Courting Legitimacy: Enregistering Legal Reasoning among US Criminal Trial Jurors

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ABSTRACT

This article discusses how law is produced semiotically as a category of social action through a study of jury decision making and the production of jury verdicts. In the US criminal justice system, citizens called for jury duty are interpellated as jurors and instructed in legal reasoning through encounters with a variety of texts. Jurors respond to the state's hailing by producing themselves as competent jurors who can reason according to specifically legal forms of objectivity that may diverge from their everyday assessments of facts in reaching verdicts: for example, they can find a defendant legally "not guilty" while maintaining a belief in the defendant's guilt. In ethnographic data discussed in this article, jurors affirm their competence as legal reasoners via the "enregisterment" of a style of reasoning that they link indexically to the constitutionally enshrined ideal of "impartiality." In so doing, jurors recontextualize a style of reasoning, grounded in a logic of a "moralized objectivity of self-restraint" (Daston and Galison 1992), entextualized in the texts used to instruct them in legal reasoning during the trial process. Tracing these processes of enregisterment illustrates how legitimacy of law is semiotically mediated.

A recurrent locus of anxiety about the legitimacy of the criminal justice system is the accuracy of legal verdicts. The O. J. Simpson jury trial verdict is perhaps the locus classicus for this anxiety in modern times, although

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I gratefully acknowledge the generous critical comments on this piece offered by Asif Agha, Rick Parmentier, and a reviewer. Many thanks to Greg Urban for his valuable guidance in the development of this project, and thanks also to Paul Kockelman and Rob Moore for conversations that contributed to the development of this piece. Finally, I thank the participants in the Semiotics Lab at the University of Pennsylvania in 2014–16. Versions of this work were presented at the Semiotics Conference at the University of Pennsylvania (May 2015), the Annual Meetings of the American Anthropological Association (November 2015 and November 2016), and the Annual Meetings of the Law and Society Association (June 2016).

Signs and Society, vol. 5, no. 1 (Spring 2017). 2326-4489/2017/0501-0001$10.00

juries continue to make news because of their surprising failures to convict defendants who seem obviously guilty to the public at large. Jury verdicts are anxiety-producing in part because jury deliberations are largely a "black box," and jury verdicts cannot be easily challenged in court because juries are not required to provide legal justification—or any justification at all—for their verdicts. As Austin (1962, 40–43) famously described—using jury verdicts as an example—such verdicts, as "performatives," are not true or false, but they may be infelicitous, unjustified, or insincere. The performative character of verdicts from a linguistic standpoint is of course enmeshed in their authority as law.

What makes a verdict a specifically legal judgment? What gives it legal authority? Austin's notion of the infelicitous or unjustified verdict echoes debates at the center of twentieth-century legal theory and mid-twentieth-century legal anthropology about what law is, debates that focused on giving criteria for (in effect, specifying felicity conditions for) things being laws.[1] While anthropologists of law, in their focus on processual and dynamic views of law, largely and gladly moved on from devoting such energies to the definition of law, I reopen this question in this article. Specifically, I seek to understand the process by which legal judgments, specifically trial verdicts of guilt or innocence, acquire a legal character. Taking a semiotic perspective on law and following the work of a number of linguistic anthropologists (see, e.g., Richland 2013), I treat law as a contingent social category that emerges through a complex set of communicative activities aimed at producing and doing things with—recognizing, commenting on, deploying, manipulating, and so on—instances of law.[2]

A trial verdict is one of the many precipitates of this law world (cf. Becker's [1982] description of "art worlds"). Verdicts are produced by a large assemblage of institutions and actors, only a small fraction of which are conventionally linked to their production. A key part of the production of verdicts nonetheless involves the production of authorized decision makers or authors (Goffman 1979) of verdicts: in the case of trial verdicts in the United States, judges and juries. I argue that this semiotic perspective on law, in directing attention to the precipitates and persons through which law lives, suggests a set of questions about what "law" is that focus on how "law" is brought into being as a social category: How

1. Debates in legal theory, for example, involved Hart's famous "secondary rules" principle (1961) versus natural-law or Kantian perspectives; within legal anthropology, as authors attempted to delineate the field of study, debates concerned questions of whether, for example, to start one's analysis from local concepts of law or from those familiar to the anthropologist from his or her own society (cf. Bohannan 1957; Gluckman 1965).

2. As Agha observes, "in social life, semiotic mediation is an ongoing process that unfolds through linkages among semiotic encounters" (2011b, 164).

are precipitates such as verdicts discursively constructed as "law" in their production and in their existence thereafter? Who becomes authorized as legal decision makers, and how do they become authorized?[3]

In pursuing these questions, I propose that the production of law may usefully be viewed as a process of "enregisterment" undergone by decision makers attempting to make specifically legal decisions or judgments. Enregisterment is the process "whereby distinct forms of speech come to be socially recognized (or enregistered) as indexical of speaker attributes by a population of language users" (Agha 2005, 38; 2007a). Law, then, is produced by actors who attempt to inhabit social roles involving the performance of legal decision making, that is, roles of institutionally authorized, and perhaps expert, decision makers.[4] These roles are constructed as legal by participants in law worlds through their iconic indexical relations (Agha 2007a, 69, 176; cf. Silverstein 2003) to patterns of speech and reasoning that are institutionally identified as legal.

In developing this argument I draw on ethnographic fieldwork conducted on US state-level criminal jury trials in Philadelphia, in the course of which I interviewed jurors after the conclusion their jury service.[5] Crucially, the production of jury verdicts involves explicit attempts by state actors to hail lay citizens as jurors and to legitimize these laypersons or nonexperts as authors of legal judgments by instructing them in legal decision making. I trace how the jurors I interviewed responded to the state's attempts to hail them as jurors (i.e., as legal decision makers) by in fact attempting to inhabit the role of a good or competent juror[6] through the performance of specific patterns of language use and reasoning. I draw evidence for the enregisterment of this competent juror role from jurors' posttrial accounts of decision making, specifically from the examples of role dissonance jurors display and from examples of their attempts to modify and regulate their own and other jurors' reasoning processes.

In performing the competent juror role, jurors draw on and attempt to reproduce "entextualized" fragments of legal reasoning they encountered in various texts in the courthouse. To trace clearly this process of entextualization and

3. See the questions posed about the "identity work" involved in the dissemination of expert registers by Silverstein (2006, 491–92): "Who, that is, what type of person, is recruited to such occasions of usage, and how? How do degrees of competence from full through partial terminologization of wine-talk (and beyond) indicate something about the enregisterment of connoisseurship? Why is it attractive to people—what sociocultural value accrues to them—to control such discourses of expertise and connoisseurship? Through which network effects of participation do such registers spread across groups and categories of people, and across objects of denotation?"

4. See Silverstein's (2006, 492) discussion of the "place[ment of] enregistered language within networks of institutional authorization"; see also Carr 2010.

5. The interviews drawn from in this article were conducted in 2012.

6. See Urciuoli's (2014) description of the "Good Student" figure in higher education literature.

recontextualization (Bauman and Briggs 1990; Mertz 1996; Urban 1996), I narrow my focus to jurors' encounter with one specific instructional text, namely the instructions read to them by the judge following closing arguments and before the start of deliberations. Indeed, a semiotic perspective on law highlights how juror decision making is shaped both by the ways in which citizens are produced as jurors—that is, how they are hailed by the state—and by how citizens produce themselves as jurors—that is, how those who become official jurors recontextualize fragments from prior instances of semiotically mediated activity, whether from the mediatized moments of instruction in the courthouse and trial process, or from any other time, place, or source—in interpreting and inhabiting the juror role with which they are identified (Agha 2011b, 167).

Importantly, in characterizing these processes of enregisterment I take up Agha's suggestion that "register" phenomena are not merely matters of lexical usage, but may encompass broader features of "style" (Agha 2007a, 186–87). I argue that jurors enregister a style of reasoning. Jurors' construction of the "competent juror" role turns on the crucial issue of "impartiality" laid out in these predeliberation instructions. While we could observe that the word form "impartiality" and the many words used to elaborate it, such as "bias," "prejudice," "evidence," and so on, comprise a lexical register of American expert legal practice (what is colloquially called "legalese"), the word form "impartiality" ultimately indexes a particular epistemology or model of reasoning thought to produce true or accurate judgments. As I will explain, a key semiotic partial (Agha 2007a) of legal discourse that jurors take up from jury instructions is precisely a style of reasoning calibrated to notions of what it means to be a rational, liberal subject-citizen that circulate widely in popular and political discourse in the United States.[7]

The production of jurors and jury verdicts is of course an extremely complex process that I cannot describe in full in this article. Jury instructions and jurors themselves are small nodes within a larger "law world"; the coordinated actions of an entire network of actors and institutions are required to produce a judgment nominally authored by jurors or judges. Even with my focus narrowed to the processes of verdict production most immediately involving jurors themselves, I will largely omit discussion of how citizens are "interpellated" as jurors by the state (Althusser 1971), a process that involves interaction with

7. In this respect, my characterization of the model of legal reasoning jurors enregister echoes Mertz's conclusions about the characteristics of "U.S. legal epistemology," which she argues "demands a bracketing of emotion and morality" (2007, 121). The processes of socialization into legal reasoning that I track are, however, somewhat different.

texts other than the predeliberation instructions (most notably the jury selection questionnaire), and the important dynamics through which the state's attempt to interpellate them mobilizes potential jurors' affects surrounding citizenship. Similarly, I can only gesture toward how jurors' communicative encounters with these texts and other actors within the courthouse—much less the range of their prior encounters with "law"—semiotically mediate (Mertz and Parmentier 1985) their uptake of these predeliberation instructions. Here, I seek mainly to outline the process of enregisterment through which laypersons produce themselves as jurors and to describe the model of reasoning that indexes the competent juror role for them. As a coda, I briefly discuss how attention to these processes of the production of law and legal decision makers may illuminate the production of legal legitimacy.

