Ethos or credibility of a speaker is often defined as the speaker's character (Aristotle). Contemporary scholars however, have contended that ethos lies with the audience because while the speaker may efficiently persuade, the audience will decide if it wants to be persuaded (Farrell). Missing from the scholarly conversation is attention to how ethos is performed between speaker and audience under institutional structures that produce inequitable power relations subject to changing political contexts over time. In this dissertation I analyze how ethos is performed that is a function of a specific social and political environment.

My grandfather, Al Foon Lai, was a paper son. As an adult, I learned that paper sons were members of paper families that may or may not actually exist except on paper; furthermore paper immigration was the way many Chinese entered the United States to get around the Chinese Exclusion Act (1882-1943). Grandfather held legal status, but grandfather's name was fictitious and thus his entry to the United States in 1920 was illegal. Today by some authorities he would be classified as an illegal immigrant. As Grandfather's status as a paper son suggest, Grandfather's credibility as someone with the legal prerogative to reside in the U.S. was a dynamic construct that was negotiated in light of the changing cultural norms encoded in shifting immigration policies. Grandfather constructed his ethos "to do persuasion" in administrative hearings mandated under the Chinese Exclusion Act that produced asymmetrical power relations. By asymmetrical power relations I mean the unequal status between the administrator overseeing the hearing and Lai the immigrant. The unequal status was manifest in the techniques and procedures employed by the administrative body empowered to
implement the Chinese Exclusion Act and subsequent laws that affected Chinese immigrants. Combining tools from narrative analysis and feminists rhetorical methods I analyze excerpts from Al Foon Lai's transcripts from three administrative hearings between 1926 and 1965. It finds that Grandfather employed narrative strategies that show the nature of negotiating ethos in asymmetrical power situations and the link between the performance of ethos and the political and social context.
DEDICATION

In Memoriam, My Grandfather, Al Foon Lai
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I thank my uncles George Lai and Jack Lai, auntie Elaine Lai, my late mother, Millie Lai Ching and dad, Clarence Ching, for their love and memories.

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CHAPTER 1
INTRODUCTION

The impetus for this dissertation is my grandfather’s immigration file. Following the narrative below, this chapter is organized into six parts. Part I addresses the primary question that drives this study. Parts II and III discuss the legal and political context from which Grandfather’s file was derived. Part IV explains the focus and parameters of my study. Part V displays and explains the parts of Grandfather’s immigration file that are included in this study. Part VI provides an overview of the chapters in this dissertation.

The narrative below was pieced together from legal documents, hearing transcripts in my grandfather’s immigration file,1 academic papers and historical news artifacts about Chinese immigration into the United States. The story is meant to highlight some of the issues facing my grandfather as a Chinese immigrant under the Chinese Exclusion Act (1882-1943) and subsequent laws that affected Chinese immigrants in the U.S.

“The less you know the better off you’ll be” was a common refrain in my family. I was told that Grandfather’s name was Al Foon Lai, but later I learned that Al Foon Lai was not his birth name. Grandfather entered the United States in 1920 under the paper name Sik Foon Lai. Grandfather was a paper son. As an adult, I learned that paper sons were members of paper families that may or may not actually exist except on paper. Sometimes called paper immigration, this was the process by which Grandfather joined many Chinese who entered the United States in the early twentieth century despite the Chinese Exclusion Act (1882-1943).

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1 See Appendix B for Transcripts of 1926, 1960 and 1965 hearings. Transcripts are ordered chronologically.
In 1926, Grandfather wanted to travel to China to marry and then return to the United States with his wife. However, leaving and later returning to the U.S. was not an easy process. To be able to return to the U.S. he had to apply for a re-entry permit before leaving the U.S. The application procedure required an administrative hearing in which he needed to prove legal status in the U.S. This hearing required not only testimony from him but also testimony from white American witnesses and material evidence of his current legal status. Grandfather was approved for a re-entry permit and he did go to China to marry Lai Soon She. He brought her to the United States in 1927 and together they had 5 children.² Lai Soon She died in 1940, and grandfather remarried, now to Mary Yow. Mary Yow was born in Locke, California and thus, she was a U.S. citizen by birth. In 1956, at the height of the Cold War, Grandfather became a naturalized U.S. citizen – as documents that were made available to me as an adult show. He was able to naturalize as a result of his marriage to Mary Yow. It was then that Grandfather took the name Al Foon Lai as his legal name.

In 1960, Grandfather was called to appear before the Immigration and Naturalization Service for questioning under the Chinese Confession Program.³ An informer had exposed Grandfather as a paper son. Hence, the Bureau of Immigration summoned him for questioning based on the informer’s information.⁴ Grandfather

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² My mother was child number 3.

³The Chinese Confession program was legislated by Congress in 1956 and administered by the Immigration Service to end paper immigration. Chinese who immigrated through paper immigration were encouraged to confess. Since this was during the Cold War, there was no guarantee that an immigrant who confessed would not be deported if determine to be a threat to national security.
had legal papers; the issue was that his immigration papers were fictitious\(^5\) and the U.S. government feared infiltration of Chinese Communist spies under such fictions. This 1960 hearing ended up being a confession when grandfather admitted that his birth name was Chan Tung Leong;\(^6\) however, to prove he had no ties to Communism Grandfather told officials that he was adopted by the Lai family and that his (paper) father was his adopted father. Grandfather was not prosecuted or deported after authorities decided his responses demonstrated he would not be a threat to national security. In 1965, Grandfather appeared again before the Immigration and Naturalization Service (INS) for another confession under the Chinese Confession Program and confessed in this hearing to being a paper son in order to prove that he had blood sisters who were in Hong Kong.

Grandfather had eight blood sisters. Five lived in the United States, but three lived in Hong Kong. Following the Chinese Communist Revolution in 1949 an estimated one million Chinese refugees lived in Hong Kong by 1960– having escaped Communist China (Chi-Kwan 1172). The U.S. allowed for Chinese refugees to immigrate if they had relatives in the U.S. who were U.S. citizens. According to this rule, Grandfather now a U.S. citizen, could sponsor his sisters. However, in his 1960 confession, he had not mentioned that he had sisters. So in order to prove his blood relation to sponsor his sisters in Hong Kong, in 1965 Grandfather voluntarily

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\(^4\)Oversight of immigration changed from the Department of Labor to the Department of Justice. Immigration was no longer a labor and employment issue but a national security issue.

\(^5\)Through the Chinese Exclusion era (1882-1943), 300,955 Chinese had successfully entered the U.S. through paper immigration (Lee 1). Significant were the ineffectiveness of such a restrictive law and the effectiveness of immigrants’ ingenuity to enter the United States in a legal manner to avoid deportation.

\(^6\) See Appendix B for documented admission of birth name.
gave a confession to the Immigration and Naturalization Service; he claimed that his 1960 confession was inaccurate. Soon his sisters joined him in California.

As far as I know, grandfather never openly discussed his past life in China. In retrospect, I have come to understand the “less you know” mantra. It reflected the fear of immediate deportation and to protect the identities of not only the paper sons in our own family, but also the web of paper families who had been created through paper immigration during Chinese Exclusion and continued thereafter.

I. The Primary Question

Grandfather was a paper son, as a paper son he held legal status, but Grandfather’s name was fictitious and thus his entry was illegal. As such, in the 21st century by some authorities he would be classified as an illegal immigrant. As the above narrative begins to suggest, my grandfather’s credibility as someone with the legal prerogative to reside in the U.S. was a dynamic construct—negotiated in light of the changing cultural norms encoded in shifting immigration policies. My interest is in how he managed to enter the nation under a fictive name and then to perform personae deemed credible enough to stay here. This study examines how the administrative hearings afforded him opportunities to negotiate the social and institutional norms that informed the questions and judgments of government administrators charged with interviewing Chinese immigrants.

In this dissertation, I focus on ethos – particularly how Grandfather Lai constructed his ethos “to do persuasion” with the asymmetrical power relations of the administrative hearings created under the Chinese Exclusion Act (1882-1943). By

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7 Lai’s 1965 confession was necessary to prove he had sisters. The 1960 confession did not admit to his paper son status as he claimed his (paper) father was his adopted father and he had no sisters.
asymmetrical power relations I mean the unequal status between the administrator overseeing the hearing and the immigrant—in this case, Lai. The unequal status was manifest in the techniques and procedures employed by the administrative body empowered to implement the Chinese Exclusion Act and subsequent laws that affected Chinese immigrants.

In trying to understand how Grandfather Lai performed a credible persona even though actually a paper son, I found that in the three times over forty years that he went before the administrative body for a hearing, each situation was different. In each hearing, Grandfather Lai had the burden to prove that he had the legal right to remain in the United States, but due to changes in legal policy towards Chinese immigrants, Grandfather performed a credible persona in myriad ways that reflected the political concerns and social attitudes towards Chinese immigrants in the United States circulating at the moment. This insight led me to pursue a question largely missing from the scholarly conversation on ethos: how is ethos performed moment-by-moment in dialogue under an institutional structure that produces inequitable power relations and is subject to changing political contexts?"

*Ethos or credibility* is a crucial aspect in an administrative hearing, particularly for an immigrant who is using a fictive name, because *ethos* figures prominently in a bureaucratic official’s decision of whether an immigrant is allowed to stay or be deported. As has often been the case with U.S. immigration laws across time, the Chinese Exclusion Act was designed to attract certain immigrants and exclude others. Skilled workers are sought while unskilled is not—although the meaning of skilled has been malleable. At first thought, immigration laws that are explicit as to who can immigrate
seem reasonable; however, there are implicit ramifications. By explicitly stating who can enter, it is left implicit as to who cannot. Restriction on immigration is invariably connected to illegal immigration. Since immigration is ruled by law, immigrants are subjected to bureaucratic officials who have the power to decide who stays and who is deported. Credibility or ethos of the immigrant—in that the immigrant seems to be who he says he is and has the requisite skills—informs an official’s decision as to whether an immigrant is admitted or not to the U.S.

The concept of ethos is a major component in the study of persuasion. Aristotle defined ethos in terms of the character of the speaker. But contemporary scholars clarify that ethos is better understood as a complex dynamic constructed in relation to the audience or community in which a rhetor performs. The emphasis on audience rather than the speaker follows Farrell who in his book *Norms of Rhetorical Culture* contends that the rhetorical tradition is just as valid in contemporary times as it was in classical Greece. Farrell observed that the Western rhetorical tradition’s most important social practice was the construction of credibility in public discourse (228). By shifting our analytical gaze from Aristotle’s rhetorical forum to more contemporary times Farrell inspires us to move beyond defining the concept of ethos in terms of the character of the speaker; he urges us to view the construction of ethos as contingent on the norms of civic discourse by which actors are deemed credible or not. As a field we have come to this principle through an understanding of the social construction of discourse by which

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8 Ethos and credibility are used synonymously and interchangeably, so for purposes of this dissertation when I use the term credibility I also mean ethos.
society not from the individual (cf. Corder 348). Thus, the performance of a credible persona is a negotiated performance that is constituted by cultural norms. The dynamism of ethos has an elusive quality prone to some subjectivity. This dynamism is relevant in administrative hearings that concern immigrants when immigrant veracity is presumed suspect.

What Farrell overlooks, however, are not only the institutional and socially constructed boundaries that demarcate contemporary rhetorical forums (e.g. administrative hearing that involves an immigrant), but also the lived realities that follow from competing social and cultural norms that are performed, negotiated and constituted within institutional borders. Pertinent to this dissertation is that neither the Aristotelian frame of ethos focused on the speaker’s character nor Farrell’s view of ethos focused on the audience accounts for ethos in dialogue, exchanged between the speaker and audience moment-by-moment and across political contexts. Aristotle’s formation of rhetoric serves the need of the speaker to persuade not the need of the audience to reach critical judgment (Kinneavy and Warshaur 184). Farrell’s view focuses on the rhetorical agency of the audience listening to a lone speaker. Neither view sufficiently accounts for an immigrant such as Lai who had questionable legal status, whose credibility was under interrogation and tested not only in one administrative proceeding but in subsequent administrative proceedings as social attitudes changed towards immigrants. However,

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9The term ethos began with Aristotle in the 4th century B.C. and directly translates to “character” in Greek. In summarizing Aristotle, ethos is an individual’s qualities in intelligence, character and goodwill (Aristotle 111).

10Farrell says that rhetoric is concerned with making a judgment (people judge what is said in deliberation) (112), a statement is persuasive or credible because there was someone to persuade (audience). The speaker may be efficient in persuasion, but the audience will decide if it wants to be persuaded. The audience thus decides the fate of the discourse (69).
Farrell’s insights are suggestive. It is my aim to understand what the data constituted in Lai’s administrative hearings over time tells us as to how ethos is constituted in relation to changing cultural and political norms. Therefore, I seek to extend and complicate Farrell’s point that ethos is more than the intrinsic character traits of a speaker; credibility is a mode of proof derived from the norms of competence from a specific culture (69).

The primary question I ask of the transcripts of my Grandfather’s administrative hearings is this: How was his credible persona performed and constituted under institutional constraints that produced asymmetrical power relations—constraints that changed according to shifting norms of social and institutional culture? As this question indicates ethos has an elusive quality that can be difficult to concretely measure and can be influenced by political concerns and social norms that construct the frame from which ethos is determined. The following section describes the context of Grandfather’s file during the Chinese Exclusion Act and post-Exclusion during the Cold War. As such, it contextualizes, frames and informs the focus of this study and the major findings therein.

