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“We’re not in a club now”: a neo-Brown and Levinson approach to analyzing courtroom data

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Abstract: Discursive approaches to analyzing politeness often eschew Brown and Levinson’s theory of politeness as being too dependent on speech act theory and Gricean pragmatics. However, in this analysis of a courtroom interaction I will show how some of the concepts from Brown and Levinson’s theory, such as face-threatening behaviour and positive and negative politeness, can provide us with a vocabulary with which to talk about dynamic situated interaction. These are combined with reference to the norms of behaviour in the context of situation, as well as an appreciation of how meaning is defined as negotiated by participants as they interact. In the interaction under question here I show how the meaning of these utterances can be observed in the data themselves by looking at the sequence and take-up of turns at talk and by commenting on the relationship between the form of the utterances and the context in which they are uttered. In this way, some of the most useful concepts from Brown and Levinson are applied to the data from a constructivist perspective.

Keywords: Brown and Levinson, politeness, face, courtroom, institutional

1 Introduction

Brown and Levinson’s theory of politeness has at once been highly influential and highly controversial. Shortly after the republication in of their work in 1987, Coupland et al. (1988: 255) recognized its value, saying “It is surely one of the great strengths of Brown and Levinson’s analysis that they chart the realization of communicative strategies as precise lexical/structural selections in various languages.” However, within the last decade or so, Brown and Levinson’s model has become discredited. Indeed, as Mills (2011) points out, much recent theorizing about politeness has been developed as a reaction to Brown and

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Levinson's model, which is seen as ethnocentric and based on out-moded concepts of pragmatic communication (see Eelen 2001; Watts 2003). For some scholars, then, there is a reluctance to adopt Brown and Levinson's ideas in their treatment of politeness (for example, Locher and Watts 2005; Mullany 2006; Bom and Mills 2015). Instead, these post-modern analyses of interactions prefer to rely on participants' evaluations of politeness and do not attempt to explain why certain linguistic choices are made in certain situations. Rather, as is argued in Grainger (2013), the analyses consist of a description of participants' evaluations of interactional behaviour based on supposed norms. This in itself is a useful exercise but as Haugh (2007), Terkourafi (2005) and Mullany (2005) have all pointed out, it has the disadvantage of fusing the perspective of the analyst with that of participants.

On the other hand, some scholars argue that there are aspects of Brown and Levinson's model that can still provide analysts with a robust armoury of technical terms and concepts with which to analyze what Goffman ([1983] 1997) calls "the mechanics of encounters" (1997: 172). Harris, (2003) argues that Brown and Levinson's politeness theory has an important contribution to make to the analysis of institutional (including courtroom) data, while O'Driscoll (2007) argues for an adaptation of Brown and Levinson's work that can be usefully applied to interaction across cultures. Similarly, Holmes et al. (2012) find concepts from Brown and Levinson to be useful in analysis of workplace interaction. In this paper, I argue that Brown and Levinson's model can help to explain the ongoing management of relationships by and between participants in an institutional context such as a courtroom. In this setting, the negotiation of meaning is especially crucial for outcomes of the encounter. As Harris (2011) points out, serious, and sometimes life-changing, decisions can be profoundly affected by the interaction between participants. In my view, a discursive politeness treatment that only recovers whether participants are defining the situation as "polite" is somewhat limited. What I endeavour to do here with the Soto data is to analyze the points in the interaction where (im)politeness strategies (based on an elaborated version of Brown and Levinson's model) are engaged as part of a discursive struggle for the definition of the situation and of participant roles and relationships within that situation. The focus of analysis is not so much how Penelope Soto and the Judge Rodriguez-Chomat internally evaluate each other's behaviour, but what linguistic resources they draw on to construct and define the situation, and importantly to negotiate their way through their interaction with each other. I will show in my analysis below how an adaptation of Brown and Levinson's model can do this provided politeness strategies are not regarded as 'containing' predetermined meaning but rather obtain their meaning from various aspects of the context. First, I will discuss the concept of a *neo* Brown and Levinson approach.