Juror Mass Production and Predeliberation Jury Instructions

In the United States, criminal trial jurors are not simply produced, they are mass-produced: although only about 2 percent of felony cases actually go to a jury (Strickland 2005, 90), and the number is declining (see Galanter 2004, 512–13), 37.6 percent of adults will be empaneled as jurors sometime in their lifetime (Mize et al. 2007, 8). The production of so many jurors is supported by a legal infrastructure that exposes jurors to largely similar semiotic practices, unified in part by the states' and the federal government's shared interpretations of how to transmute citizens into qualified legal decision makers. This infrastructure is dedicated in various ways to shaping jurors' decision-making processes, such that they produce legitimate verdicts despite their lack of professional training. Jurors are instructed in legal rules for reasoning informally and formally throughout the jury selection and trial process. And indeed jurors need to be instructed in legal reasoning in order to be competent jurors, because many aspects of legal reasoning are not like everyday reasoning, as Mertz makes clear in her discussion of how the distinct language ideologies into which a first-year US law student is socialized in efforts to train her to "think like a lawyer" clash with students' not-yet-professionalized assessments of the "facts" of cases (Mertz 2007; see also O'Barr and Conley 1988; Conley and O'Barr 1990).

In the Sixth Amendment to the US Constitution, jury legitimacy is linked to "impartiality": "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed." Given the jury's stereotypical role as "fact-finder," impartiality indexes some notion of accuracy linked to the idea of "fact"—

such as a notion that the same evidence, if presented to another jury, or to a judge, would ideally result in the same judgment about the "facts," just as popular ideas of scientific objectivity justify individual scientists' experimental results on the grounds that they would be replicable by other trained scientists. The infrastructural mechanisms designed to ensure that the jury is an accurate fact-finder are, broadly speaking, aimed at erasing certain materials from jurors' processes of reasoning about the defendant's guilt and ensuring that jurors consider only certain appropriate materials in assessing guilt. These mechanisms of jury control work by directly limiting the information communicated to jurors; by identifying and eliminating jurors who would not be able to, or simply would not, reason properly; by eliciting commitments that jurors will obey instructions in legal reasoning; by actually instructing jurors in legal reasoning; and by providing checks on errant jurors via other felicity requirements for valid verdicts.[8]

Mechanisms of direct control principally include legal rules of evidence that prohibit lawyers from presenting certain information to jurors in the first place. Information is typically restricted on the theory that it will bias or prejudice the jurors against the defendant (information about a defendant's prior criminal convictions is often withheld for this reason), or the theory that jurors will not be able to evaluate it objectively with regard to legal standards of proof (e.g., that jurors will be misled by the emotional character of certain types of evidence to give this evidence undue weight). Jurors are not instructed explicitly in what these rules are, though they may be exposed to examples of these rules being applied during the trial, for example, when a lawyer for one side says something during the trial that should have been excluded under these rules, and the judge then tells the jurors they cannot consider what they just heard.

The process of jury selection, or voir dire, attempts to ensure juror impartiality by requiring jurors to affirm that they do not hold or will not act on certain beliefs which would by implication compromise their impartiality to the defendant. These affirmations are elicited from potential jurors via a written questionnaire and oral questioning by the judge and attorneys about their answers to the questionnaire. An example of a compromising belief is whether one would be more likely to believe the testimony of a police officer simply because of his or her occupation. Potential jurors must also answer questions about

8. There is a vast literature on these various aspects of jury trial procedure that it is beyond the scope of this article to engage. Because of the generality of my sketch of jury trial procedure, I do not cite this literature here for specific observations. For a starting reference on Anglo-American jury trial procedure especially as it relates to issues of jury control, which provides extensive background the historical development of these institutions, see Langbein, Lerner, and Smith 2009.

certain personal experiences and relationships thought to be relevant to impartiality, such as victimization by crime or personal relationships with convicted criminals or with law enforcement officials. Jurors are also asked explicitly whether they can and will follow the judge's instructions. If potential jurors indicate initially that they hold a suspect belief, the judge will attempt to "rehabilitate" them by asking jurors to affirm their ability to exclude this from decision making about the defendant's guilt, for example, to "put that aside" in order to be a "fair and impartial juror." If the judge thinks jurors lack the requisite impartiality based on their responses, the judge will remove them from the jury pool.

The effects of individual juror errors or tendencies to err in legal reasoning are thought to be checked, according to official legal rationales, by the requirement of unanimity or (rarely) near-unanimity in support of a verdict. Judges often do not accept juries' initial assessments that they are unable to reach a unanimous decision, thus requiring juries to continue deliberating in attempt to reach a consensus. If the jury does not reach a unanimous verdict, the jury is considered "hung," and a new trial must be conducted if prosecutors wish to seek a conviction. The idea that requiring agreement among multiple decision makers functions as a guarantor of impartiality is also suggested in the case law governing jury selection, which now requires that potential jurors cannot intentionally be excluded from jury pools and from individual juries on the basis of protected demographic characteristics, such as race and gender.[9] Although the primary rationale for these requirements in Supreme Court case law is preventing discrimination against potential jurors rather than against defendants, these requirements do also speak to the idea suggested in the Sixth Amendment that jury impartiality requires some degree of community "representativeness" (see, e.g., *Williams v. Florida*, 399 U.S. 78 [1970], 100). Indeed, an ideal of representativeness grounded in the inclusion of persons thought to inhabit different subjectivities tied to race and gender is often expressed in popular discussions of jury selection and jury fairness.

Finally, jurors receive explicit instructions—the instructions that they affirmed, during jury selection, that they would obey—on how they are supposed to reach a verdict, that is, on legal reasoning. In American criminal jury trials, jurors are typically instructed in appropriate reasoning behaviors explicitly but informally by attorneys in their opening and closing statements and by the judge through asides during the trial, particularly when material has been introduced

9. On jury pools, see *Strauder v. West Virginia*, 100 U.S. 303 (1880) [race]; *Taylor v. Louisiana*, 419 U.S. 522 (1975) [gender]; on individual juries, see *Batson v. Kentucky*, 476 U.S. 79 (1986) [race]; *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127 (1994) [gender].

that the judge decides should not be considered in decision making; and, more formally, often in a standardized fashion, by the judge at the start of the trial and again following the presentation of evidence and attorneys' closing arguments, just before leaving the courtroom to deliberate by themselves to reach a verdict. In Philadelphia's Court of Common Pleas, where I conducted my fieldwork, these more formal instructions were most often drawn from a standardized set of texts used by judges statewide, the Pennsylvania Suggested Standard Criminal Jury Instructions; this moment in the semiotic process of jury production was thus mass mediated (Agha 2007b, 325–26). Certain instructions on the basics of legal reasoning would be read in all trials; for legal issues not arising in all cases, judges could choose to add the pattern instructions written for those particular issues.

As noted above, the set of inputs from which jurors could draw in constructing a model of legal reasoning is complex and vast, encompassing explicit and implicit courtroom and courthouse instructions, not to mention exposure via other mass mediated or "mediatized" (Agha 2011b) processes to representations of legal settings, actors, and texts, such as on television shows or news articles. I focus here on the predeliberation instructions read by the judge, and more specifically those instructions that would be read to jurors at any criminal trial in Philadelphia, in order to trace clearly the entextualization processes involved in jurors' self-production as competent jurors. Virtually all jurors (at least in Philadelphia) are exposed to the same instructions in immediate temporal proximity to deliberations, the phase segment of a trial where the jury's special collective decision making is supposed to take place, according to the jury instructions themselves. This sequence of instruction and deliberation thus constitutes a relatively stable genre of discursive interaction, which has a relatively distinctive and routinized space-time (Bakhtin 1981; Agha 2007b) placement within the trial as a whole. The genre of interaction in "deliberations" was indeed central to jurors' characterization of their performance of their role as jurors, and in my interviews with jurors about their decision-making processes, our discussions were frequently framed around instances of reasoning that occurred during "deliberations."

The distinctive poetic structure (Jakobson 1960; Silverstein 1984; Bauman and Briggs 1990) of the predeliberation instructions marks them off from everyday expression in a manner that draws attention to the distinct, noneveryday mode of reasoning they outline. As is visible in the excerpts cited below, there are a number of sentence patterns that recur across these instructions, which metrically create iconic likeness or resemblance across disparate and discontinuous text segments. These include: the repeated use of convoluted, agentless, passive constructions; the displacement of agency from persons to things, (i.e., from nouns

denoting courtroom actors to inanimate subject nouns, such as the noun "evidence"); the mimicking of stereotypically formal reasoning sentence structures; and the frequent use of imperatives that are directed at jurors. These recurrent patterns, which rely on forms of parallelism in sentence structure, differentiate the text patterning of the judge's instruction from genres of everyday speech and reasoning.