II. The Chinese Exclusion Act and Its Legacy

The Chinese Exclusion Act informed the Chinese American historical experience from its inception in 1882 until 1965 with the advent of immigration reform. As a restrictive immigration law, the Chinese Exclusion Act created a large population of Chinese illegal immigrants in the United States. Most of the illegal population came as paper sons or daughters of Chinese in the United States with legal status. Despite the Chinese Exclusion Act that was enacted as law in 1882, Chinese continued to immigrate. In fact, the number of Exclusion era Chinese admissions was greater than admissions
during the pre-exclusion era. This was remarkable considering the rigidity of the administrative and legal processes that made it difficult for Chinese to immigrate. Within an immigration hearing government officials held the position of power by formulating questions for the hearing. In addition, the official controlled the direction of testimony and to a large extent determined the fate of the Chinese immigrant (Lau 71).

The Chinese Exclusion Act was the first U.S. law to exclude a racial group under immigration (Lee 36). It was a restrictive immigration policy from the late nineteenth century through the twentieth century that prohibited immigration of Chinese labor to the U.S., while allowing for a few select Chinese classes of immigrants such as merchants and their families. The legislation responded to anti-Chinese sentiments that emphasized economic competition, but gradually was superseded by questions of assimilation and amalgamation (McKenzie 15). Over the course of the Chinese Exclusion Act, U.S. government officials devised an increasingly elaborate and detailed system of interrogation to uncover fraud (Ngai 6). However, rather than decreasing fraudulent entry, the processes of interrogation succeeded primarily in increasing the amount of documented evidence that the government needed to store for purposes of record keeping. At the same time, government officials mistrusted the entire register of


12Lau, Estelle, Paper Families (2006) p.71. Lau details the unbridled discretion that immigration officials held. The unbridled discretion was authorized by INS regulations.


14 See also Lau, Estelle, Paper Families. Durham, Duke University Press, 2006. Lau explains in detail the elaborate system of interrogation. Problems included that the inspectors had an inability to verify factual information and had few means in understanding Chinese cultural habits.
documentation because despite a rigid system of immigration enforcement, Chinese immigrants created an elaborate system of illegal entry that was built on paper (6). Authorities found that paper immigration was impossible to eliminate because it rested on documentation that was created by the government (7). So even though Congress repealed the Chinese Exclusion Act in 1943, paper immigration continued (3).

By the mid 1950's, the U.S. Immigration and Naturalization Service estimated that at least 25 percent of the Chinese-American population was illegal (Ngai 3). In the anti-communist atmosphere of the Cold War, the U. S. Department of State and the U.S. Department of Justice began coordinated action to eliminate paper immigration to tackle the issue of illegal immigration and began the Chinese Confession Program. According to Mae M. Ngai in her paper titled, “Legacies of Exclusion: Illegal Chinese Immigration during the Cold War Years”, the Chinese Confession Program sought confessions, and in exchange the INS pledged to assist in an administrative adjustment of legal status (21). In reality there was no clear reason for Chinese to confess nor was there safety in confessing. The program offered immunity from prosecution, but the confessor had to surrender his passport and agree to be “amenable to deportation” in addition to being required to name all members of his false family (Ng 117).15 In addition, the immigration officer could deny relief and deport any Chinese thought to be “prejudicial in the public interest” (Ngai 24)–that is a Communist threat.16 While these confessions were

15 Ng (2009) writes about how the Chinese confession program undermined loyalty among family and friends in the Chinese community. Anyone could be your informant. From her own experience she recalls the endless debates and arguments among families. Ngai (1998), however, points out that some confessions were of true sons and daughters using paper names. This reveals that paper immigration had also become a burden on Chinese Americans. Once the paper trail started, false lineage had to be perpetuated in order to bring true family members to the U.S.
considered voluntary in all cases, for many, the INS called in suspected Chinese persons on charges of committing fraud; at the “informal interviews,” the Chinese person was confronted with evidence (23). Thus, a decision was made for an adjustment of status for the immigrant or deportation.

To understand the level of fear of the Chinese Communist threat, I quote Everett Drumright the American Consul General in Hong Kong as portrayed by Ngai. Drumright had accused the Chinese of espionage infiltrating the United States:

Drumright alleged there were “124 citizenship brokerage houses” openly operating in Hong Kong. He warned that China was sneaking espionage agents into the United States by purchasing false papers and that the Communists planned to “organize the newcomers who are [in the United States] illegally and therefore subject to blackmail.” The passport rings had to be destroyed once and for all […] before Communist China is able to bend that system to the service of their purpose alone. (Ngai 11).

It is here that we get a glimpse of the fear and the official line of reasoning that justified eliminating paper immigration and rooting out Chinese Americans sympathetic to Communist China. Ngai points out that Drumright provided no evidence that China was sending spies, but the Consulate saw potential spies in Chinese Americans. Meanwhile, the anti-Communist atmosphere also inspired changes to immigration procedures to allow for refugees from Communist countries to enter the United States. In terms of Chinese immigration, the Kennedy administration agreed to take in about 15,000 Chinese refugees from Hong Kong who already had family in the United States between 1962 and

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16 The Communist threat was perceived as real during this time. Ng talks about her father not writing his mother in China for fear of being perceived as cavorting with the enemy. (117).
1966. The change was of instrumental value to Chinese Americans. American interest in Hong Kong centered upon the Chinese refugees who had escaped Communist China. The United States began helping Chinese refugees in Hong Kong immigrate to the United States in cases where they could prove they had Chinese relatives living in the U.S. This strategy to accept Chinese refugees from Hong Kong countered allegations not only that the United States did not care about the welfare of the Asian people, but also that the gesture to take in Chinese refugees who were escaping a Communist country was a symbolic repudiation of communism (Chi-Kwan 1180).

In 1965, Congress passed the Hart-Cellar Act (Immigration Reform Act 1965) that put an end to immigration quotas based on race or national origin and allowed for immigrants to sponsor their overseas families. The Hart-Cellar Act was in a large part an outgrowth of the Civil Rights Act. President Lyndon B. Johnson criticized the restrictive immigration policies (from which Chinese exclusion sprung) at the signing of the Hart-Cellar Act by stating:

This system violates the basic principle of American democracy—the principle that values and rewards each man on the basis of his merit as a man. It has been un-American in the highest sense, because it has been untrue to the faith that brought thousands to these shores even before we were a country.”

The Hart-Cellar Act was instrumental in changing how the U.S. viewed immigration, in moving from immigration restrictions based on race and national origin to immigration based on family reunification. In this way the Act opened the door for blood relatives of Chinese Americans to immigrate and paper immigration was no longer necessary.

III. The Implementation of the Chinese Exclusion Act

The Chinese Exclusion Act codified “race” and “class” as pertaining to an immigrant group. To implement Chinese Exclusion laws, immigration officials formulated an independent agency dedicated to policing and enforcement (Lau 18). The administrative processes in implementing the Exclusion laws were harsher on the Chinese with respect of judicial review than on other immigrants (19). For example, scholars have noted a connection between immigration and racial conceptions of certain immigrants being more “fit” or “unfit” as citizens (19). When the Chinese Exclusion Act was first implemented the Chinese were deemed unfit to be American. In addition, the Chinese as immigrants faced a unique set of challenges, because the law required the exclusion of some classes, and the Chinese held the burden to prove that they should not be excluded according to class-based restrictions. Specifically, only Chinese merchants, students and diplomats could be admitted to the United States at this time. It is not that immigrants from other ethnic groups didn’t also face formidable obstacles and challenges of their own; it is just that the Chinese immigrants were the only group legally excluded from immigration because of race and national origin.¹⁸ Because of the Chinese Exclusion Act, Chinese immigrants faced obstacles and challenges that no other immigrant group faced.

Upon learning about the harsh bureaucratic system and lengthy interrogations Chinese immigrants faced (Lau 77),¹⁹ I became interested in how immigrants like my

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¹⁸ Chinese exclusion affected all ethnic Chinese persons regardless of citizenship or national origin from countries other than China.
Grandfather performed a credible persona under pressure and in the asymmetrical power
relations that framed Chinese immigrant administrative hearings over time.

IV. The Study

This dissertation evolved from a thorough review of my grandfather’s legal file of
administrative hearings conducted by government bureaucratic officials and my own
inquiries and study into the history of Chinese paper immigration through relatives,
family friends and Asian American scholars.

In this dissertation, I analyze the transcripts from three complementary sets of
legal administrative hearings between 1926 and 1965 to explore how a Chinese
immigrant, Al Foon Lai, performed a credible persona or *ethos* as a mode of proof that
reflected the changing social norms and political concerns that existed under the Chinese
Exclusion Act (1882-1943) and subsequent laws affecting Chinese immigrants. By
performance of *ethos* I mean how Lai presented himself in a given hearing to influence
the government bureaucrat’s appraisal that Lai was who he said he was (Clifton and Van
De Mieroop 2450). I combine feminist rhetorical methods and narrative analysis to
explore how Lai and the administrator in the hearing invoked, reinforced and actively
negotiated institutional structures and political concerns—particularly during
interrogations that scrutinized the veracity of Lai’s claims of who he was, what he did
and who he was related to. In particular, I focus on question-and-answer turns within the
legal borders enacted where government officials, on the one hand, Lai on the other,
negotiated Lai’s credibility as an advocate for himself. The focus on *ethos* as a dynamic
construct is analyzed broadly to better understand how within asymmetrical power

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19 Ibid. p.77. Lau details cases of interrogations procedures investigative techniques.
relations across contexts, *ethos* is performed and constructed in light of cultural norms encoded in immigration policies that changed over time.

*Administrative Hearings*

Administrative hearings are bureaucratic events in which *ethos* or credibility of the participant is a subjective process based on oral interaction. Administrative processes include making regulation (e.g. Environmental Protection (EPA)), enforcement of legislation (e.g. Securities and Exchange Commission (SEC), and administration of law (e.g. Immigration and Naturalization). Administrative officials design procedures and conduct hearings that share characteristics of a courtroom trial, such as the interrogation of witnesses; however, unlike courtroom trials, government officials are not bound by the formal rules of evidence. Thus, from the perspective of the legal community, administrative hearings and administrative processes are viewed more as inquisitorial rather than adversarial (Marshall and Merrill 224). In many cases, government officials devise their own rules and strategies to determine credibility of witnesses and the veracity of material evidence (224); but since law is a highly verbal field oral interactions in administrative settings are often ascribed evidentiary status as that of the courtroom hearing. As human judgment plays a key role in making decisions, administrative

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20 Rules of evidence are codified rules that govern the presentation of evidence in a legal matter.

21 Mashaw, Jerry and Merrill, Richard A. eds. *Administrative Law, The American Public Law System*. American Casebook Series, St. Paul: West Publishing, 1985, 224-225. Print. Bureaucracies such as government administrations exist to pursue positive programs. The role is thus, to exercise power on the basis of knowledge. Hearings are a device to implement the goals of the program the administrative agency is charged with by Congress. The understanding of administrative law hearings as distinct from the courtroom trial is foundational and taught to first year law students. In the courtroom, the goal is to resolve a dispute; the administrative hearing however, is a process that is part of an overall scheme to provide the agency with power to act in the public interest. As a former practicing lawyer of administrative law, the inquisitorial nature of the administrative hearing is core knowledge in the legal community.

22 Ibid.
hearings are rhetorical in function and therefore valuable objects of inquiry within rhetorical studies.

In many ways the discourse in Lai’s administrative hearings is ideal for studying the dynamism of *ethos* because these hearings were bureaucratic events under the specific rules of the Chinese Exclusion Act. The hearings under the Chinese Exclusion Act or those that followed the Chinese Exclusion era were for the most part self–contained—by that I mean that the only persons present were the immigrant, a government official, interpreter and a recorder. While the government official might have known some facts of the immigrant, such as alleged name and alleged family relations prior to meeting in the hearing, the government official couldn’t know all the facts of the individual case; and, therefore, would not already have made up his or her mind about how to decide the case. Thus, the greatest concern for any individual immigrant who came before an administrative government official was to demonstrate a credible persona. For the government official, the concern was to determine if the immigrant is telling the truth. The independent governmental agency charged with implementing the Chinese Exclusion Act organized hearings into a series of question and answer turns. Through turn taking, the speakers’ roles were fixed.\textsuperscript{23} The government official controlled the proceeding through questions, and much effort in designing the questions went into determining if the individual before him was lying.

Lai’s administrative hearings are of further interest because Lai is a lay-person rather than a legal expert. Without legal representation, Lai employed modes of

\textsuperscript{23} Atkinson, Maxwell and Drew, Paul (1979) *Order in Court*, p.61. Details the turn-taking in court hearings. Question and answer format in court hearings are distinct from conversation in that the turn taking is pre-allocated.
persuasion and had to use linguistic judgment carefully. Because Lai’s administrative hearings were compressed, and happened within a single block of time (within a few hours), there was minimal time for Lai to learn and reflect on his answers in front of the official. As such, Lai’s three administrative legal hearings shed light on rhetorical ingenuity and are classical sites for a rhetorical study.

Administrative hearings conducted when the Chinese Exclusion Act was enforced complicate the legal process and therefore are appropriate for the study of how a credible persona is performed. In this case Lai as the immigrant had the burden of proof rather than the government. This presumption is unlike a criminal trial in which the government has the burden of proof and the accused is presumed innocent. Lai’s hearings were administrative, so unlike a court trial Lai had to persuade a government bureaucrat of his ethos. In addition, Lai was characterized by differing language and cultural beliefs. The government had its own system of rules in conducting hearings and expected there to be linear storylines, factual arguments, and impersonal administrative questioning methods. Government methods ignore the actual practice of relating to an immigrant from a differing culture; while facts can reveal truth, realities behind the facts are contingent. Therefore, while most administrative officials try to be objective, the administration of law is a human process that inherently depends on persuasion.

