligation within the trial: decision-making.

you with respect to counts one and two,	you have to address Mr. Chauvin's intent.
can put this into a single frame. But	you have to analyze the evidence in the br
it goes through all of the three charges.	You have to be convinced that the defend
look at a piece of evidence like that,	you have to compare it against all of the
ful force to another person? In count two,	you have to decide did he purposefully pe
s of your consideration, but nevertheless,	you have to do that. You have to go
defendants' actions. <EN> (01:58:34)>	You have to focus on the consequence of
man behavior. But in the policing context,	you have to gather the information, assess
on, but nevertheless, you have to do that.	You have to go through that process. <EN
ind of like baking chocolate chip cookies,	you have to have the necessary ingredient
when the force became unreasonable. All	you have to know about Barry Broad is wh
. All of this information has to be taken.	You have to look at it from the totality
m the totality of the circumstance. Okay?	You have to look at it from the reasonable
ake a single frame and draw conclusions,	you have to look at the totality. And remen
alked about this a little earlier ago, where	you have to make a decision. Is it worth
ant Mercil said, he testified, "Sometimes	you have to take into consideration wheth
e it himself at times. <EN> (01:41:45)>	You have to take into consideration the pr
m the reasonable police officer standing.	You have to take into account that officers
escalation. He described that sometimes	you have to use your body weight to contr
lone dangerous? What considerations do	you have to your disposal, what pieces of

Figure 5.15 Concordance lines (20 of 20) of *you have to* in the defence closing argument

In Extract 17, *you have to* is used:

Extract 17 Close_def_ Nelson
[00:11:13]

> So, when you <u>look</u> ((beat gesture and eye contact)) at that piece of evidence, (.) when you <u>look</u> ((maintains eye contact, turns to left. Another beat gesture)) at a piece of evidence like that, ==you== ((beat gesture)) ==have to== compare it against ((circular hand motion)) <u>a:::ll</u> of the other evidence.

We see a shift, as epistemic modality is replaced with deontic modality. This shows the obligations that the barrister gives the jury, which is empowering but also emphasises their duties as a jury. Nelson repeats *when you look at a piece of evidence* (see Extract 17) while maintaining direct eye contact with the jury and using beat gestures (see Figure 5.16).

Figure 5.16 Screenshot of Nelson's (defence) eye contact and beat gestures used in closing argument as seen on CourtTV.com

As previously seen in the opening statement, Nelson uses eye contact, which uses his rapport with the jury (Jones, 2012) to reinforce trust and confidence in his statements.

When Nelson is then assertive in his address to the jury, stating that they *have to compare it against all of the other evidence,* this portrays Nelson's confidence that the jury has enough knowledge of the evidence to *compare* and make a decision based on this, but he also obliges them to do this. As you can see (in Extract 17), Nelson puts emphasis on *all,* as well as elongating the delivery. As well as this, Nelson motions a circular movement with his hand (see Figure 5.17), further emphasising the importance of looking collectively and comparing all of the evidence. Like Schleicher, Nelson shifts from positioning the jury as observers to powerful agents with clear objectives for decision-making.

Figure 5.17 Screenshot of Nelson's (defence) circular hand movement used in closing argument as seen on CourtTV.com

Nelson uses a combination of oral, visual, and auditory modes, emphasising the importance of this statement. The jury is encouraged to think about everything they have been presented with, to then evaluate and make their decision, contrasting with their initial observational role.

5.3 Conclusion

Both the opening statement and closing argument are directly addressed to the jury, whose roles differ at these different moments in the trial. The barristers' 'performance' in the opening statements and closing arguments is interpreted through the strategic use of language, as '[t]he words that are spoken are to some extent dictated by the role and are to be interpreted in these terms' (Davies and Harré, 1990, p. 62). The barristers present and evaluate their narratives, using both verbal and non-verbal techniques to invite the jury to observe and think about what they *will see, hear,* and *learn* to then conclude what they *can see* and what they *know*, as they *have to* make decisions based on the evidence.

The patterning of the bigram *you will* in the prosecution and defence opening statements established the observational stance that the jury is positioned by, as depicted through the collocates *see, hear,* and

learn. The perception and cognitive verbs emphasise the jurors' silent observational role, while the epistemic *will* positions them as future observers of the evidence and the simple futurity promise the presentation of the evidence. This typically refers to the bystander and police body-worn footage. By the closing arguments, there is a depleted use of the bigram *you will,* indicating a shift in the role of the jury. The most frequent collocation of *you* is the verb *can.* The bigram *you can* is also typically followed by the perception verbs *see* and *hear,* while *saw* and *heard* are frequent collocates of *you.*

Rather than the pre-emptive suggestion of what the jury *will see* and *hear,* the lawyers focus on what they have already witnessed through the duration of the trial. The patterning of *you can* seeks to evaluate the jury's experience and what they observed, which is developed by the repetition of *you know* for the prosecution and *you have to* for the defence (dynamic and deontic modality). The prosecution gives reassurance to the jury (*you know*) in their decision-making role, versus creating doubt (*you heard*) when referring to the defence witnesses. For the defence, Nelson obliges the jury (*you have to*) in the closing arguments to evaluate all of the evidence while deliberating. The shift from epistemic modality to dynamic and deontic suggests the transformation of the jury's position is from one of possibility and prediction to one of ability and action, positioning them as knowledgeable and dutiful decision-makers in the closing arguments, contrasting with their initial observational role.

The focus on the jury is particularly important, as it is argued that:

> [s]peakers shift styles based on the composition of their audience, including addressees, non-addressed participants in the conversation, and non-participants of various sorts (e.g., eavesdroppers, overhearers). The usual direction of shift is convergence toward the speech of audience members.

> (Kiesling and Schilling-Estes, 1998, p. 4)

This suggests why there is a shift in the grammatical and lexical patterns found in the prosecution and defence's opening speeches and then closing arguments. With the audience of the opening and closing in mind, the following chapter analyses the simultaneous positioning of the social actors, Chauvin and Floyd, within the crime narrative. Chapter 5 explores how Chauvin is positioned unprofessionally by the prosecution, emphasising his institutional dominance and abuse of power through the 'performance' of Floyd in his dying moments. Floyd is positioned as defenceless in these moments, highlighting the prosecution's blame ideology. Contrasting this, the defence defines these actions as an 'acceptable police practice', seeking to justify Chauvin's actions. Floyd is positioned as being resistant, justifying Chauvin's use of force. The differing narratives and representations of these social actors exhibit the production of multiple coherent selves (Davies and Harré, 1990), which is discussed in the following chapter.

Chapter 6

Transforming identity: opening speech to closing argument

6 Introduction

Following the positioning of the jury from their roles of observation to decision-making, this chapter explores how the barristers position the key social actors within their crime narratives. In this chapter, research question three is the focus: how has the nomination of the key social actors (Chauvin and Floyd) influenced the discursive shift in their identity from the beginning to the end of the trial? This chapter looks specifically at Chauvin and Floyd's identity transformation from the beginning to end of the trial in the opening statements and closing arguments and examines how the jury's perspective is altered.

The transformative process that the jury members undergo in the Chauvin trial is uncovered from in-depth analysis and continuing comparison of the opening statements and closing arguments. We have seen how the prosecution and defence position the jury specifically through the use of grammar patterns and the switch in the modality in the opening and the closing of the trial. At the same time, Davies and Harré (1990) note that the production of differing storylines produces '[…] many possible coherent selves' (p. 59), meaning that contrasting representations of key social actors could exist in the prosecution and defence's crime narratives.

When investigating how social actors are represented, it is important to deconstruct the complexities surrounding identity construction. According to Stets & Burke (2000, p. 226),

> [i]n identity theory, the core of an identity is the categorization of the self as an occupant of a role, and the incorporation, into the self, of the meanings and expectations associated with that role and its performance

Within the courtroom, the designated roles (judge, barrister, jury, defendant, victim) are decided ahead of time. This chapter discusses how the 'meanings and expectations' of the victim and defendant roles are reinforced and mediated through the prosecution and defence's language. With this in mind, it has been argued that one's identity is not fixed and varies according to the context in which it is constructed (Omoniyi and White, 2006, p.2). This suggests that social actor identity is both fluid and constructed according to their location within a trial. Looking broadly, '[…] the sociolinguistics of identity focuses on the ways in which people position or construct themselves and are positioned or constructed by others in socio-cultural situations through the instrumentality of language […]' (Omoniyi and White, 2006, p. 2). I compare how each barrister positions the defendant, Chauvin, and victim, Floyd, using

linguistic techniques, analysing how their identities are transformed from the beginning to the end of the trial.

6.1 Strategic nomination: *Opening statements versus closing arguments*

Using COURT (specific trial opening statements sub-corpus) as the reference corpus to compare with the opening statements of the MvC corpus, *Floyd* was identified for its high keyness value for both the prosecution and defence (see Figure 6.1) and there is a greater focus on *Floyd* than *Chauvin.*

Keyword Types:	57		Keyword Tokens:	1963	Se	Keyword Types:	51		Keyword Tokens:	790	Se
Rank	Freq	Keyness	Effect		Keyword	Rank	Freq	Keyness	Effect		Keyword
1	119	+ 315.39	0.0287		uh	1	54	+ 266.31	0.0343		floyd
2	77	+ 203.79	0.0187		floyd	2	69	+ 133.14	0.0424		mr
3	100	+ 160.49	0.0241		mr	3	28	+ 123.53	0.0179		officers
4	43	+ 113.67	0.0105		chauvin	4	18	+ 71.89	0.0116		officer
5	28	+ 73.98	0.0068		seconds	5	20	+ 66.35	0.0128		learn
6	79	+ 71.64	0.019		going	6	13	+ 63.95	0.0084		lane
7	278	+ 69.89	0.0629		you	7	13	+ 63.95	0.0084		squad
8	57	+ 68.99	0.0138		re	8	10	+ 49.19	0.0064		king
9	36	+ 67.84	0.0088		force	9	10	+ 49.19	0.0064		minneapolis
10	24	+ 63.4	0.0059		george	10	13	+ 49.05	0.0084		car
11	23	+ 60.76	0.0056		minneapolis	11	9	+ 44.27	0.0058		chauvin
12	22	+ 58.12	0.0054		heart	12	8	+ 39.34	0.0052		struggle
13	61	+ 55.65	0.0147		learn	13	64	+ 38.55	0.0374		will
14	30	+ 50.55	0.0073		able	14	7	+ 34.42	0.0045		agents
15	21	+ 43.12	0.0051		use	15	7	+ 34.42	0.0045		benz
16	16	+ 42.26	0.0039		nine	16	7	+ 34.42	0.0045		crowd
17	14	+ 36.97	0.0034		bystanders	17	7	+ 34.42	0.0045		mercedes
18	20	+ 36.88	0.0049		department	18	9	+ 34.19	0.0058		common
19	25	+ 34.45	0.0061		minutes	19	18	+ 33.67	0.0115		police
20	13	+ 34.33	0.0032		breathe	20	6	+ 29.5	0.0039		foods
21	13	+ 34.33	0.0032		excessive	21	6	+ 29.5	0.0039		location
22	58	+ 33.4	0.014		police	22	27	+ 28.81	0.0169		evidence
23	28	+ 32.55	0.0068		death	23	7	+ 28.57	0.0045		force
24	18	+ 32.18	0.0044		neck	24	7	+ 28.57	0.0045		seconds
25	12	+ 31.69	0.0029		yourself	25	22	+ 28.55	0.0139		see
26	11	+ 29.05	0.0027		ground	26	7	+ 25.25	0.0045		martin
27	64	+ 27.78	0.0154		see	27	7	+ 25.25	0.0045		pills

Figure 6.1 Keyword list generated using the MvC and COURT sub-corpus for the prosecution opening (left) and defence opening (right)

While *Chauvin* was also identified as a keyword, it has a higher keyness value in the prosecution opening than the defence opening. The defence prefers to use *officer(s).* While we expect surnames to be keywords in any corpus (as they are unlikely to be present in the other trials), the wider naming strategies are important here (such as *Mr*. and *officer*). *Mr.* has a high keyness value for both sides and is typically followed by *Chauvin* or *Floyd*. Given the professional setting of the courtroom, it seems appropriate that the lawyers use a formal nomination to address the social actors, demonstrating the 'style' of the text (Baker, 2004). The 'keyness' of *Mr* suggests that this formalisation strategy is marked in this trial when compared with the reference trials.