2 A neo-Brown and Levinson approach

As I have suggested above, even those scholars who continue to apply Brown and Levinson's theory of politeness do not do so uncritically and without adaptation. It is generally agreed that two of the main weaknesses of the Brown and Levinson model are (1) their treatment of context and (2) their view of communication as static. In terms of context, as with traditional Gricean pragmatics, Brown and Levinson (1978, 1987) use isolated speech acts as examples, and the role of local linguistic context or of the wider social context appears to be limited. Although there is some acknowledgement that meaning is constructed across whole utterances (see Brown and Levinson [1987: 22]) there is a tendency to assume that meaning inheres within the speech act itself. This implies that the role of context in meaning-making is minimal. However, they do recognize that context is relevant to the extent that the relational factors of power and distance have a bearing on the politeness strategy selected. Similarly, the "rank-ing of imposition" of the face threatening act, which it is recognized will differ according to the cultural and situational context (Brown and Levinson 1987: 77), is also considered to be one of the factors influencing politeness strategies. These, however, are seen to be background "variables" (Brown and Levinson 1987: 74) of the interaction. The effect of these variables can be "computed" via a formula (Brown and Levinson 1987: 76) and the speaker must assess the weightiness of a face-threatening act as part of their politeness strategy. Thus, in any one encounter, politeness strategies are predicted and determined in what appears to be a rather mechanistic way. As Coupland et al. (1988: 258) point out, "although Brown and Levinson's interest in strategic face-management is clearly and intrinsically dynamic ... they are also intent on tracing strategy selections back to apparently preordained configurations of social roles." Thus, while power, distance and "rank of imposition" (P, D and R) have some explanatory value in accounting for the degree and quality of face-threat in any particular circumstance (as I will show in the analysis that follows), a neo-Brown and Levinson approach needs to also recognize that social roles are defined and negotiated as the interaction unfolds. This is the approach taken in the work of Holmes et al. (2012) in their study of New Zealand workplace interaction. Similar to the analysis in this paper, they adopt what they call a "neo-Politeness" approach, which "combines some of the insights and concepts from Brown and Levinson with insights from social constructionism to provide a more dynamic, context sensitive and discourse-oriented framework ..." (Holmes et al. 2012: 1064).

In previous analyses of politeness in institutional contexts, I have also made use of some of the concepts from traditional pragmatics that Brown and

Levinson refer to. In Grainger (2011), it is argued that the notions of speech acts (Austin 1962), uptake (Austin 1962) and implicatures (Grice 1975) can be useful in explaining how participants make meaning in interaction. When analyzing talk-in-interaction, speech acts are more useful entities than words, sentences, or even utterances, since they recognize that language use is a social practice. In addition, Austin's notion of "uptake" recognizes the role of the hearer and that meaning comes in part from how a speech act is responded to. Grice's notion of implicature observes that meaning comes from what is not said, as well as what is said, specifically by flouting the maxims of the cooperative principle.

In addition, what is needed is a treatment of conversation as both sequential and embedded in overlapping layers of context. Brown and Levinson's focus on the attributes of the individual speaker and hearer ignores the fact that speakers and hearers are also members of groups and institutions, and that face considerations will pertain to these entities as well as, or sometimes in preference to, the individual identity of participants. When discussing Brown and Levinson's work in relation to institutional talk, Coupland et al. (1988: 260) point out that "... the interpersonal triggers/consequences Brown and Levinson consider, while by no means irrelevant, are likely to be of less significance than the occupational and institutional role participants are necessarily inhabiting ...".

So, a neo-Brown and Levinson approach needs to be appreciative of layers of context: linguistic context in terms of pre-contexts and next moves, as well as socio-cultural context in terms of the layers of identities, roles and relationships that may be at play in any one encounter. This is in keeping with what has been called the third wave of interactional approaches to politeness studies (Culpeper 2011; Grainger 2011). This approach is interested in (1) how meaning is negotiated and constructed in the social space between interlocutors and (2) how each turn is part of the context for the next turn. This approach also overlaps with the notion of indexicality (see Christie, this issue) which Ochs (1992) uses as an alternative to the view that particular linguistic forms were characteristic of a particular gender; she instead proposed that speakers make use of these forms in an active and constructive way. In other words, linguistic forms are a resource that speakers may draw on to index various meanings. Overall this is fundamentally a constructivist orientation, allied to the "interactional achievement" approach taken by Arundale (2009) and the ethnomethodological approach argued for by Haugh (2007) and Bargiela-Chiappini (2009). These approaches avoid descriptions of speaker intention and prefer to focus on what interactional resources participants themselves make relevant in talk in the process of negotiating the encounter.