Accessing Power: Performing a Credible Persona

Lai’s testimony was a controlled dialogue and, as a controlled dialogue in this particular institutional setting and under these historical conditions, it raises questions about power. In administrative settings, particularly when confronted by bureaucrats, power is assumed. By virtue of the government official’s position, power is inferred
because in an administrative immigration hearing, the government official will make the
final decision on the immigrant’s case. In such asymmetrical encounters, the negotiation
and imposition of power in and through narrative rest in large part on interactional
mechanisms and strategies deriving from pre-established roles of the participants.
(DeFina and Georgakopoulou 131). Given the government official’s role, he has the
power to push the narrative in certain directions by managing the telling of a story
through the question and answer process (132). As a field, rhetoricians have come to
understand the principle of power less as a tool of oppression and more as a dynamic and
embodied set of practices (Foucault in Martire 125). For example, in Discipline and
Punish, Michele Foucault provides a reference point for studying power relations. In his
study of the penal system in eighteenth-century France, Foucault suggests that we study
the concrete system as social phenomena in which the human body is invested with
relations of power and domination (Foucault in Moore and Sanders 353-54). When
applying this principle of power to administrative hearings that span over time I trace a
set of related instances where power and ethos are intertwined and exercised through
specific activities, tactics, and mechanisms. Using the metaphor of a chess game, each
participant in an immigrant hearing, such as the government official and the immigrant,
has a number of powerful moves in which he or she can make with his or her chess
pieces; however, each move is in relation to the location of the other chess pieces in play
at a given point in time. Similarly, the legal procedures for an administrative hearing are
set. The rules are explicit. But the questions asked are designed and used to foster a
interactional dynamic that allows for participants to negotiate their moves. Participants
take turns at talk so that one party at a time occupies a turn; then the next party takes a
turn at talk until the dialogue ends. Relevant to this dissertation is that for the Chinese immigrant in a situation like Lai, how he performs a credible persona is his access to power. Reasoning through language is an important source of power because rhetorical performance is a practice, like moves in a chess game.

Narrative and Rhetorical Analyses

The outcome of an administrative hearing that concerns an immigrant cannot be explained without close narrative and rhetorical analyses. Insofar as my approach rests on the rhetorical nature of administrative hearings regarding a specific immigrant, this claim is not surprising since administrative hearings are similar to court trials and such legal contexts have been analyzed as rhetorical talk (e.g., Aristotle’s *Rhetoric*). It is also not surprising in that my analysis rests on the analysis of administrative hearings as narrative, because both legal practice and legal scholarship to point to the importance of storytelling in trials and hearings (Burns; Conley and O’Barr).

In addition to conducting a narrative analysis of the transcripts, I examine the artifacts from the lived lives of people in order to understand the historical context. Immigrants from marginalized populations are often scattered within mainstream historical sites and invisible to mainstream rhetorical culture because traditional rhetorical education did not include public address with marginalized populations (Royster and Kersch). Given the fragmentary nature of artifacts that surrounded Chinese immigrants who have been marginalized, I combine methods of narrative analysis with tools from feminist rhetorical methods called critical imagination and social circulation to examine and analyze the administrative hearings that concerned one Chinese immigrant. I have found that feminist rhetorical methods combined with close analysis of narrative are
absolutely necessary for my exploration of *ethos* within administrative hearings that concerned Lai, because feminist rhetorical scholars understand that there is no one universal audience for a lone speaker. Like other feminist scholars, I turn my attention to people whom rhetoricians previously overlooked or otherwise ignored.

Administrative hearings that concerned an immigrant are a dialogue between a government bureaucrat and an immigrant that tell a story about the immigrant. This dissertation adds to the literature on conversation as a narrative (Ochs and Capps), question-and-answer sequences as narrative (Atkinson and Drew) and legal proceedings as narrative (Burns). In addition, I join other scholars who view legal hearings from an expanded view of narrative (Gibbons); that is, one in which dialogue is interpreted as a narrative with respect to each participant’s words in the given sequence. No phrase or word can be understood without consideration of the previous phrases and subsequent words.

*The Hearings and the Research Questions*

The first hearing involved the Chinese immigrant, Al Foon Lai AKA Sik Foon Lai24 who applied for a re-entry permit in 1926. A re-entry permit was required of a Chinese immigrant who wanted to temporarily leave the United States with the intention to return at a later date. Upon application for a re-entry permit, the immigration service (INS) conducted an application hearing to verify and update the immigration record of the applicant. For Lai, a re-entry permit allowed him to temporarily leave the United

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24 Recall in introduction that Lai entered the United States in 1920 as a paper son named Sik Foon Lai. In 1926, Sik foon Lai made application for a re-entry permit. Paper sons were legal fictions-members of paper families that may or may not actually exist except on paper. Al Foon Lai was one of the many Chinese in the early twentieth century who entered the United States in this manner to get around the Chinese Exclusion Act (1882-1943).
States and when he returned he could prove that he was the same man who originally entered in 1920. The pressing question in this first hearing is:

What did it mean or what did it take to perform credibility as an immigrant seeking a permit to re-enter the United States (when a member of a paper family) in 1926?

The second administrative hearing took place in 1960 and involved the interrogation of Al Foon Lai under the “Chinese Confession Program” waged by the Departments of State and Justice to end paper immigration and isolate suspected Communists. Al Foon Lai was exposed by an informer as a paper son and made a confession in this hearing; however, he never admitted to being a paper son. The pressing question in the second hearing is:

What did it mean or what did it take to perform credibility when accused of being a paper son in 1960 under the Chinese Confession Program?

The third immigration hearing involved Al Foon Lai who voluntarily confessed to his paper identity in order to prove his blood relationship to his sisters who he wanted to sponsor as immigrants in 1965. The pressing question in this third hearing is:

What did it mean or what did it take to perform credibility as a responsible sponsor of other immigrants in 1965 after having been accused as a paper son?

All three hearing cases were administrative in function and sought to enforce the law. These hearing cases are particularly apt examples for rhetorical analysis because unlike other administrative hearings, administrative hearings under the Chinese Exclusion Act could lead to immediate and permanent deportation.

While I focus on Lai’s testimonies that were structured in question-and answer-format, I do not ignore other elements that surround the hearings since it is the context of
the entire hearing that allows for the meaning and success of the tactics used in performing a credible persona to be analyzed and assessed. Other elements include the summary of the investigation, material evidence presented and the decisions in each of the three hearings. Administrative hearings must be studied as rhetorical events (with beginnings, middle and ends) to understand the mechanisms of persuasion that unfold over the course of the hearings. What Lai’s three hearings have in common is that the interrogation is conducted under the presumption that Lai, the immigrant, was lying—as in fact, he was. In each hearing, Lai’s ethos was being challenged. And yet he was never held in contempt or deported.

Each hearing took place in a different time against a different political backdrop with regard to a specific allegation. The first hearing was during Chinese Exclusion. Lai’s ethos depended on him showing that he was a member of the merchant class according to the definition of a merchant defined by government inspectors who conducted the questioning. The second hearing was during he Cold War; Lai’s ethos depended on him proving that he was not a threat to the U.S. national security or not a Communist. The third hearing was during a major shift in American immigration law and foreign policy towards the Chinese that impacted Asian immigrants in particular. In 1965, Lai’s ethos depended on his ability to formulate trust with the inspector conducting his hearing. Thus, all of Lai’s testimonies had to function strategically because in all three hearings Lai held the burden of proof.

In particular, I chose these hearings because, I thought that Lai’s hearings had the potential to be interesting from the point of view of the use of persuasive language to
construct and perform a credible persona that means more than the character of the speaker.

**V. Historical Texts Analyzed from Al Foon Lai’s Immigration File**

The transcripts and material evidence examined in this dissertation were extracted from the immigration file of Al Foon Lai, acquired through the National Archives in San Bruno California, and documents from the personal collections held by members of the Lai family.

I provide in Table 1 names of transcripts and evidentiary documents organized historically by immigration act or special program. As the table suggests this dissertation is bookended by two distinct time periods in American immigration history. The early bookend is the Immigration Act of 1924 legislating the continuation of Chinese exclusion and the beginning of restrictive immigration quotas based on race and national origin; and the latter bookend is the 1965 Immigration Reform Act that ended restrictive immigration and quotas based on race and national origin. These bookends limit the study and will serve as a commentary and resource for others interested in questions concerning *ethos* as a function of a particular legal history that link narrative coherence and *ethos*.

<table>
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<tr>
<th>Law or Policy</th>
<th>Hearing</th>
<th>Evidentiary documents</th>
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<tr>
<td>Immigration Act of 1924</td>
<td>Re: Lai Sik Foon, applicant for a return permit. Date: March 27, 1926</td>
<td>1) Transcript of Testimony (Lai Sik Foon)</td>
</tr>
<tr>
<td>(Chinese Exclusion)</td>
<td></td>
<td>2) Partnership List of G.S. Chan Co. (marked Exhibit A)</td>
</tr>
</tbody>
</table>
| Chinese Confession Program 1956-1966 | Record of Sworn Statement  
Al Foon Lai AKA Sik Foon Lai  
April 20, 1960  
(Confession) | 1) Transcript of confession.  
2) Shorthand recording of confession  
3) Naturalize citizenship certificate  
4) Record of anonymous informer. |
1962-1965 Kennedy Administration utilizes attorney general parole power to allow Hong Kong refugees to immigrate to the U.S.

1965 Immigration Reform Act / Hart-Cellar Act

<table>
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<th>1) Transcript of confession</th>
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<tr>
<td>2) Lai Family Tree</td>
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<tr>
<td>3) Picture of Al Foon Lai with blood family relations in China circa 1926 (date unknown)</td>
</tr>
<tr>
<td>4) Final determination of Al Foon Lai status as immigrant sponsor</td>
</tr>
</tbody>
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Table 1. Transcripts and Evidentiary Documents used in this Study

**Background Al Foon Lai and Chinese Migration to the United States**

When Grandfather Lai was admitted into the United States in 1920, he was part of a large migration of Chinese from the Pearl River Delta in Guangdong province, a center of American and European trade in China (Lee 2). While Grandfather came to the United States, he also had three male cousins who migrated to Peru, Jamaica and Europe. Grandfather and his cousins represented a new class of Chinese who migrated from China because of civil unrest and economic decline. For Grandfather, the United States provided better opportunities to accumulate wealth and maintain his family for future generations.

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25 Hsiao-Tung, Fei, Peasantry and Gentry: An Interpretation of Chinese Social Structure and its Changes. *American Journal of Sociology*. LII, 1, p.1 (1946). Hsiao discusses the social changes after the fall of the Manchu (Qing) Dynasty in 1911 and the period that followed. Civil unrest was due to rise of regional military militias that were vying for power (Warlord Period). In this period, Hsiao discusses the formation of new a gentry class (the next generation after the old gentry) in China who had or found the opportunity to go abroad.
Upon Grandfather’s landing in San Francisco, he could not have survived the immigration process without help from the Chinese Community. He relied heavily on Chinese family associations\(^{26}\) to help with his entry process through immigration, to establish business connections and capital to start a business. It was through the help of these family associations that he received attorney advice on navigating the process of gaining and maintaining legal immigration status. It was because of the family associations that he would learn to navigate the American legal system, and the language and culture to build a life and business in the United States. Grandfather Lai was born and named Chan Dong Leong in the village of Cha Dong, Zhongshan district, Guangdong Province, China. Grandfather was born into the scholar class. The scholar class held the highest status in traditional Chinese social hierarchy.\(^{27}\) Lai’s father, Chan Jeong, had passed the Imperial exam\(^{28}\) thus, as an elite scholar he served as an official who performed various civil functions.\(^{29}\)

Grandfather had eight sisters and he was an only son. As a family of the scholar class, private tutors not only educated grandfather, but also his sisters. Traditional

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\(^{26}\) Every immigrant Chinese family in San Francisco belonged to at least one family association. The associations were often members from the same district or village in China. Or the members had the same Chinese family surname. Associations could also be business associations. For example, grandfather belonged to the Chan association (even though his name was Lai), the association of members from Zhongshan, China and the garment makers association.

\(^{27}\) Yi, Li. The Structure and Evolution of Chinese Social Stratification. University Press of America. 2005. Print. The scholar class is also known as the *literati*. This top class comprised of 2% of the population in 1880 (p.34).

\(^{28}\) Ibid 39. The Imperial examination was a civil service exam based on merit. In place for over 1300 years, it lasted until the establishment of the Chinese republic in 1911. The exam focused on Confucian canon, economy, history, geography and military strategy.

\(^{29}\) The Chan home, built in the late Qing dynasty would be considered a traditional Chinese single story mansion inside a walled compound. The importance of the home design and layout speaks to the family’s wealth and social stature.
ideology in China placed sons ahead of daughters and the most important task of a man was to continue the family line (Hsiao 2). As an only son, Lai’s obligation was to the betterment and protection of the clan unit (3). In addition, the size of his family home, the number of daughters in the family also suggested that Grandfather’s family was fairly wealthy and influential by local standards.

*Al Foon Lai AKA Sik Foon Lai, Paper Family Tree*

The family tree depicts the fictional family of Sik Foon Lai. Each name is fictitious created expressly for the purpose of selling slots.

![Family Tree Diagram]

Each fictional name also came with a birthdate. The male or female around the same birthdate typically purchased a slot, with the name. The fictional characters also had a life that the slot purchaser had to memorize and coordinate the family story in front of immigration officials. In addition to a full (fictional) life story, the purchase of a slot also created a community that could support paper immigrants in navigating American social cultural norms.
Persons Present in the Hearings

Additional persons present (besides Lai) in the administrative hearings to be examined in this dissertation include the inspector (bureaucratic official), a Chinese interpreter and the stenographer. The major focus of this dissertation will be on the dialogue between the government official or the inspector and Lai. It was the inspector’s job to question Lai in order to make a decision based on the facts represented in Lai’s testimony and material evidence that Lai presents. The inspector in each hearing was a government bureaucrat whose decision was final.