The set of instructions that jurors are given includes a set of specialized terms that belong to the register of official or expert legal practice, such as the example of "deliberations" just mentioned. Although many of these terms have everyday English words as homonyms, the legal terms are given technical senses in legal practice, which differentiate their meaning from the meaning of their everyday homonyms. Thus, while many of these word forms are familiar to jurors (all of whom speak English), their specific legal senses may be unfamiliar, depending on jurors' prior exposure to samples of this legal register. From this perspective, we could characterize these instructions, along with the various implicit communications about legal reasoning that occur during the trial process, as attempts to disseminate the lexical register of legal professionals to jurors (cf. Agha 2005, 2007a; Carr 2010, 20). Whether the instructions successfully disseminate the "sedimented" (Agha 2007a, 129; 2007b, 334) senses and actor-activity anchorings of these register terms, that is, meanings and uses that legal professionals would endorse, is of course an open question, which will be discussed in later sections of the article.

In order to highlight the contrast in uses of word forms that have differentiated meanings in everyday English and in professional legal practice, in the discussion below, I use italics to mark terms of legal register where needed for clarity, though I use quotes when quoting the speech of my interviewees (or of others, or texts). Thus the typographic contrast between *bias* and "bias" signals differences of sense and indexicality, as I show below. I use plain roman font (no italics nor quotes) when the difference appears not to matter.

Through the use of these legal register terms, the predeliberation instructions describe a scheme of activities and role relationships that comprise the model of reasoning jurors are supposed to employ in their decision making. Reflecting the broader structure of jury control mechanisms outlined above, this model of reasoning is articulated in terms of the inputs that are to be included and excluded from reasoning. More specifically, good decision making is characterized by a version of objectivity (*impartiality*), in which jurors remove *bias* and *prejudice* from their reasoning while considering the *evidence*.

In the Pennsylvania Suggested Standard Criminal Jury Instructions, this idea of jury *impartiality* is indexically anchored to a distinction between *law* and *facts*

that circulates more broadly in American jurisprudence. Specifically, the jury's role is delineated as "the judge of the facts," as against the judge's responsibility for "law":

> It is my responsibility to decide all questions of law. Therefore, you must accept and follow my rulings and instructions on matters of law. I am not, however, the judge of the facts. It is not for me to decide what are the true facts concerning the charges against the defendant. You, the jurors, are the sole judges of the facts. It will be your responsibility to consider the evidence, to find the facts, and, applying the law to the facts as you find them, to decide whether the defendant has been proven guilty beyond a reasonable doubt. (Pennsylvania Bar Institute 2005, 7.05(2), "(Crim) Role of Jury—Deliberations; Verdict Must Be Unanimous")

Note that the concepts of *law* and *facts* as framed by this instruction bear a potentially complicated relation to everyday notions of law and facts. Within this instruction, *law* and *facts* are objects of evaluative activity that ground a division of decision-making labor and thus a division of social roles between the judge and jurors. Complexly, the enregistered formulation of *law* as anchored to the judge's decision-making activity is itself embedded in an instruction that in its entirety is indexically anchored to the space-time of the trial (Agha 2007b, 322–23), and thus to the domain of law as apparently understood by jurors, who, as I discuss below, attempt to perform (perhaps, "apply[ing] the law") a specifically legal model of reasoning that acquires its legal character through its very discursive contrasts with the everyday reasoning jurors do about facts (in their everyday sense). The *facts* that jurors "judge[]" seem to differ from facts in the everyday sense of true or objective statements about things that exist out in the world. Here, one "find[s]," "decide[s]," or is a "judge[]" of facts—or rather a collective entity called "the facts." What are the criteria for making such evaluations, and how does this evaluative labor intervene on the relationship between facts and the world? What is a "true" fact as opposed to simply a fact?

The category of phenomena called *facts*, which jurors should "judge[]," is attendant in some fashion to phenomena that count as *evidence* (or in some instances, "the evidence"), which is the proper basis of the jurors' *verdict*:

> Your decision in this case, as in every case you hear, is a matter of considerable importance. Remember that it is your responsibility as jurors to perform your duties and reach a verdict based on the evidence as it was

> presented during the trial. However, in deciding the facts, you may properly apply common sense and draw upon your own everyday, practical knowledge of life as each of you has experienced it. You should keep your deliberations free of any bias or prejudice. Both the Commonwealth and the defendant have a right to expect you to consider the evidence conscientiously and to apply the law as I have outlined it to you. (Pennsylvania Bar Institute 2005, 7.05(3), "(Crim) Role of Jury—Deliberations; Verdict Must Be Unanimous")

The precise relationship between *facts* and *evidence* is not clear, as neither word is defined, although they seem to function as substitutes (as when jurors are told "to consider the evidence, to find the facts" in the previous excerpt; cf. also the substitution of "deciding the facts" for "reach[ing] a verdict based on the evidence" in the excerpt just above). *Evidence* is anchored to the space-time of the *trial*, as this is where and when it is "presented." In an earlier segment of the instructions, *evidence* is positioned as the agent of decision making itself, leading logically to a verdict that it authors and that jurors perhaps merely animate (Goffman 1979). For example,

> If the Commonwealth's evidence fails to meet its burden, then your verdict must be not guilty. On the other hand, if the Commonwealth's evidence does prove beyond a reasonable doubt that the defendant is guilty, then your verdict should be guilty. (Pennsylvania Bar Institute 2005, 7.01(2) "(Crim) Presumption of Innocence—Burden of Proof—Reasonable Doubt")

Here, *evidence* does the *proving* on which the jury's cumulative *verdict* is made conditional in these if-then sentences, which mimic a stereotypically formal reasoning sentence structure. In contrast to the previous instruction excerpted, jurors' activity here is elided: jurors do not "reach" a verdict; the verdict itself is the causal outcome of the felicity or infelicity of a proof from evidence. Rather, jurors' activity is described only by the use of imperatives ("your verdict must be"/"your verdict should be") that indicate that something must bring the verdict into being (as opposed to, we could imagine, "your verdict is/was"). In the next paragraph of this same instruction, jurors' activity is elided entirely. Instead, *reasonable doubt*—the standard of proof in criminal juries—is objectified and detached from the humans who would presumably do the doubting and imagined as itself a subject or agent generated directly out of *evidence*:

> A reasonable doubt must fairly arise out of the evidence that was presented or out of the lack of evidence presented with respect to some element of the crime. (Pennsylvania Bar Institute 2005, 7.01(3), "(Crim) Presumption of Innocence—Burden of Proof—Reasonable Doubt")

Juror decision making is, as mentioned before, anchored to the event of *deliberations*, which involves the activity of "impartial consideration," carried out "with your fellow jurors."[10] *Evidence*, emerging from the *trial*, is "consider[ed]" during *deliberations*. As a possible object of the evaluative reasoning activities involved in *fact*-finding in which jurors are imagined to engage in the space-time of *deliberations*, *evidence* belongs to a class that also includes *common sense, bias*, and *prejudice* (see Pennsylvania Bar Institute 2005, 7.05(3) above). The relationships between these objects are complex and somewhat ambiguous. *Common sense*, linked indexically to "life as each of you has experienced it" in this sentence, is thus anchored to a space-time outside of the *trial*, in contrast to *evidence*. Yet, while not itself *evidence,* as suggested by the separate sentence devoted to it, *common sense* is something that jurors are permitted to incorporate into their reasoning processes about evidence ("in deciding the facts"). *Bias* and *prejudice*, which appear in the following sentence, seem, on the other hand, not only distinguished from *evidence* but opposed to it: the command to keep deliberations free of bias and prejudice is sandwiched in between exhortations to consider the evidence. The origins of *bias* and *prejudice* are however unidentified—although in contrast to *evidence*, which is anchored to the activities of other legal personnel (e.g., those who make presentations at trial), the phenomena of *bias* and *prejudice* are, like *common sense*, linked to the jurors' reasoning activities, in a manner that suggests that they are perhaps generated and/or controllable by jurors, that is, it is the juror ("you") who is instructed to act ("should keep") so as to exclude these phenomena from reasoning ("your deliberations free of any bias or prejudice").

It is perhaps easiest to observe that these jury instructions outline not just a set of register terms, but an entire model of reasoning that is distinct from everyday reasoning, by considering the felicity conditions for the precipitate of

10. "Your verdict must be unanimous. This means that in order to return a verdict, each of you must agree to it. You have a duty to consult with each other and to deliberate with a view to reaching an agreement, if it can be done without doing any violence to your individual judgment. Each of you must decide the case for yourself, but only after there has been impartial consideration with your fellow jurors. In the course of deliberations, each of you as jurors should not hesitate to reexamine your own views and change your opinion if convinced it is erroneous. However, no juror should surrender an honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict"; Pennsylvania Bar Institute (2005), 7.05(6), "(Crim) Role of Jury—Deliberations; Verdict Must Be Unanimous."

this reasoning process, the verdict. A "guilty" verdict requires that the prosecution meet its *burden* to *prove* its case *beyond a reasonable doubt* (an additional set of legal register terms). The logic of this requirement presupposes that there is a potential gap between assessments that someone is *guilty* in a legal sense and that someone is guilty in an everyday sense. Indeed, as one of my interlocutors said of the defendant in the case I describe in the following section, "We know he was guilty, but the proof was not there." This juror had agreed to a *not-guilty* verdict. The defendant could be simultaneously "guilty" and *not guilty* according to this juror only because there are two different contextual meanings of the word guilty in play, linked to two different versions of objectivity or reasoning about facts. Indeed, this slippage between different enregisterments of "guilty"[11] explains why Austin's assessment of the following verdict as "insincere," due to not having the "requisite thoughts" behind it, is not really correct: "'I find him not guilty—I acquit,' said when I do believe that he was guilty" (Austin 1962, 40). While insincerity is one possibility, another is simply that this sentence contains two different enregistered forms of the word "guilty."

