



The Thin Blue Line: Testimony/Evidence, Law/Film

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MC230 Film and the Real : Mary Ann Doane

In a filmed interview transcribed in *Echographies of Television*, Derrida expresses some fascination with the high-profile and riot-inciting Rodney King trial (California, 1991-1993). His interest is in the way the entire episode was structured by “a live image of the event” (90) captured on video by a bystander with a camcorder. This accidental document and its role in the courtroom raises the question of “technical interventions in the judiciary apparatus” (90), and of the uneasy distinction between testimony and evidence. Derrida remarks that, during the trial,

the videographic recording may have served as an archive, perhaps as an exhibit, perhaps as evidence, but it did not replace testimony. Proof or evidence — evidence! — of this fact is that the young man who shot the footage was asked to come himself and attest, swearing before the living persons who constituted the jury and who were legitimate as such, swearing that it was really he who held the camera, that he was present at the scene, that he saw what he shot, etc. (94)

This example illustrates Derrida’s claim that

A testimony has never been or should never be mistaken for evidence.¹ Testimony, in the strict sense of the term, is advanced in the first person by someone who says, ‘I swear,’ who pledges to tell the truth... It is possible for testimony to be corroborated by evidence, but the process of evidence is absolutely heterogeneous to that of testimony, which implies faith, belief, sworn faith, the pledge to tell the truth... Consequently, where there is evidence, there is not testimony. The technical archive, in principle, should never replace testimony. (93-94)

Testimony is, first of all, defined by a contractual oath which can only be invoked between “living persons” — it is uniquely bound to human subjectivity and the “legitimate” social contexts that structure it. Testimony “is not the objective truth,” rather, it is “truthful” if it is

¹ The translator notes that the word “evidence” is translated from the French word “preuve,” which also means “proof.” There is no separate word in French for “evidence” in the English sense. Also, in French, the word for “testimony” (“témoignage”) is clearly derived from the word for “witness” (“témoin”).

spoken “sincerely” and not “in bad faith,” even if the witness “didn’t see things correctly or was mistaken” (98). This quality distinguishes it fundamentally from the evidentiary nature of mechanically produced images like the Rodney King video, whose authenticity is founded on the ostensibly objective eye of the technical apparatus. As “an impersonal technical device,” a “camera” is “unable to serve as a witness” (92). Moreover, as the cameraman’s role in the trial attests, there is an underlying ambivalence to this “synthetic” authenticity which assures that “people will continue to prefer, even if only naively, supposedly living testimony to the archive: people like to believe that, when a witness comes to the stand and speaks in his name, he is himself!” (98).

However, Derrida goes on to argue, in his signature fashion, that perhaps the opposition between testimony and evidence is not so clear as in this initial mapping. In terms of testimony, there are the problems with the above assumption that the witness is transparently “himself.” Another defining quality of testimony is that “Testimony, as witness *borne*, as attestation, always consists in discourse. To be a witness consists in seeing, in hearing, etc., but to *bear* witness is always to speak, to engage in and uphold, to sign a discourse” (94). Language is, in Derrida’s terms, an element of the “inheritance” (132) that insures that we can never have “autonomy” (120) as subjects. In addition, “discourse itself already harbors technics” (94), inching the testimonial principle closer to the regime of evidence. Testimony is further implicated in technics by the multiple levels of iterability associated with it. First, “whoever testifies and takes an oath pledges, not only to tell the truth, ‘me, now, here, before you,’ but to repeat and confirm this truth right away, tomorrow, and ad infinitum. The present of my testimony must be repeated, and consequently iterability already inhabits the heart of the living present of the testimonial pledge” (94). In other words, to avoid being invalidated, testimony must remain the

same over an indefinite number of repetitions in a way that parallels the reliable reproducibility of technical media like photographs or film. This convergence between testimony and mechanical recordings which should be purely evidentiary becomes even more pronounced when Derrida adds that “I testify publicly, before the jury, which represents society, etc. Thus I testify in conditions of publicity and, in so doing, I accept in advance that my testimony may be recorded, even if only by the court reporter, I accept that it may be made available and, consequently, that the recording of testimony is the equivalent of ‘human’ and ‘living’ testimony” (95). Finally, to return to the idea of the distinction between witnessing with the senses and bearing witness in discourse: Derrida emphasizes the importance of the living presence of the witness in testimony, but by definition this presence appears only to invoke in language the shadow of a more immediate past presence — the presence of the eyewitness at the scene of the crime.