The interpreter and the stenographer provided administrative support to the interrogation procedures. The job of the interpreter was to translate Chinese into English and vice versa. The important point to note here is that the interpreter was supposed to construct his version of the meaning of what was said without inserting value judgments. The premise that the interpreter must translate was based on the factual ways in which a question was asked or how an answer was given. For purposes of this dissertation, I presume that the interpreter translated what was said and that the stenographer wrote exactly what was translated. The 1965 hearing is the only hearing in which Lai did not use an interpreter. Thus, present at that hearing beside Lai and the inspector was a stenographer.

Immigration Attorneys

Immigration attorneys were not allowed to participate or be present in hearings, however that didn’t mean the Chinese did not have legal help. Many attorneys assisted the Chinese in obtaining witnesses to testify before the immigration service, filing witness affidavits (Lee 140) and in helping the Chinese to prepare responses to potential
questions that might come up in the hearings. According to historian Ericka Lee, Chinese from all backgrounds routinely sought legal help despite the cost. A survey of over six hundred Chinese who entered the United States during the Exclusion era revealed that 90 percent had hired immigration attorneys to process papers and represent them before authorities (139).

VI. Organization and Overview

What it takes to perform a credible persona in asymmetrical power relations over time and context is the primary question I ask in this dissertation. Neither in the Aristotelian frame of ethos focused on the speaker’s character nor Farrell’s view of ethos focused on the audience can account for how a credible persona is performed in dialogue in which a Chinese immigrant is positioned under Chinese Exclusion Act and within shifting institutional and social norms. The content and organization of the dissertation, as outlined below, reflect these interests and emphasis.

In Chapter Two I review literature that frames and situates the theoretical issues, research questions and methods used in this study. First I discuss discourse in administrative settings with the focus on inferred power. I then discuss the concept of ethos, its conceptual meaning among ancient philosophers and its rhetorical construction as a mode of proof by contemporary scholars. Next I provide background on narrative in legal contexts.

30 The term ethos began with Aristotle in the 4th century B.C. and directly translates to “character” in Greek. In summarizing Aristotle, ethos is an individual’s qualities in intelligence, character and goodwill (Aristotle 111).

31 Farrell says that rhetoric is concerned with making a judgment (people judge what is said in deliberation) (112), a statement is persuasive or credible because there was someone to persuade (audience). The speaker may be efficient in persuasion, but the audience will decide if it wants to be persuaded. The audience thus decides the fate of the discourse (69).
Chapter Three describes my methodological approaches and limitations of this study. Here I provide an example of narrative analysis combined with feminist rhetorical methods. I show how my methodology works through the examination of an excerpt taken from the 1927 immigration hearing of Lai Soon She, Lai Sik Foon’s wife.

Chapters Four through Six provide my analyses of each hearing. In Chapter Four Lai must prove he is the man that not only legally immigrated as the son of a merchant, but that he has held merchant status for his entire time in the United States. Because officials expressed one view of a Chinese merchant, Lai positioned his responses with respect to the expectations of the wealth of a merchant that the government articulated. I discuss how ethos exists not in the text of the merchant, but in the community that projects its norms into the discourse and manifested in practice.

In Chapter Five, I discuss the ways in which ethos is framed and performed according to political concerns during the Cold War. Because this chapter includes an involuntary confession, I examine how Lai constructed his credible persona during a hearing that sustained an accusatory tone. This close analysis allowed me to understand the moment-by-moment demands of performing ethos while managing an accusation of being a paper son.

In Chapter Six, I analyze the way in which Lai positioned himself with regard to transparency in his responses about his paper family and his blood family. Because Lai gave a voluntary confession, using narrative analysis shows how the decision maker organized information (Burns 159). I examined how Lai assigned meaning to past events and in how he enabled a discourse of trust with the inspector.
VII. Significance and Contribution

This is a qualitative study of the performance of a credible persona of a single immigrant under the Chinese Exclusion Act across time and across contexts. The historical perspective of this study shows that while Lai’s individual encounters with government officials appear objective and calculatedly de-personalized, political concerns and institutional norms informed judgments of ethos through Lai’s and the administrator’s effective use of social and political narratives. Each hearing brings depth to understanding the permutations of the constitution of ethos in view of changing political contexts and immigration laws that formed the backdrop for what is a sequence of small studies that together move across time.

The performance of a credible persona in the context of administrative hearings allows for engagement with disciplinary understanding of ethos with regard to institutional settings. Therefore, I suggest that ethos should be viewed as a dynamic construct and rhetorical studies should place a greater emphasis on ethos and the performance of a credible persona. This is important because as institutions expand globally and technology organizes us into new collectives, writers (speakers) and audiences whose decisions are based on ethos can take many forms and carry consequences that matter not only to the current generation, but also to those who follow.
CHAPTER 2

CONCEPTUAL FRAMEWORK AND LITERATURE REVIEW

In this dissertation I look at ethos in terms of a credible performance and its relationship to changing social norms and political contexts that informed the implementation of the Chinese Exclusion Act and subsequent laws that affected a Chinese immigrant over a forty-year period. I examine how Al Foon Lai performed a credible personae in the context of three administrative legal hearings. To the extent that a hearing is a regulatory administrative event, I examine the how Lai performed a credible persona within the narrative frame set by the inspector. By focusing on how Lai was positioned in terms of his role as a participant in the hearing and as a Chinese immigrant under investigation, I illuminate the process of how a credible persona is performed in the context of a legal administrative hearing.

What informs and motivates the central question in this dissertation? Because of my interest in the relationship between narrative and institutional rhetoric, on the one hand, and in the dialogic performance of ethos on the other, I ask how a Chinese immigrant engaged in and negotiated an institutionally recognized performance of credibility in administrative hearings. I focus on the moment-by-moment realization of this credible persona within the constraints of asymmetrical power relations and influenced by changing institutional and social norms over time and across contexts.

In this chapter, I outline the conceptual framework that situates this study, informs my research questions and motivates the methods that I utilize in analyzing each of the three hearings. In section I, I review relevant studies of how power circulates within asymmetrical power relationships that structure legal and other similar administrative
questioning sequences. I do so to highlight how charged administrative hearings can be when the credibility of a respondent’s performance in under interrogation. In section II, I review the tensions in ancient philosophy with regard to the speaker’s character in terms of appearance (who he appears to be) versus reality (who he “really is”). I also review contemporary conceptions of ethos with the audience as a mode of proof contingent on audience’s recognition of shared cultural norms. Because of my interest in the norms of interaction that operate during the hearing, the performance of credibility by the immigrant under investigation, and the role of narrative in both processes, I review scholarship on narrative in legal settings and how narrative as mode of proof helps to structure meaning in legal contexts. Since interactional discourse is pertinent to this dissertation, interaction between government representatives and individuals is emphasized. Finally, I discuss the contributions my dissertation makes to the field of rhetorical studies.

I. The Circulation of Power in the Administrative Legal Process

Legal language is concerned with power. As such, legal questioning is a site where power circulates. In one study, linguist John Gibbons studied questions in the cross-examination of witnesses in common-law criminal courts. Questions in court criminal cases says Gibbons, are used by prosecutors to construct a version of an event that will prove the suspect guilty (116). On the opposite side from the prosecutor is the lawyer for the defendant. Charged with proving a different version of an event than that of the prosecutor’s, the defendant’s lawyer must control the questioning process. So even in direct examination in which a witness may tell a story, the direction the story takes is guided through this questioning.
Data from Gibbons’ study show that legal testimony of the witness is in part an institutional construction that infers institutional power. Inferences are made when lawyers frame the version of events in the courtroom through a particular mode of questioning. The fact that the social relationship between witness and lawyer is one of power asymmetry (116) is made possible and further bolstered by such questioning routines. Gibbons’ analysis of courtroom questioning draws attention to issues explored by my dissertation including how testimonies respond to institutional cues. The objective of much legal questioning, particularly in an adversarial context, is to make the lawyer, rather than the witness the principal person whose belief is expressed (117). While the lawyer demands a reply from the witness, the lawyer already knows the answer. Forced responses from the witness serves then to display the answer to decision makers. Gibbons’ study shows how language use influences they ways laws are interpreted and enforced. Words used in legal contexts have consequences for individuals. In legal contexts, whatever the data, institutional power circulates and constrains the range of options available to witnesses.

My view is that the scope of legal discourse extends to some administrative settings where government officials are empowered to regulate, administrate and enforce laws that are in the public interest. While courtrooms include a judge who presides over litigants and the lawyers, much of legal discourse circulates beyond courts, lawyers and judges to administrative settings; here too power is inferred. Take for example in asylum-seeker interviews (Blommaert; Jacquemet; Maryns), in which differences in the use of language are systematically translated into inequality between speakers (Blommaert 4). In Blommaert’s examination of the narrative structure of interviews with African asylum
seekers he found that legal immigration procedures presume equality between the asylum seekers and the government official conducting the interviews even though in practice differences in narrative conventions and variation of language encode hierarchical relations from which power is inferred (444).

Similarly, Maryns studied the imposition of institutional narratives on asylum seekers fragmented words that were made into legally established categories (175). As part of their training, interviewers learn that responses should conform to legal genre expectations. Power asymmetry is rooted in the asylum seekers’ lack of opportunity to contextualize their narrative according to these expectations in interaction with the interviewer (194). For example, Maryns illustrated the narrative of a Sierra Leonese girl. Her highly fragmented narrative consisted of a mixture of English and Krio (native language). When questioned about specific time frames, she continually responded in terms of place. Her story is hard to unravel chronologically and doesn’t fit the institutional requirement to establish a timeline. An interviewer then decontextualized her complicated narrative and re-contextualized it to fit with institutionally established categories and standard rules of evidence (185). This intervention of recontextualization is a site of power; it could have consequences in that in subsequent interviews inconsistencies in the girl’s story could develop. Thus, the girl who gives inconsistent testimony could be seen as not credible. Here the interviewer presupposed the amount of institutional knowledge the asylum seeker had. But beyond this immediate context, Maryn’s conclusion is important for the study of language in different situations and cross-cultural interaction because it highlights how credibility was influenced by institutional power.
While the function of law is to order human relations and restore social order, the misuse of power in legal language can harm groups and individuals, as argues sociologist Brenda Danet in her seminal article “Language in the Legal Process.” She found that the sequencing of “questions” is secondary to what is being accomplished. The point of institutional questioning is to allow the defendant to speak the truth, even though the questioning process can often deny the defendant the right to speak freely (540). This denial of the right for the defendant to speak freely ultimately hurts the credibility of legal institutions. Marco Jacquemet’s 1999 study of asylum applicants and the United Nations High Commission on Refugees (UNHCR) illustrates how questions used as a weapon to test, to challenge, and to make accusations (Danet 524) ultimately hurt UNHCR credibility as an advocate for refugees. In this study, a series of short questions were asked not of the applicant’s personal experiences, but of geographic details of specific towns as UNHCR interviewers focused on accents, communicative behaviors, and looks of politeness. As a result, UNHCR jeopardized its relationship with true refugees by operating within a restricted notion of refugee narrative performance (Jacquemet 198). Thus, power was inferred through the questioning procedure. The questioning procedure then focused on determining if the asylum seekers were lying. With similar interest in whether rules coincide with finding credibility, this dissertation expands the study of administrative, regulatory discourse. While prior studies have examined the use of questioning sequences to interrogate truthfulness (Danet; Jacquemet), my purpose is to interrogate the performance of a credible persona.

Anthropologist Amy Shuman portrays power’s role in creating a gap between the local everyday trauma of the asylum seekers’ experiences of survival in their home
countries, on the one hand, and the receiving country’s expectations that the asylum seekers be coherent in telling their stories, on the other. Often the institution measures credibility of the asylum seeker’s narrative without taking into account trauma experienced by the asylum seeker at the local level (143). Through analysis Shuman shows that asylum seeker stories are compromised due to the configuration of the hearing in which the official controls the narrative through the process of interrogation (145). The narrative thus does not represent the asylum seeker’s experience, but rather the institutionally established categories. The narrative of the asylum seeker is decontextualized in the process causing a seemingly inconsistent narrative. In rejecting an asylum applicant’s story on the grounds of its inconsistency, the official denied the applicant asylum.

In adversarial trials, legal language is a language of rules, but from the view of some litigants legal language is a language of relationships. In a study of small claims court hearings, John Conley and William O’Barr found that litigant ideological beliefs about the role of law paralleled litigant linguistic behavior. Litigants who believed in social justice as law’s role relayed their narrative to the judge relationally. Their testimonial stories included personal details in the belief that the legal institution will take into account the personal needs of the litigant. The judge however, did not take a broad view that personal facts would impact his decision. Instead the judge preferred to take a rule-oriented view of the facts that emphasized documents and concrete observations that dealt strictly with the issue relevant to the legal claim. The outcome showed the gap between the function of legal practice as rule oriented and the behavior of lay litigants who follow everyday social and conversational conventions (131).
Power within legal discourse is not only the domain of lawyers and legal professionals; everyday people navigating institutional constraints can sometimes leverage power in their own interest. Sociologist Gregory Matoesian, in “Law and Language of Identity: Discourse in the William Kennedy Smith Trial” studied how language use and culture functioned in an adversarial trial. From a linguistic point of view he examined how forms of domination operate within the concrete details of dialogue in the courtroom. The chapter titled “Intertextuality and Reported Speech” studied the use of reported speech in the trial. Reported speech is the use of past utterances, words or conversation a witness said in a previous context but used by a lawyer in a present context to undermine the witness credibility (108). According to Matoesian, a witness for the prosecution omitted information from the previous day from her reported speech. Then in a subsequent questioning sequence the witness took advantage of the defense lawyer’s long pause to make a request to complete her testimony from the previous day. In doing this, the witness was able to exploit the pause to take advantage to elaborate on prior testimony. Here the witness violated a legal norm by speaking out of turn, and reframed the questioning sequence. The lawyer could not effectively control the witness because to try to do so would undermine his credibility in front of the jury. The witness formulated what Matoesian, quoting Bakhtin, calls an “intertextual continuity” between historical and present discourse (108). In this way, the witness exerted power in an asymmetrical power situation. Matoesian’s study shows a counter example of a lawyer exercising power over a witness.