In her study of death penalty juries, Conley observed how jury instructions (including instructions to reason based on "evidence" similar to those discussed here) facilitated jurors' emotional distancing from defendants and the displacement of their own responsibility for the defendant's death sentence onto other actors' in the very course of their attempts to enact legal objectivity (Conley 2013, 506, 510, 516ff., 520; see also Conley 2016). Put another way, her examples suggest that jurors were able to manage negative emotions they might have about endorsing death sentences by envisioning themselves as mere "animators" of a verdict or sentence of which they are not the authors or principals (Goffman 1979). This certainly accords with my own findings that the dissatisfied jurors I discuss later in this article displaced responsibility for dissatisfying verdicts onto other actors, such as judges and prosecutors who failed, as the saying goes, to "do their jobs." Here, I wish to draw attention to the fact that the jury instructions formulate *evidence* and deploy juror-directed imperatives in a rather distinctive way, that is, in a manner that is equivocal about juror agency with respect to the verdict, for a different purpose—specifically, in order to detail the process by which jurors interpret these instructions and to describe the ambiguities arising from this equivocation that jurors must attempt to resolve in or-

11. See Urciuoli's (2009) discussion of the multiple enregisterments of "culture."

der to derive behavioral guidance from the instructions, an issue to which I turn in the following sections.

Enregistering Legal Reasoning via the "Competent Juror" Role

As a semiotic perspective on law and, more specifically, on verdict production makes clear, the production of jurors does not end with the state's attempts to interpellate citizens as jurors and to socialize them into legal reasoning. How do jurors take up the state's hailing? In this section, I explain how jurors produce themselves as legal reasoners in a process that can be traced through the enregisterment of particular forms of reasoning as reflective of a social role I have glossed as the "competent juror."

Before going on, I wish to note again that I omit discussion here of the affective dimensions of this process of interpellation and self-production only for reasons of scope. Jury instructions, along with other trial phase segments, voir dire in particular, hail citizens as jurors in important ways (e.g., through forms of explicit address that formulate addressees as jurors) that I have not detailed here. Jurors' acceptance of the state's hailing depends on the marshaling of affects surrounding citizenship, which texts such as the predeliberation instructions and the voir dire questionnaire are instrumental in doing, and these affects are enmeshed with jurors' experience of the legitimacy of the criminal justice system and the particular verdict they participated in making.

I use for my discussion a case in which several jurors endorsed the so-called insincere verdict that concerned Austin (1962, 40), as described above. These jurors agreed to not-guilty verdicts in spite of a belief, as they expressed to me, in the defendant's guilt. In other words, this subset of jurors expressly displayed the multiplicity of meanings surrounding words like "guilty" suggestive of the attempt to reproduce a legal register. The question about how these jurors produce themselves as competent jurors could thus be restated as a question of how jurors come to enregister "guilty" as the product of legal reasoning processes. I find these jurors especially interesting in regard to the questions raised in this article of how jurors produce themselves as legal reasoners because of the lack of congruence between these jurors' assessments of guilt in an everyday sense and their assessments of *guilt* in a legal sense; this lack of congruence reflects, and is enabled by, a distinction between legal and everyday objectivity and reasoning, as described above. This foregrounds the potential conflict between jurors' roles as everyday reasoners and as legal reasoners.

The case concerned a black teenage defendant accused of two related charges of carrying a firearm without a license and carrying a firearm in public. The defendant was found not guilty of all charges. The trial was relatively short; other

than the defendant, the only witnesses who testified were the two police officers who arrested him. Jury selection lasted just over one day, the trial itself took a second day, and final instructions and deliberation took most of a third day. The formal instructions given at the close of the trial just before deliberations—that is, the set of instructions from which I quoted earlier—took twenty-three minutes. I interviewed four of the twelve jurors from the case. All four of the jurors I interviewed recounted a version of the deliberations according to which seven jurors initially thought the defendant was guilty; after which those jurors more or less held to their initial positions until they requested the police reports of the defendant's arrest that had been entered into evidence. After viewing these reports, several jurors apparently readily changed their position because of perceived inadequacies in these documents, or inconsistencies between them and the police officers' oral testimony at trial. The final one or two holdouts for a guilty verdict gave in to the group reluctantly. All four of these jurors themselves offered everyday assessments of the defendant's guilt that were incongruent with their legal assessment of guilt as reflected in the verdict: that is, all expressed a belief that the defendant had committed the crimes in question.

Notably, the jurors I interviewed took up the state's charge to inhabit the role of competent juror. This is signaled by my interlocutors' emphasis on having performed the tasks required by their own role ("we did our job," "we stayed within the guidelines"), anchored in the deictics "we" and "our" in these examples, in contrast to the inadequate performance of other actors (principally the prosecution), anchored in the deictics "they" and "their," whose social roles are constituted in contrastive relation to the jury's role in the trial process ("they need to make some changes in order to get their convictions"):[12]

> Lou: But we all felt he was guilty, but, you know, we couldn't not follow the judge's orders. If we would have said guilty, we would not be basing it on what she asked us to base it on, so . . .
>
> . . . Well, I certainly think we did the right thing, but there was a sort of shadow there that this guy will, you know, he's guilty and he's walking away, but there's nothing we can do about it. We did our job.
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> Charles: I was apprehensive, really, but deep down inside after having spoken to the judge, I think the young man was as guilty as sin,

12. See Conley's discussion of jurors' deictic anchoring vis-à-vis defendants in relation to juror empathy (2013, 512ff.).

you know, but like I said, that's our system. Our system presented it . . . and we stayed within the guidelines, and I think we let a guilty person back on the street, to tell you the truth.

. . . [T]he prosecution, I mean, the way the case was tried, they didn't do enough to get a guilty verdict. Because it only took us about four hours to deliberate, I mean really, it should have been open and shut for the prosecution but it wasn't.

Karen: Now were we disappointed? Yes indeed. That bothered me all the way home, because we let someone go that was guilty. We know he was guilty, but the proof was not there.

. . . Of course I did the right thing [in voting not guilty], because for me I needed for us to know where their mistakes lied at, and if we would have found him guilty on such terrible reporting, ok, then they would have took it as, oh, the way we do our reports is fine, and we can keep doing it just like that. They need to know that they need to make some changes in order to get their convictions.

Although these jurors sought to inhabit the role of competent juror, the lack of congruence in their legal and everyday assessments of guilt was accompanied by affects reflective of dissatisfaction (e.g., "a shadow," "apprehensive," "disappointed"). Joe, the fourth juror, even said that he was "disgusted" with himself. I suggest that these affects reflect the dissonance between legal reasoning and everyday reasoning, and specifically the challenges involved in inhabiting a legal reasoner role that requires erasure of everyday reasoning habits.[13]

Beyond explicit assertions of their competence as jurors, these jurors' commitments to inhabiting the role of competent juror were also signaled by their attempts to police their own and others' reasoning processes for impartiality in our interviews while justifying their actions. Such policing occurred across interviews, including with jurors whose verdicts, or legal assessments of guilt, appeared aligned with their assessments of guilt based on everyday reasoning processes. This policing thus highlights the work required to become, and that

13. See Conley and O'Barr's discussion of satisfaction and dissatisfaction in small claims court litigants. Conley and O'Barr link litigants' dissatisfaction with "discord" between the "relational" style of case presentation by some litigants and the "rule-oriented" approach to dispute resolution by some judges (1990, 126ff.). Elsewhere, they characterize this clash of styles as "ideological dissonance" (O'Barr and Conley 1988). See also Mertz's allusions to law student "alienation" during the process of socialization into alien legal modes of reasoning (2007, 134).

jurors put into being, a competent juror. It also accords with Carr's observation that "realizing one's self as an expert can hinge on casting other people as less aware, knowing, or knowledgeable. Indeed, expertise emerges in the hoary intersection of claims about types of people, and the relative knowledge they contain and control, and claims about differentially knowable types of things" (2010, 22).

Notably, instances of epistemic policing and assertions of competence in legal reasoning were indexically linked to the deployment of register terms contained in the instructional texts. This demonstration of familiarity with legal register terms may have served additionally to affirm my interlocutors' competence as jurors. Most importantly, inhabitance of the competent juror role is linked in these jurors' narratives to a style of reasoning that reflects the logical structure of the predeliberation instructions, specifically the focus on erasure of certain inputs from consideration in legal decision making in order to ensure consideration of only authorized inputs. While I cannot describe these phenomena fully here, it is worth noting that in addition to deploying register terms, jurors replicated other features of the instructions' poetic and pragmatic structure, such as the instructions' voicing structure with respect to agency and authorization of verdicts (cf. Conley 2013, 2016), in their emergent enregisterment of the broader style of legal reasoning I describe here.