Testimony, that is, is always a reconstruction of an irretrievable moment in the past. This structure is strikingly similar to how Barthes, for example, has theorized photography. In this sense, the concept of evidence is contaminated by the concept of testimony as much as vice versa. Derrida paraphrases Barthes on this point: “the photographic effect... consists in putting us directly, and undeniably, in front of a past that *was present*, the past such as it will itself *have been present*, so well that, all of a sudden, it has the force of authentic testimony: not of evidence, but of irrecusable testimony... Not only does it prove, it bears witness” (97). In this formulation, the camera functions as an eyewitness. As with a human eyewitness, it is the verified presence of its eye at a past event that gives the record of the event it offers up later force and legitimacy. Derrida does point out that the “photographic effect” Barthes romanticizes “can be composed, it is not natural, it may always be artificially constructed” (97) — and also

that the fact that the telltale Rodney King videotape appeared “apparently without intervention, without mediator... did not prevent the police officers’ lawyers and the prosecutor from analyzing the recorded sequence, or from trying, by breaking it into fragments, second by second, to prove the most contrary things” (92). Remarking that the mechanically produced image depends on subjective intervention in both its production and interpretation casts further aspersions on its supposedly evidentiary character.

Derrida concludes that “Obviously, all the current possibilities of archivization, the capabilities of analog or of digital recording modify this conceptual apparatus which, in principle, must dissociate testimony from evidence” (95). But, more than this, there is a fundamental “aporetic tension,” an inescapable and constitutive contradiction whereby “technics will never make a testimony, testimony is pure of any technics, and yet it is impure, and yet it already implies the appeal to technics” (95). This aporia — the simultaneous necessity and impossibility of distinguishing between testimony and evidence, and the corresponding instability in the truth claims of both modes — is at the heart of both jurisprudence and technologies of the image. Derrida’s formulation provides a good theoretical overview of the intersections and investments that saturate these two little words, these two domains of representation and power. More simply, the Oxford English Dictionary gives, as the first definition of testimony, “Personal or documentary evidence or attestation in support of a fact or statement; hence, any form of evidence or proof.” But we can’t help agreeing with Derrida that there are essential semantic distinctions to be made between the concepts of testimony and evidence: perhaps the dictionary collapse of the terms points, in its sterile fashion, to the contested nature of these distinctions. The OED definition for evidence is more convoluted: in one sense, it is simply “manifestation; display,” “that which manifests or makes evident.” But it

can also mean “Ground for belief; testimony or facts tending to prove or disprove any conclusion.” It is an idea subtly at odds with itself, already divided between the objective operation of simply showing, and the subjective maneuver of persuasion.

These confusions spawn as these juridical and colloquial abstractions are spliced into the theory of photography. On one hand, Bazin, in his seminal essay “The Ontology of the Photographic Image,” claims that what is unique about photography as a mode of representation is its “essentially objective character,” as opposed to the “inescapable subjectivity” that always “cast a shadow of doubt over the image” in painting. He emphasizes that a photograph is “a mechanical reproduction in the making of which man plays no part,” and argues that “This production by automatic means... confers on it a quality of credibility” (12-13). This loop of objectivity and credibility is intertwined with a legacy of disciplinary techniques (stretching from 19th century police documentation to the more recent proliferation of surveillance cameras and, in current events, mandatory ID photos of foreign visitors) that wed technologies of the image closely to law enforcement. Paul Virilio, in an alarmist mode, goes so far as to assert that “law courts... have little by little taken on the trappings of television studios... What we are witnessing here is the birth of hyper-realism in legal and police representation... Eyewitness accounts having been devalued, it is now possible to do away with their body too, for we now have something more than their image: we have their real-time telepresence” (44). The status of the image as evidence legitimized sweeping new forms of realism that have had all-too-real practical applications.

On the other hand, Barthes (who invokes both poles when he writes “The important thing is that the photograph possesses an evidential force, that its testimony bears not on the object but on time” [88-89]) is not the only thinker who applies the concept of testimony to photography.