“Having control” over the course of questioning is often a measure of power whether in the courtroom or in other regulatory settings (Gibbons 116). In a study of
cross examination in a courtroom setting Gibbons showed how the adversarial system of dispute resolution allows for questions to be asked of an opposing side. To wield power in such a setting is to be the one issuing the questions. Similarly, linguist Anne Graffam Walker studied questions asked in depositions. She called questions the “epistemic command function” (60). She suggests that even though depositions are informational interviews, questions posed by the lawyer are, in fact, an order that the interviewee must respond to. The interviewee’s knowledge must be displayed in an appropriate form, thus the epistemic command (60).

What happens to someone in court who is viewed as ignorant of the law? He or she risks being viewed as someone who needs to be controlled in order to give answers that cooperate with the intent of the questioner. In a pre-trial context, linguistic anthropologist Susan Phillips counted the types of questions employed. Phillips focused on “what” and “how” questions. “How” questions were used predominately between officers of the court and the lay public. “How” questions tended to be controlling and routinized. “What” questions were predominately between officers of the court. As such, the “what” questions were more idiosyncratic. This finding is important with regard to presupposed knowledge between officers of the court and lawyers. Similar functional differences can be applied to other bureaucratic settings in which the government officials have presupposed knowledge that is not known by the lay respondent.

The administrative hearings I take up in this study are similar to courtroom hearings included in the above scholarly review in at least one important way. As this review shows, a primary concern for most individuals in a regulatory environment is not to fall victim to the consequences of the asymmetrical power relationship that structures
the questioning sequence. For the government officials, the concern is to find fact and truth. Much of their effort goes into controlling the questions to determine if the witness is lying. While the literature reviewed has focused on showing asymmetrical power relations, I do not seek to use power as an analytic resource to show the goodness of witnesses or the arrogance of government officials. The use of power is not so much right or wrong, as it is potentially persuasive and thus rhetorical.

II. Ethos and Ethical Tensions Among the Ancient Philosophers

*Ethos* raises an ethical dilemma in that the speaker may display a character that may not reflect the true character of the speaker. Ethical tension with regard to whether *ethos* was a performance or an intrinsic character trait is not new in that the tension existed in ancient philosophers account of *ethos*; most notably the views of Plato and Isocrates differed from Aristotle. Plato argued that *ethos* was one’s reputation and used the term “right rhetoric” for *ethos*. “Right rhetoric” was defined as the space where language and truth meet or are made incarnate within the individual” (Baumlin xiii). Similar to Plato, Isocrates said that the rhetor displays *ethos* before speaking or writing—that is, *ethos* is manifested in all the actions of his life (xvi). Whereas Plato believed that the rhetor was a conduit for truth from the soul (xiv), Isocrates believed that the speaker’s character could be seen through the speaker’s reputation (xiv). It is on these points that Aristotle differs. The Aristotelian tradition makes a distinct assertion: it is sufficient that the speaker seems good (Baumlin xv). This implies that speech or text is the active construction of *ethos* and it suffices for a speaker to “make us think him credible” (xv). The gap between seeming ethical and being ethical is a point of tension in which amorality enters into matters of *ethos* (Kinneavy and Warshauer 183). Isocrates
and Plato asserted the speakers needs to be a good person, whereas, for Aristotle a rhetor could be effective by seeming to be good (xv). Regardless of differing views, Plato, Isocrates and Aristotle claimed that projecting the proper ethos was as important as actually possessing it.

Contradicting Aristotle, Roman rhetorician Quintilian claimed ethos was more than what the speaker displays in his moment of speaking, but that the effective speaker is “above all a good man” (Murphy 6). In Quintilian’s opinion, a good man certainly needed to have eloquence, but also a reputation for morality and wisdom. In his translation of Quintillian’s Institutio Oratoria, Murphy points out that Quintilian stated there was a difference between merely eloquent and merely wise. Neither eloquence nor wisdom was sufficient, without training in morality. Thus, Quintilian’s move to include morality in matters of ethos parallels with that of Isocrates. Isocrates, in the Antidosis said, “for who does not know that words carry a greater conviction when spoken by men of good repute” (Isocrates 15 278); so while Quintilian believed that eloquence is part of ethos, the good man must also truly be moral and wise.

It is important to note that the ancient philosophers Quintilian and Aristotle did not conceive of ethos as a rhetorical tool for common men, women or slaves. The focus of rhetorical study was only of men who owned property. In addition, the “good man” referenced by Aristotle and Quintilian notably had much to do about the social values of the time. Quintilian offered this perspective; “we may apply the word ethos of what is honorable and what is expedient or of what ought or not ought to be done” (423). Relevant here is that time and context have an impact on how ethos is conceptualized.

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32 Quintilian’s Institutio Oratoria is described by Murphy as a treatise of education, a manual of rhetoric, a reader’s guide to the best authors and a handbook on the moral duties of the orator. (Murphy xviii).
My aim in this dissertation is to examine whether the performance of a credible persona is as much about the time and context in which it occurs as it might be in an individual’s character.

Like other ancient philosophers, Roman thinker Cicero also conceived of *ethos* in terms of the character held by the speaker. However, he differed in that the speaker could fashion his position to win over the audience through gentle tone and style. In Book 2 of *De Orator*, Cicero through Antonius says, “It is very helpful to display tokens of good nature, kindness, calmness, loyalty and disposition that is pleasing” (Book 2 182). Relevant to this dissertation is that Cicero suggests *ethos* as discursive action between speaker and audience and thus ethos is a construction of a relationship between speaker and audience. Discursive action between speakers in dialogue is what this dissertation aims to show in Lai’s administrative hearings.

Aristotle’s definition of *ethos*, as the character of the speaker, remains dominant today, particularly in rhetoric and writing studies, but as we shall see in the next section, contemporary scholars have theories that explore *ethos* with the audience and *ethos* as a mode of proof as another dimension of *ethos*.

**III. Ethos Lies with the Audience: Contemporary Conceptions**

The concept of *ethos* has perplexed contemporary scholars. Scholars such as Thomas Farrell set about the task of recasting Aristotle’s rhetoric for contemporary times; Farrell proposed and the construction of *ethos* is an evaluative process that includes the audience. Over the course of this process *ethos* serves as a mode of proof. In addition Farrell pointed out that the components of *ethos* are derived from the cultural norms of competence, regard and virtue (69).
Farrell illustrates appeals to *ethos* with the audience in the 1954 Army-McCarthy hearings. Explicating a notably famous episode during the hearings, Farrell showed the practical reasoning of the audience. Joseph McCarthy, a U.S. Senator from Wisconsin implied that a young attorney, Fred Fisher, when in law school, was a member of a left leaning organization. Fred Fisher was not present at the hearings nor was Fisher working on the Army’s case. But because Fisher worked for the law firm representing the Army, McCarthy wanted to prey on public fear to discredit Jack Welch, the lead attorney, from the law firm that employed Fisher. The information about Fisher’s law school activities had no bearing on the case. Welch responded that while his law firm employed Fisher, Welch never had any intention to use Fisher as counsel for the Army. The contrast between McCarthy and Welch had become clear to the audience. McCarthy displayed an abusive and cantankerous manner (41). The climate of fear (Communist conspiracy) that McCarthy created was based on guilt not proof; thus his (McCarthy) fate depended on the audience judgment. In this now famous episode, McCarthy had misjudged his audience (the public) because the audience (public) saw that McCarthy had no real proof that certain persons in the Army were conspiring with the Communist. Raising the issue of Fisher’s prior law school activity was a reckless and frivolous act. McCarthy appeared to be a ruthless bully that spouted demonic images of cold war Communism (40). By the end of 1954, McCarthy had been censured by the Senate and was no longer a major force

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33 Farrell, p. 40. At the height of the Cold War against communism, the Army – McCarthy hearings were convened to investigate charges that McCarthy a junior senator from Wisconsin had used improper influence to get special treatment in the army for his supposed surveillance operative Private G. David Stine. McCarthy retorted that the Army had singled out Stine for special attention because it had something sinister to hide. McCarthy was ruthless in making sensationalist charges of Communists infiltrating the U.S. government such as the State Department and the Army.
in American politics (44). Thus, over time following the Army-McCarthy hearings, the audience judged McCarthy’s *ethos* negatively.

Similar to Farrell, James Baumlin and Tita French Baumlin, identified that the audience had an *ethos* of its own to which the speaker must attend. Locating *ethos* was to look at the character of the audience and the audience’s mental process rather than the speaker. In “On the Psychology of the Pisteis: Mapping the Terrains of Mind and Rhetoric,” Baumlin and Baumlin point out that the psychology of language is that of medicinal healing. Insights from psychology and rhetoric expand the persuasive notion of classical rhetoric and *ethos*. For example, the lives of orators set up a scheme to relieve spiritual distress just as the physician treats physical disease (93). Pertaining to the affirmation of cultural values, *ethos* describes an audience’s projection of authority and trust onto the speaker. The speaker projects *ethos*, but *ethos* is also supplied by the audience (99). Baumlin and Baumlin argue that the words “believe,” “seem” and “think” show that Aristotle recognized the ethical appeal to be a psychological event situated in the mental process of the audience (99). Therefore, *ethos* lies with the audience.

While Farrell and Baumlin and Baumlin identified *ethos* with the audience, scholar Marshall Alcorn noted a different perspective on the character in *ethos* in that character is not behind the force of the speaker, but is the force of the speaker (4). In order to investigate this concept of character as the force from the speaker, Alcorn sought to clarify the role of the self. Alcorn argued that the self changes because it is deeply crafted by history and the larger social formations that determines the self’s movements (6). Alcorn quoted Amelie Rorty, to give us the example of how capitalism provided the condition for people to change social status. “Capitalism provides the conditions that
enable the self to gain status through property ownership” (10). Alcorn argues that through such changes in social status, the self then changes. In this way, Alcorn challenges the notion that character is universal. Instead, selves are an effect of social, political and linguistic forces (5). So with different selves, ethos should be understood to assume many shapes as self and to be influenced by different social structures and the way they change over time (7). The point Alcorn brings is that ethos may be grasped as a dynamic structure of self. Relevant to this dissertation is that the self can be crafted and play into ethos when doing persuasion.

Contemporary scholars have shown that ethos is inherent in any shared discourse: therefore, it is possible to analyze ethos as a function of dialogue in which speaker and audience change moment by moment. Analyzing a dialogue resembles Mikhail Bakhtin’s emphasis on the reader and writer dialogue in the novel. For Bakhtin, the reader is in dialogue with the writer of a novel. The overlap here is the poly-vocal voices in Bakhtin’s theory of dialogism. The poly-vocal voices in the novel’s narrator and characters are like the voices in real life speaking to the reader of the novel. Bakhtin’s idea that there is no unique voice—those from interaction with surrounding cultures and ideologies (Baumlin xxi)—suggests that ethos is pervasive throughout any speaking event and that the speech allows for ethos to be constituted within each utterance. Relevant to this study is how a credible persona is performed and how it is constituted within each utterance that is made of what Bakhtin calls “poly-vocal voices” from the surrounding culture and ideologies.

In this project, I seek to understand how we can find ethos not only in the speaker, but also in the community that the words conjure. At least in part, ethos in a judicial narrative hinges not on “opposing a speaker” but on “seizing an opportunity” in the
narration to what might bear on your virtue (Aristotle 240). I mention Aristotle’s notion of ethos here to show that judicial narrative advances ethos as an integral part of interactional discourse because one can reveal character depending on how the story is told. This dimension of ethos is appropriate for analyzing administrative legal discourse in administrative proceedings. Both ethos and administrative hearings are grounded in contingency, and its context I seek to understand how we can find ethos not only in the speaker, but also in the community within the projections of the words. The idea is due in part to our understanding that both ethos and administrative hearings are grounded in contingency, and are context dependent.

Sociologist Erving Goffman introduced the concept of footing. Footing is a linguistic process in which speakers and hearer align themselves relative to each other and frame their experiences according to the context. Goffman said that a change in footing is another way of talking about a change in our events (128). The central idea is that social identities change with changes in context. Thus, ethos performance becomes a construction of a relationship rather than about the intrinsic character of the speaker. Relevant here is the coordination of performing ethos that is socialized to fit into the understanding and expectations within the administrative hearing.

Ethos Lies with the Writer of Institutional Documents

The role of ethos in legal contexts must also be understood in relationship to writers of institutional documents. For administrative agencies such as the Immigration and Naturalization Service, ethos plays a critical role in maintaining the institutions public persona. Writers of institutional documents must explicitly perform their ethos in matters of documentation and record keeping. Legal scholar Melissa Weresh placed ethos
of a legal document with the character or trust of the writer of the document (233).

Weresh points out that the notion of trust is a characteristic attribute of ethos because trust is based on the relationship between the writer and the audience. For example, trials are typically adversarial settings, and a document presented for evidence must establish its source so that the audience (jury or judge) can trust the document’s veracity. This has relevancy for this dissertation in that the corpus of this dissertation is a file of documents that were used as evidence to determine the credibility of Al Foon Lai. The legal documentation in Lai’s immigration file served a proof for decisions in Lai’s hearings. The file included information from prior hearings that were reviewed by government officials before the next hearing.

Ethos of the writer of a document is also discussed in the field of technical writing. Campbell explains that in the field of technical writing, documents require clarity and function. Thus, the ethos of the writer is typically judged on the writer’s ability to provide objective content or logos (133). However, he points out that the writing in a technical document is still a rhetorical construction of the writing (135) in which, the ethos of a document is an objectified value of the choices the writer makes with words (132). The writer of the document objectifies the reader (135).