Lou and Charles, for example, justified the judge's decision to withhold information about the defendant's prior record and about the provenance of the gun that police had recovered and claimed the defendant had possessed, even though what Lou and Charles learned about these things after the trial in fact affirmed their beliefs in the defendant's guilt in the everyday sense:

> Lou: I felt like putting up my hand and asking him, "What about the serial number?" "Where is the history of this gun?" But you can't do that, and that was, the judge decided beforehand that they would not introduce that, that it was stolen because then we may think that he stole it.
>
> . . . I thought well of the jury process, but it's really . . . really based on a lot of personal prejudice and a lot of history that people bring into the courtroom. I guess you just can't expect much different from human beings.
>
> Charles: Yeah I understand why it was done that way because it would have prejudiced us. I mean, you know, oh this guy has a stolen

> gun, seven rounds, he's a bad dude already, it would have prejudiced us against the defendant. So I thought the judge in keeping that away from us was probably the best thing for her to do, she wanted the trial to go the way it probably should have . . . cause I think there's a law that says somebody's prior record . . . can't be held against them, you have to be tried on whatever evidence is presented for this incident.

In justifying the exclusion of this information from the jury's deliberations, Lou and Charles link these inputs to *prejudice*, one of the threats to legal reasoning identified in the predeliberation instructions. Lou reproduces the instructions' indexical identification of threatening inputs with jurors, locating this threat in jurors' thoughts or mental states ("they would not introduce that, [. . .] because then we may think [. . .]"), while echoing the if-then conditional structure used in the instructions. Lou furthermore anchors *prejudice* to a space-time external to the courtroom and prior to the trial ("a lot of history that people bring into the courtroom") that is moreover juror-anchored (jurors are the "people" who "bring" "personal prejudice or history"). Charles moreover makes explicit the link between excluding prejudice and including (only) evidence, the latter indexically linked to the space-time of the trial ("whatever evidence is presented"), suggesting an implied contrast with whatever pretrial, courtroom-external space-time features of jurors' reasoning habits that would allow the presentation of certain information to "prejudice" them (cf. Charles's description, quoted below, of "being prejudicial"). There is an interesting ambiguity in these comments about juror agency with respect to *prejudice*—it seems to be located in jurors' mental states, but its entry into deliberations may be linked in some way to choices in what information is presented to jurors—which is perhaps unsurprising given the jury instructions' lack of elaboration on how it is that jurors should "keep [their] deliberations free" of it. Still, Lou's and Charles's comments were striking because they not only reproduced (or "replicated," per Urban 1996) the structure of legal reasoning outlined in the instructions; they also mobilized these terms in reproducing a justification for the laws of evidence described earlier, now formulated in their own words ("you can't do that"; "I think there's a law that says . . . ").

In a similar example, Joe explains why other jurors' reasoning was flawed in terms of the other threat to *impartiality* identified in the instructions, namely *bias*:

Joe: No, she, she [another juror] specifically said . . . you asked why she didn't believe the cops and she just didn't believe the cops . . . she would tell you about family members who were treated poorly by the police and she would . . . and that's not these two cops . . . It's just hard . . . and that's what's very frustrating because it's hard for people to leave that bias out of it, and I know the whole jury selection process is designed so people don't come in with a bias, but you know obviously it doesn't always work out.

Katherine: So when you say bias, you mean the bias that's coming from those personal experiences?

Joe: Yeah, exactly . . . and I told the DA [the assistant district attorney, i.e., the prosecutor] afterwards, I said I thought you argued a very good case, but there was no way she was getting a conviction out of this jury no matter what she's got, and I really feel that way.

Katherine: So, you thought the DA was pretty good?

Joe: Yeah, I thought she had a, a very solid case. Like I said, she definitely convinced me beyond a reasonable doubt . . . and like I said, there really was no . . . I know the defense doesn't have to prove anything . . . it's all on the prosecution to prove their case, but to me the only bit of evidence they had was the witnesses' testimony, and really when the judge asked him why he [the defendant] went around the block if he didn't know the police were already chasing him, he didn't have an answer . . . and it wasn't like he was confused . . . he didn't even have an answer, so there was really . . . to me he didn't seem credible.

In describing his initial belief in the defendant's guilt "beyond a reasonable doubt" before he changed his mind about the correct legal verdict, Joe identifies the juror role ("the purpose of jury selection") with the elimination of "bias" from juror decision making. Bias, according to Joe, is something jurors may "come in with" to the courthouse but can (if with difficulty) "leave [. . .] out"

of "it," that is, leave out of the space-time of the trial, whether out of the space of the courthouse generally or the event of deliberations more specifically. Compare Joe's comment elsewhere that: "It was interesting to sit through the trial and everything, but I can say the one thing that was, I think was the most frustrating part was when it came down to doing the actual deliberation and recognizing all of the biases that people come into it with." Shortly thereafter in our interview, in the exchange quoted above, Joe makes clear that he moreover knows which inputs should be considered, as he evaluates the prosecutor's performance in terms of the "evidence" (again, something that "they" in the courtroom had presented) and the "beyond a reasonable doubt" standard of proof, even as his explanation suggests an ambivalence about the bedrock legal principle of *presumption of innocence*.[14]

These jurors thus appear to reproduce quite accurately the predeliberation instructions' model of legal reasoning based on the exclusion of *bias* and *prejudice* and the inclusion of *evidence* in performing their competence as jurors. I suggest that in so doing, these jurors adopt an epistemology reminiscent of what Daston and Galison (1992) describe, in a rather different context, as the mechanical objectivity of nineteenth-century atlas-making. Daston and Galison describe how, as new technologies of mechanically produced photographs came to be viewed as offering a more objective representation of natural objects than ideal-typical composite images rendered by human artists based on scientists' expert judgments of what constituted an object's "typical" features (117), scientists making atlases had to engage in "self-surveillance" (98, 103) in order to refrain from compromising the mechanical objectivity of photographs with their own judgments and interpretations (118). Scientists' impulses were thought "amenable to control through self-restraint" (82), and their performance of objectivity—which was their claim to authority (122)—thus took on the "moral aspect" of exercising this self-restraint (82). Jurors similarly appear to interpret—again, rather accurately—the predeliberation instructions to require them to police their own reasoning processes, that is, to exercise self-restraint. While the subjectivities needing control in the jury context are not delineated in detail, jurors are clearly told to prevent *bias* and *prejudice* from entering deliberations and thus tainting legal objectivity. Of course, this raises a question—which I will address in the following section—of how it is that jurors can identify samples of

14. See Pennsylvania Bar Institute (2005), 7.01(2), "(Crim) Presumption of Innocence—Burden of Proof—Reasonable Doubt": "It is not the defendant's burden to prove that [he] [she] is not guilty. Instead, it is the Commonwealth that always has the burden of proving each and every element of the crime charged and that the defendant is guilty of that crime beyond a reasonable doubt. The person accused of a crime is not required to present evidence or prove anything in his or her own defense."

evidence, *bias*, and *prejudice* such that they can exercise proper control over the inputs of their own reasoning processes.

This objectivity of self-restraint of course has echoes in broadly circulating notions of the "autonomous liberal subject," a figure that represents an "ideal of self-autonomy, in whom the naturalized harmony of 'critical rationality' and 'free will' yields an exemplary unit-citizen of a liberal democracy" (Agha 2011a, 172). This figure of personhood derives from Enlightenment notions of subject-citizens who exercise free will through the use of critical reason, which requires not acting according to passions, emotions, or self-interest.[15] While a fuller discussion of the models of reasoning associated with this figure is beyond the scope of this article, it is important from the perspective of law as semiotic process to emphasize that the intelligibility of these instructions to jurors and the ways in which they are taken up are mediated by how these instructions are calibrated to models of reasoning to which jurors have been exposed before. Indeed, this calibration is perhaps what enabled these jurors' striking recontextualization of elements of the predeliberation instructions into their formulations of the competent juror role despite their truncated and partial exposure to legal register terms (trials at the state level may last only a few days, and formal instruction may last less than an hour, as in the case described here), in contrast to other, lengthier expert socialization processes described in anthropological literatures on education and expertise.

The parallels between jurors' formulations of the competent juror and legal reasoning and Daston and Galison's notion of the objectivity of self-restraint is perhaps best illustrated in the experience of Joe. Of the four jurors I interviewed from this case, Joe demonstrated the difficulties of performing the juror role most starkly: as one of the two holdouts in the case, he worried that he had not in fact followed the instructions in reaching his decision, but had instead capitulated in the face of group opposition. Joe, like the other jurors in the case, described how the jurors' review of documentary evidence during deliberations led several jurors who had earlier been convinced of the defendant's *guilt* in a legal sense to revise their opinion, and to do so on the basis of criteria such as whether the prosecution had met the *burden of proof*, given discrepancies between information contained in the documents and what jurors recalled from oral testimony about the location of the gun's recovery. Joe evinced ambivalence about his change of opinion in characterizing his own review of this evidence:

15. See, e.g., Kant (1785) 2002; cf. Conley's discussion of the ideal juror as a subject "for whom rationality is considered distinct from embodied experiences" (2013, 506).

Joe: . . . and here was something that I said to myself while I was, I'm not going to cave in just because other people have a different opinion but when you are actually there it becomes very frustrating in the fact that, you know, logic and reason don't win out, so at that point you just kinda . . . I mean I don't know if I didn't find what I felt was a discrepancy in the location if I would have changed it, but it gave me an out and I realized that I was looking for an out. And that made me feel kinda disgusted with myself.