In the closing arguments (see Figure 6.2), *Floyd* maintains its high keyness values for both the prosecution and defence, though, while it remains key for the defence, this seems to be replaced with *the defendant* (ranked 9th) for the prosecution. Unlike the opening statements, *Mr.* is not identified as a keyword in the closing arguments. What is perhaps more interesting is how these keywords are used in context. This would demonstrate how each social actor is presented to the jury by each side.

Prosecution closing — Keyword Types: 180 Keyword Tokens: 3056

Rank	Freq	Keyness	Effect	Keyword
1	128	+ 746.33	0.0195	floyd
2	108	+ 629.56	0.0165	george
3	64	+ 323.52	0.0098	force
4	32	+ 177.51	0.0049	training
5	24	+ 139.75	0.0037	breathe
6	22	+ 128.1	0.0034	tobin
7	259	+ 126.16	0.034	s
8	45	+ 125.39	0.0069	officer
9	111	+ 101.99	0.0162	defendant
10	17	+ 98.98	0.0026	bodily
11	23	+ 94.56	0.0035	seconds
12	16	+ 93.16	0.0025	oxygen
13	23	+ 88.29	0.0035	assault
14	15	+ 87.34	0.0023	prone
15	15	+ 87.34	0.0023	restraint
16	17	+ 82.41	0.0026	harm
17	18	+ 81.28	0.0028	heart
18	23	+ 76.76	0.0035	nine
19	15	+ 75.25	0.0023	died
20	54	+ 72.96	0.0082	police
21	12	+ 69.87	0.0018	asphyxia
22	12	+ 69.87	0.0018	bystanders
23	39	+ 67.13	0.0059	use
24	17	+ 66.45	0.0026	top
25	170	+ 66.42	0.0233	not
26	16	+ 63.5	0.0025	officers
27	12	+ 62.93	0.0018	pavement

Defence closing — Keyword Types: 191 Keyword Tokens: 5657

Rank	Freq	Keyness	Effect	Keyword
1	191	+ 825.76	0.0213	officer
2	116	+ 627.01	0.013	floyd
3	148	+ 341.89	0.0164	police
4	67	+ 312.17	0.0075	force
5	154	+ 303.92	0.017	reasonable
6	48	+ 259.28	0.0054	chauvin
7	71	+ 247.92	0.008	officers
8	46	+ 197.31	0.0052	seconds
9	60	+ 153.31	0.0067	death
10	27	+ 145.82	0.003	baker
11	26	+ 140.41	0.0029	ems
12	24	+ 129.61	0.0027	minneapolis
13	62	+ 126.11	0.0069	use
14	32	+ 122.93	0.0036	consideration
15	556	+ 117.81	0.0487	of
16	20	+ 108	0.0023	oxygen
17	20	+ 108	0.0023	tobin
18	19	+ 102.6	0.0021	crowd
19	25	+ 94.52	0.0028	role
20	17	+ 91.8	0.0019	lane
21	17	+ 91.8	0.0019	methamphetamine
22	1037	+ 86.39	0.0708	the
23	26	+ 85.06	0.0029	training
24	20	+ 83.68	0.0023	neck
25	26	+ 81.77	0.0029	actions
26	15	+ 81	0.0017	fentanyl
27	15	+ 81	0.0017	resistance

Figure 6.2 Keyword list generated using the MvC and COURT sub-corpus for the prosecution closing (left) and defence closing (right)

In both opening speeches and closing arguments, *bystanders* and *crowd* were also identified for their high keyness values (see Figure 6.1 & 6.2). For the prosecution and defence, the *bystanders* and *crowd* are additional social actors that they both make reference to, which has been previously discussed in Chapter 4. The 'keyness' of these social actors highlights their importance to both the prosecution and defence crime narratives.

The positioning of social actors can be demonstrated through their 'nomination' and/or 'categorization' (van Leeuwen, 2008). Van Leeuwen (2008) uses the terms nomination and categorization to define how a person can be referred to. Categorizations draw on group membership or a person's characteristics, while nominations are references to a person using their name with varying levels of formality (e.g.,

Mr. Chauvin/Mr. Floyd versus *Derek Chauvin/George Floyd*). This creates a unique identity for that individual. In terms of the courtroom, using specific types of nomination or categorization could seek to strategically position the social actor in a particular way. It is argued that

> [i]f a speaker has many options as to what to call a person and chooses one systematically over the others, then the sociolinguistic properties of that choice are indicative of the specific meaning the speaker is discursively creating.

(Felton-Rosulek, 2009, p.9)

For example, using a formal nomination such as *Mr. Floyd* versus his nickname *Perry* (see Figure 6.3) builds a different picture of that specific social actor for the jury and is a clear example of how different 'coherent selves' (Davies and Harré, 1990) are produced.

Looking specifically at the nomination of *Floyd* in the prosecution opening statement, we see that a pattern emerges, as *Mr. Floyd* (0.50%) is used the most frequently (see Figure 6.3). When we compare this pattern with the closing argument there is a shift, as *George Floyd* (0.85%) replaces Blackwell's *Mr. Floyd* (see Figure 6.3).
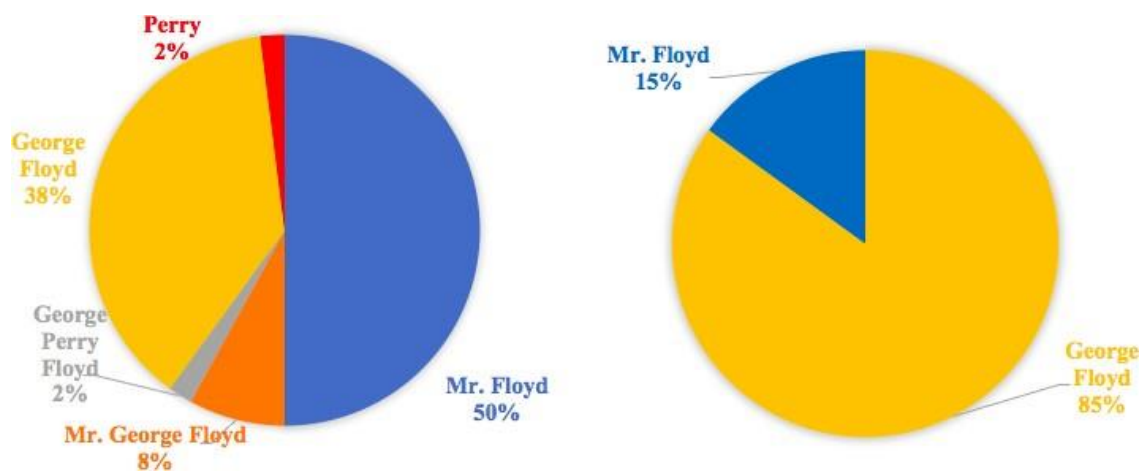
Figure 6.3 Nomination of *Floyd* in the prosecution opening statement (left) and closing argument (right)

Similarly, but with a starker effect, there is a shift in the prosecution's nomination of *Chauvin*. In the opening statement, *Mr. Chauvin* (0.89%) is the most prominent, while in the closing argument, *Mr. Chauvin* is replaced with *the defendant* (0.93%) (see Figure 6.4).
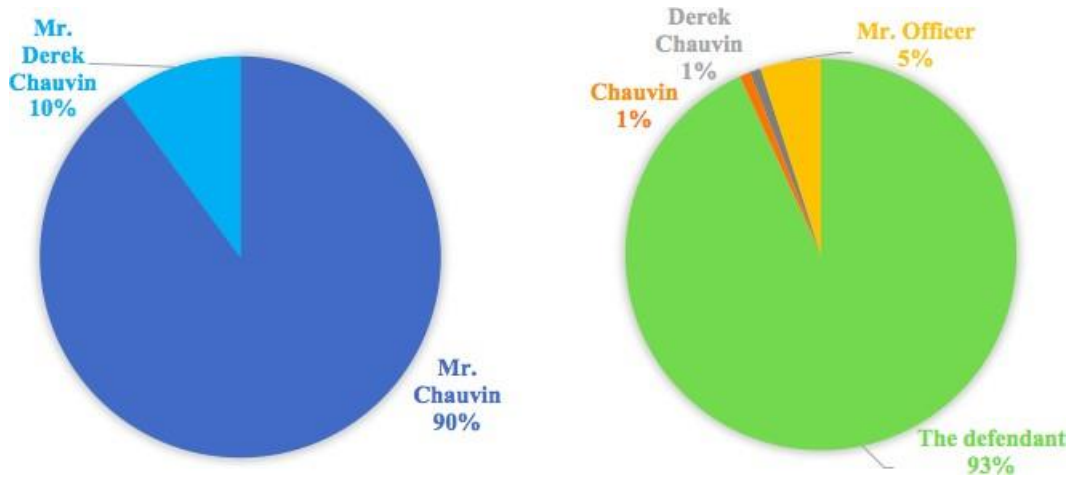
Figure 6.4 Nomination of *Chauvin* in the prosecution opening statement (left) and closing argument (right)

The trial identity of each social actor is foregrounded by the prominent use of the formal nomination *Mr. Chauvin* (0.89%) and *Mr. Floyd* (0.50%) in the opening statement, as Blackwell positions them directly in the context of the courtroom. For the closing argument, Schleicher adopts a different approach and switches to a more informal *George Floyd* (0.85%), while silencing Chauvin's social identity (Mr. Chauvin) and foregrounding his legal identity using *the defendant* (0.93%). This creates the jury's proximity to Floyd and distance from Chauvin.

The defence's opening speech and closing argument show a marked difference in their use of nomination. In the defence opening statement, *Mr. Floyd* (0.98%) dominates, like in the prosecution opening. We see that this continues in the closing argument for the defence (0.96%), contrasting with the prosecution's transformation from *Mr. Floyd* to *George Floyd* (see Figure 6.5). Nelson is consistent in his nomination of Floyd, maintaining his initial construction using *Mr. Floyd* and occasionally *George Floyd* in both the opening statement and closing argument.
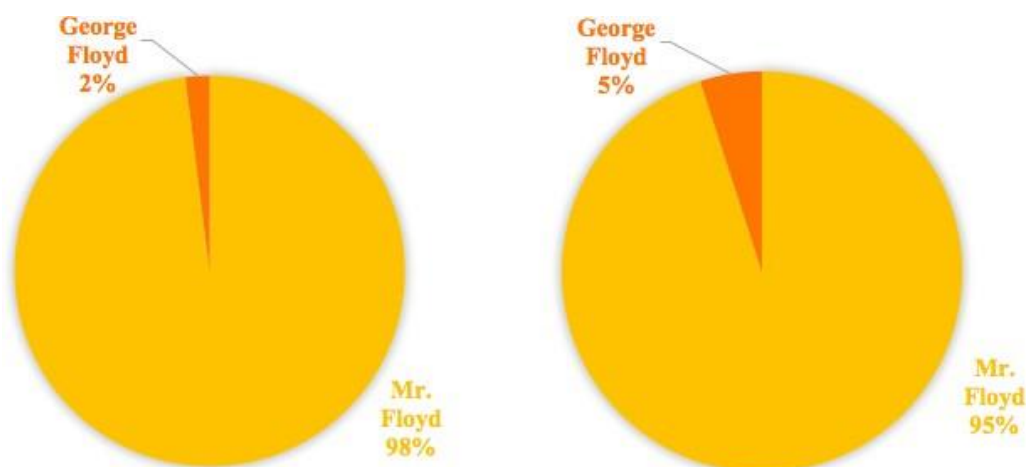
Figure 6.5 Nomination of *Floyd* in the defence opening statement (left) and closing argument (right)