Describing the more phenomenological aspect of Bazin's theory, Phil Rosen paraphrases: "Since an indexical sign is such by some existential connection between a specific referent and the signifier, the latter will always provide the subject with irrefutable testimony as to the real *existence* of the referent" (49). And Allan Sekula pins the phrase "mute testimony" (6) on Henry Fox Talbot's 1844 photographic volume The Pencil of Nature. In some powerful and definitive sense, we insist that mechanically produced images are testimonies as well as evidence. This insistence, I will argue, (not to mention a knot of related oppositions like art/science, human/machine, subjective/objective, and singularity/technics in Derrida's terms) turns on our investment in the figure of the eyewitness, and in the camera's ability to occupy this role.

Technologies of the image were initially integrated into jurisprudence almost as soon as they were invented in the 19th century. So next, I turn to historical analyses of evidence and testimony (and other compromised binaries) as they intersected with photography in its early days. Then, I go on to explore contemporary legal standards for testimony and evidence (particularly photographic documents) as laid out in the *Federal Rules of Evidence*. Finally, I look at the ground-breaking documentary *The Thin Blue Line*, which deliberately compounds the points of indistinguishability between testimony and evidence in order to call the authority of both into question. In each of these cases, as in Derrida's overview of the landscape, the aporetic tension between the terms marks a fruitful focal point of the operations of power and truth in our society.

By way of introduction to the chapter “A Means of Surveillance: The Photograph as Evidence in Law” in his book The Burden of Representation, John Tagg claims that “The notion of evidence... has itself a history,” and that “the procedures of evidence” are part of “the ways in which photography has been historically implicated in the technology of power-knowledge” (65). His Foucauldian analysis functions as a critique of mystical paeans to indexicality like Barthes’: Tagg argues that photography’s unique “reality effect” is due to “not the power of the camera but the power of the apparatuses of the local state which deploy it and guarantee the authority of the images it constructs to stand as evidence or register a truth” (64). This influence flows in the other direction as well: the legitimacy of photographs as police records from the 1840’s to the present day “is clearly underpinned by a whole set of assumptions about the reality of the photograph and the real ‘in’ the photograph” (76) which are inseparable from photography’s operation as a fine and popular art. So, if in the 19th century “The value of the camera was extolled because the optical and chemical processes of photography were taken to designate a scientifically exploited but ‘natural’ mechanism producing ‘natural’ images whose truth was guaranteed... ‘a perfect and faithful record’” (78), we should view this enthusiastic faith in “the photograph as a direct transcription of the real” (98) as historically constituted across the multivalent mechanisms of power.

In “The Body and the Archive,” Allan Sekula agrees, and points out that this sort of dogmatic excitement about the salutary powers offered by the camera masks persistent ambivalences: “If we examine the manner in which photography was made useful by the late-nineteenth-century police, we find plentiful evidence of a crisis of faith in optical empiricism. In short, we need to describe the emergence of a truth-apparatus that cannot be adequately reduced to the optical model provided by the camera” (16). A network of bifurcations that map this

permanent crisis emerges in Tagg and Sekula's accounts, adding more layers to the uneasy schism between testimony and evidence. First of all, there is the art/archive feedback loop alluded to above: according to Tagg, in the second half of the nineteenth century "an ideological contradiction was negotiated so that photographic practice could be divided between the domain of art... and the scientifico-technical domain" (67). We can read this as another reference to the attempted separation between subjective and objective modes of representation, with the scientific photograph in the transparent, evidential, objective position, and the artistic photograph in the discursive, testimonial, subjective position. Because this split is a "contradiction," it is clear that it was never in fact possible to fully differentiate the subjective "reality effect" of aesthetic realism from the objective authority of documentary photography. In Sekula's version, photography is "a double system: a system of representation capable of functioning both *honorifically* and *repressively*" (6). His example is 19th century portraiture, which both facilitated "the ceremonial presentation of the bourgeois *self*" (6) as an artistic practice and was a tool "to establish and delimit the terrain of the *other*" (7) within new scientific and disciplinary methods.