In the medical field, ethos of the writer is the focus rather than the content of a written report. Roger Munger discussed the ethos of written reports by emergency medical technicians (EMT). Medical professionals complete written patient care reports and the focus on ethos is important because the medical report is the frame from which a patient will receive medical care. The EMT must decide what to write and how it should be represented because a patient’s life could be at risk (2). In addition to patient
caregivers, Munger also points to the idea of professional authority. While the report is a persuasive document for the patient caregiver, the report is also written for a quality review board. The report becomes evidence of quality control in patient care. The EMT demonstrates through the written report a minimum level of competency in doing his or her job. Thus, for the report to read professionally the EMT will use medical jargon to indicate professional authority. In addition, the EMT will disassociate from the patient through the use of objective language by referencing the patient by the term “patient” rather than the name of the patient (5).

While most documents in legal, technical, or medical settings derive ethos from the writer and logical content (logos), document ethos can also be derived through pathos (Campbell). For example, in an immigration file without content (logos) about the immigrant; there could be no meaning. Ethos is the value of the logos or the content about the immigrant. However, without attention to audience need (pathos) the immigrant file goes nowhere, no matter how well written the content may be. Relevant to this dissertation is that legal records of Lai’s past testimony has an ethos largely for its value in affecting a decision because the inspector reviews Lai’s past testimonies to make a decision in relation to a current law.

Finally, in terms of document ethos there is an attitudinal dimension to documentation that is often used as evidence. Attitude is an aspect of ethos with an ethical dimension that is defined by purpose or motive (Campbell 137). For example, in selling consumer products, the product is advertised with a celebrity, portrayed as someone you can believe (celebrity model using product). The message may tell the audience what they want to hear or even consider the audience stupid to tie the benefits of
a product to a person unknown to the reader, however, even though arbitrary in how the advertisement persuades, it illustrates the gap in logic of ethical appeal (Kinneavy and Warshauer 185). For documents then *ethos* is more than conduct or character of the person who wrote the document but extends that of intent, motivation and to some degree a mode of proof.

**IV. The Significance of Narrative in Legal Contexts**

I now deem it worthwhile to discuss the significance of narrative in legal contexts. First, I discuss narrative as a mode of proof in how the legal process uses narrative to justify legal facts. Then, I review studies depicting how stories are told and how stories are received in legal contexts.

*Narrative as a mode of proof*

Laws are more than a set of rules and transactions, the implementation of law, called legal processes, involve an exchange of information between people. This exchange of information is often a narrative about a past experience. Thus, narrative is commonly used in legal settings such as trials and administrative hearings because narrative is a means to organize fragmented pieces of information in order to make a legal judgment (Burns 158). In court trials for example, a witness will rarely tell their story in one uninterrupted narrative. The witness narrative is constantly being elicited with a series of questions. In addition, the questions are selective and the story may not follow the beginning to end sequence. Here we might add that Aristotle said; narratives should occur in many places and sometimes not at the beginning (Kennedy 241). It is not surprising then that in court trials for example, evidence could be transmitted to jurors over days in disconnected question answer formats and witnesses are called to testify out
of chronological order. Yet, when the transmission of evidence is over, a narrative has formed about the defendant in the trial and a view about the issues at stake.

Narrative allows the decision maker to make meaning of facts presented in the legal case at hand. Since stories are lived before they are told, narrative is the start point for the comprehension of human action (Burns 159). In this way narrative is seen as a mode of thinking that can apprehend a reality (De Fina and Georgakopoulou 15). For example, the decision maker or the judge must choose between competing litigant narratives. The decision must be a practical one in that the decision maker weighs the practical aspects under legal rules along with the believability of opposing litigant stories.

Important to recognize is that in legal settings there are actually two narratives simultaneously happening. There is the primary narrative of the legal setting such as a courtroom and there is the secondary narrative of the case under examination (Gibbons 159). At issue is witness credibility that is being scrutinized within competing stories. Thus, witness testimony is understood as a narrative that must function strategically—whether to find truth, to seek justice or to determine credibility for the witness and for a larger legal purpose. Narrative as a mode of proof is relevant to this dissertation because the Lai administrative hearings were all conducted in the question-and-answer format. Yet in the turn taking sequences of question and answer, the two speakers were not equal. The government official controlled the questioning sequence and how responses would be articulated. It was from Lai’s responses that the government official would build a narrative. Thus, Lai’s narrative was carefully constructed not only by Lai, but also by the government official asking the questions. In turn, the questions asked were a narrative outside of Lai’s narrative because the questions reflected the law that required the
administrative hearing to take place. For the government official to make sense of the facts of Lai’s case, in each hearing the government official needed to turn the facts from Lai’s hearing into the mode of a narrative, with a beginning, middle and end in order to make sense of the case and ultimately a decision on the case.

*Narrative Coherence, Rhetoric, and Control*

Anna DeFina and Alexandra Georgakopoulou theorize that narratives in institutional contexts are used to control storytelling (128). Control is usually about power. Narrative in law is the importance in its ability to put facts into a coherent story and make it a persuasive case (Brooks 14). Therefore, in law, narrative is certainly intertwined with rhetoric. Then, there is the question of power for control over the narrative. Power is not necessarily material, but can also be related to the symbolic sphere (Defina and Georgakopoulou qtd Bourdieu 127). The symbolic sphere is the environment of the institution that includes the rituals and procedures of the institution that order meaning to the social relationships with individuals. Thus, the individual is expected to internalize institutional practices that bring him or her *ethos* and give coherence to the narrative. The individual is then perceived worthy by the institution’s standards (128). In general terms, the individual gains symbolic capital through knowledge of institutional practices that allow the individual to elicit a narrative coherent to the institution. For example, Maryn discusses the plight of an asylum seeker’s narrative that was told in terms of place. Her story did not fit the institutional requirement to be told in terms of chronologic time. Because her narrative did not fit institutional standards, her application for asylum was denied. Relevant to this dissertation is that symbolic practices of an institution can be analyzed through narrative as a resource to reflect on *ethos* performance.
The issue of power and control in institutional narratives may not be absolute but distributed in many ways. For example, in legal settings there are a host of pre-established roles for judges, lawyers, witnesses and juries (DeFina and Georgekopoulos 131). The relationship between lawyers and judges would be different from the relationship between lawyer and jury because the jury determines truth in the facts of the case under trial. Once the jury has settled on the facts of the case, the jury recommends a verdict. The judge then, interprets the law based on the jury’s verdict. Thus, pre-established roles between the judge and the litigant or defendant can create tensions between narratives because the story will vary according to differences in access to institutional knowledge. For example, John Connely and William O’Barr, from their study of small claim court litigants, illustrate how litigants and claimants view pre-established roles. Each litigant tells his or her narrative according to how each litigant in a case understands the purpose of the trial and the role of the judge. Conley and O’Barr found that poor people often saw the law and the judge as a vehicle that would ultimately solve their problems even though the rules of a contract were broken. This view of the law is relationship-oriented in that the law will help to justify certain actions between humans. Case outcomes were less successful for those who saw the law as relationship-oriented. On the other hand, narratives of litigants who understood the law as a set of rules that will be upheld by a judge had more success in their case outcomes. For example, in one case the defendant, who had not paid his landlord past due rent for an apartment; saw the role of the judge as delivering justice. Because of this view, his story did not focus on the facts of the case. The defendant instead focused his narrative on the landlord not maintaining the property. Therefore, the defendant claimed he should not
have to pay rent if the property was not maintained to a certain undefined standard. The landlord litigant, on the other hand, saw the role of the judge as a rule enforcer. The landlord litigant explained to the judge the rules of the agreed contract. According to the contract, the landlord litigant was owed compensation for rent regardless of the condition of the property. Thus, the landlord litigant was successful in winning his case. Notable here is that Connelly and O’Barr studied small claims court cases because lawyers are not allowed to represent clients in small claims court. While litigants and claimants had to use their own everyday means to persuade, the litigant landlord in this case, understood the institutional role of the judge in the enforcement of contract law. Relevant to this dissertation is that in two of the Lai administrative hearings, lawyers were not allowed to be present. So like the lay participants in small claims court, Lai had to employ his own mode of persuasion in order to demonstrate _ethos_ and he also had to understand the pre-established role of the government official assigned to ask him questions.

Studies have also shown that legal practitioners exert power by virtue of their role. The knowledge legal professionals hold can push stories in certain directions by managing the story through question answer formats. Shonna Trinch and Susan Berk-Seligson studied protective order narratives of Latina women. They found that the Latina women narratives were reshaped by paralegals to conform to institutional formats. The paralegals acted as the mediator between the women seeking a protective order and the judge who had to read them. The reshaping of the Latina women’s narratives was not only a display of power on the part of the paralegal but also a rhetorical act of presenting a narrative in a certain format so that it is readable to a judge. Similarly, Brannigan and Lynch studied the issue of witness credibility under cross-examination in a criminal
court trial. Typical to cross-exam, the prosecuting attorney used a question answer format. The criminal court trial is public and therefore, the prosecutor’s role is to set the tone of the trial because the prosecutor is a public official who is bringing the legal proceeding against an individual citizen. In this study, the prosecutor sequenced questions to control the narrative in order to portray the witness as sarcastic and evasive in front of the jury. Similarly, Robert Burns did a close analysis of opening statements in homicide cases to show the strategy of rhetorical choices in order to make an impression on the jury. During court trials attorneys wield great power by virtue of their role. The attorney in his or her opening statement receives total attention from everyone in the courtroom. Thus during opening statements the attorney can control how the jury is to understand the issue. Thus, through the remainder of the trial the attorney can guide how the jury is to perceive the credibility of the defendant.

Administrators as public officials often conversed with each other to act in certain bureaucratic ways in order to make sense of less coherent narratives, because a story might also be an assemblage of arguments that may or may not be coherent and may not support various institutional norms. Maryn illustrates the notion of “professional vision” in which professional administrators practice a way of seeing a selected vision of reality particularly when a narrative is not obviously coherent. For example, due to limited linguistic resources of an asylum seeker, the asylum seeker tells her story of looking for a job at the train station in Belgium. The official having heard many similar stories makes an assumption that the asylum seeker is a prostitute. The official doesn’t make an effort to understand whether or not the female asylum seeker is indeed a prostitute. Instead, the official interprets the asylum seekers narrative to be that of a certain type of refugee, a
prostitute. Applicable to this dissertation is that narratives are not always coherent due to linguistic limitations of immigrants. Therefore, administrators compensate by generalizing the habits of a certain group of immigrants.

Material evidence is often necessary to clarify the purpose of the narrative in order to make the narrative believable (Burns 180). Material evidence however, is often embedded in cultural norms. Citing Jerome Bruner, Burns says that the deep structure of narrative is built around a sequence of legitimate status quo, a disruption of that status quo, and then its restoration. Burns claims that this process of the deep structure of a narrative parallels the demand for corrective justice (163). For Burns, this implies that for trials, justice lies at the heart of the story. However, Burns also states that witnesses make good faith recollections of events and inevitably individual moral judgments are made along with those recollections. Furthermore, in trials as in administrative hearings there is the value that material evidence adds (180). Material evidence is concrete and visual and can either add believability to the narrative or it can render the narrative with an inconvenient truth. So while narrative makes something believable, the empirical proof of material evidence can clarify the meaning of the institutional norms and purpose of the narrative (180).

What makes a story credible? Peter Brooks and Paul Gewirtz edited a volume of essays about narrative and the law. The essays draw attention to the importance of how stories are received. Narrative is a form of opposition—a way of saying you can’t understand until you have listened to our story (16). Gewirtz tells us that the goal of storytelling in law is to persuade an official decision maker that one’s story is true, to win a case (5). Gerwitz states that “narrative theory insists on the importance of focusing on
how stories are received, not simply what they say—after all listeners affect tellers and
tellers affect listeners” (144). Brooks adds that the literary forms of storytelling can and
should be imported into law (15) because narrative has a unique ability to allow other
voices to be heard, to contest the very assumptions of legal judgment (16). For purposes
of this dissertation, story telling as an activity can be utilized to emit power over listeners
whether it is through logic or emotion.

Trials are stories in which every character, word and even has a purpose. This is a
point Alan Dershowitz makes in his contribution to the Brook and Gewirtz volume.
When lawyers use storytelling in the legal system the story can also be used to confuse
fiction from fact because stories are meaningless in real life (101). Dershowitz illustrates
this in his work with the O.J. Simpson trial. The prosecution tried to show an internal
logic to a narrative that an abusive spouse would logically go on to kill his wife. The
defense pointed out that in real life few people (less than 1%) who abuse their spouses
actually go on to murder their spouses. In addition, can we really say that this alleged
spousal abuser was one of those rare spousal murders? With two competing narratives the
one narrative that wins will also meet the legal rules. Because as in the Simpson case, the
burden of proof lay with the government, the defense only had to provide reasonable
doubt. Relevant to this dissertation is that law as narrative and rhetoric can mean
different things.

Analyzing stories and their relationship in courtroom and administrative contexts help
us to understand the process of building a narrative and how it involves speakers and

34 Alan Dershowitz is currently a professor emeritus at Harvard Law School who represented high profile
defendants. In 1995 Mr. Dershowitz represented defendant O.J. Simpson in the high profile trial, People of
the State of California v. Orenthal James Simpson. Mr. Simpson was charged with killing his ex-wife
Nicole Brown Simpson and her friend Ronald Goldman.
audiences. Narrative analysis also encourages awareness of the human lives that are the subjects or the objects of the law.