Joe engaged in extensive policing of his own and others' reasoning processes, via recontextualization of entextualized fragments of the predeliberation instructions. Joe's first description of not "cav[ing] in" based on other jurors' opinions in fact precisely echoed the predeliberation instruction on the unanimity requirement for felicitous verdicts:

> Your verdict must be unanimous. This means that in order to return a verdict, each of you must agree to it. You have a duty to consult with each other and to deliberate with a view to reaching an agreement, if it can be done without doing any violence to your individual judgment. Each of you must decide the case for yourself, but only after there has been impartial consideration with your fellow jurors. In the course of deliberations, each of you as jurors should not hesitate to reexamine your own views and change your opinion if convinced it is erroneous. However, no juror should surrender an honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict. (Pennsylvania Bar Institute 2005, 7.05(6) "(Crim) Role of Jury—Deliberations; Verdict Must Be Unanimous")

While acknowledging that he may have disobeyed this instruction—though hedging that he had indeed "found a discrepancy in the location" that justified his legal assessment of the defendant's (non)*guilt*—Joe repeatedly described himself and his actions as "logical," "rational," and "reasonable," and he emphasized that his frustrations with other jurors (and his possible disobedience of the instructions) stemmed from their failures to reason properly, that is, legally:

Joe: Like I said, to me, I was soured on the experience of, during, the particular people on the jury I was with. And to me it was more, not so much because people had different opinions than what I

> did, I can deal with that, but because they, to me, they didn't have sound arguments for why they felt the way they did. And especially in this case it came down to whether there was . . . some people in the room sat there and said they thought he was guilty, but not beyond a reasonable doubt. And, I guess I walked into it with the, you know, reasonable doubt is not no doubt. And that was the argument I was kind of having with other people was, is it possible that the crowd on the side of the road would throw a gun at the police when, just before the guy kind of fell on top of it? Yeah, I guess that's possible, but to me it's not reasonable.

Joe's distinction between legal and nonlegal reasoning is supported by the distinctions he makes between "opinion" and "sound arguments" as well as between "reasonable doubt" (shortened from *beyond a reasonable doubt*) and "no doubt." Joe's distinction of "opinion" in this passage from "sound argument" may also pick up the ambiguity in the relation between *opinion*, *conviction*, *judgment*, and *verdict* suggested in the instruction quoted just above.

Joe similarly policed his own potential inputs to his reasoning processes—here, his belief in the relative credibility of police officers—in terms of "reasonableness." Joe indexically linked his performance of "reasonableness" to the space-time of the courtroom, referencing an interaction with the judge that took place there during voir dire:

> Katherine: You don't think you . . . so you wouldn't give an answer to a [selection] question, 'Oh, I wouldn't believe a police officer,' or you wouldn't try to get out of it [jury duty in the future]?
>
> Joe: To be honest, I did come into it, and when they were doing the jury selection process in this case . . . I do feel this way, generally speaking I feel that I would believe a police officer over anyone else . . . the judge did pull me into the courtroom and asked me if, whether I could put this aside, and being a reasonable person, I know I can, but still generally speaking I think I would believe the cop over everyone else.

Joe appears ambivalent about the legal principle underlying juror competence or reasonableness he identifies in this excerpt—namely, *impartiality* with re-

spect to police officer testimony, achieved though exercising control over one's preexisting beliefs about police officer credibility—as he follows his affirmation of his competence as a juror with an acknowledgment of his inappropriate belief about the officer's credibility. Joe's experience, suggested in the emergent voicing contrasts (Agha 2005, 40) in this excerpt (e.g., "I do *feel* this way" versus "being a reasonable person, I *know* I can"; emphasis added), illustrates the challenges of managing everyday and legal reasoning roles and the frequent slippages between them. His anxieties about performing the role of competent juror perhaps reflect the moralization—in this case, through the mobilization of affects surrounding performance of citizenship duties—of the objectivity of self-restraint that Daston and Galison identify.

Enregisterment, Ambiguity, and the Objectivity of Self-Restraint

A striking example of the role shifting and role dissonance associated with performing legal reasoning as a competent juror arose in my interview with Charles, a middle-aged black man. As he told me about how the jury reacted to the defendant's testimony, Charles said he didn't think the defendant was lying, but said his testimony wasn't very convincing either. Charles said his main impression of the defendant was that he, Charles, "could see the fear in him." I asked Charles how it made him feel to see the defendant's fear, to which Charles responded with a reflection on the racial dynamics of criminal prosecution. As Charles said:

> Charles: Being a parent and father of two sons, I'm a strong advocate for nonviolence and I know that the system is stacked against young black males, and not that I was being prejudicial against the police officer [who testified], but just the fact that being black and a male and a father of two sons, I know the system is stacked against any young black male that gets into the system, the system is stacked against him. I felt that it was my duty to present this to the other part of the jurors. Not the fact that he was . . . Not . . . guilty or not guilty, but just the fact that . . . because there was no way I could have not felt the way I felt knowing that this is the way the system is.

I was interested in whether Charles had articulated this structural critique of the criminal justice system during jury deliberations, and I wondered how other jurors would have responded to his observations. I asked Charles:

Katherine: So the system being stacked against young black males, that's something you discussed with the other jurors?

In spite of his sense of duty to share his critique of the criminal justice system with other jurors, Charles replied that he did not in fact share this critique with the jury, at least not as told to me. In recounting this, Charles surprisingly reframed his initial observations about his feelings and personal knowledge of the "system" in relation to an assessment of his competence as a juror in performing legal reasoning, a move perhaps prefigured by his aside about not being "prejudicial" quoted just above:

Charles: No, they didn't question me on my feelings about the situation, but I presented it. But I didn't present it the way I presented it to you, I didn't tell them I know the system is stacked against young black males, no I didn't do that. My decision was based strictly on whatever evidence was presented to me, it wasn't any kind of feeling that was involved, I didn't let my feeling get involved, if I had let my feeling got involved, I know I could have convinced them not to convict this young man . . . 'cause I, when I first was questioned by the judge, and she asked could I be a fair and impartial juror, I said yes, and I try not to lie, I don't lie, so when I told her yes then I felt that I had to go in that jury room and be impartial to either side.

Charles's reframing of my question—and the emergent voicing contrast displayed in this exchange between everyday reasoner and legal reasoner (Agha 2005, 40)—suggests an anxiety about the performance of the juror role that was echoed in other jurors' frequent assertions, unprompted by a direct question, that they were competent legal reasoners and thus "did [their] job." Charles's use of the word "presented" (both before and after my question) in explaining to me what he did or did not share with other jurors is suggestive of a role alignment with legal reasoning, as "presented" was a verb form indexed in the predeliberation instructions to *evidence*.

In his response to my question, Charles mobilizes the entextualized model of reasoning from the predeliberation instructions in order to perform legal objectivity as a competent juror, recalling his hailing as a competent juror by the judge during voir dire ("when [. . .] she asked could I be a fair and impartial

juror, I said yes"). First, Charles said that he considered "strictly" the "evidence" "presented" to him. Charles then identified "evidence" contrastively in relation to a class of things that were not *evidence* and should thus be excluded from his decision making: specifically, his observations about structural racism in the criminal justice system, collapsed or essentialized over the course of his response to "feelings about the situation," and then simply to "feeling." In identifying these observations with "feeling," Charles seems to resolve an ambiguity, suggested by his initial use of the verb "know" and the noun "fact," about what class of object these observations are. *Fact*, after all, is itself enregistered in official legal practice, as displayed in the predeliberation instructions. Although jurors are supposed to "find" *facts* based in some way on *evidence*, where and how might a "fact" already known prior to the trial fit into their reasoning?

Charles distances himself from "feeling" by at one point formulating feeling as a disembodied force ("it wasn't any kind of feeling that was involved"). When he then quickly reacknowledges ownership over "feeling," he does so in clarifying that he exercised control over it ("I didn't let my feeling get involved"). Charles maintained his role alignment with legal reasoning throughout the interview. Later, in explaining how he came to vote for a "not-guilty" verdict (since he was initially convinced that the verdict should be "guilty"), Charles made clear that he did so based on his evaluation of *evidence* (i.e., police reports) in relation to the instructional standard of *burden of proof*.

What is especially interesting about this example from the perspective of understanding processes of enregisterment is that Charles's discursive erasure of these particular aspects of his ordinary reasoning process as not reflective of legal objectivity is not at all a straightforward application of the jury instructions. Charles in fact appears to have enregistered the class of objects to be excluded from his reasoning as a juror—characterized in the instructions as *bias* and *prejudice*—as including an example par excellence of *common sense*. As discussed briefly above, jurors are told that they can "properly apply common sense and draw on your own everyday, practical knowledge of life as each of you has experienced it" (Pennsylvania Bar Institute 2005, 7.05(3))—an instruction that speaks to a common justification of the jury as a protection against tyrannical application of criminal laws by government officials. Why, then, is Charles's experience as "black and a male and a father of two sons" a threat to *impartiality*, as he formulates it when he equates it with "feeling," rather than, simply, "common sense," "draw[n]" from "[his] own everyday, practical knowledge of life as [he] has experienced it"?