For Tagg, realism in and of itself is a "social practice of representation" defined (internally, this time) by a similar binary "oscillation: from description to rhetoric; from observation to expression" (99) — from evidence to testimony. Moreover, a 19th century manual of criminal photography exhibits a comparable infiltration by its foil, fine art photography. On one hand, quality "legal photographs" exhibit "characteristics of objectivity and accuracy" and "show the matter depicted in a neutral, straightforward way." But on the other, "the elements of imagination and artistry" are just as vital to ensuring that such photos "appear" appropriately neutral so they will be "trusted" by the court. And "objectivity and purposefulness" are in fact

an “aura” that is achieved by adherence to a number of formal principles (97-98). Thus, the powerful rhetorical effect of realist photographic art depended on the authorization of the medium by scientific and disciplinary practices, and the legitimacy of photographic evidence relied on a stylistic and formal awareness for the production of a subjective “reality effect.” Both Tagg and Sekula claim that this interdependence operates through intertextuality: in Sekula’s interpretation of the burgeoning photographic culture in the early 20th century, “The shadowy presence of the archive authenticated the truth claims made for individual photographs” (57). And Tagg writes that realism “works by the controlled and limited recall of a reservoir of similar ‘texts’, by a constant repetition, a constant cross-echoing... It is this mutuality which summons up the power of the real... What lies ‘behind’ the paper or ‘behind’ the image is not reality — the referent — but reference: a subtle web of discourse” (99-100).

Tagg’s emphasis on “discourse” plays up its suppression in celebrations of the objective quality of photography. He points out that one of the early praises of photography was that “It was free, too, from the imprecisions of verbal language,” and quotes a gentleman-scientist who photographed asylum inmates as writing (in 1856) “The Photographer needs in many cases no aid from any language of his own... the picture speaks for itself with the most marked precision” (78). Sekula formulates this tension more sweepingly as “The battle between the presumed denotative univocality of the legal image and the multiplicity and presumed duplicity of the criminal voice” (6): the project of disciplinary photography overall was to provide a more stable juridical alternative to language. This is the contrary of Derrida’s remarks on the preference for testimony over evidence: in this case, it is the living witness who is mistrusted. Or rather, it is the eye that is trusted over the voice, and the camera provides the means to arrest the powers of the eye so that they never have to be translated into eyewitness testimony. In 19th century police

photography manuals, we read that “Photographs should, where possible, be taken from eye level,” and that “the photographer must have the imagination and creative ability to reproduce scenes on films so that they will convey to the viewer the same information and impressions he would have received had he directly observed the scene” (Tagg, 96-97). In these instances, the human eye is considered exemplary, and the camera’s job is merely to fix an image that is as close to human vision as possible. There is a pronounced eagerness for the camera’s eye to stand in for the eyewitness in order to maintain the juridical importance of this role while eliminating discourse (not to mention memory) from the process. Virilio’s historical interpretation takes this substitution even further. He argues that the technological perspective of police investigation from the turn of the century

makes the scene of the crime almost invisible for the average person who is distracted trying to take note of a welter of details. Metric photographs of the spot, by contrast, record all its particularities regardless, right down to the most insignificant, or which would seem to be so at the time to the eye-witness, whereas, in retrospect, in the course of the investigation, they may turn out to be vital. The police viewpoint shows just how worthless the story of the person *who was there* is. In spite of the usefulness of witnesses and the elaborate reports of inspectors, the *human eye no longer gives signs of recognition*, it no longer organizes the search for truth (43)

Here, the camera supplants, not just stands in for, the human observer. It replaces the presence of the witness, who is unreliable in both vision and recall, with its omnivoyant, ruthlessly impartial, and timeless surveillance. But it is precisely this attempt to banish all that is unstable in human perception in favor of a purely mechanical principle for organizing truth that contaminates the photograph in turn: when the camera occupies the position of the eyewitness, its reproductions take on the trappings of testimony. Enthusiasm for technologies of the image as legal tools, from the beginning, desired them to be both objective and anthropomorphic, to see and speak just like us and so much more clearly than us, to simultaneously perform the functions

of testimony and evidence — so it's understandable that a profound confusion about this distinction remains.