As well as analyzing the structure and sequencing of turns in an interaction, naturally occurring institutional dialogue, such as in a courtroom, can

also benefit from an analysis that provides an explanation of the “detailed and specific linguistic mechanisms” (Holtgraves 2009: 194) that motivate the use of certain forms of language (in preference to others). The notion of “face” is widely recognized by politeness scholars to have such explanatory value but many also argue that Brown and Levinson’s treatment needs to be extended beyond seeing politeness only as a response to potential face threats (see Haugh 2009 for a discussion). Many prefer to talk in terms of face “work” and would do away with the notions of negative and positive face (for example, Locher and Watts 2005; Spencer-Oatey 2009). However, I would agree with O’Driscoll (2007: 486) who argues that “The positive-negative face(work) spectrum ... is a culture-neutral, empirical tool for examining interaction ‘on the ground’ with pan-cultural applicability”. Thus, a neo-Brown and Levinson approach to interaction can still usefully make use of the ideas of bald-on-record speech acts, positive and negative face *needs* (and sometimes face *threat*), as well as negative and positive politeness, while recognizing that facework strategies may be operating within a hierarchy of roles (individual, institutional, societal etc.) and that roles are negotiated as part of a dynamic process of communication.

3 The courtroom context

Having said that several layers of context are applicable to the analysis, I want to first establish those contextual factors that are likely to have an influence on the construction of the situation. While context is to a large extent a dynamic construction that is established and re-established by participants as the interaction unfolds, it is also the case that participants bring pre-existing knowledge of the context to the situation even before they start interacting. Such pre-existing knowledge includes expectations of norms of behaviour that have been established through repeated use in that particular situation (Terkourafi 2005). Such norms are particularly strong in institutions, having been put in place by the more powerful participants (Thornborrow 2002). Thus, the facility to negotiate roles and relationships in institutional contexts is much less than in “ordinary” conversation. In the case of a courtroom, the judge is considered to be the most powerful participant: the physical environment tends to be considered his/her territory; s/he has more speaking rights than anyone else and can legitimately exert his/her will over anyone else in the court (although, even the judge has to adhere to certain rules). Other courtroom officials, such as the clerk and the lawyers, also have a certain amount of given institutional power, being allowed to speak within certain parameters. It is the defendant who has

the least amount of power and whose interactional rights are most constrained. Overall, the setting is considered to be serious and formal and expectations about language use are in keeping with this formality. In addition to these institutional factors, there are also likely to be wider socio-cultural influences at play in this situation. As Harris (2011: 87) observes, “... cultural and social ‘politeness norms’ interact with the power oriented, hierarchical and prescriptive interactional roles of the major participants in a criminal trial ...”. In the particular case considered here, Ms. Soto and Judge Rodriguez-Chomat are both from a broadly Hispanic background, which is a potential source of solidarity for them. On the other hand, this could also be a cause for divergent behaviour if they perceive one another to be from different sections of the Hispanic community. I will discuss in the analysis below how this aspect of cultural context becomes relevant in the interaction in terms of the politeness strategies deployed (see also Christie, this issue).

It is important to remember that all of these norms and expectations are in no way deterministic. Penelope Soto and the presiding judge negotiate their interaction with one another against this backdrop of power and solidarity, but they also deviate from it and manipulate it for their own interactional ends. In fact it is probably true to say that the reason why the YouTube film clip, on which this collection of papers is based, became well-known and caused so much comment (see Davies, this issue) is precisely because of the tension between the macro socio-cultural context and the local interactional context. That is to say, what people normally expect of such an encounter and what actually happened, are at odds with each other. When Soto is found in contempt of court, this is the culmination of a series of struggles over the definition of the situation; these struggles are broadly speaking the struggle between institutional norms and the local negotiation of the relationship between the judge and Penelope Soto. The following analysis looks at exactly how this unfolds. What I will be concentrating on is how Soto and the judge seek to define the situation, though their communicative behaviours, in ways that become problematic, particularly for the less powerful participant.

4 The construction of courtroom formality

At the start of the hearing (up to around line 50 of the transcript), we can see how the behaviour of the judge and the court officials both reflects and constructs the situation as one where formality and social distance are appropriate. The language and non-verbal behaviour is largely professional and business-

like, consisting of bald-on-record statements and requests for information (e.g., line 7 “you’re being charged in possession of Xanax”), as well as professional jargon (e.g., “I understand you’re eligible for (pre-trial) service?”, “she has no priors”). The utterance, “Penelope Soto” at line 3 is in the conversational position of a greeting but there is no greeting token. The judge addresses the defendant with her full name and no title, and this suggests a bald-on-record name check that is more akin to the “summons” (Schegloff 1972) of a telephone call, than to the first part of a greeting. Soto’s uptake accords with this, since she responds to it with “yes”, rather than a return greeting.