Similarly, for Chauvin, Nelson initially uses *Mr. Chauvin* (0.55%) the most frequently in the opening, but there is also significant use of *Officer Chauvin* (0.22%) and *Derek Chauvin* (0.22%). Nelson varies his nomination of Chauvin more than Floyd, which continues in the closing argument using *Officer Chauvin, Derek Chauvin, Mr. Chauvin,* and *the defendant* (see Figure 6.6). While there is clear consistency in Nelson's use of nomination, it should be noted that *Officer Chauvin* (0.54%) is preferred over *Mr. Chauvin* (0.16%) in the closing and *the defendant* (0.25%) is introduced (see Figure 6.6). While Nelson positions Chauvin as *the defendant,* the defence uses the rank of *Officer* the most frequently. This alludes to his life outside of the trial, which the prosecution tends to restrict.
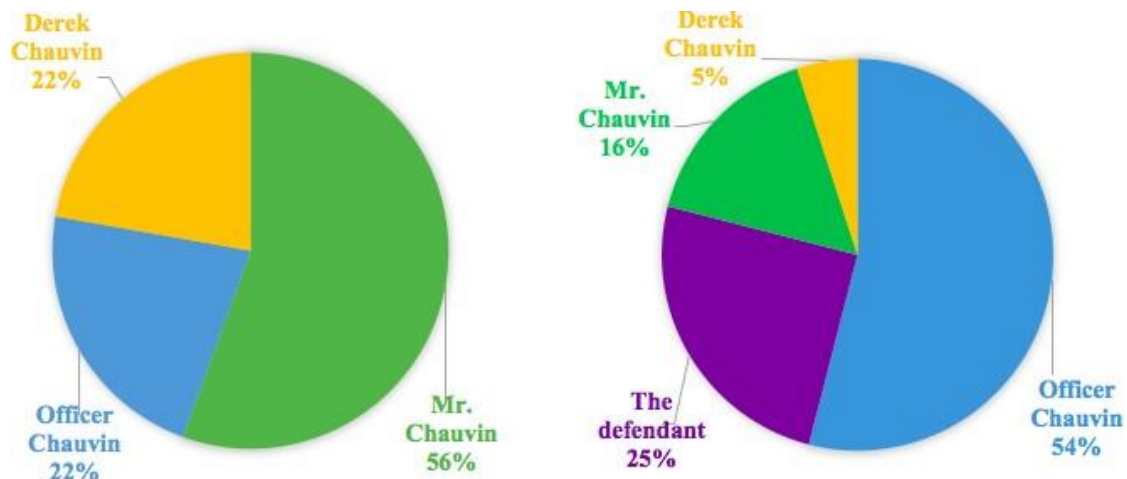
Figure 6.6 Nomination of *Chauvin* in the defence opening statement (left) and closing argument (right)

The quantitative data reveals how the defence is more consistent in their nomination of Floyd, suggesting consistency in the initial identity Nelson creates in the opening. Nelson is more varied in his nomination of Chauvin, as well as being consistent in his use of *Officer Chauvin.* This contrasts with the transformation in the prosecution's construction of the key social actors' identities, from *Mr. Floyd* to *George Floyd* and *Mr. Chauvin* to *the defendant*. Interestingly, the prosecution varies their nomination of Floyd in their opening (*Mr. Floyd, Mr. George Floyd, George Perry Floyd, George Floyd, Perry*) and are limited to *Mr. Floyd* and *George Floyd* in the closing. This is the opposite for Chauvin, who is restricted to *Mr. Chauvin* and *Mr. Derek Chauvin* in the opening and is given completely different nominations in the closing (*the defendant, Mr. Officer, Chauvin, Derek Chauvin*).

The differences in the nomination of both social actors from the beginning of the trial to the end of the trial '[…] [show] what aspects of the person the speaker is highlighting in the discourse at that particular time' (Felton-Rosulek, 2009, p. 9) and this will be discussed in the detailed analysis of the following sections. We will see how the barristers position the social actors according to what they need to emphasise to the jury. For example, we know that the opening statement is given before any evidence is heard, while the closing argument occurs after all the witness evidence. This means that in the closing arguments, the barristers can use the evidence presented in the trial to position the social actors

differently from how they did in the opening statements. This is especially evident in the transformative nominations used by the prosecution.

6.2 Strategic nomination of *Floyd*

From the opening statements to the closing arguments, *Floyd* has several nominations that the prosecution uses. In the opening statement, the prosecution uses *Mr. Floyd* the most frequently (see Figure 6.7).
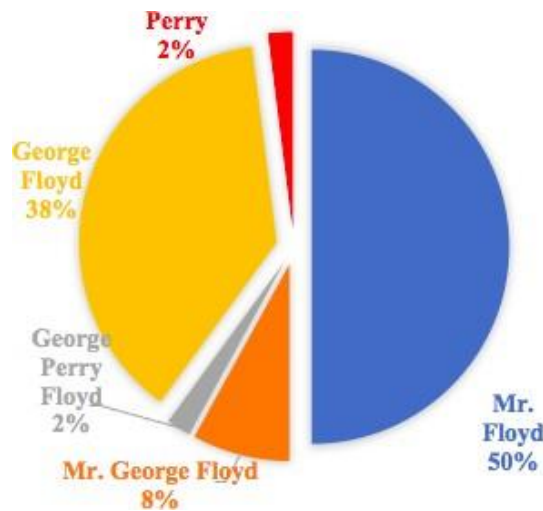

Figure 6.7 Nomination of *Floyd* in the prosecution opening statement

Within the courtroom context, the formal nomination *Mr.* refers to Floyd by his surname, creating a formal identity in keeping with the formalities associated with the trial process. As previously established, the 'aboutness' of the prosecution's opening statement is illustrated through Blackwell's focus on *the police* and more specifically the nine minutes and twenty-nine seconds that Chauvin kneels on Floyd's neck. This prompted *bystanders* to *call the police on the police* (discussed in Chapter 4). In this moment, Blackwell refers to Floyd as a passive participant. This pattern emerges from the repeated use of the trigram *Mr. Floyd was* (see Figure 6.8).

Figure 6.8 Concordance lines (13 of 53) of *Mr. Floyd* in prosecution opening

The collocations include *in handcuffs, in distress, unconscious,* and *unarmed* (see Figure 6.8), which all allude to Floyd's vulnerability. This contrasts with the defence's emphasis on *the struggle* (examined in Chapter 4) that the officers had with Floyd, as the prosecution highlights his inability to react to the situation. The following extract demonstrates how the prosecution used *Mr. Floyd was* is the opening statement. While Blackwell delivers this, a PowerPoint slide is shown (see Figure 6.9).

Extract 18 Open_pros_Blackwell
[00:21:14]

> You can see here, (.) ((ppt begins)) that for the first four minutes and forty-five seconds, = you will learn, Mr. Floyd was calling out, crying for his life. And ladies and gentlemen, not just Mr. Floyd, (.) you're going to hear and see that there were any number of bystanders who were there. Who were also, (.) calling out (.) to let up and get up. Such that Mr. Floyd would be able to breathe and to maintain and sustain his life. ((ppt ends))

Blackwell begins by referring to the PowerPoint (*you can see here*), which displays a timeline of the nine minutes and twenty-nine seconds that Chauvin knelt on Floyd's neck (see Figure 6.9). With reference to the first portion of the timeline, Blackwell states to the jury that *you will learn, Mr. Floyd was calling out, crying for his life* (see Extract 18). This verbally and visually positions the jury as future observers of what they *will learn* about the situation, while also positioning *Floyd* as defenselessly *crying for his life*. This is further expressed by Blackwell's emphasis on *not just Mr. Floyd,* as he goes on to explain that *bystanders* […] *were also calling out* (see Extract 18). The combination of *Mr. Floyd* and several *bystanders* actively asking for Chauvin to *let up and get up* (see Extract 18), further insinuates that the force used was unnecessary. This is due to the emphasis on the public, who felt the need to intervene. This is further emphasised in Extract 19, following immediately after Extract 18.

Extract 19 Open_pros_Blackwell

[00:21:37]

> But then for the remaining four minutes and forty-four seconds, Mr. Floyd was either ((maintains eye contact)) unconscious, (.) breathless or pulseless, ((nods)) (.) and the compression, the squeezing, the grinding went on just the same (.) for the total of nine minutes and twenty-nine seconds.
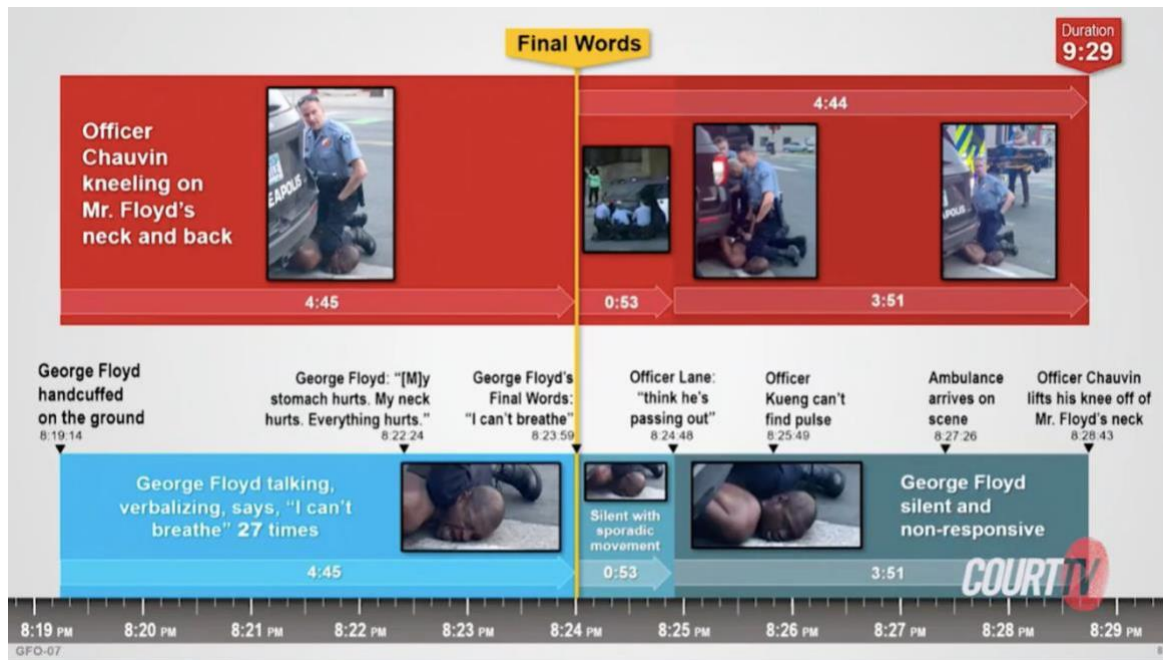
Figure 6.9 Screenshot of a PowerPoint slide of an event timeline, used by Blackwell in prosecution opening statement as seen on CourtTV.com

Blackwell goes on to describe Chauvin's actions that were recorded by a *bystander*. The listing of the collocates *unconscious, breathless,* and *pulseless* (see Extract 19) expresses the difficulty Floyd had in sustaining his life, positioning him as being close to death. This contrasts with how he was *calling out* and *crying* only seconds earlier, when (Extract 18) Floyd uttered his final words and was then *silent* and *non-responsive* (see Figure 6.9). During this delivery, Blackwell maintains good eye contact with the jury and nods after listing *unconscious, breathless,* and *pulseless*; this is confirmation-seeking. Blackwell's further use of listing (see Extract 19) emphasises the physicality of the situation, stating that Floyd wasn't resisting or fighting *the compression, the squeezing,* or *the grinding* that Chauvin subjected his body to. The listing in this extract underlines the difference between Chauvin's actions and Floyd's reactions, establishing a clear distinction between Floyd's passive and Chauvin's active roles. This shows Blackwell's attempts to attribute blame through the contrasting representations of each social actor's actions.

The difference in each social actors' role within the prosecution's crime narrative is also evident when Blackwell emphasises the power asymmetry.

Extract 20 Open_pros_Blackwell
 [00:14:21]

> You will learn that he was well aware that Mr. Floyd was unarmed, (.) that Mr. Floyd had not threatened (.) anyone, (.) that Mr. Floyd was in handcuffs, (.) he was completely in the control of the police, (.) he was defenseless.