In contemporary United States jurisprudence, by contrast, the terms testimony and evidence have clearly defined meanings. According to Black's Law Dictionary, "evidence" is "Something (including testimony, documents and tangible objects) that tends to prove or disprove the existence of an alleged fact." In contrast to Derrida's insistence on their heterogeneity, testimony, in this rubric, is a particular type of evidence: "Evidence that a competent witness under oath or affirmation gives at trial or in an affidavit or deposition" (according to the same dictionary). The definitive statement on legal evidence (testimony included) is the *Federal Rules of Evidence* (FRE), a relatively succinct document instated by congress in 1975 to streamline existing common law standards (since then, most states have adopted similar sets of regulations). A look at how testimony and evidence (particularly photos and video) officially function within the legal system can help to illuminate their conflicted intersections with technologies of the image.

In law, there are two fundamental principles that apply to all evidence brought before the court. First, according to Rules 401 and 402 of the FRE, evidence must be "relevant" in order to be admissible. Relevant evidence is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable." Put more plainly, evidence is only admissible if it is persuasive, partisan, if (as in the dictionary definition above) it helps to "prove or disprove" a fact in question. Here, already, some of the slipperiness remarked by Derrida (even by the OED definition of evidence) reasserts itself. Though, in focusing on the nature of testimony, Derrida doesn't characterize evidence in its own

terms, we can extrapolate from the opposition he constructs that evidence is objective, distanced from individual perception, mechanically authenticated or tangible, factual. This is the colloquial understanding of evidence that allows it to function to stabilize our faith in legal arbitration and justice. But in a court of law, evidence isn't the facts, it's that which persuades us of their veracity, supporting the claims of either the plaintiff or defendant — it *must* be subjectively invested by one side or the other in order to be “relevant.”

As if to assuage this uneasiness, the second principle is that all admissible evidence must pass the “requirement of authentication or identification”: additional evidence must be presented “sufficient to support a finding that the matter in question is what its proponent claims” (Rule 901-a). This most basic epistemological obligation to show that something is what a (subjectively invested) party says it is returns some measure of factual stability to the concept of evidence. This requirement is most commonly satisfied by the testimony of a “witness with knowledge” (Rule 901-b-1), however. While witnesses can, in effect, authenticate their own testimony, photographic evidence is usually authenticated based not on any official intrinsic faith in the technology, but on the testimony of the person who operated it or of another eyewitness. This is the statutory explanation for why, as Derrida remarked, the Rodney King cameraman was called into court to identify his video. As the allegedly objective regime of evidence turns again toward the deeply subjective processes of testimony, we recognize the privilege afforded to testimony over other forms of evidence in jurisprudence (as Derrida emphasizes). It is important to understand, however, that the *Federal Rules* actually streamline and relax earlier procedures for authenticating photographic evidence, which required multiple steps that could include verifying “the scientific theory of the operation of the recording device, the qualifications of the operator, the condition of the equipment, the unchanged condition of the recording, and a chain

of custody from the recording device to the courtroom.” These more stringent standards are still in effect for recordings of “ what no human witness has seen or heard, or what no human can see,” although courts have discretion as to how strictly it is necessary to apply them (Evidence 225). It may be perplexing that official legal practice affords such sweeping authority to testimony and manifests only a conditional confidence in mechanically produced images, after Tagg, Sekula, and Virilio’s insistence on the significance of the objective camera to the historical development of law enforcement. Certainly, photos and video have a much more central role in criminal law than it might appear from the text of the *Federal Rules*. But what both accounts share is the marked interdependence of testimony and evidence, the foundational impossibility of stabilizing or even defining one regime without recourse to the other.

As for witnesses, there are, again, two fundamental principles that apply under the Federal Rules. One is, of course, the “Oath or Affirmation” (Rule 603) that Derrida identifies as a defining element: “Before testifying, every witness shall be required to declare that the witness will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness’ conscience and impress the witness’ mind with the duty to do so.” Testimony is authenticated, in effect, by an interiorized injunction aimed at the elusive workings of individual “conscience” and “duty” — invoking what Derrida might identify as the “spectral oath” that marks our “heteronomy,” our unilateral “responsibility” to structures anterior and anterior to ourselves that is a “condition of freedom” and “justice” (122-24). Of course, not mentioned in the FRE, but doubtless making an important contribution to ensuring compliance with the oath, is the far from spectral threat of criminal punishments for perjury.