Extract 1 (lines 1–8)¹

1. j: [((gaze right))
2. d: [((steps forward to podium))
3. j: ((gaze shift to left then to paperwork))
4. j: °pene°[lope so:to=
5. d: [yes
6. d: ((L hand under chin))
7. j: =you’re being charged in [possession of xa: nax=
8. j: ((pushes glasses. Gaze down))

Following the initial establishment of the charge, exhibited in extract 1 above, the court officials seek to establish whether Soto is eligible for financial support with the hearing (“pre-trial services”). Again, attention to face needs in these turns is largely absent, apart from the formal address term ‘Miss Soto’ (see transcript in Special Issue introduction, line 35), conveying a formal and business-like approach to the encounter.

So far, then, in terms of the verbal interaction, this encounter is largely consistent with institutional expectations, where the speakers are in a formal, distant and unequal relationship. In terms of her verbal responses, the defendant is cooperating, in the Gricean sense, with relevant and sufficient information. For example, she matches the court official’s question about approximate earnings (line 39: “how much money you make in a week approximately?”) with “approximately about two hundred bucks a week” (line 42).

However, notice that, despite the overall formality, even at this early stage in the proceedings, there is a suggestion of a more informal construction of the situation, which hints at the discursive struggle to come:

¹ For transcription conventions please see the full transcription in the introduction to this issue.

Extract 2 (lines 10–21)

10. j: =a: B A R S ((lifts hand)) >I don't know what that
 11. is<=>[what is it<
 12. d: ((begins smile))
 13. m: [°ba[rs°.
 14. f: [bars.
 15. m: ↑xanax. (.) xanax bars.
 16. j: °okay°
 17. j: ((gaze forward, begins smile))
 18. d: ((smile heightens))
 19. m: °it's how they refer to them°=
 20. j: =xanax bars.
 21. j: ((returns gaze to paperwork))

At line 12, Soto begins to smile. This comes at the point where the judge expresses his ignorance of the terminology related to the drug Xanax, and so it could be interpreted as amusement at his ignorance. Of course, Brown and Levinson's account of politeness does not focus very much on such non-verbal communication, although they do claim that "many aspects of non-linguistic communicative behaviour can be naturally accommodated in the same scheme" (Brown and Levinson 1987: 92). Extending their model to include smiling, then, Soto's initial smile could be seen as a threat to the judge's positive face (a negative evaluation of his state of knowledge) but the judge does not appear to take this up as offensive. Rather, at line 16 the judge also begins to smile, which, given his power over the situation, suggests he is allowing room for levity in the interaction and that, in Brown and Levinson's terms, he is presupposing familiarity (Brown and Levinson 1987: 123) or giving a "gift" to his addressee of sympathy and cooperation (Brown and Levinson 1987: 129). It is difficult to say what specific "threat" this strategy may be in response to, but more generally it is an orientation to Soto's positive face needs and she matches his move with a heightened smile at line 18. As the two interactants are smiling at the same time, it would appear that Soto and the judge are collaborating in defining the situation as one where a small degree of light-heartedness is permissible. At this stage, there is no sign that the interaction is inappropriate, however, it seems to point towards the discursive struggle that unravels as the interaction continues.

5 Discursive struggle: Club or court?

Parent or judge? Power or solidarity?

Following the business-like start that more or less conforms to the norms of the situation, the phase of the encounter that seeks to establish whether Soto can afford her own legal fees is where we see the first sign of tension over the definition of the situation. In the extract below, Soto's response to m2's questioning is deemed to be inadequate, since the judge intervenes and rephrases the same question. In the analysis that follows I explain the discursive struggle in terms of Brown and Levinson's politeness theory and Grice's theory of implicature, taking into account both the local conversational context and the macro institutional one.