Looking beyond the immediate processes of juror production, Charles's enregisterment of *bias* and *prejudice* may draw on formulations circulating

widely in American political discourse that frame racial difference as dangerous and threatening to social stability. Within the processes of juror production, the semiotic scaffolding for Charles's characterization of his knowledge of the structural racism of the US criminal justice system is perhaps locatable in the voir dire questionnaire, which asks jurors about their potential likelihood of believing or disbelieving a police officer relative to other witnesses and their specific experiences with the criminal justice system or relationships with persons involved in the criminal justice system. Although a full discussion of this issue is beyond the scope of this article, it is worth noting that the voicing structure of this questionnaire does considerable work in linking the denotational content of these questions to the denotational content of *bias* and *prejudice* as specified in the predeliberation instructions. For example, the questionnaire adds to the conceptual ambiguity discussed above about how jurors' prior knowledge, which jurors indexed to *bias* and *prejudice*, relates to enregistered categories like *facts* via its references to jurors' *beliefs*, such as the belief in a police officer's testimony that Charles references in the excerpt above. Recall, as described above, that the questionnaire asks jurors among other things about their potential likelihood of believing or disbelieving a police officer relative to other witnesses.[16] What exactly is a *belief*? Is it the cognition of a legal *fact*? Of everyday factual knowledge? Or is it a mental state more akin to "feeling"? Recall also that if a potential juror answers a voir dire question in a manner that suggests a lack of impartiality, the judge will ask her whether she can "put aside" the belief that would otherwise compromise impartiality. Such questions imply that jurors can exercise control over, and thus remove from the course of reasoning about *evidence*, their *beliefs*, linked to relationships and experiences located outside the space-time of the courthouse and trial.

Attending to the predeliberation instructions themselves, I suggest that Charles's implicit framing of his experience as a black father as *bias* or *prejudice* in the context of jury deliberations reflects an assimilation of "common sense" to "bias" grounded in the commonalities in their deictic anchoring within this text. In the instructions, *common sense* is indexically anchored to the space-time of the juror's everyday life outside the courthouse—namely, "apply common sense and draw on your own everyday, practical knowledge"—where "everyday" is opposed to the special, marked-off space-time of the courthouse and trial, and where "practical knowledge" is perhaps opposed

16. The questionnaire Philadelphia jurors completed at the time of my fieldwork contained two questions on this topic: "Would you be more likely to believe the testimony of a police officer or any other law enforcement officer just because of his/her job?" and "Would you be less likely to believe the testimony of a police officer or any other law enforcement officer just because of his/her job?"

to the theoretical or rational aspect of legal reasoning. *Bias* and *prejudice*, described in the next sentence, are deictically anchored to jurors through the word "your." The denotational content of all of the abstract nouns associated with the legal lexical register employed in the instructions is ambiguous; and *prejudice* and *bias* are perhaps the least explicitly elaborated of all. On the other hand, *evidence*, which is juxtaposed with these nouns, is anchored to the space-time of the courthouse and the trial.

Given the denotational ambiguities in these nouns, the contrastive juxtaposition of *prejudice* and *bias* against *evidence*—in which not just the presumed denotational content of these nouns, but their anchoring in space-time are contrasted—may thus set up an opposition that facilitates attributing the same denotational content to *common sense* and *bias* and *prejudice* based on their shared contrastive anchoring in space-time vis-à-vis the space-time to which *evidence* is anchored. For example, compare the idea of common sense as located in a trial-external space-time with Lou's earlier-quoted anchoring of "prejudice" to "personal history." According to the instructions' command to keep *deliberations* free of *bias* and *prejudice*, jurors are expected to exercise control over whatever mental states constitute or lead to *bias* and *prejudice*, as per the logic of the objectivity of self-restraint described above. This division of jurors' social role from the roles of other courtroom actors (or even of *evidence* as agent), according to which jurors' activities are defined in terms of identifying, isolating, and excluding mental states threatening to *impartiality*, may simply leave little discursive room for jurors to treat *common sense* as a mental state that could be included in legal reasoning, in the space-time of juror *deliberations*.

Charles's emergent formulation of mental states (feelings, emotions, beliefs) anchored in or arising from personal experience as something to be excluded from legal decision making was shared by many jurors I interviewed.[17] Jurors' assimilation of emotion and personal experience to *prejudice* and *bias* is perhaps unsurprising, given that an epistemological model of achieving rationality

17. This formulation is likely shared by other jurors as well, due to the mass-mediated character of juror production. Conley (2013, 509), for example, describes a similar instance in which a juror disclaimed consideration of his emotions in the service of performing objectivity, which she also traces to ambiguity in legal register terms contained in jury instructions:

> To justify this stance, the juror cites the instructions handed down by the judge, which, he claims, reiterated the oath's insistence on utilizing evidence alone in making a decision. The testimony of a father, however, is well within the scope of a defendant's character and background, an expressly permitted resource for jurors' decisions. Despite or perhaps as a result of this legal ambiguity—according to which a father's emotions on the stand may or may not be "evidence"—this juror reduces his legal obligation to objective decision-making, eliding any emotional reactions to testimony in court. In this passage, he utilizes legal authority from his oath and instructions to put distance between his decision-making process and his experience in trial; this distance helps facilitate his final verdict for death.

through exclusion of emotion is embedded in liberal notions of personhood. Similarly, Mertz describes that in US law schools, "emotion, morality and social context are semiotically peripheralized" as students learn that "only certain details will turn out to be legally accepted or relevant, and the determination of which details depends on the complex calculus of textual constraints and metalinguistic warrants" (Mertz 2007, 95; see also Goodman et al. 2014, 458).

In the context of this example, Daston and Galison's further elaboration of nineteenth-century scientists' performance of objectivity as characterized by "the honesty and self-restraint required to forswear judgment, interpretation, and even the testimony of one's own senses" (1992, 83) seems especially apt. This objectivity drew on a "vision of self-command triumphing over the temptations and frailties of flesh and spirit [. . .] [which] had less to do with envy, lust, gluttony, and other standard sins than [. . .] with witting and unwitting tampering with the 'facts.' [. . .] [T]hese professional sins [. . .] required a stern and vigilant conscience" (Daston and Galison 1992, 83).

Throughout our interview, Charles repeatedly affirmed that his reasoning was based only on "evidence", which he linked to exerting control over mental states by keeping his mind "open" in order to consider only evidence: "My mind was open until, when the evidence was presented to me, I weighed it all [. . .]." Charles, like other jurors I interviewed, linked his performance of legal objectivity to a moral commitment. Specifically, his moral commitment is tied to someone, namely the judge, and it is staked on his personal moral qualities, namely honesty ("I try not to lie, I don't lie"; compare his earlier admission that "we let a guilty person go, to tell you the truth"), a set of affects linked to other moments of jurors' hailing by the state aside from the predeliberation instructions, such as voir dire (as in Charles's own account).

Charles's efforts to perform the role of competent juror in the exchange quoted above suggested a discursive erasure of his critical political viewpoint. The shift Charles made in our exchange from, in the first part, describing views of institutional structures' instantiation of social justice linked to a figure of vulnerability, the defendant, to, in the second part of our exchange, talking about concerns of his personal performance of objectivity and morality linked to an interpersonal relation to a figure of authority, the judge, raises questions about the particular obligations and relationships that a morality of self-restraint foregrounds. Daston and Galison observe that "the history of the various forms of objectivity might be told as how, why, and when various forms of subjectivity came to be seen as *dangerously* subjective" (1992, 82). In the contemporary moment of the racialized crisis of legitimacy in the criminal justice system,

what subjectivities are dangerous to perform? In showing how the processes of enregisterment by which jurors produce themselves enable and disable forms of political critique, Charles's erasure of his experiences of structural racism in the criminal justice system from the domain of legal reasoning suggests the high stakes of these processes. Jurors' attempts to perform an objectivity of self-restraint raise questions about juror agency and independence linked to long-standing debates about jury nullification that strike at core questions about the relationship between justice, democratic self-government, and "rule of law" (see, e.g., Butler 1995). Debates about jury nullification in the United States, made salient in US news media again recently by the surprising acquittal of right-wing activists occupying a federal wildlife refuge in an "open-and-shut" case (Johnson, Turkewitz, and Pérez-Peña 2016), have themselves been linked historically to questions of racism in the criminal justice system.[18] Looking beyond individual jurors such as Charles, the analysis of the processes by which jurors produce themselves as legal reasoners offered in this article may serve as a lens onto less formal instances, outside of jury trials, in which lay citizens attempt to perform legal reasoning—such as when interpreting and criticizing or praising verdicts like the one just mentioned in relation to ideals of justice, democratic self-government, and rule of law—and thus onto the production of popular, shared understandings of the criminal justice system's legitimacy.

Conclusion: Enregisterment of Legal Reasoning and Legitimacy

Observing the contingency and open-endedness of jurors' enregisterment of *bias*, *prejudice*, and *evidence* in relation to a style of reasoning indexically anchored to the social role of "competent juror" suggests a few reflections on the production of legal legitimacy. As the examples in this article illustrate, the entextualization and recontextualization of fragments of the official or expert legal register—whether lexical text fragments or a style of reasoning—supports a mixture of congruences and ambiguities or points of slippage between legal expert formulations and juror uptake formations. As Agha notes, the success of

18. While jury nullification in the United States is sometimes linked with other forms of political resistance, such as resistance to early sedition laws, as in the famous Zenger trial (for brief discussions, see Marder 1999; Langbein, Lerner, and Smith 2009), the history of jury nullification also includes a pattern of white criminal jurors refusing to convict white defendants of crimes committed against black victims (Marder 1999). More recently, legal scholars such as Paul Butler advocated for jury nullification as a tool for racial justice, specifically arguing that black jurors should nullify attempts to convict black defendants of certain nonviolent crimes, given the unjustifiable and disproportionate prosecution of black citizens in the criminal justice system (Butler 1995). The 2016 acquittal of the white occupiers of a federal wildlife reserve in Oregon by an all-white jury, a verdict that appeared so contrary to the evidence according to some observers that it seemed a product of jury nullification, was criticized by some observers as reflective of broader patterns of disparate treatment of white and nonwhite defendants in the US criminal justice system.

an act of hailing is "a degree notion" (2011b, 168). The incongruences, ambiguities, and points of slippage in juror uptake of official legal object formulations may involve replication of text fragments and patterns of reasoning jurors encounter during the trial process, but this replication is mediated by differences in the calibration of these sign fractions to jurors' and legal professionals' respective prior experiences.