It is not enough, however, for the witness to take an oath to speak “truthfully”; according to Rule 602, “A witness may not testify to a matter unless evidence is introduced sufficient to

support a finding that the witness has personal knowledge of the matter.” An entire section of the FRE is dedicated to defining the special cases in which “hearsay” is admissible testimony, but other than these exceptional circumstances, “personal knowledge” is only that gained “as a result of their own sensory perception” (as a law textbook on evidence puts it). The author goes on to elaborate: “The most common kind of personal knowledge is visual perception, making the witness an eyewitness or percipient witness who was present at an event or occurrence” (204). As was already demonstrated by the practice of authenticating the contents of images by the testimony of someone who was present at the event, knowing is closely aligned with seeing (with one’s own eyes). The textbook then makes a rather remarkable comment:

Recordings of events that occur outside the courtroom are a cross between real evidence² and eyewitness testimony. They are a record of real events, imprinted not in human memory but on tape or film or some other medium by mechanical, electronic, or other processes. The recording reveals what the equipment ‘saw’ or ‘heard,’ perhaps with less risk of human fallibility than an eyewitness. (224)

This captures perfectly the ambivalent role of the camera as a point where testimony and evidence “cross” due to its affiliation with the eyewitness. The camera’s unique authority functions by this dual association: it is both fully analogous to (the eye/lens sees, memory/film records) and more reliable than a human witness. It is through the already established priority of the “percipient witness” that technologies of the image come to occupy this conflicted and considerable role in jurisprudence. Throughout the superficially crisp delineations mapped by the *Federal Rules of Evidence*, testimony and evidence in fact rely heavily on each other for their legitimacy. The mandate of the courts depends on their capability to be mutually reinforcing, but we can envision how easily this precarious edifice could collapse.

² “Real evidence” is used as a specific legal term that “refers to tangible items that played some role in the litigated event” (212).

This is exactly what Errol Morris envisions in *The Thin Blue Line*. If, in Tagg and Sekula's 19th century, contradictory artistic and evidential visual forms come together in the portrait, we might say today that they meet in films like this one. It's part of the first crop of what Paul Arthur calls "new documentary": modestly popular non-fictional feature films focusing on "tabloid stories" and characterized formally by an "unprecedented degree of hybridization" and "pastiche" (127), and it tells the tale of the investigation, trial, and (wrongful) death penalty conviction of Randall Dale Adams for the murder of a Dallas police officer in 1976. It was a case in which, as Adams's lawyer puts it, "They don't have any substantial evidence" — even one of the detectives concurs that "we had to rely on witnesses." By dramatizing the case on film, however, director Errol Morris activates the evidential fantasies associated with the medium, crossing them with the testimonial regime in a matrix of meanings that is just as convoluted but far more deliberate than the other instances I've explored thus far. Rather than attempting to mutually legitimate testimony and evidence by investing each with the other's authority, *The Thin Blue Line* uses their unavoidable intersection to expose the precariousness of both kinds of truth claims.

The primary material of the documentary is an extensive body of filmed interviews with Adams and David Harris (the other key player in the drama who is either the chief witness against Adams or the murderer, depending on who you believe), other witnesses, investigators, lawyers, the judge, and others. This structure returns us to one of Derrida's questions: "when his testimony is recorded and we have the recording of this testimony, is this recording the equivalent of testimony or not?" (95). These personal statements are the meat of this acclaimed film — clearly they are credible and compelling. But what principle grants them this influence? Though they are not sealed by an official testimonial oath, for Derrida, iterability is a hallmark of

the authority of this vow: “whoever testifies and takes an oath pledges, not only to tell the truth, 'me, now, here, before you,' but to repeat and confirm this truth right away, tomorrow, and ad infinitum” (94). The mechanical reproducibility of film (the very quality that recommends it as evidence) can, in effect, stand in for the iterability that seals testimony: the unfailing repeatability of the medium, the certainty that it will be repeated, imparts solemnity to these communications. As Derrida points out, simply filming such testimonies already complicates not only their status as such, but the entire “conceptual apparatus which, in principle, must dissociate testimony from evidence” (95).