Extract 3 (lines 50 to 88)

50. m: >what do you< ↑o:wn.
 51. j: ((gaze shift from paperwork to left))
 52. (0.4)
 53. d: aha I own a lot of ↑jewellery, alright?
 54. d: ((tilting head from side to side))
 55. d: .hhh[as we:ll a::s=
 56. m: [°oki°
 57. j: ((gaze to left, sits back in chair))
 58. (0.4)
 59. m: o
 60. (0.6)
 61. m: go ah[ead]
 62. d: [a car]?
 63. (0.4)
 64. j: well[ho- how much] how m- how ha how much e would=
 65. d: [a::n]
 66. j: ((moves both hands))
 67. j: =you say your jew:ellery's wo:rth.
 68. (0.6)
 69. d: ahehehe he a he[hehe
 70. j: [ai: it's not a joke=you know? we are
 71. not in a- we are not in a club no: : w=
 72. j: ((smile))
 73. d: =o?kay. but it's e[you know kind if you know but=

74. d: ((begins to stroke hair, gaze toward camera))
 75. j: [aha you see that we are not in=
 76. d: = it's you know
 77. j: =a we are not in a club.= be se:rious about it.=
 78. j: ((sits forward, opens arms, hands up, gaze left))
 ((brings hands together and apart))
 79. d: =I am se?rious about it.[but it you just made me=
 80. j: [>oh you're< being very
 81. s: =
 82. d: =la: .ugh] ((stops stroking hair))
 83. j: =I can see] you're ↑serious. alright.
 84. j: ((gaze shifts from left to paperwork))
 85. (0.5)
 86. d: >↑you jez< made me, laugh.=↑I apologiz?e=
 87. d: ((left hand on chest, right hand moves off to left,
 palm up, stroking hair))
 88. j: =ts alright.=e how much is you're jew:ellery worth.

At line 50, the court official m, asks the bald-on-record question “What do you own” which is potentially threatening to Soto’s negative face within a Brown and Levinsonian definition of negative face (Brown and Levinson 1987: 62). According to Brown and Levinson (1987: 95), the absence of politeness strategies can be for the sake of “maximum efficiency” and although they do not mention institutional contexts as ones where efficiency overrides face needs, I would argue that this is perhaps one reason why non-mitigation of face-threat is appropriate within the context of a courtroom. Furthermore, in this context, the “absolute ranking” of the imposition (Brown and Levinson 1987: 74) contained in the question is actually quite low given that the addressee (Soto) is in a relatively powerless position. In other words, face concerns are backgrounded in favour of the institutional goal of obtaining the required information. However, Soto’s response to this does not take up this matter-of-fact tone, instead she orients to this as a face concern, flouting Grice’s maxim of quantity. She gives a vague answer to an intrusive question: “I own a lot of jewellery alright?” (line 53). It is also accompanied by laughter, which often accompanies face-threatening talk or occurs at moments of ambiguity and tension (Holmes 2000, Adelswärd 1989). At this point the judge’s intervention (lines 64–67), in the form of a re-phrasing of the question, confirms that Soto’s first answer is not considered adequate. Notice that his question is now mitigated with “well” and the use of the modal verb in the question, “how much would you say your jewellery’s worth?”, matching the orientation to face concerns that Soto has exhibited.

At this point Soto laughs (line 69) and it is this that the judge is responding to when he says “it’s not a joke”, thus defining her response as inappropriate, which is a threat to her positive face needs. He then explicitly challenges what he takes to be her definition of the situation as a non-serious one. This is the conversational move of someone in a powerful position since he takes it upon himself to tell her how she *should* be interpreting the encounter. And yet there is still ambiguity within his response: he is still smiling suggesting that he is non-verbally paying attention to her positive face needs. Arguably, then, he is giving out mixed messages. His approach at this point has similarities to that of a parent to a child – authoritative but familiar at the same time. Indeed, Soto orients to the familiarity in his approach when she says “you just made me laugh” (lines 79–82). Accusing someone of making you laugh could be seen as positive politeness in many interpersonal contexts. However, in a courtroom, telling the judge that he made you laugh arguably threatens his institutional positive face; his role is to maintain order and authority in an institutional setting that deals with essentially serious matters. In this context, then, Soto’s move can be seen as inappropriate since the definition of the whole situation as serious is put in jeopardy. This is one example of the ways in which socio-cultural norms interact with institutional, power-oriented norms (Harris 2011).