V. Contributions to the Field of Rhetorical Studies

There has been little work in administrative hearings on the issue of *ethos* and less on the issue of *ethos* performed in administrative hearings in general. While studies have focused on discourse in a legal context, few have investigated the concept of *ethos* performance as this study does in administrative contexts. Literature on legal discourse in trials and government interviews is very helpful and has produced cogent analysis from the point of view of narrative. It is through the investigation of *ethos* performance in verbal interaction that this study illuminates the influence of social norms and political narratives that circulated surrounding laws that affected Chinese immigrants.

This study will build on and contribute to rhetorical research that has investigated the concept of *ethos* as more than the character of the speaker but a mode of proof according to societal norms (Farrell). While work in narrative studies have focused on narrative in the courtroom, this study widens the analytic lens to narrative in moment-by-moment dialogue in which government officials wield control over groups in current discussions on immigration.

With the goal of making explicit unspoken assumptions in the use of language, this study seeks to improve our understanding of dialogue in institutional settings as well as how institutional practices are influenced by social norms and political narratives. This work will contribute to qualitative research in rhetorical studies by examining the form and content of language used in relation to law (Gewirtz and Brooks) and what the form and content achieve in legal settings. In addition, as a contribution to rhetorical studies
this work addresses micro-level questions about the significance of *ethos* by examining dialogue within particular contexts.

The institutional norms of the administrative hearing are in the rules and practices rendered. Charles Briggs points out that aspects of the discourse including aspects of interviews, interrogations and procedural matters can be analyzed through narrative methods. In short, narratives constitute a crucial means of generating, sustaining, mediating and representing conflict (Briggs 3). Thus, stories that emerge in administrative legal settings are context and audience specific, so narrative becomes a way to bring an understanding of the mechanisms that create *ethos*. The hearings analyzed in this dissertation expand the view of dialogue and narrative from adversarial trials to that of inquisitorial events because Lai’s hearings go beyond fact finding more generally.
CHAPTER 3

METHODOLOGY

In this chapter, I describe the methodology behind the analysis of the three administrative hearings and the relevance of these methods to the theoretical concerns that guide this study. The methodology I use to analyze the three hearings combine tools from narrative analysis and feminist rhetorical methods to shed light on the issues within the narrative that are unsaid, unheard and hidden. Because the object of this study is to analyze the performance of a credible persona under the Chinese Exclusion Act, it is important to remember that a credible persona also reflects the legal bureaucratic processes in which power is inferred, but nonetheless part of what constitutes an administrative hearing because there are institutionally specific practices and inferences (Drew and Sorjonen).

I introduce my methodological approach as one that is attentive to the give and take between the administrator and immigrant. In this chapter I analyze a short excerpt from the transcript of an immigration hearing from 1927 of a woman named Lai Soon She to demonstrate the value of this methodological approach. The analysis of data shows how the question-and-answer format of the administrative hearing enables a speaker to perform a credible persona— and how that performance and persona are jointly constructed in and through interaction. As part of this analysis I use analytical tools from my narrative analysis to identify specific turns within the hearing that She uses to construct a response that not only satisfied the administrator but also contributed to her ethos or credibility.
This chapter is organized in the following way: First, I focus on an overview of narrative analysis followed by an overview of feminist rhetorical methods. I then offer a discussion of the legal impact of the Chinese Exclusion Act on wives of merchants seeking to enter the United States. Administrative hearings for wives of merchants reflected the same bureaucratic process in which power is assumed because of specific institutional practices. Finally, I demonstrate the ways in which I will use tools from narrative analysis and an approach from feminist rhetorical research methods to analyze a short excerpt from She’s hearing. This analysis of data sheds light on the power of interaction in the production of a credible persona.

**Narrative Analysis as a Method**

There has been growing recognition by narrative and discourse analysts that narrative means more than a linear coherent story about a definitive situation in which sequential events are organized around a plot. Narratives can happen in a variety of social exchanges, such as those in everyday conversation (Ochs and Capps), and in institutional encounters (Defina and Georgekoupoulou) in which participants build an account of past personal experience. Catherine Kohler Reismann’s emphasizes the role of dialogic performance in narrative analysis to see how talk among speakers is interactively produced and performed as a narrative (Reismann 105). “Stories don't fall from the sky, they are composed and received in interactional context, historical, institutional, and discursive” (105). Dialogic analysis requires a close reading of the contexts. One purpose of such an analysis is to discover the means by which certain words are produced and performed. Taking into consideration Bakhtin’s argument that a given word is saturated with ideology and meaning from previous use (107), I pay close attention to the question-
and-answer sequences that take place during an administrative hearing in order to
understand the particular ways that the immigrant, the government official, the
institution, and the ideology of a culture are all referenced and characterized.

The focus on the question–and–answer sequence as a unit of analysis, I examine
how such sequences contributed to and influence the dialogic performance of ethos that
occurs. This focus on dialogic performance allows me to highlight the societal context of
particular turns in a question-and-answer sequence as well as how those sequences
contribute to an immigrant’s capacity to perform as a credible person.

Recall that the administrative hearing is a type of institutional social exchange for
which the purpose is to convince a government official that her narrative is true and
constitutes evidence of her claim to enter the country. Recall to, however, the
administrative hearing is also a bureaucratic event that has its own system and rules for
exchanging dialogue. For example, in an immigration hearing, under Chinese Exclusion,
even though the immigrant would probably like to say something beneficial on his own
behalf, he/she is only permitted to answer questions when asked by the government
official. The immigrant’s response is therefore not an uncomplicated mechanism for the
immigrant’s self-expression; instead the immigrant had the burden to engage with the
government official to show that he (the immigrant) was an exception to the rule of
Exclusion and thereby allowed to enter and remain in the United States. Both the
government official and the Chinese immigrant were rhetors trying to win his own case;
the immigrant trying to win legal status as a resident, and the government official looking
for reasons to exclude the immigrant under the law. Thus, in administrative proceedings
under the Chinese Exclusion Act, narratives are told sequentially in turns allocated so that
no question or response by itself can be adequately understood without considering previous questions and responses and in anticipation of subsequent questions and responses (Atkinson and Drew). In question and answer sequences, the narrative unfolds sequentially, during which each side has turns at talk. Given a certain end to the hearing, the official takes into consideration what was said not only in the hearing in question, but also, quite possibly from previous hearings. These are the kinds of narrative that characterized administrative hearings that took place under the Chinese Exclusion Act throughout the United States during this historical time period (1920s).

My approach to narrative analysis assumes that administrative institutions construct social settings for collaborative meaning making. Narrative analysis is often used as a tool for studying the human need to make meaning in such situations (Ochs and Capps 2). Defense attorneys for instance, encourage clients to provide testimony as a narrative in order to enhance credibility (Conley and O’Barr). Similarly, in cross-examination, opposing attorneys will control the narrative through questions to degrade witness credibility (Gibbons). In this respect, who controls the narrative can influence the meaning and coherence of a story. A story’s coherence affects a decision from which a witness was deemed credible or not.

My analysis of data also assume that context is essential to making meaning out of a narrative. By context I mean the conditions by which words are spoken, understood or challenged. A listener’s reply to a speaker reflects the listener’s appraisal of where the speaker places him or herself with respect to others within a specific social context. Narrative through dialogue assumes that the production of narrative is shaped and
reshaped, turn-by-turn, in the course of conversation that can capture polyphonic and indeterminate quality to human events and non-events (Ochs and Capps 6).

My methods of inquiry and analysis also assume that narratives produced within a social encounter are collaboratively achieved. As the excerpt from She’s transcript demonstrates, the hearing’s sequenced questions accrue facts progressively. Ochs and Capps argue that, “narrative framings are contingent upon narrative input of other interlocutors, who provide, elicit, criticize, refute and draw inference from facets of the unfolding account.” (3). Thus, participants in these types of social exchanges become co-contributors to the narrative. Important for this dissertation is the understanding that narratives derived through the social exchange of an administrative hearing are a co-construction.

Given my interest in the discursive conditions that allowed an immigrant to perform a credible persona during an administrative hearing, four key tools proved especially useful: (1) professional vision, an organized way of seeing and understanding events that are answerable to the distinct interest of a social group (Goodwin 606); (2) tellability, is a reportable speech that is of high interest to both participants; (3) reported speech, past speech or conversation including direct quotes, made by a witness that is taken from one context and inserted into the present context; and (4) footing, Goffman’s notion of alignment that speakers and listeners take toward each other and toward the content of their talk. I employed these concepts as analytical tools to consider the underlying logic that helped to structure the question-and-answer turn-taking sequence.

Feminist Rhetorical Methods

This study combines narrative analysis with two processes from feminist
rhetorical methods—the analysis of the critical imagination and the notion of social circulation. First, critical imagination is a process by which a researcher starts with available artifacts as evidence but then looks above and around that evidence to create a qualitative hypothesis about the rhetors, rhetorical events, sites and practices that would account for such artifacts (Royster and Kirsch 137). By drawing on our critical imagination we seek to analyze the conditions and lives of previously unacknowledged rhetors by hypothesizing not for truth claims, but for what is possible given the facts at hand (71). Employing this method allows a historiographer to look beyond previous assumptions to see possibly something new. Second, the notion of social circulation allows us to investigate narrative to study rhetorical practice in which people connect and interact with others. The notion of social circulation resembles social networks because there is interaction not only through sociopolitical and cultural contexts, but also across generations in time and space (Royster and Kirsch 101). The key activities in social circulation are to re-imagine different domains of discourse, to re-envision cultural flow in specific localities and to magnify the impact and consequences of rhetoric of marginalized populations (98). Critical imagination and social circulation offer strategic approaches to gathering evidence that function to collect multiple viewpoints and interpretations of a historiography.

To fully analyze language in these administrative hearings within the legal process I must take into account the rhetorical use of language in combination with the historical context. Looking closely at the ways in which ideas, ideologies and artifacts circulate can enhance our understanding of rhetoric as an embodied social experience. I draw on the notion of social circulation in my analysis of data because it offers a
perspective that seeks to understand phenomena that often are hidden from view. In
dialogue, particularly in a question-and-answer sequence during an administrative
hearing, it can illuminate the cultural flow within the dialogue and magnify the situation
with regard to power dynamics between speaker and listener. The notion social
circulation helps us to understand how ideas within a narrative circulate across places in
local and global contexts. The logic of the narrative at least in part created by the
circulation of social networks embedded in the socio political context of the time as well
as understood within the frame of the administrative hearing.

As I stated in chapter 1, feminist rhetorical methods are necessary in this study
because scholars use these methods to examine who has been marginalized in society
and why. Existing artifacts about marginalized populations are often scattered within
mainstream historical sites and invisible to mainstream historical culture because
traditional rhetorical education did not include public address with marginalized
populations (Royster and Kirsch). In administrative hearings that concerned a Chinese
immigrant, feminist methods allow for increased emphasis on creativity and innovation
(Royster and Kirsch 39). Critical imagination allows for a methodological means to
search and interrogate what is possible given the facts at hand. As a tool, critical
imagination focuses on existing resources, fragmentary or otherwise, and existing
scholarship to assess what is understood and what is missing (72). Critical imagination
and social circulation are strategic approaches to gathering evidence that function to
collect multiple viewpoints and make intentional interpretations grounded in theory.

Feminist rhetorical tools and the tools of narrative are not mutually exclusive;
rather they overlap considerably. For example, an understanding of narrative influences
the meanings attributed to facts and events, while feminist methods interrogate related, but often hidden, artifacts and evidence that bring greater meaning to the narrative. Ethos for example, implies that it not just the speaker who must demonstrates credibility but also, in how the speaker characterizes the narrative. The speaker uses the technique of narrative in order to persuade. However, a non-fiction story is expected in a legal setting and cannot be unbelievable because a story must be consistent to an audience’s knowledge of the real world (Ochs and Capps).

**The Wife of a Chinese Merchant Under the Chinese Exclusion Act**

Next I show my methods at work in the immigration case of Lai Soon She, wife of a Chinese merchant. The tool of social circulation helped me to understand the main topic, or theme that drove the logic of the question-and-answer sequence. Under the Chinese Exclusion Act, the interview granted the bureaucratic process the full force of the law. Drawing on the notion of social circulation, I followed and analyzed the contextual cues at work in this process (where the wife of a Chinese merchant had to prove that she was not a prostitute). According to history scholar Erika Lee, Chinese women were assumed to be excludable under the Chinese Exclusion Act because it was believed that all Chinese women seeking entry were prostitutes (94). In 1895, John H. Wise collector of customs and chief of the Chinese Bureau in San Francisco stated, “all Chinese women would be considered prostitutes until they could prove they were not” (94). The wife of a Chinese merchant held the burden to prove that her marriage to her merchant husband was legitimate. Yet, regardless of the legitimacy of a marriage, immigration officials could deport the woman for a variety of reasons that were unrelated to the Exclusion Act such as prostitution, poverty or disease (Levine 145).
Chinese women however, learned how to not be branded a prostitute by exhibiting a high social class status (Lee 134). Between 1910 and 1924, 2,756 Chinese women entered the United States as a Chinese merchant’s wife. Thus, immigration officials did have some basic knowledge of what constituted Chinese standards of wealth (134). For example, officials correlated wealth with education. In Lai Soon She’s case the official asked her in pre testimony if She had attended school. She testified that she had attended school and thus, the immigration official could infer that that She came from a high social class in China. Therefore, in order to be consistent with her education She would need to provide evidence of wealth in order to meet the immigrations official’s vision of the typical wealthy Chinese merchant’s wife. For She, showing wealth through the narration of visual artifacts related to marriage and wedding customs was most crucial because it was the main determinate of credibility (Lee 94). For instance, toward the end of She’s questioning, the immigration official asked, “From whom did you receive the wrist watch you are now wearing?” She answered, “I had received that from my husband at the time of my marriage.” The wristwatch that She was wearing was displayed on She’s wrist as a symbol of wealth. She specifically stated it as a gift from her husband. In a prior testimony in the matter of Lai Soon She, Lai testified that he had given She, his wife, a wristwatch as a wedding gift.