Of course, there is also a “shadowy archive” (in Sekula’s words) of cinematic practices that have taught us how to trust such testimonies. Both Tagg and Sekula discuss this kind of intertextual authorization between, in their examples, portraits and police photographs. Sekula offers an explanation in the form of social theory: “To the extent that bourgeois order depends upon the systematic defense of social relations based on private property, to the extent that the legal basis of the self lies in the model of property rights... every proper portrait has its lurking, objectifying inverse in the files of the police” (7). Testimonial portraits and photographic evidence are intimate, here, within the ideological underpinnings of an economic order. Tagg’s more descriptive examination of Diamond’s 1850’s photographs of mental patients notes that

As in early police photographs, the props and devices were those of a simple studio, the backgrounds plain, the poses frontal or near frontal, and attention was directed towards the face and hands of the sitter... In their pictorial realization, they drew not only on the conventions of contemporary portraiture, but also on the already developed codes of medical and psychiatric illustration (80)

In *The Thin Blue Line*, the style of the interviews exhibits a similar formal awareness. That is, Morris does not attempt to lay claim to a “verité” validity marked by shaky and gritty visuals and artless composition. The shots are carefully framed and lit medium close ups, with uncluttered,

stylized backdrops (closer in appearance to Diamond's scientific project). The backgrounds, in fact, seem to weave a subtle layer of symbolic meaning rather than anchoring the person's presence in a real context: Adams and Harris are shown in front of abstract walls (a dim but faintly shiny metal grille and a sort of luminescent Japanese screen, respectively) that give the audience no clues as to their surroundings (thus preserving the film's suspense). All the characters associated with law enforcement are backed by vaguely clerical scenes that always lack clutter and personal details: one is simply a giant map, another two huge filing cabinets, others an empty desk, a window shaded by venetian blinds, a bare wall and door (the judge's blinds are open to reveal a view of the Dallas skyline at dusk, perhaps a reflection on his role as a public servant). Additional witnesses are accompanied by backgrounds that seem domestic, but are similarly abstract: a grey curtain that fills the screen, a white wall and slatted closet door. Harris's friends from his hometown are interviewed outdoors. The patently cinematic quality of these interviews finds its counterpoint in the numerous stills of grainy and candid newspaper photos that are interspersed throughout the testimonies, culminating in the inclusion, at different points, of Adams's actual mug shots (as well a lineup of several others with similar features) — the paradigmatic disciplinary portrait. Certainly, the effect is one of contrast (between testimony and evidence, we might say). But, as in Tagg's historical analysis, the reliance on more artistic codes doesn't necessarily mean that evidentiary truth claims have been relinquished.

As if to emphasize this, the film's stunning concluding scene completely overturns this language: the only visual element is increasingly extreme close ups of a running tape recorder, as David Harris's final interview plays as voice over. Supposedly, this striking formal choice was the result of a broken camera (Hicks), but the effect is to foreground the most mechanical features of the technological apparatus (the speaker, the microphone, the counter, the spinning

wheels) even as we listen to the most intense testimonial moment — Harris’s effective confession (“Do you think he’s innocent?” / “I’m sure he is... because I’m the one that knows”). Thus, as the success of the film’s presumptive project to discover the truth is most pronounced, the testimonial contribution to this achievement is relegated from the glossy presentation of earlier interviews to crackly audio, subordinate to the strong images of the technical device (analogous to the camera) that has apparently triumphed.

The most unconventional and remarkable aspect of *The Thin Blue Line*, though, is the extensive use of dramatic reenactments, the most important and numerous of which are of the murder itself. These, too, are sleekly cinematic in style, full of aerial, low angle, and other fanciful shots, evocative lighting and reflection effects, and virtuoso editing. At one point, a photo of the real crime scene appears (officers and an unexceptional dark pool of blood in a harsh floodlight glare), confirming the disparity. But the fast-paced cuts and unusual shots have another effect as well: in fragmenting the scene into tantalizing repeated clues that never cohere into a linear narrative continuity, the reenactments start to seem like a sequence of discrete, inert articles of evidence (recalling Virilio’s comment on the ability of photography to record every detail) — the policeman’s feet as he approaches the car, the murderer’s indistinct reflection as he reaches up to adjust the rearview mirror, the car’s license plate and tail light, a hand firing a gun. This impression is reinforced by instances where the reenactment is intercut with stills of police diagrams: the first time we hear the gunshots (a startling effect), each one is punctuated by a close up of a bullet hole in the coroner’s line drawing of the body, and the surreal shots of the dead officer’s partner throwing her milkshake into the air in alarm are followed by a crime scene diagram, complete with a squiggly line comically labeled “chocolate liquid.” All the nuggets of

evidence are carefully catalogued and cited (and here, reenacted), but the big picture remains indiscernible.