Soto’s next move is a performative apology, “I apologise”, which is an acknowledgement of a breach of norms in the interaction and an attempt to restore situational and interactional equilibrium. In Brown and Levinson’s terms, this act is a threat to her own positive face since it is an admission of fault (expression of regret for a prior face-threatening act). The judge accepts her apology in a fairly informal way at line 88 (“ts alright”), but when the question of how much her jewellery is worth is asked again with a bald-on-record question (albeit accompanied by smiling), Soto continues to define the situation as one in which social distance is reduced, as we can see in Extract 4:

Extract 4 (lines 91–113)

91. d: it’s. worth? a lot. of moni:.=
 92. d: ((starts stroking hair with right hand))
 93. j: =like what.
 94. (0.2)
 95. d: like:. (0.5) rick? ro::ss.=
 96. d: ((moves head to both sides))
 97. j: =↑ah??
 98. j: ((gaze left, eyebrows raise))
 99. (3.1)
 100. d: ((swallows, left hand to throat, choking like
 action, continues stroking hair, opens mouth))

101. o: °hohoho°
 102. x: [°oh. °
 103. d: [tɪt's wo: rθ?=
 104. j: =mam?=
 105. d: =mo:ney.
 106. d: ((nods, begins stroking hair with both hands))
 107. j: have you had any kind of drugs in the=
 108. j: ((rolls hands in front of body, gaze left, shakes head))
 109. j: in the last 24 hou:rs?
 110. d: ((tips body backward, steps backward and to right and back to camera, eyes open wide, gaze shift from up to left to down to forward))
 111. d: tɑ: ctually↑ (0.3) no::..
 112. d: ((stroking hair))
 113. j: actually no:::?

Here, Soto again gives a vague answer to the question of what her jewellery is worth (line 91, “it’s worth a lot of money”), and when asked to specify (“like what”, line 93) she responds with what she may suppose draws on common knowledge that Rick Ross’ jewellery is worth a lot of money (line 95). While this answer is relevant, it gives unclear or ambiguous information (flouting Grice’s maxim of manner) and arguably gives too much information (flouting quantity) given the situation she is in. In other words, in a situation where she may be eligible for financial help, it is not in her own interests to declare that she owns valuable jewellery, since this may result in help being denied. However, Soto appears to orient to a different kind of situation: one where her positive face would be enhanced by declaring that she has expensive jewellery. That is to say, she appears to be trying to impress her addressee and/or her audience with her wealth. This is completely at odds with the institutional norms of the situation. Hence we find that the judge’s next turn (lines 104–7), “Mam have you had any kind of drugs?” flouts Grice’s maxim of relation, the possible implicature being that Soto’s previous turn is defined as inappropriate and the reason for this behaviour may be that she has taken drugs. There is a threat to Soto’s positive face contained in this implicature, however the judge’s use of the respectful address term “Mam” as well as the vagueness of “any drugs” seems to pay more attention to her negative face, arguably with the institutional goal of returning the tone of the interaction to a more formal and professional one. Soto responds to the implicature that she may have taken drugs with “actually no” which is followed by the judge’s checking move “actu-

ally no?" (line 113), suggesting that there is something surprising or doubtful about her answer. Once again, then, the judge asserts his power by taking an evaluative stance towards her contribution. Evaluating moves in the third turn position of an exchange have been found to be typical of asymmetrical institutional interactions (Sinclair and Coulthard 1975; Thornborrow 2002). However, the definition of the situation remains ambiguous, not least because his body language continues to reflect amusement (see lines 117, 118, 125) and yet his verbal moves are those of a powerful participant, as we see in Extract 5:

Extract 5 (lines 116–140)

116. d: ((smiling, gaze forward))
 117. j: [hhehe[he
 118. j: ((smiling widely, gaze forward, manipulating something with hands))
 119. d: ((tips body forward, smiling, gaze forward)) ((court official walks through jailhouse behind defendant from right to front right, gaze of woman in the back follows the court official))
 120. m: [>I'll accept< appoint.ment at this
 121. t[ime
 122. j: [no. no=I >ain't going to< appoint? you. because
 123. you're also not on my- substantial amounts of
 124. jewel.lery.
 125. j: ((opens arms wide, smiling, gaze forward, smiling))
 126. d: ((smiling, begins to stroke hair on other side of head with both hands, steps backward))
 127. x: ((individual walks from right to left in court room footage))
 128. j: you can go and sell your jew:ellery.
 129. j: ((gaze left, left hand raises toward left))
 130. d: ((left hand raises to in front of mouth))
 131. (1.0)
 132. j: je:well::ery for a (0.6) private, attorney.=
 133. j: ((raises left hand, gaze to paperwork to left to paperwork))
 134. x: ((moves through courtroom camera from bottom to right))
 135. d: ((gaze left to forward, stroking hair with left hand, stroking stops, hand rests in front of mouth))
 136. j: =what is the standard bond?