The adjective *unarmed* in *Mr. Floyd was unarmed* and the adverbial in *Floyd was in handcuffs* asserts that he was both *in the control of the police* and that *he was defenseless* (see Extract 20). In this situation, Blackwell positions Floyd as vulnerable, while Chauvin has ultimate authority, power, and control. Again, Blackwell clearly distinguishes the active role that Chauvin plays and the passive role of Floyd.

The defence takes a similar approach; however, they attempt to attribute blame differently in their opening. Nelson uses *Mr. Floyd* (0.98%) more than *Mr. Chauvin* (0.55%). Nelson's frequent use of *Mr. Floyd* stands out here (see Figure 6.10).
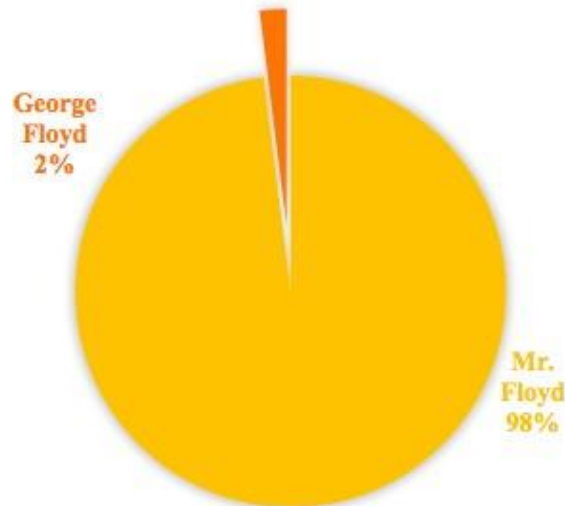
Figure 6.10 Nomination of *Floyd* in the defence opening statement

The repeated focus on the victim and the subsequent lack of focus on the defendant is a strategic technique that Nelson uses to shift blame. By concentrating on Floyd and his actions, Nelson attempts to silence Chauvin's role in the alleged crime. The collocates of *Mr. Floyd* (see Figure 6.11) reveal how Nelson repeatedly refers to him as an active participant, using collocates such as *banged, consumed, failed,* and *refused.* The collocates connote resistance contrasting how he *was unarmed* and *unconscious* in the prosecution's crime narrative. Two very different personas of Floyd are created by the prosecution and defence.

Figure 6.11 Concordance lines (18 of 53) containing *Mr. Floyd* from the defence opening

An example of the positioning of Floyd as an active participant is depicted in the following extract:

Extract 21 Open_def_Nelson
[00:09:07]

> You will see Officer Lane draw his service weapon (.) after ==Mr. Floyd failed==, (.) several times, to respond to his commands to <u>show</u> him his hands. (.) You will learn that that is an ==acceptable police practice==. (.) You will see the officers ==struggle with Mr. Floyd== (.) to get him <u>out</u> of the Mercedes-Benz (.) and <u>hand</u>cuffed, (.) and you will <u>see</u> and <u>hear</u> everything that these officers and Mr. Floyd say to each other. ==The evidence will show==, (.) that when confronted by police, (.) ==Mr. Floyd put drugs in his mouth== (.) in an effort to conceal them from the police.

The defence argues that *Mr. Floyd* was being resistant and non-compliant towards the police, as he *failed* to *respond to his commands to show him his hands* (see Extract 21). Nelson uses this statement to evaluate the police's actions as an *acceptable police practice* (see Extract 21)*,* which he verbally emphasises. This is further reinforced when Nelson states how *the officers struggle with Mr. Floyd* (see Extract 21), which once again depicts resistance. This diverts attention away from Chauvin and the police's actions, as the defence attack and undermine Floyd's victim status. Nelson reverses the victim and defendant roles, making the *police officers* the victims and *Mr. Floyd* the deviant.

Nelson makes direct reference to what the *evidence will show* the jury later in the trial, to make factual claims about Floyd, despite the opening statement being non-argumentative. Nelson claims that *Mr. Floyd put drugs in his mouth in an effort to conceal them from the police* and uses the promise of *evidence* (see Extract 21) to present his statement as an undisputed fact. This implies that Floyd acted recklessly, and he is positioned as being irresponsible. Ultimately, *Mr. Floyd* is represented as the aggressor in Nelson's narrative contrasting with his portrayal of Chauvin (discussed in Section 6.2).

When nominating Floyd in the opening statements as *Mr. Floyd,* the prosecution refers to his formal identity (see Figure 6.12).
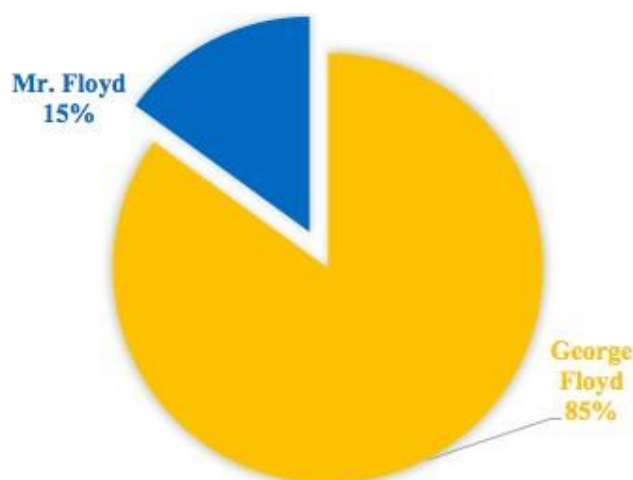

Figure 6.12 Nomination of *Floyd* in the prosecution closing argument

This differs in the prosecution closing argument, as the more familiar *George Floyd* is the most frequent nomination. Leaving his formal identity in the opening statement, Schleicher shifts to his personal identity in the closing argument. The construction of Floyd's personal identity encompasses all aspects of his personal life, rather than his victim role. While the use of *George Floyd* creates closeness and proximity through the familiarity of his name, it is also reminiscent of the *Black Lives Matter* movement, whose longstanding goal for victims of police brutality is to "say their names".

Initially, Schleicher addresses the jury and begins the closing argument by paying tribute to Floyd, saying *his name was George Perry Floyd Jr.* (see Extract 22). The past tense *was* is emotive, as it subtly reminds the jury that Floyd is deceased. As well as this, the use of Floyd's full name speaks to him as a whole, rather than just an aspect of his identity. This is more personal than the formal use of *Mr. Floyd.* Creating a personal relationship between *George Floyd* and the jury seeks to create closeness and familiarity with him and his character, which helps to push the prosecution's desired crime narrative.

Extract 22 Close_pros_ Schleicher
[00:00:01]

> May it please the court, (.) counsel, (.) members of the jury, (0.4) his name (0.4) was George Perry Floyd Jr., and he was born on October 14, (.) 1973 (.) in Fayetteville, North Carolina (.) to his parents (.) George Floyd Sr. (0.3) and Larcenia (.) Jones Floyd, (.) Sissy, (.) the matriarch ((ppt slide)).
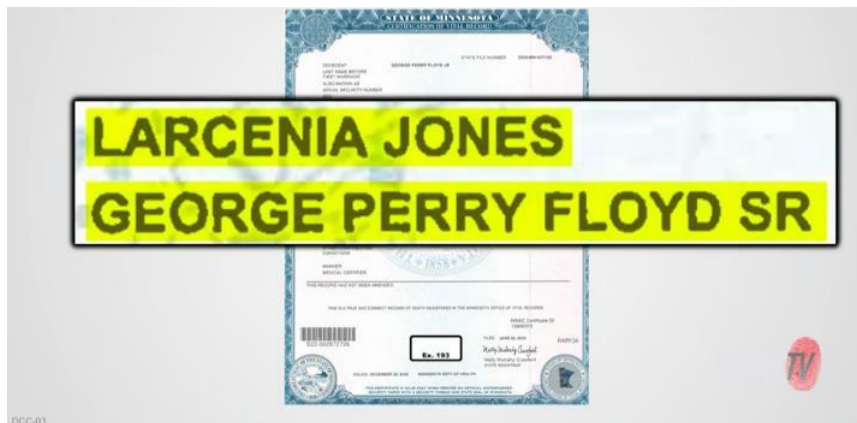

Figure 6.13 Screenshot of Floyd's death certificate, highlighting his Mother and Father's names, used by Schleicher in prosecution closing argument as seen on CourtTV.com

During the delivery of Schleicher's tribute, he adopts a slow pace and frequently pauses. This indicates the careful consideration and delicacy chosen in the handling of sensitive information. At this moment, Floyd is memorialised through his full name, date of birth, place of birth, and parents' names. This builds a picture of Floyd's entire identity for the jury, as the prosecution delves into his background. This is particularly emotive when Figure 6.13 is displayed, which shows Floyd's death certificate. It

emphasises his parent's names in bold font and yellow highlight. The introduction of Floyd's parents is devastating here, as their names displayed on his death certificate tell the jury that *George Floyd Sr. and Larcenia Jones Floyd, Sissy,* have lost their son. The intricacies, such as including Floyd's mother's nickname, *Sissy*, continue to conceptualise everything that collectively constructs and is part of Floyd's identity. The details of Floyd's personal life create familiarity and intimacy with the jury.

To further evoke an emotive response, the prosecution displays the image shown in Figure 6.14. The image shows Floyd as a child, sleeping on his mother, who is smiling at the camera. This depicts the close relationship that Floyd has with his mother and his childhood innocence. Referring to his childhood and upbringing gives the jury a glimpse into Floyd's positive upbringing, preparing him for adulthood. The juxtaposition of the image of Floyd as a child with the image of Chauvin kneeling on Floyd's neck is powerful.
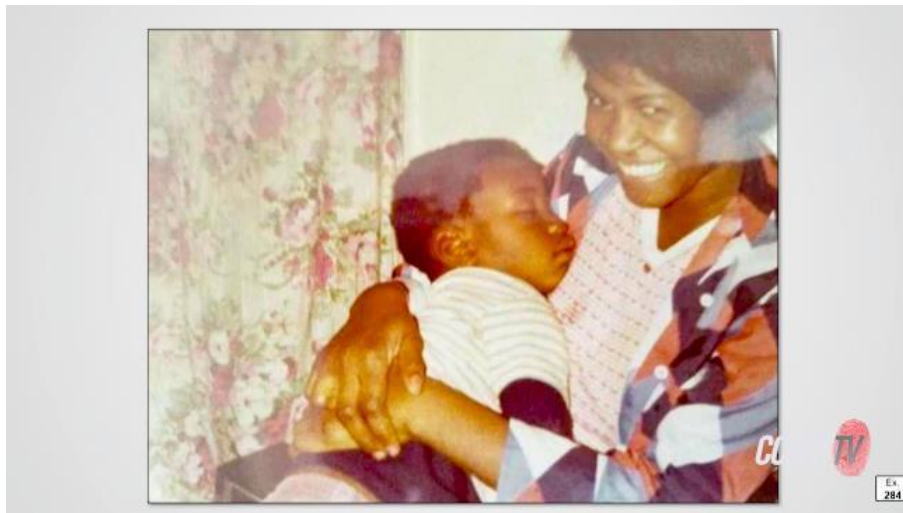

Figure 6.14 Photograph of Floyd and his mother used in the prosecution closing argument as seen on CourtTV.com

Once Schleicher has (re)introduced *George Floyd* to the jury, he refers back to the alleged crime. Rather than focusing on Floyd's formal status as portrayed through his trial identity (*Mr. Floyd*), Schleicher continues to use *George Floyd*. Floyd's passive role is constructed through the collocates of *George Floyd was* (see Figure 6.15).

Figure 6.15 Concordance lines (9 of 9) of *George Floyd* followed by the collocate *was* in prosecution closing

The repetition of *George Floyd was not a threat* (see Figure 6.15, lines 3 & 5) encapsulates how the prosecution attempt to position Floyd in the closing argument. In Extract 23, the prosecution uses emphasis and repetition to reinforce the idea that *George Floyd was not a threat*. This is expressed when Schleicher states: *He wasn't <u>resisting</u>. He just wasn't able to comply* (see Extract 23).

Extract 23 Close_pros_ Schleicher

[01:26:45]

> You need to focus on (.) what <u>did</u> happen. (.) What <u>did</u> happen? = <mark>George Floyd was not a threat</mark>, = he never was. <mark>He wasn't (.) res<u>ist</u>ing. He just wasn't able to comply</mark>. (.) They should have recognized that, (.) they should have recognised that. They do it all the time.