But if the reenactments are associated with evidence in their visual qualities as images and by the structure of the editing, they are even more strongly implicated in testimony. By repeating the scene over and over again with subtle differences, Morris turns the ostensibly infallible iterability of mechanical reproductions (like film) on its head, using the medium to illustrate the unreliability of the witnesses' statements. The murdered cop's partner (who was present at the shooting), for example, remembered only that the culprit's car was a Vega with HC in the license plate. Investigators later discovered it was a Comet and there was no HC. The film emphasizes this flagrant error with a sequence of alternating shots of the rear ends of the imaginary Vega and the Comet (which do look similar): the logo, the differently shaped tail lights, and the license plates in extreme close up, the whole back, and each one speeding away from the scene. These photographic fragments embody the inaccuracy of the witness's memory.

Adams reacts with indignation to the fact that the partner initially claimed that the driver was wearing a coat with a fur collar, but testified at his trial that she saw "bushy hair" (like his): "her in-court testimony and her original statement, which... should be the best eyewitness testimony she's got; it doesn't match, it doesn't match at all" — again invoking the centrality of the eyewitness. Pivotal in Adams's conviction were three surprise witnesses who claimed, months later, to have caught a glimpse of him as they drove by the parked car just before the shooting. Emily Miller, who styles herself as an amateur detective ("I'm always looking... I'm always trying to decide who's lying or who killed who, before the police do, to see if I can beat 'em"), maintained, in spite of skepticism that "nobody has that good of eyesight," that the car's window was down and "This is how I got such a good look" — this statement is highlighted by

an extreme close up of her eyes. There are ugly allegations, though, that Emily and her husband's testimony was motivated by reward money and legal favors: a busybody claimed that "he said he didn't see a damn thing, he couldn't see nothing it was too dark... for enough money he would testify to what they wanted him to say... he would see anything they wanted him to see. Those were his words." The human eye is under scrutiny, here, and it is found to be treacherous, and not just because of its technical failings as a visual apparatus: the eyewitness is eminently corruptible by institutional pressures, personal investments, and cold hard cash. The petty circus of the supporting characters is, of course, a minor disturbance compared to the transgression of the prosecution's star eyewitness, David Harris, who apparently fabricated the entire case against Adams to save his own skin. Thus, the privilege that legal practice affords the figure of the eyewitness in its claim to adjudicate truth is radically interrogated in this film. And because the unreliability of the percipient witnesses is dramatized in cinematic sequences that play on the conventions of evidence, there is no alternative regime to fall back on when the eyewitness is exposed as a bungler (at best) and a fraud (at worst). In the formal register as well as in the narrative register, testimony and evidence are fully implicated in each other's failures to guarantee the certainty of justice.

One of Adams's lawyers makes a statement that could be the slogan of *The Thin Blue Line*: "I looked at all the evidence, and I found I believed that David Harris committed murder. The jury looked at the same evidence, and found they believed that Randall Adams committed murder. And it was their verdict that counted." As in Tagg and Sekula's historical readings, testimony and evidence are revealed in this film to have authority to legitimate truths only within complex networks of institutional procedures and social relations. It is a testament to Morris's powerful intervention in these contexts, through his unconventional, oppositional approach to the

concepts of testimony and evidence, that the film was in fact instrumental in eventually proving Adams's innocence and securing his freedom. One reference notes that *The Thin Blue Line* "was entered into evidence in the federal appeal but, since it was marketed as a 'nonfiction' film rather than a documentary, it was not entered into evidence in the case itself. For the same reason, the film was disqualified from the Academy Award for Best Documentary" (Wikipedia). Morris testified at the hearings as well (Singer). So the film, a unique document that is not quite testimony or evidence, nonetheless takes up its own place in the cultural practices of their continual renegotiation in a world of ever-developing technologies of the image.

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