137. j: ((moves right hand)) ((gaze moves from left to right))
 138. (0.4)
 139. f: it sh?[↑]ould be: =
 140. j: =ain't >gonna< be no P.T.S.=

Following his suggestion that Soto might be on drugs, the judge's verbal contributions are bald-on-record, and threatening to the face needs of both the lawyers/court officials in attendance (line 122, "ain't going to appoint you") and Soto, (line 128, "you can go and sell your jewellery"; line 140, "ain't gonna be no PTS²"). Thus, it appears that the interactional consequences of Soto not conforming to the behavioural conventions of the courtroom are that the judge invokes his institutional role and reaffirms his institutional power through face-threatening acts and the absence of politeness. The practical upshot of Soto's failure to respond appropriately (as defined by the judge) is that Soto will be forced to pay her own legal expenses. However, as we will see below, from that point there is continued ambiguity and struggle over the definition of the situation, which results in even more serious consequences for Ms. Soto. The next extract follows on from the point where the judge has set bail (at the "standard" rate of \$5000) and then considers that the interaction is over:

Extract 6 (lines 166–195)

166. j: bye? bye,
 167. j: ((right hand makes waving gesture to left, gaze left, frowning expression))
 168. (1.1)
 169. d: adi:?^os.
 170. d: ((leans forward, gaze forward, smiling))
 171. o: °erhh.°
 172. d: ((walks away from camera off left))
 173. j: ((begins smile, gaze left))
 174. j: °hehehehe° COME BACK MAM.
 175. j: COME back,
 176. j: ((right hand making summoning gesture))
 177. x: ((incoherent talk))
 178. (1.6)
 179. j: com?e ba:ck,
 180. j: ((summoning gesture, gaze shift to left))

2 I assume this stands for 'Pre-trial services' and refers to some kind of financial aid.

181. d: ((smiling, walks back to camera, clasps hands together))
182. (0.5)
183. j: >gimme the< paper again.
184. j: ((left hand moves off screen, gaze left, smile))
185. d: ((puts hands to mouth, gaze right to forward, hands cross across chest, gaze and body orientation move to back left))
186. (5.7)
187. j: count one, will be. ten, thou, sand.
188. j: ((gaze left, right hand gestures left))
189. d: ((immediately opens mouth)) ((grabs hair, tips body forward))
190. (0.2)
191. d: [.hhh]
192. x: [oooo]oooh.
193. j: ((writing on paperwork, no smile))
194. d: are you tser[ious?
195. j: [I am serious. = a↑dio::s?

The judge dismisses Soto with a wave of his hand and the informal, even child-like “bye-bye”, once again drawing on the parent-child discourse that we saw earlier. Although Brown and Levinson do not specifically comment on leave-taking speech acts, it seems reasonable to assume that leave-taking would be seen as intrinsically threatening to positive face since it conveys a desire to cease communion with the hearer. However, this view of speech acts is limiting since it is only when we examine the speech acts in context that we can see which face needs are threatened. In this context, the judge is in a position of institutional power (combined, arguably with the additional status that goes with being a generation older than Soto) and so he has greater entitlement than does Soto to manipulate the formality of the situation through his verbal and non-verbal behaviour. The judge’s utterance can be seen as simultaneously and ambiguously a directive (that Soto should leave) and a farewell; the interactional threats are to both negative and positive face. The informality of “bye bye” has connotations of a simplified register that reduces the authority and formality of the speaker and thus orients to both the face threats involved in his speech act.

In conversation analytic terms, then, “bye bye” is not necessarily the first part of a leave-taking adjacency pair and, could equally be taken up as a command. As such, the next appropriate move would be for Soto to simply absent

herself. However, Soto once again picks up on the informality and solidarity implied in the judge's usage and responds to his dismissal as if it were the first pair part of a leave-taking, with the "adios" (line 169). This possibly alludes to their perceived common ethnicity (being Hispanic) and so is arguably an attempt at positive politeness. However, "adios" is also a conventional expression of farewell among non-Hispanics and is often used playfully or even sarcastically. Soto's body language (leaning forward and smiling) and marked prosody in pronouncing the word would also suggest she is not being serious.