This highlights how Floyd could not comply with the police commands, as the actions of Chauvin prohibited him from doing so. The prosecution argues that the police inaccurately responded to this as resistance and the statement that *they do it all the time* (see Extract 23) further establishes how police brutality and systemic racism are prevalent within the institution.

One of the most striking repeated collocations of *George Floyd* is the verb *died* (see Figure 6.16). This further enhances the importance of repeating his name and is another reminder to the jury of why they are sitting in the courtroom. The prosecution is direct in their assertions, for example, *[w]e know how George Floyd died. This is the use of force* (Figure 6.16, line 5):

	George Floyd died
monoxide. No. <SS> <(00:50:57)> So you know how	George Floyd died and you heard this, but specifically
extensive detail, and it was very clear that	George Floyd died as a result of a low
is adulthood. <SS> <(00:02:47)> On May 25, 2020,	George Floyd died face down on the pavement, right
to get up and not to let up,	George Floyd died. <SS> <(01:04:13)> These actions were a substant
don't have that here. We know how	George Floyd died. This is the use of force.
SS> <(00:46:52)> So as to the first element, that	George Floyd died, well, that was established. That was
hypotheticals that don't apply. You know why	George Floyd died, you know how he died. You

Figure 6.16 Concordance lines (7 of 7) of *George Floyd* followed by the collocate *died* in prosecution closing

Exploring this further, Extract 24 shows how Schleicher attempts to evoke an emotive response from the jury while displaying further images of Floyd's death certificate. These images emphasise the date and where he died with bold font and yellow highlight (see Figure 6.17)

Extract 24 Close_pros_ Schleicher
[00:02:15]

> On May 25, 2020, ((image (a) displayed)) George Floyd (.) died. (.) ((image (b) displayed)) Face down on the <u>pave</u>ment (.) right on 38th and Chicago, (.) in Minneapolis.

The direct assertion that *George Floyd died. (.) Face down on the pavement* (see Extract 24), is a shocking reminder to the jury of the reality of the situation. Using *George Floyd* creates closeness while responding to the alleged crime which implies the need for raising awareness of police brutality and systemic racism.
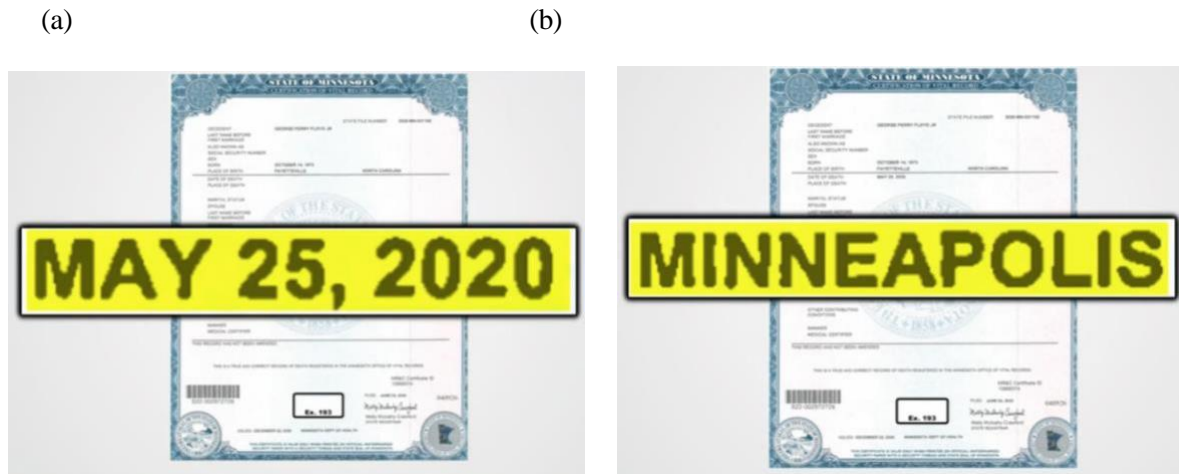
(a)   (b)

Figure 6.17 Images displayed during prosecution closing argument of Floyd's death certificate, highlighting the date and location as seen on CourtTV.com

While *George Floyd* is used the most frequently by the prosecution, there are still instances when *Mr. Floyd* is used. Figure 6.18 visually depicts the use of *George Floyd* (a) versus *Mr. Floyd* (b) throughout the prosecution's closing argument.

(a) *George Floyd*

Hits: 104
Chars: 74066

(b) *Mr. Floyd*

Hits: 18
Chars: 74066

Figure 6.18 Distribution plot for *George Floyd* (a) and *Mr. Floyd* (b) in the prosecution closing argument

George Floyd dominates, clearly highlighting the shift to his personal identity. Despite this, it is interesting that the prosecution, at times, chose to use the nomination *Mr. Floyd.* The concordance lines in Figure 6.19 show all of the instances of *Mr. Floyd* used by the prosecution, creating more formal moments.

, right afterwards, after he got up off of	Mr. Floyd and tossed him on the gurney and
have weighed in. Dr. Langenfeld told you that	Mr. Floyd died. Dr. Baker ruled this a homicide
. Even Dr. Fowler told you that. And after	Mr. Floyd experienced a seizure, he passed out. After
the notion that after the defendant kneeling on	Mr. Floyd for nine minutes and 29 seconds in the
negligence goes beyond his intentional assault of	Mr. Floyd. His negligence includes his failure to act.
if it was likely to cause death to	Mr. Floyd. If common sense in and of itself
f those handcuffs ratcheting tighter and tighter.	Mr. Floyd is trying to explain to the police
by looking at their body language. How does	Mr. Floyd look in this photo? Terrified? An officer
defendant's use of force, the 929, that deprived	Mr. Floyd of the oxygen that he needed, that
finally the defendant got up and they lifted	Mr. Floyd onto that gurney. And you saw the
the back, and the defendant's weight on	Mr. Floyd pushing down with Officer Kueng adding to
nally applied unlawful force to Mr. Floyd without	Mr. Floyd's consent resulting in bodily harm. The
. Was asphyxia, because under the conditions that	Mr. Floyd was being restrained, that the defendant put
of airflow, such that it was as if	Mr. Floyd was breathing through a straw. These shallow
capacity there was here, to the point that	Mr. Floyd was desperately trying to make space to
, no. You really can't even claim that	Mr. Floyd was engaged in passive resistance. At this
Ploeger, "The force should have ended right after	Mr. Floyd was on the ground." His supervisor said
, that he intentionally applied unlawful force to	Mr. Floyd without Mr. Floyd's consent resulting in

Figure 6.19 Concordance lines (18 of 18) for *Mr. Floyd* in the prosecution closing argument

While *Mr. Floyd* refers to his formal identity in the opening statement, it has a different effect in the closing argument. The dominating use of *Mr. Floyd* in the prosecution opening introduces Floyd to the jury formally. This shifts in the closing argument, as the prosecution re-introduces *Mr. Floyd* as *George Floyd*. This gives the jury access to aspects of Floyd's personal life. After the prosecution initially used *George Floyd* at the beginning of the closing argument, there is intermittent use of *Mr. Floyd* (see Figure 6.19). This seeks to communicate respect for Floyd, as seen in the first instance where the prosecution uses this nomination (see Extract 25).

Extract 25 Close_pros_ Schleicher

[00:10:10]

> You saw the video, (.) you saw the point when (.) the ambulance arrived, and finally, (.) after a paramedic got out (.) and the defendant still did not get up, (.) and the paramedic tapped him, and finally the defendant got up and they lifted (.) Mr. Floyd onto that gurney = and you saw (.) the way h-he was not, there was nothing there. His head ((tilts head)) (.) had to be held to prevent it from falling to the ground = he was completely limp.

Extract 25 demonstrates the prosecution's initial use of *Mr. Floyd* in the closing argument. Prior to this, Schleicher recalls the events leading up to and during the alleged crime – the nine minutes and twenty-nine seconds. *Mr. Floyd* is then used after Chauvin removes his knee when it is declared that *there was nothing there* (see Extract 25). This shows how the prosecution uses *Mr. Floyd* to show respect, as they recognise that beyond the nine minutes and twenty-nine seconds, *he was completely limp* (see Extract 25). These moments are emotive, as the prosecution refers back to their initial nomination of Floyd, serving as a reminder of the unfortunate circumstances that resulted in the need for a trial.

Unlike the prosecution, from the opening statement to the closing argument the defence is consistent with their nomination of *Floyd*. Like in the opening statement, Nelson uses the nomination *Mr. Floyd* the most frequently in the closing argument (see Figure 6.20).
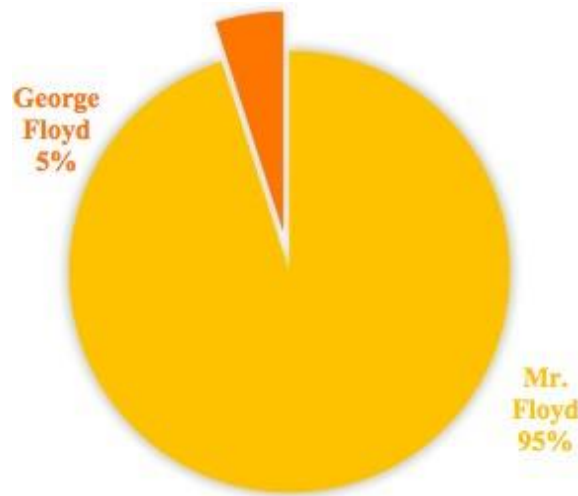

Figure 6.20 Nomination of *Floyd* in the defence closing argument

As previously discussed, *Mr. Floyd* has a higher keyness value than the prosecution in both the opening and closing of the defence. Nelson refers to *Mr. Floyd* as an active participant in the opening statement, who was both resistant and non-compliant to police commands. This assisted Nelson's natural causes ideology, which considered the *struggle, drugs,* and *car* as key contributing factors to Floyd's 'natural' death. This continues in the closing argument, particularly when Nelson uses the possessive, *Mr. Floyd's* (see Figure 6.21), typically relating to the contributing factors that Nelson proposes in the closing argument.

It is clear that the defence consistently refers to their natural causes' ideology through the brief examination of the concordance lines in Figure 6.21. For example, the concordance lines *illicit drugs that were found in Mr. Floyd's bloodstream* (line 3), *Mr. Floyd's heart was enlarged* (line 20), and *Mr. Floyd's physical resistance* (line 31) depict the contributing factors that the defence argue contributed to Floyd's death. This references Floyd's medical state (*enlarged* heart), the alleged *drugs* that Floyd had taken, and the alleged *physical resistance* that led to Floyd being restrained. This demonstrates the consistency in *Mr. Floyd's* identity construction from the defence opening statement to closing argument, through the continued reference to the contributing factors.