An irony of the case discussed in this article is that in spite of the jurors' successful reproduction of predeliberation instructions via the discursive enactment of an objectivity of self-restraint as applied to "dangerous" mental states, these jurors may not have reasoned accurately or impartially according to legal professionals. In a posttrial discussion that the judge and prosecutor held with the jurors to respond to questions and get feedback about jurors' reasoning about the case, these legal professionals expressed surprise—which at least one of the jurors I interviewed also observed—about the verdict. The judge commented to me that jurors seem to have expected the police to collect "CSI-style" forensic evidence in order to prove the defendant's guilt beyond a reasonable doubt, which the judge implied was ridiculous and unreasonable. Perhaps, in other words, the jurors had failed to apply common sense in reasoning about the evidence. Thus, I suggest, in some cases jury verdicts may confound common sense because jurors' enregisterment of the competent juror role may produce unexpected discursive reformulations of enregistered elements of official legal practice. Importantly, this does not reflect a simple failure to achieve fluency in the legal register, as jurors' efforts to discursively enact the legal rationality in which they had been instructed were actually quite successful. Instead, the emergence of an object formulation of impartial reasoning and common sense potentially divergent from that of official legal discourse depended precisely on jurors' and professionals' shared understandings manifested in object formulations of the competent juror as an impartial reasoner.

Inasmuch as law is a semiotic activity, legitimacy of law and a legal system is similarly something that happens through communicative activity, wherein events and practices are made sense of through socially produced frameworks of understanding. The jurors discussed in this article, while expressing dissatisfaction with the trial outcome ("we let a guilty person go"), nonetheless largely endorsed the legitimacy of their verdict and of the jury trial system. Charles, for example, commended the jury in this case for doing "an excellent job" and, when I asked him whether jury trials in general are fair, he responded: "Tough question. Yeah, I think the system is what it is. I think we have one of the better systems of trying criminal cases than anybody else in the free world, I think our

system is probably better." I suggest that this coexistence of felt legitimacy and dissatisfaction with an individual case outcome is possible precisely because jurors could and did make sense of their verdicts through their enregisterment and enactment of the competent juror role, in spite of the fact that this enactment resulted in a surprising and perhaps infelicitous verdict. Legitimacy of the legal system thus emerges out of the process of juror mass production both in spite of and because of the partial congruence between the official, more "sedimented" (Agha 2007a, 129; 2007b, 334) register formulations of legal reasoning processes and the emergent enregistered formulations of legal reasoning produced by citizen nonexperts hailed as legal decision makers.

References

Agha, Asif. 2005. "Voice, Footing, Enregisterment." *Journal of Linguistic Anthropology* 15 (1): 38–59.

———. 2007a. *Language and Social Relations*. Cambridge: Cambridge University Press.

———. 2007b. "Recombinant Selves in Mass Mediated Spacetime." *Language & Communication* 27 (3): 320–35.

———. 2011a. "Large and Small Scale Forms of Personhood." *Language & Communication* 31 (3): 171–80.

———. 2011b. "Meet Mediatization." *Language & Communication* 31 (3): 163–70.

Althusser, Louis. 1971. *Lenin and Philosophy and Other Essays*. London: New Left Books.

Austin, J. L. (1962) 1975. *How to Do Things with Words*, ed. J. O. Urmson and Marina Sbisà. 2nd ed. Oxford: Clarendon.

Bakhtin, Mikhail M. 1981. "Forms of Time and of the Chronotope in the Novel: Notes toward a Historical Poetics." In *The Dialogic Imagination: Four Essays*, ed. Michael Holquist and trans. Caryl Emerson and Michael Holquist, 84–258. Austin: University of Texas Press.

Bauman, Richard, and Charles L. Briggs. 1990. "Poetics and Performance as Critical Perspectives on Language and Social Life." *Annual Review of Anthropology* 19:59–88.

Becker, Howard S. 1982. *Art Worlds*. Berkeley: University of California Press.

Bohannan, Paul. 1957. *Justice and Judgement among the Tiv*. Oxford: Oxford University Press.

Butler, Paul. 1995. "Racially Based Jury Nullification: Black Power in the Criminal Justice System." *Yale Law Journal* 105 (3): 677–725.

Carr, E. Summerson. 2010. "Enactments of Expertise." *Annual Review of Anthropology* 39:17–32.

Conley, Robin. 2013. "Living with the Decision That Someone Will Die: Linguistic Distance and Empathy in Jurors' Death Penalty Decisions." *Language in Society* 42 (5): 503–26.

———. 2016. *Confronting the Death Penalty: How Language Influences Jurors in Capital Cases.* Oxford: Oxford University Press.

Conley, John, and William O'Barr. 1990. *Rules versus Relationships: The Ethnography of Legal Discourse*. Chicago: University of Chicago Press.

Daston, Lorraine, and Peter Galison. 1992. "The Image of Objectivity." *Representations* 40:81–128.

Galanter, Marc. 2004. "The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts." *Journal of Empirical Legal Studies* 1 (3): 459–570.

Gluckman, Max. 1965. *Politics, Law and Ritual in Tribal Society*. Oxford: Blackwell.

Goffman, Erving. 1979. "Footing." *Semiotica* 25 (1–2): 1–29.

Goodman, Jane E., Matt Tomlinson, and Justin B. Richland. 2014. "Citational Practices: Knowledge, Personhood, and Subjectivity." *Annual Review of Anthropology* 43:449–63.

Hart, H. L. A. 1961. *The Concept of Law*. Oxford: Clarendon.

Jakobson, Roman. 1960. "Concluding Statement: Linguistics and Poetics." In *Style in language*, ed. Thomas A. Sebeok, 350–77. Cambridge, MA: MIT Press.

Johnson, Kirk, Julie Turkewitz, and Richard Pérez-Peña. 2016. "Verdict in Oregon Draws Surprise and Questions about Equity." *New York Times*, October 28.

Kant, Immanuel. (1785) 2002. *Groundwork for the Metaphysics of Morals*. Trans. Arnulf Zweig, ed. Thomas E. Hill Jr. and Arnulf Zweig. Oxford: Oxford University Press.

Langbein, John H., Renée Lettow Lerner, and Bruce P. Smith, eds. 2009. *History of the Common Law: The Development of Anglo-American Legal Institutions*. New York: Aspen.

Marder, Nancy S. 1999. "The Myth of the Nullifying Jury." *Northwestern University Law Review* 93 (3): 877–960.

Mertz, Elizabeth. 1996. "Recontextualization as Socialization: Text and Pragmatics in the Law School Classroom." In *Natural Histories of Discourse*, ed. Michael Silverstein and Greg Urban, 229–52. Chicago: University of Chicago Press.

———. 2007. *The Language of Law School: Learning to "Think like a Lawyer."* Oxford: Oxford University Press.

Mertz, Elizabeth, and Richard J. Parmentier, eds. 1985. *Semiotic Mediation: Sociocultural and Psychological Perspectives*. Orlando, FL: Academic Press.

Mize, Hon. Gregory E., Paula Hannaford-Agor, and Nicole L. Waters. 2007. *The State-of-the-States Survey of Jury Improvement Efforts: A Compendium Report*. National Center for State Courts, http://www.ncsc-jurystudies.org/~/media/Microsites/Files/CJS/SOS/SOSCompendiumFinal.ashx.

O'Barr, William M., and John M. Conley. 1988. "Ideological Dissonance in the American Legal System." *Anthropological Linguistics* 30:345–68.

Pennsylvania Bar Institute. 2005. *Pennsylvania Suggested Standard Criminal Jury Instructions*. 2nd ed. Mechanicsburg, PA: PBI Press.

Richland, Justin B. 2013. "Jurisdiction: Grounding Law in Language." *Annual Review of Anthropology* 42:209–26.

Silverstein, Michael. 1984. "On the Pragmatic 'Poetry' of Prose: Parallelism, Repetition, and Cohesive Structure in the Time Course of Dyadic Conversation." In *Meaning, Form, and Use in Context: Linguistic Applications*, ed. D. Schiffrin, 181–99. Washington, DC: Georgetown University Press.

———. 2003. "Indexical Order and the Dialectics of Sociolinguistic Life." *Language & Communication* 23:193–229.

———. 2006. "Old Wine, New Ethnographic Lexicography." *Annual Review of Anthropology* 35:481–96.

Strickland, Shauna M. 2005. "Beyond the Vanishing Trial: A Look at the Composition of State Court Dispositions." National Center for State Courts, http://ncsc.contentdm.oclc.org/cdm/ref/collection/adr/id/41.

Urban, Greg. 1996. "Entextualization, Replication, Power." In *Natural Histories of Discourse*, ed. Michael Silverstein and Greg Urban, 21–44. Chicago: University of Chicago Press.

Urciuoli, Bonnie. 2009. "Talking/Not Talking about Race: The Enregisterments of *Culture* in Higher Education Discourses." *Journal of Linguistic Anthropology* 19 (1): 21–39.

———. 2014. "The Semiotic Production of the Good Student: A Peircean Look at the Commodification of Liberal Arts Education." *Signs and Society* 2 (1): 56–83.