As with the previous exchanges up to this point, the judge defines Soto's contribution to the interaction as inappropriate, despite it being a matching of the informality in his own language. This adverse reaction may be because it draws attention to the common ground between them, in a situation set up to put distance between defendants and judges, but it could simply be a reaction to the face-threat involved in the perceived sarcasm in Soto's "adios". As before, the judge's language returns to the formal address and the bald-on-record commands of a powerful participant. In effect, he rejects her parting shot by not allowing her to leave ("come back mam", line 174). After what could be seen as a build-up of unconventional exchanges between them, this is the point where things go seriously wrong for Soto as the judge doubles the bond (line 187). In yet another counter-normative move (but one which is not unlike that of a teenage child to a parent, in that it assumes closeness), Soto expresses shock at his ruling with the challenge, "are you serious?" (line 194), to which the judge responds "I am serious" (line 195) and dismisses her with a mimicking/matching of the very word that he did not like, "adios" (line 195). This action draws attention to the fact that, although Soto may attempt to define the relationship between them as one which is more or less solidary, this, in fact, does not impact on his institutional power. Soto continues to define the situation as informal but this time attacks the judge's positive face rather than orienting to it. She seems to completely disregard any conventional definition of the situation as formal or power-laden and in fact assumes the position of a powerful participant by swearing at him.

Extract 7 (lines 204–205)

204. d: ((begins to walk away, gaze unknown, 'flips the bird'
with left hand, gaze back to camera,
205. d: °fuck you°

Here, once again, an elaboration of Brown and Levinson's account of politeness is needed. As Locher and Watts (2005), Bousfield (2008), Culpeper (1996) and others have observed, Brown and Levinson's theory does not deal with deliber-

ate face attack. Far from mitigating potential face-threats, and enhancing the judge's face, Soto apparently seeks to directly damage the judge's positive face. Arguably, though, her behaviour is still based on an assumption of familiarity, rather than respectful distance, just as between a parent and teenage child. But in a courtroom context, the judge's interactional power is severely challenged and his decision to hold her in contempt of court reasserts his institutional power.

Thus, Soto's turns at talk have gone from assuming a common ground between them (albeit inappropriately), in Brown and Levinson's terms, orienting to positive face needs, to threatening the judge's positive face needs by challenging his decision and ultimately attacking his face by swearing at him. In all cases, her behaviour is constructed as over-familiar by the judge, who then invokes his institutional powers and privileges to restore his status. Although the media and the watching public in the US were shocked by the use of a taboo word and gesture towards a very high status addressee (see Davies, this issue and Christie, this issue), on close analysis of the whole interaction, it appears that it is the use of the word "adios", which the judge takes up as a face-threat, that turned this from a run-of-the-mill bail hearing for a minor crime, to a YouTube phenomenon. It was at the point of the uttering of this word that the defendant was asked to return to face the judge and that her bond was doubled. Indeed, the significance of this speech act is confirmed by the reaction of unidentified members of the court (labelled x in the transcript) who express amusement and shock at the use of the word "adios" (see lines 201–203). So, while "adios" is not rude and face attacking in the same way as "flipping the bird", and in some cases could even be perceived as positively polite and face enhancing, in the context of a court hearing, it is apparently so inappropriate as to threaten the judge's institutional face, which he redresses by simply asserting his powerful position.

6 Conclusion

In this neo-Brown and Levinson analysis of courtroom data, concepts from Gricean pragmatics and from Brown and Levinson's model of politeness have been drawn on, in what is nevertheless a constructivist orientation to the discourse. By engaging the notions of implicature from Grice (1975) and uptake from Austin (1962), I have shown how the participants' meanings are constructed and defined as appropriate or inappropriate, as solidary or powerful, in the on-going discourse. Similarly, I have shown how, if the concepts of positive and negative face are applied beyond just face-threatening acts, they can be

useful in analyzing how Penelope Soto and judge Rodriguez-Chomat negotiate their relationships with one another and define their roles in relation to each other. That is to say, while roles are very much pre-set in this formal institutional context, the precise definition and management of roles and relationships is nevertheless negotiated dynamically as the interaction progresses. In this case, the situation is variously and, ambiguously, defined by participants as at once institutional and personal, informal and serious, power-laden and solidary. However, in this negotiation, the participants are not on equal ground and we can see that the judge defines the situation through his verbal and non-verbal moves, drawing on his assumed institutional power. This ambiguity is perhaps misjudged by Soto who orients to a more informal interpretation of the situation (perhaps that of a parent and child) and it is this struggle over the definition of the situation that ultimately gets her into trouble. While she may attempt to exert interactional definition and power, ultimately she is institutionally powerless.

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Bionote

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