and a half. Officer Chauvin believes that | Mr. Floyd's ability to speak means he car
rtificate. So Dr. Baker's conclusions that | Mr. Floyd's arteriosclerotic and hyperten
amount of illicit drugs that were found in | Mr. Floyd's bloodstream is just simply inc
rement. She observed fluid coming from | Mr. Floyd's body that she presumed to b
ot relevant. Adrenaline coursing through | Mr Floyd's body? Not relevant. What doe
That is the cause of death. What caused | Mr. Floyd's death? We're going to talk
played absolutely no role in the cause of | Mr. Floyd's death. The statements convi
preexisting issues did not contribute to | Mr. Floyd's death. That is why the state
were substantial contributing factors of | Mr. Floyd's death, because they were no
played any more of a role resulting in | Mr. Floyd's death. He said, "His heart sin
y, Dr. Tobin concluded emphatically that | Mr. Floyd's death was the result of positi
they may have applied or contributed to | Mr Floyd's death and I was suggesting to
again this death needs to be looked at, | Mr Floyd's death needs to be looked at
other factors in any way contributed to | Mr Floyd's death, defies medical science
What role did Mr carbon monoxide play in | Mr Floyd's death? We don't know, nothin
s, right? Officer Chauvin's body weight, | Mr. Floyd's EELV, he's the only person
rved what she believed to be blood from | Mr. Floyd's face being pressed into the p
th of Mr. Floyd. Dr. Baker concluded that | Mr. Floyd's fentanyl intoxication played a
nce you beyond a reasonable doubt that | Mr. Floyd's heart disease played no role i
finding. He said his heart was enlarged. | Mr. Floyd's heart was enlarged, right? Dr
to great lengths to dismiss the role of | Mr Floyd's heart disease and hypertensi
We know, based on a prior incident, that | Mr Floyd's heart was beating at 219 ove
nce you beyond a reasonable doubt that | Mr. Floyd's history of hypertension playe
he struggle. You can see at points when | Mr. Floyd's legs kick back. It actually alm
le would observe the white foam around | Mr. Floyd's mouth. He would consider th
look at this picture there's something in | Mr. Floyd's mouth. Is it gum? Is it
no soft tissue injuries to the sides of | Mr. Floyd's neck. <EN> (02:06:12)> Th
ore to the story. The blood coming from | Mr. Floyd's nose was why they called EM
sees at a minimum is active resistance. | Mr. Floyd's not just simply getting in the
nce you beyond a reasonable doubt that | Mr. Floyd's paraganglioma was not contr
d the adrenaline produced as a result of | Mr. Floyd's physical resistance played no
> (02:10:50)> Dr. Baker concluded that | Mr. Floyd's recent methamphetamine us
s not enough use of force to overpower | Mr. Floyd's resistance to getting into the
yl and methamphetamine. We know that | Mr. Floyd's salivary DNA was found on th
tamine and fentanyl. That's what was in | Mr. Floyd's system. It's relevant because
mid, a toxicologist to explain to you that | Mr. Floyd's toxicological levels were som
vince you beyond reasonable doubt that | Mr. Floyd's toxicology played no role in h

Figure 6.21 Concordance lines (38 of 38) of *Mr. Floyd's* in the defence closing argument

6.3 Strategic nomination of *Chauvin*

In the prosecution's opening statement, when directly referring to Chauvin, Blackwell only uses the formal nomination *Mr. Chauvin* and *Mr. Derek Chauvin* (see Figure 6.21). In all instances, Blackwell uses Chauvin's formal name, positioning him through his formal identity in the context of the courtroom.
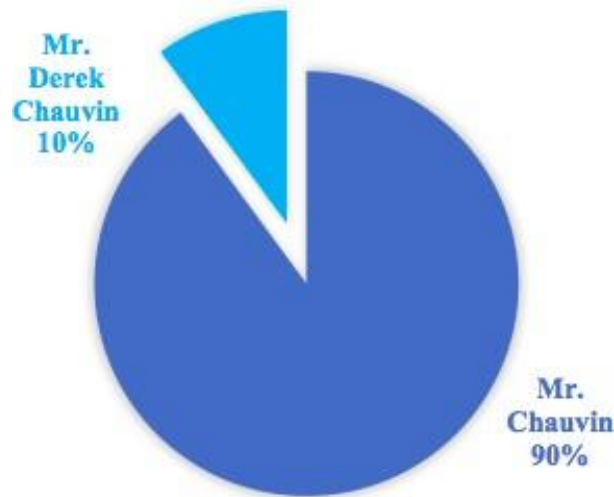
Figure 6.21 Nomination of *Chauvin* in the prosecution opening

Similar to Blackwell's nomination of Floyd, the prosecution used the verb *was* the most frequently after the nomination *Mr. Chauvin* (0.07%) in the opening statement.

Figure 6.22 Concordance lines (5 of 5) using the cluster *Mr. Chauvin was* (prosecution opening)

Figure 6.22 highlights the concordance lines for the cluster *Mr. Chauvin was,* showing Blackwell's evaluation of the narrative events discussed in the opening statements, relating specifically to Chauvin's actions towards Floyd. For example, […] *Mr. Chauvin was anything other than innocent on May 25th* (see Figure 6.22, line 1). Despite the opening statement's delivery before evidence and witness examination, Blackwell is assertive and evaluative in this claim. This is also demonstrated in the following extracts:

Extract 26 Open_pros_Blackwell
[00:23:23]

> He's going to tell you that the force that Mr. Chauvin was using lethal force. It was force that was capable of killing a human or putting his or her life in danger.

Extract 27 Open_pros_Blackwell
[00:49:21]

> Uh, we're going to show you that it was not accidental in terms of what was happening there at the scene. Uh that (.) uh (.) what Mr. Chauvin was doing, he was doing deliberately.

Firstly, in Extract 26 Blackwell states that *Mr. Chauvin was using lethal force* and puts verbal emphasis on *was,* which reinforces his statement and denies the opposite view. Blackwell chooses to use *lethal force* rather than *excessive force*, which indirectly implies that Chauvin's use of force was fatal and sufficient to cause Floyd's death. Blackwell comments further, stating that the use of force *was capable of killing a human* (see Extract 26). Once again, Blackwell remains non-argumentative, while indirectly implying that Floyd's death was a direct consequence of Chauvin's actions. The prosecution continued to evaluate Chauvin's behaviour, suggesting that *what Mr. Chauvin was doing, he was doing deliberately* (see Extract 27). Positioning the formal nomination *Mr. Chauvin* beside his actions (what he *was* doing) produces a paradox in his character. The professionalism and respect that is attached to the honorific *Mr.* is tarnished by the close proximity of the portrayal of his actions, which the prosecution suggests was deliberate.

Blackwell chooses to nominate *Chauvin* as *Mr. Chauvin* or *Mr. Derek Chauvin,* rather than *Officer*. Referring to *Chauvin* as *Officer Chauvin* would show a degree of respect for his professional status. Instead, Blackwell silences his professional identity, stripping Chauvin of the right to be regarded so highly by his police identity and the authoritative position of power that he was once in. This reminds the jury that Chauvin is no longer a serving police officer. When Blackwell does refer to Chauvin and his former occupation, he is grouped by the collective noun *officers* (see Extract 28):

Extract 28 Open_pros_Blackwell
[01:06:17]

> […] But you're also going to learn, ladies and gentlemen, at the time they put Mr. Floyd on the ground that way, (.) there were <mark>five grown men</mark>, (.) <mark>armed police officers</mark>, who were on the scene over (.) a fake twenty-dollar bill. There were <mark>five</mark> of them there. Mr. Chauvin and his partner, (.) the two officers who were showing up there earlier in the first place before Mr. Chauvin was there, (.) and (,) a member of the park police. There were <mark>five</mark> there.

Blackwell puts emphasis on the adjective *armed,* drawing the jury's attention to the protection that they had and the subsequent danger that this put Floyd in. This positions Floyd as defenceless in comparison to the *officers. Chauvin* and his colleagues are also referred to as *grown men,* which Blackwell intensifies with the numerical *five* and repeats several times. The close proximity of *five grown men* and *armed police officers* creates a dichotomy between the categorizations, highlighting the absurdity of the situation, emphasising the volume of officers, their highly armed status, and a minor incident concerning a *fake twenty-dollar bill* (see Extract 28). This creates an unfair imbalance within the situation, as Floyd is unarmed and outnumbered, revealing how institutional dominance and power are enforced against one man. This implies that the *officers* were overly excessive in their response, abusing their position of authority.

While Blackwell is referring to a group of *police officers* and *grown men*, Chauvin is the only named individual actor at this moment and is the centre of his criticism. Chauvin is positioned as both a grown man and a police officer, underpinning the idea '[…] the way social actors are nominated (e.g., Susie, Mrs Jones, the defendant) and the way they are categorized (e.g., good father liar) can be highly strategic' (Heffer, 2021, p. 203). Both of these categorizations should connote maturity and authority; yet, when used in conjunction, Blackwell discredits Chauvin's professional identity. This is reinforced by Blackwell's use of categorization, as he doesn't give Chauvin the privilege and rank associated with the title *Officer*. This ultimately reminds the jury that Chauvin is no longer a serving police officer.

In the defence opening statement, Nelson is more varied in his nomination of *Chauvin*, in comparison to Blackwell, for the prosecution. Unlike the prosecution who only refers to Chauvin formally as either *Mr. Chauvin* or *Mr. Derek Chauvin*, the defence uses *Derek Chauvin, Officer Chauvin,* and *Mr. Chauvin* (see Figure 6.23). This establishes multiple dimensions of Chauvin's identity, including personal and professional.
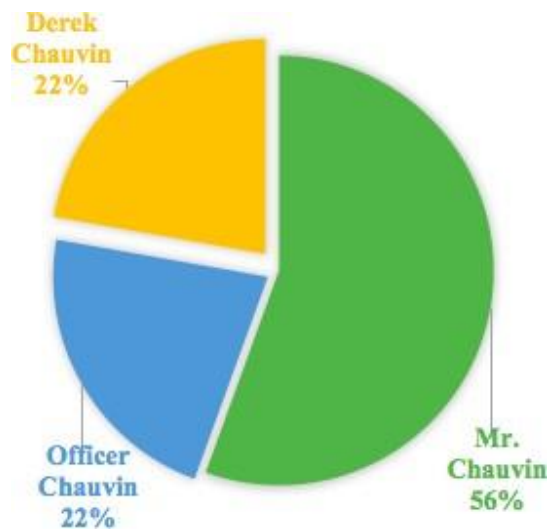
Figure 6.23 Nomination of *Chauvin* in the defence opening statement

In Extract 29, Nelson also refers to Chauvin collectively with the other officers, *Officers Derek Chauvin and his partner Tou Thao*, as well as *Officers King and Lane.*

Extract 29 Open_def_Nelson
[00:12:29]

> And you will learn that Officers Derek Chauvin and his partner Tou Thao, arrived to assist Officers King and Lane (.) at 8:16 and 48 seconds. = Almost 8:17. Upon their arrival, (.) the first thing that Officer Chauvin sees (.) is Officers King and Lane struggling (.) with (.) Mr. Floyd. Mr. Chauvin asked the officers, "Is he under arrest?" (.) "Yes." And then Officer Chauvin began to assist them (.) in their efforts to get him into the squad car.

The initial collective nomination of several *officers* seeks to deflect blame from Chauvin. This is demonstrated through the use of the verb *assist,* through Nelson's de-centralisation of Chauvin's actions, as his involvement is to *assist* others in an attempt to shift the blame onto the other *officers* at the scene. This positions *Chauvin* as being helpful in the situation, but not dictating what happens. *Officer Chauvin* is positioned as responsive and cautious in the situation, as he *sees* what is happening and is observant of the events, rather than an active participant (see Extract 29). This is emphasised further when *Mr. Chauvin asked* for further context on the situation, to then *assist* the other *officers*. This de-centralising positions Chauvin as being helpful in the situation, but not dictating what happens. Chauvin is positioned as an aid to what was already occurring at the scene through *their efforts to get him into the squad car* (see Extract 29). Nelson also positions *Mr. Floyd* as being problematic and resistant, as the officers were *struggling* with him.

Similarly, in the defence closing argument, Nelson tends to focus on Chauvin's professional identity using the rank *Officer* (see Figure 6.24). While the defence continues to use several nominations in the closing, namely through the personal (*Derek Chauvin*), formal (*Mr. Chauvin*), and legal (*the defendant*) aspects of Chauvin's identity, *Officer Chauvin* (0.54%) dominates (see Figure 6.24). This alludes to his responsibility and authority as a police officer, while also referencing his life outside of the trial which the prosecution restricts.
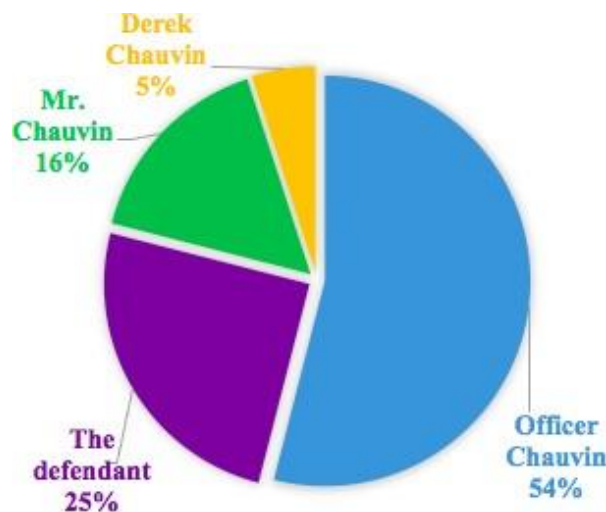

Figure 6.24 Nomination of *Chauvin* in the defence closing argument

Nelson continues to deflect blame in the closing argument through the continuity of the close proximity between *Officer Chauvin* with *Officer Thao* and *Officer Lane* (see Figure 6.25).

Figure 6.25 Concordance lines of *Officer Chauvin* (3 of 30) in the defence closing argument

In contrast, the prosecution attempts to attribute blame through the shift in Chauvin's identity from the opening speech to the closing argument. When referring to Chauvin in the closing argument, the prosecution use *the defendant* almost exclusively (see Figure 6.26).

The 'aboutness' of the prosecution's closing argument is demonstrated through the keyness of *the defendant,* which was introduced in Chapter 4. This illustrates the shift from the general *police* focus to the specific *defendant* focus. The narrowing in the prosecution's focus further emphasises the blame ideology that they associate with Chauvin and his actions. While it is not uncommon for social actors to be positioned according to their role in the trial, the shift from using a formal nomination (*Mr. Chauvin*) to mainly using *the defendant* (see Figure 6.26) is powerful. Strategic nomination is demonstrated here, as Chauvin is foregrounded as the *defendant* within the context of the trial in the closing argument, emphasising his role within the trial's context and 'silencing' his outside identity.
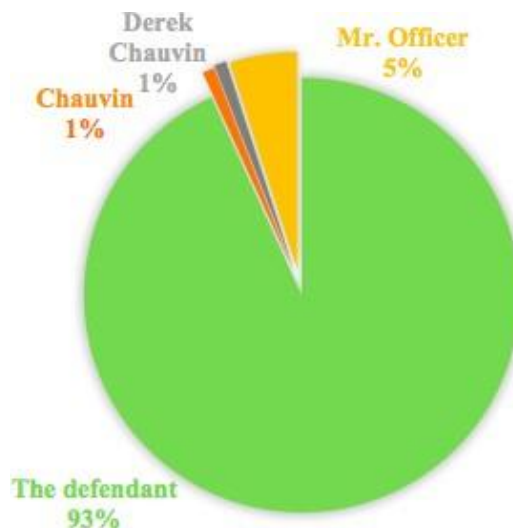
Figure 6.26 Nomination of *Chauvin* in the prosecution closing argument

Figure 6.27 compares the prosecution's initial use of *Mr. Chauvin* in the opening statement with *the defendant* in the closing argument. Using *the defendant* plus negative action (e.g., *caused the death*) over *Mr. Chauvin* is a constant reminder to the jury of Chauvin's role in the alleged crime. This subtle but dominant nuance is used to mould the social actors into the prosecution's desired crime narrative roles, through the discursive creation of his shifting identity.

Mr. Chauvin a fair trial. Mr.	The defendant abandoned his values, ab
Mr Chauvin and his partne	the defendant act with a mental state, co
Mr Chauvin and it alarmed	the defendant acted with a reckless disr
Mr Chauvin and Mr Floyd c	the defendant and Officer Thao start co
Mr Chauvin at one point ha	the defendant and the other officers doi
Mr. Chauvin continues on a	the defendant, and there's nothing wors
Mr. Chauvin continuing to	the defendant arrives on the scene, he s
Mr Chauvin displaying, on	the defendant assaulted George Floyd, t
Mr. Chauvin doesn't get up	the defendant assaulted George Floyd. V
Mr. Chauvin for the excess	The defendant, at the time, was a police
Mr Chauvin guilty for his ex	the defendant at the time of causing Ge
Mr Chauvin had received, I	the defendant cause the death of Georg
Mr. Chauvin has the presu	The defendant caused George Floyd's d
Mr. Chauvin is doing when	the Defendant caused George Floyd's de
Mr. Chauvin is kneeling on	the defendant caused the death of Geor
Mr. Chauvin is told that the	the defendant caused the death of Geor
Mr. Chauvin let up and get	the defendant caused the death of Geor
Mr Chauvin looked at him a	the defendant chose not to listen to byst
Mr Chauvin never letting up	the defendant committed or was attemp
Mr. Chauvin never moves.	the defendant committed this third degr
Mr. Chauvin on top of Geo	The defendant consciously disregarded
Mr Chauvin on top of Geor	the defendant continued. Beyond the po
Mr Chauvin on top of him.	the defendant continued. He stayed on t
Mr. Chauvin received. You'	the defendant continued this assault. Wi
Mr Chauvin's body languag	the defendant continued this assault. Ni
Mr Chauvin's conduct was	the defendant continued. When he was
Mr Chauvin's conduct was	the Defendant continues to kneel on his

Figure 6.27 Concordance lines (27 of 40) of *Mr. Chauvin* (prosecution opening) and (27 of 106) *the defendant* (prosecution closing)

Chauvin is also, interestingly, referred to as *Mr. Officer* by the prosecution. The jury learn that *Mr. Officer* is also how Floyd referred to Chauvin at the scene of the alleged crime.

Extract 30 Close_pros_ Schleicher
[00:05:53]

> He said them to someone who he did not know (.) him by <u>name</u> (.) but he knew him (.) from the uniform he <u>wore</u> (.) and the badge ((taps chest)) he wore, (.) and he called him <mark>Mr. Officer</mark>. That's what he called him, <mark>Mr. Officer. (.) Mr. Officer</mark> would <u>help</u>. We call the police when we need <u>help</u>, (.) and he pleaded (.) with <mark>Mr. Officer.</mark>'

Using *Officer* as an honorific seeks to state the rank of a person within the police force. In this context (see Extract 30), Floyd uses *Officer* in place of Chauvin's name. This is a deviation from the norm, establishing the prosecution's attempts at 'making strange' through the defamiliarization (Crawford, 1884 cited Shklovsky, 1917) of the nomination *Mr. Officer*. This alters the jury's perception of the social actors through the (re)construction of the expected nomination 'Officer Chauvin' (used by the defence in their closing argument). Using *Officer* in place of a proper name creates social distance between Chauvin and Floyd in the narrative and illustrates how Floyd *did not know him by name* (see Extract 30). Despite this, the prosecution demonstrates Floyd's respectful attempts at addressing and pleading with a police officer, who typically *would help*.

As established, *Officer* can also be used as an honorific, like *Mr.*, which positions Floyd as well-mannered, trying to show respect for someone in a position of authority. In a context where a police officer's name is unknown, referring to them as *Officer* would usually suffice as a complete name replacement. This is similar to using 'Sir' or 'Ma'am' when addressing someone without knowing them personally. The additional formality of *Mr.* that Floyd attaches to his address of *Chauvin* further reinforces his attempts at being respectful. The prosecution borrows *Mr. Officer* from Floyd, as they use this nomination in their closing argument. This is a marked stylistic choice that the prosecution uses, producing a heightened meaning through defamiliarization: Floyd is doubly respectful, rather than non-compliant.

6.4 Conclusion

Looking comparatively at the opening statements and closing arguments, this chapter investigates the positioning of the key social actors (Chauvin and Floyd) through the use of strategic nomination. Both the prosecution and defence create multiple coherent selves (Davies and Harré, 1990), using a combination of formal nomination (*Mr. Floyd, Mr. Chauvin*), personal nomination (*George Floyd, Derek Chauvin*), professional nomination (*Officer Chauvin*), and defamiliarization (*Mr. Officer*). The way a social actor is nominated can be highly strategic, especially using a specific nomination continuously over others. In a study on identity construction in courtroom settings, Chaemsaithong (2019, pp. 196-7) concluded that:

> [t]he prosecution creates social distance between the defendant and the jurors by rarely referencing him by name, thereby suppressing the defendant. In contrast to the defendants, the victims are individualized and personalized through informal nominated choices.

This strategy is seen in the prosecution's discursive shift from *Mr. Chauvin* to *the defendant*, which powerfully distances Chauvin and the jury through the consistent reminder that he is on trial, not Floyd. This is reinforced by the consistent negative action that follows *the defendant* in the prosecution's closing argument, explicitly prevalent in clusters such as *the defendant abandoned his values* and *the defendant assaulted George Floyd* (see Figure 6.27). A further nomination, *Mr. Officer*, is used in the prosecution closing. The direct reported speech of Floyd is adopted here, as the prosecution repeats his use of *Mr. Officer*. This marked stylistic choice makes strange (Shklovsky, 1917) a nomination to get the jury to reconceptualise how they perceive Floyd and then Chauvin. In contrast, familiarity and closeness are created through the prosecution's shift from *Mr. Floyd* to *George Floyd*. The initial formal nomination seeks to establish respect for the deceased, while the personal nomination allows the prosecution to (re)construct Floyd's identity, according to his childhood and family life. This is further reinforced through the prosecution's use of visual aids in their closing argument, specifically through

the juxtaposition of Floyd's death certificate with an image of Floyd as a child with his mother. These moments are emotive, particularly when the personal nomination, *George Floyd,* and the collocate *died* are repeatedly used.

While the prosecution transforms the identities of the defendant and the victim, the defence maintains its representations, especially Floyd's. The continued use of *Mr. Floyd* in the opening statement and closing argument reveals the frequent association with medical implications, the *struggle*, *drugs*, and *car* that Nelson argues were contributing factors in his death. This establishes the defence's natural causes ideology, differing from the prosecution's criminal responsibility and blame ideology, which is evident in their direct focus on *the defendant* and his actions. For Chauvin, the defence maintains the use of multiple nominations in the opening statement and closing argument. Differing from the prosecution, Nelson uses *Officer Chauvin*, positioning Chauvin through his professional identity. Strategically, the close proximity of Chauvin with *Officer Thao* and *Officer Lane* seeks to deflect blame in the defence opening statement and closing argument, as does Nelson's suggestion of contributing factors.

The investigation of the prosecution and defence barrister's use of nomination in the opening statements and closing arguments of the Chauvin trial has revealed how identity is constructed and reconstructed. The transformation of the key social actors' identities (Chauvin and Floyd) is pivotal to the trial, as their representation influences how the narrative events are perceived by the jury. As demonstrated in Chapter 5, the representation of the social actors and narrative events is vital, as the jury is the decision-making body. This establishes how the prosecution and defence strategically position the social actors, according to their crime narratives and desired trial outcome. The following chapter concludes with the key findings, detailing how the concepts of 'positioning' and 'transforming' underpin the discursive shift of the jury's identity and the (re)construction of social actors' identities, influencing the representation of narrative events and the Chauvin trial outcome.

Chapter 7

Conclusion

This chapter reflects on the key findings of this study, paying particular attention to the research questions and the value of my results. In addition, the contributions and the limitations of the study are considered, as are recommendations for further research. This thesis investigates how strategic linguistic techniques are used in the opening statements and closing arguments of the Chauvin trial. The barristers' 'performance' of them to directly address the jury constructs their desired crime narrative in pursuit of each of their goals: to convince the jury that their version of events is the most convincing.

Looking specifically at the opening statements and closing arguments in the Chauvin trial, each barrister's 'strategic lexicalisation' is analysed, regarding how the jury, key social actors, and narrative events are considered through a transformational lens. As discussed in Chapter 2, similar studies on courtroom discourse have focused on the positioning of social actors, their agency and responsibility in the courtroom (Cotterill, 2003; Heffer, 2005; Felton-Rosulek, 2009, 2015; Wright, 2020), as well as the representation of opposing narrative events (Heffer, 2010; Chaemsaithong, 2021). With this in mind, there seems to be a lack of research into the construction, transformation, and positioning of the juror's identity within the courtroom. This study has explored how the social actors and narrative events undergo a transformational process within the Chauvin trial, with additional consideration of the positioning of the jury from the beginning to the end of the trial.

Using a corpus-based approach combining CDA and CL, the corpus was explored to answer the research questions. The specific reference corpus, COURT, is relatively limited, consisting only of transcripts from the OJ Simpson trial (1995) and the Menendez retrial (1995) (highlighted in Chapter 3). While this is a potential drawback, the dataset is substantial in comparison to the MvC corpus, as it contains opening and closing speeches from seven different barristers, compared with the three in the Chauvin trial, therefore functioning as expected when used comparatively. The high-profile trials in the COURT corpus, particularly the OJ Simpson trial, have been subject to thorough linguistic exploration (see Cotterill, 2003). In contrast, the Chauvin trial is relatively unexplored from a forensic linguistics perspective.

A data-driven approach was also used to examine the grammatical and lexical patterns, guiding the direction of the study and the subsequent formation of research questions. The computational tools *AntConc* and *LFM* were employed to produce wordlists, keyword lists, N-Grams, concordance lines, and modal verb frequency lists, in pursuit of the data-driven approach. As discussed in Chapter 3, the computational tools that I used predominantly process written data. Given the importance of visual aids

such as video footage and PowerPoint within the trial, the audio-visual broadcast was manually analysed and compared with the grammatical and lexical patterns uncovered through the quantitative analysis. This was further developed through the qualitative analysis, using the concepts of 'aboutness', 'positioning', and 'transformation' in the legal setting to underpin the analysis.

Having identified, examined, and compared the lexical and grammatical patterns in the opening statements and closing arguments, the 'aboutness' of each text was established as a basis for further linguistic investigation in the data-driven approach. Exploring research question one regarding how lexical and grammatical patterns indicate 'aboutness', Chapter 4 uncovers the prosecution and defence opening and closing speeches main points, establishing each barrister's ideological stance. Looking at the function words and their collocates in the opening and closing statements was particularly fruitful, indicating *the police* focus for the prosecution and *the evidence* focus for the defence in their opening statements. Each text's 'aboutness' clearly indicates the ideology that the prosecution and defence attempt to promote. For the prosecution, Blackwell intertwines his blame ideology with the association of *the police* and Chauvin's use of *excessive force* and *the prone position,* while Nelson, for the defence, links his nature ideology with *the evidence* (e.g., *drugs, struggle, car, crowd),* that he argues contributed towards Floyd's natural death. In the closing arguments, the focus shifts onto *the defendant* for the prosecution and *the state* for the defence. This demonstrates how the prosecution narrows their initial police focus specifically onto Chauvin, directly linking his behaviour with the blame ideology. In comparison, the defence attempt to deconstruct *the state's* argument (and ideology), using the 'reasonable person standard' and 'reasonable doubt'. The general 'aboutness' of the prosecution and defence opening statements and closing arguments establishes the main points in the initial opening and 'recontextualised' closing crime narratives. In addition to uncovering the blame versus nature ideology that was particularly evident in the opening statements, the analysis showed the value of considering function words in establishing the aboutness of a text, particularly in terms of the collocational patterns and their semantic prosodies.

Moving from the general 'aboutness' of the texts to the specific, Chapter 5 investigates research question two about the influence of 'strategic lexicalisation' on the positioning of the jury, indicating how they are positioned at particular moments and transformed through the trial process, predominantly through the shift in grammar patterns and modality. The bigram *you will* was identified in both prosecution and defence opening statements, with *see, hear,* and *learn* as the most frequent collocates. Analysis of the bigram used in context indicated how the jury is positioned as both silent and future observers, which is evident in the simple futurity of *will,* anticipating the evidence that *will* be given in witness and cross examination, and the epistemic use of *will* that portrays possibility. The close proximity of *you will see* and *you will hear* in the prosecution's opening statement highlights the strong use of epistemic modality, which was enhanced by the use of reported speech, beat gestures, and visual

aids. For the defence, Nelson evaluated his claims for what the jury *will see and hear* using the trigram *you will learn*. This emphasised the jury's observational and evaluative responsibilities, as Nelson determines Chauvin's actions to be an *acceptable police practice*. Strategic lexicalisation is seen in terms of the lawyers' shared repertoire along with the adversarial differences that they reveal in what is seen, heard, and learned. This is explored through the barrister's '[…] [exploitation] [of] the connotational and collocational properties of the lexical items selected' (Cotterill, 2003, p. 67).

In the closing arguments, the barristers reconstruct the jury's identity. For the prosecution, *will* was replaced by *can, could, need,* and *would* and *can* and *would* for the defence. In comparison with the opening statement, the prosecution uses both the literal and metaphorical senses of *see* (*you can see, you could see,* and *you saw*) concerning Floyd's struggle for survival. The difference between each cluster reflects the progression of the trial, evaluating (*you can see*) the evidence that was presented (*you could see*) and reflecting (*you saw*) on it. The shift in tense emphasises the impact of Chauvin's actions. The defence's use of *you can see* evaluates the video evidence, to propose that Chauvin's actions are compliant with what a *reasonable police officer would do.* This differs from the prosecution, who continuously assess the impact of Chauvin's actions, as seen through their focus on *the defendant* (discussed in Chapter 4). As well as this, *heard, have,* and *know* also contribute to the positioning of the jury in the closing arguments. The prosecution's use of *you know* references the prosecution witnesses, seeking to give reassurance to the jury. In comparison, the repetition of *you heard* rather than *you saw* refers to the defence's comments about Floyd's drug use, which seeks to create doubt in Nelson's claims. The strong use of dynamic and deontic modality contrasts with the initial use of epistemic modality. Further investigation looked at the defence's use of *you have to,* which suggests the obligational duties of the jury. This suggests that the defence forcefully positions the jury according to their obligations and responsibilities in the closing argument, as they *have to* deliberate the evidence and make a decision based on this.

It was found that these results are consistent with a general lawyer repertoire. In the opening statements, *you will* and the collocates *see, hear,* and *learn* were also found in COURT. The shift to *you can* in the COURT closing argument sub-corpus is also present, particularly *you can see, you saw,* and *you heard.* Interestingly, there is limited use of *you have to* in the closing argument data in the COURT sub-corpus with significant use of *you know*. This highlights the patterning of *you will* and the shift to *you can* as consistent with a general lawyer repertoire. This study focuses on depth, exploring small, selected N-gram clusters (*you will, you can*), while still raising interesting lines of inquiry. Further data-driven research could consider expanding the size of N-gram clusters for exploration.

From a CDA perspective, the transformation of the jurors' identity is clear through 'the (re)production of power relations through language […]' (Heydon, 2005, p. 17). This is established through the shift in modality, which first positions the jury as silent, future observers (epistemic modality) and then transforms them into active decision-makers (dynamic and deontic modality) with the power to influence the trial's outcome. Epistemic modality emphasises the possibility and prediction that the jury is expected to utilize while dynamic and deontic modality concerns their ability, action, and obligation as jurors. While CDA usually focuses on the underdog, this study focuses on the most powerful participants in the trial: the prosecution and defence barristers. Looking particularly at the prosecution's crime narrative, it is clear that Blackwell and Schleicher work to uncover institutional racism and oppressive police practice, particularly through their focus on *the police*, *excessive force, prone position,* and *the defendant* in comparison with the victim's vulnerability. There are several moments in the opening statements and closing arguments where this juxtaposition is powerful, particularly when the prosecution uses the direct speech of Floyd crying out for his mother while Chauvin knelt on his neck and back. These moments are enhanced by the visual aids, which depict the nine minutes and twenty-nine seconds in a timeline, and the photography of Floyd as a child with his mother.

The prosecution and defence's positioning of the jury simultaneously positions and transforms the identity of Chauvin and Floyd. The exploration of the barristers' use of nomination in the opening and closing speeches fulfilled the comparative parameters of research question three, which seeks to uncover the shift in the key social actors' identity from the beginning to the end of the trial. In the opening statements, the prosecution used *Mr. Floyd* and *Mr. Chauvin* the most frequently. While the defence also used *Mr. Floyd,* when nominating Chauvin, they used *Mr. Chauvin, Derek Chauvin,* and *Officer Chauvin*. This emphasises how the prosecution initially focuses on the social actors' formal identity within the trial, while the defence broadens Chauvin's identity to encompass his professional and personal identity. In the closing argument, the prosecution transformed the identity of both social actors, using *George Floyd* and *the defendant.* This differs for the defence, who maintain their use of *Mr. Floyd* and nominate Chauvin as *Officer Chauvin.*

Using *Mr. Floyd* in the opening statement creates distance, as Blackwell uses a respectful form. The switch to the personalised *George Floyd* in the closing argument seeks to create closeness, through familiarity with the jury. This is a powerful transformation, enhancing the prosecution's poignant reminder to the jury of why they are in the courtroom and the importance of continuing to say his name, George Floyd. For the defence, the continuity of *Mr. Floyd* from the opening statement to the closing argument seeks to maintain their formal representation of the victim. In contrast, the transformation by the prosecution of *Mr. Chauvin* to *the defendant* foregrounds Chauvin's legal position and suppresses his former professional identity and position in the wider world. The prosecution seeks to distance

themselves from Chauvin, contrasting with the familiar relationship they create through the transformation of Floyd. In comparison with COURT, the prosecution's use of *the defendant* in the Chauvin trial is distinct, as this nomination is used exclusively in the closing argument. In COURT, the prosecution barristers use *the defendant* in both opening statements and closing arguments; however, there tends to be a greater reference to this nomination in the opening rather than closing. For the defence, the switch from the formal *Mr. Chauvin* to the professional *Officer Chauvin* seeks to position Chauvin as a *reasonable police officer* using an *acceptable police practice.* Nomination and categorisation are seen as strategic linguistic techniques that the prosecution and defence use to create contrasting representations of the same events and social actors. This seeks to influence the jury's perception, which is essential for the desired trial outcome. Chapter 6 clearly illustrates how the jury and social actors are positioned by the prosecution and defence, but also raises the question: how does Chauvin self-present in the trial? While this would be an interesting comparison, Chauvin implemented his Fifth Amendment right to not testify.

The investigation of the research questions used the key concepts of 'positioning' and 'transformation' to understand the differing representations of the jury, the key social actors, and the narrative events in the prosecution and defence opening statements and closing arguments. To better understand the implications of these results, future studies could utilise these concepts to comparatively analyse similar trials' opening statements and closing arguments. This would give further insight into generic or distinct features of lawyer talk, regarding how the jury, social actors, and narrative events are positioned and transformed by lawyers.

The Chauvin criminal trial concluded with the jury unanimously finding him guilty on three counts: unintentional second-degree murder, third-degree murder, and second-degree manslaughter. Chauvin's verdict is a breakthrough in US history, as police officers are rarely convicted in instances of police brutality resulting in death against African Americans. An attorney for Floyd's family commented about the trial that '[…] there is a bigger problem of systemic racism in America, and I think that this is an opportunity to try to tackle some of that, too' (Justin Miller, 2021). While there is an expectation for the outcome of this trial to question and challenge the use of force practice, institutional racism, and police brutality against African Americans, since Floyd's death, more lives have been lost at the hands of police. According to Mapping Police Violence (2023), use of force resulting in death continues to permeate African American communities in the US, highlighting the alarming rate of police brutality resulting in fatality since Floyd's death. Recent news in the UK reports on the fatal shooting of Chris Kaba, an unarmed black man, by a firearms officer who has been charged with murder (Kennedy, Daniel, and Woode, 2023). In response to this, firearms officers stood down from their duties with the support of the Home Secretary, Suella Braverman (2023), supporting their stance by stating that '[t]hey

mustn't fear ending up in the dock for carrying out their duties. […]'. This instance highlights the complexities between the countless killings of African Americans and use of force (tools).

While the highly charged trial and Chauvin's verdict have been considered a landmark in recent US history, the reality suggests that there is yet to be significant reform of police use of force policy. As a result, the Black Lives Matter movement continues 'fighting for the total liberation of black people' (Black Lives Matter, 2023), further echoing the importance of saying their names:

> Eric Garner. Michael Brown. Laquan McDonald. Tamir Rice. Freddie Gray. Philando Castile. Elijah McClain. Breonna Taylor. George Floyd. Daunte Wright.
>
> (Lawrence, 2023, p. 2)

This study only explores one instance of fatal police brutality, seeking to uncover the differing representations of the defendant, the victim, and narrative events, while simultaneously positioning the jury. The differing representations of Chauvin and Floyd reflect the differing views of wider society, highlighting the ongoing complexities surrounding police brutality and systemic racism.

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