The Chinese merchant’s wife also had to prove that the marriage was legitimate. Since Chinese marriages were often arranged, and coupled with the belief that Chinese

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36 In Re: Matter of Lai Soon She, June 2, 1927 Appendix A for testimony of Lai Soon She.
men had many wives (concubines), officials did not always consider Chinese marriages to be legitimate (Lee 94). Wise stated, “The Chinaman would have to demonstrate to me that the woman is his wife according to our ideas of marriage” (94). Thus, merchant wives, like Lai Soon She, had to bring evidence of a wedding. For She’s entire hearing she was being grilled about her marriage to Sik Foon Lai. This was a highly significant event because She must prove a legitimate marriage in order to be admitted into the United States. If She does not meet her burden to prove a marriage, then she will be deported. Since the question-and-answer format in the immigration proceeding offered little space for interactional negotiation She had to strategically insert statements that would emphasize her class status and display symbols that would indicate a marriage took place. For example, She wore a large diamond ring. The immigration official noticed it and asked She about the ring. She replied, “That is my engagement ring that I received from my husband.” While a diamond engagement ring was not part of Chinese custom, the diamond engagement ring is a custom in American culture. She was wearing the diamond engagement ring. A diamond engagement ring is an American custom not a Chinese one. As a symbol the ring could demonstrate that She was married.

Immigration officials commonly believed that Chinese merchants should be educated, wealthy and refined gentleman who posed no threat either to white labor or to American society in general (Lee 89). Since the wife of a Chinese merchant derived her immigration status through her husband (Stevens 281), officials applied their vision of

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37 Ibid. The diamond engagement ring is not a tradition in Chinese Culture. Using critical imagination I would speculate that She wore the ring intentionally. The ring was for the administrator to notice. She used the diamond ring as proof that She’s marriage was legitimate.
wealth, education and refinement to the wives of merchants (284). Between 1906 and 1924 an average of 150 Chinese wives were admitted each year (Levine 149).

**Narrative Analysis Tools at Work**

Next, while showing how this project employs tools of narrative analysis to identify and explicate discursive conditions that allowed an immigrant to perform a credible persona during an administrative hearing. Analysis of narrative elements in which narrative is talk-in-interaction (Defina and Georgekopoulou 123) center around the question “who can tell the story to whom” and whether parts of a narrative are part of other narratives that circulate (Shuman 127). In order to understand the layered network of narratives that inform the geographical, social and political parameters of ethos performance, I situate the hearing in its proper context and depend largely on situated use of tools in narrative analysis. The tools of professional vision, tellability, reported speech, and footing are demonstrated through the following excerpt taken from the hearing of Lai Soon She. To contextualize what is said within the excerpt I frame the excerpt with a theme that framed the underlying meaning of the questions. The theme for this excerpt is “Wealth”.

Q: At what house were you and your husband married?

She: At the house occupied by my husband in Shek Kee City-I remember that I was conveyed to that house in a sedan chair from a hotel in Shek Kee.

Q: What members of your husband’s family were present at his house in Shek Kee City when you arrived there for your marriage?

She: Only my husband’s mother and his children, Sun Kin and Sun Quon.

Q: At what time of the day did the marriage ceremony to your husband occur?

She: At 10:00 o’clock in the morning.
Q: Who accompanied you to the home of your husband on your marriage day?
She: My father, mother and two brothers.

Q: Were there any feasts at your marriage?
She: Yes, a feast of four tables.

Q: At what time of the day did the feast occur?
She: At 5:00 o’clock in the evening.

Q: Where there any musicians employed to make merry?
She: No

Q: Did any Buddhist priest officiate at the marriage service?
She: No

Q: Did anyone officiate at your marriage service?
A: No

Q: Was there any school teacher present at your marriage?
A: No

Q: Have you ever met in China a man by the name of LUM MOY BUM?
A: Yes, he is a teacher in Shek Kee City.

Q: Was he present at your marriage?
A: Yes.

Q: Did he have any particular part in the conduct of the ceremony?
A: He was the master of ceremonies.
The concept of “professional vision” is the process within the bureaucratic setting in which Lai’s narrative is measured against other Chinese immigrant narratives (Maryns 188). The bureaucratic practices in the Lai hearings display the features of “professional vision” described by Charles Goodwin as a socially organized way of seeing and understanding an event (606). The social group in Lai’s administrative hearings is the government official who questioned Lai. Maryns explains Goodwin theory of professional vision as the following:

Goodwin addresses the theory behind perception, perspective and representation and illustrates professional vision in discursive activities of a) coding: transformation of the observed phenomena into professionally established categories: b) highlighting of particular phenomena as salient: c) producing representations of selected parts of reality. (188)

Since, questions arise in legal contexts as who tells the truth and who lies, the telling a particular story in particular ways may have serious consequences on the life of the individual or group (Defina and Georgekopoulou 125). Therefore, government officials designed and organized questions in institutional ways to narrow the meaning of facts within the narrative.

In this fragment from the above excerpt Lai Soon She had the burden to prove that she had wealth and that she had a legitimate wedding that ritualized her marriage to Lai.

Q: At what house were you and your husband married?

She: At the house occupied by my husband in Shek Kee City-I remember that
I was conveyed to that house in a sedan chair from a hotel in Shek Kee.

For officials doing interviews some recurring markers of wealth will trigger a pattern for the official (Maryns 190). Most notably a marker of wealth might be the sedan chair as an outward sign of wealth. The official asked in what house was She married. She answered at her husband's house in Shek Kee City. However, she added that she remembered that she was conveyed to the house in a sedan chair from a hotel in Shek Kee. In relaying this information, Lai Soon She positioned herself as a woman of high social status within Chinese culture. In Chinese culture, a sedan chair was the traditional way in which the bride from an affluent family was taken to her wedding place. The sedan chair also makes it more probable that She was not a concubine (Lee 94). The reasoning that She would likely not be a concubine or prostitute was because officials believed that prostitutes could not be wives in part because wealthy Chinese men could afford to bring their wives, and no wealthy man would have a prostitute for a wife (Stevens 276). She could have simply answered the inspectors question about the house where she was married, but without her added commentary (about a sedan chair), her response would have been less effective, since in this case She had little other evidence to prove marriage (other than the marriage certificate). She’s response had to become a rhetorical act for her benefit. She needed the official to infer that the factual reality of a wedding is attributable wholly to She’s social status.

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38 Lee, *At America’s Gate*. Wealth was a marker to distinguish elite Chinese women from prostitutes.
Tellability

The following fragment shows that She’s narrative is tellable. Lai had testified to the exact questions asked either in prior testimony as a witness for She and in his previous hearings with the Bureau of Immigration.

Q: What members of your husband’s family were present at his house in Shek Kee City when you arrived there for your marriage?

She: Only my husband’s mother and his children, Sun Kin and Sun Quon.

Q: At what time of the day did the marriage ceremony to your husband occur?

She: At 10:00 o’clock in the morning.

Q: Who accompanied you to the home of your husband on your marriage day?

She: My father, mother and two brothers.

The official asked of family members who attended the wedding. While family members can be presumed to be present at a wedding, these questions were strategic on the part of the official because Sik Foon Lai, She’s husband, had previously testified to the same exact questions. The official was seeking consistency with She’s husband’s prior testimony. She then stated that Lai’s mother was in attendance at the wedding, but additionally She inserted the “names” of Lai’s children. This is important because in naming the children specifically, She added details (in the form of names) to family members because the names of the children were recorded in Lai’s immigration hearing in 1920, and also recorded in Lai’s testimony as a witness for She in this current hearing. She did not explicitly name her own brothers, her parents or Lai’s mother, but She named the children (Sun Kin and Sun Quon). The narrative then is tellable as it included the story of a family occasion that included specified children. Since the children’s names
had been recorded in Lai’s immigration records, explicitly naming the children was a
tellable occasion at that moment because it added to She’s credibility as Lai’s wife. In
addition, officials argued that the Chinese custom of marriage that included concubines
hardly qualified as marriage (Lee 94). By asking if family attended the wedding, the
official sought evidence of family that attended the wedding.

In this next fragment, tellability is seen as a symbol that has a huge bearing on the
future life of Lai Soon She. She is wearing a wristwatch and a diamond ring. Both items
hold value and were noticed by the immigration official. This fragment was not
chronologically sequenced with the above excerpt, instead the questions were raised near
the end of She’s testimony as the official was preparing to close questioning.

Q: From whom did you receive the wristwatch you are now wearing?
A: I had received that from my husband at the time of my marriage.

Q: From whom did you receive that diamond ring that you are also wearing?
A: That is my engagement ring, which I received from my husband.

In the above fragment She’s wristwatch and diamond ring are displayed in such a way
that the immigration official noticed those items. Both the wristwatch and the diamond
ring have monetary value and are symbols of wealth. However, the diamond ring had an
additional meaning in American culture. She responded that the diamond ring was her
engagement ring. However, a ring for marriage or engagement is not part of traditional
Chinese culture.39 The wristwatch and the diamond ring were symbols for the

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marriage in China was arranged by parents. When an arrangement was agreed upon the agreement is placed
in writing on duplicate cards, which are then sewn together. The marriage is complete at that point. The
engagement ring is a Western tradition that was not part of Chinese culture.
immigration official to notice. Therefore, the items were important to classify She’s marriage as legitimate.

_ Reported Speech _

As discussed in chapter 2, reported speech includes words utterances and conversations from a historical speech situation relevant to a current case and fact at issue even though witnesses may have never stated these formally elsewhere (Mateosian 105). Attorneys, in adversarial settings often rely upon reported speech as tactical device to undermine witness credibility. It is often a tacit way to claim social power over a witness (Mateosian 107). Relevant is that Lai’s hearings progressed consecutively over time, thus each consecutive hearing was highly dependent on what he said in a prior hearing. In each hearing, the inspector who uses reported speech as a reference for context, directly forges a link through questions between what was said in a past hearing with what is said in the present hearing. In this next fragment, reported speech is crucial because it becomes a mechanism for proving the legitimacy of She’s marriage to Lai.

Q: Did any Buddhist priest officiate at the marriage service?

She: No

Q: Did anyone officiate at your marriage service?

A: No

Q: Was there any school teacher present at your marriage?

A: No

40 Bakhtin says that language is dialogic and polyphonic in that it is an interacting set of voices in continuity with past and present. In this way Mateosian quoting Bakhtin says that, “direct quotes provide historical authenticity giving the speech the aura of objective authority. Thus, a direct quote implicates a foundational reference within the social context.
Q: Have you ever met in China a man by the name of LUM MOY BUM?
A: Yes, he is a teacher in Shek Kee City.
Q: Was he present at your marriage?
A: Yes.
Q: Did he have any particular part in the conduct of the ceremony?
A: He was the master of ceremonies.

The immigration official is asking who performed She’s marriage. It should be noted also that the official asked Sik Foon Lai, She’s husband, the same questions. Important here is that the official is seeking consistency in She’s answer. If She’s response is not identical to what Lai had said previously, She could be deported. The core of the question in this fragment is who officiated the marriage service? She answered “no” referencing that nobody officiated the marriage service. The official however reframed the question and asked if a schoolteacher was present. When She again said “no” the official asked if She knew a man by the name of Lum Moy Bum? She then affirmed that Lum Moy Bum was present and further stated that Lum Moy Bum is a teacher in Shek Kee City. The official could not have known the name Lum Moy Bum unless Sik Foon Lai reported it. The fact that the official asked about Lum Moy Bum most likely clued She into the meaning behind the official’s core question. She then responded to the official’s final question in this fragment that Lum Boy Mum was the master of ceremonies. In this way her credibility as the wife of Sik Foon Lai was maintained, even strengthened. She matched Lai’s testimony that Lum Boy Bum was a teacher in Shek Kee City, present at the wedding and acted in the capacity as a master of ceremonies.

Footing
In a similar vein to reported speech, I draw from Goffman’s concept of footing. Footing is a concept in which speakers align towards each other to orient toward the content of their talk (Ribero 48). Matoesian quotes Goffman, “A change in footing is another way of talking about a change in our frame for events (109). Footing captures the subtle complexities of discursive practice and therefore the central idea for the Lai hearings is to show that ethos, as it is performed, is not static. By employing Goffman’s notion of footing I show how She moved in and out of interactional alignment during her testimony.

As an interactional concept, footing captures contextualization of the situation. Footing allows us to see that words spoken are not separate from the context. Consider that in the previous fragment examined under reported speech above She used footing to align with the inspector and the context of the series of questions. The official was seeking consistency in She’s answer with that of her husband, Lai Sik Foon, who testified previously. In Lai’s testimony he stated that Lum Moy Bum had married him and She. Thus, She’s answer that Lum Moy Bum is a teacher and was the master of ceremonies matches Lai’s answer from his previous testimony. Here we also see an example of footing (Goffman) as a dynamic interplay of poly-vocal voices that function to align with the context in who officiated a wedding. She finds footing with the official’s belief that Lum Moy Bum was an official present at the wedding. She used the immigration official’s word “teacher” to identify Lum Moy Bum and the phrase “master of ceremonies” to indicate Lum Moy Bum’s status as an official.

Feminist methods are useful to this dissertation, because discourses across time

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41 In Re Lai Soon She, Testimony of Sik Foon Lai: Q: Did any Buddhist priest officiate at the marriage ceremony of you and your second wife? A: No, but we were married by a school teacher, Lum Moy Bum.
are like the group connections. Both are rhetorical in function (Royster and Kirsch 101).

I aim to use both critical imagination and social circulation, effectively and ethically as I seek to intimately examine administrative discourse and the deployment of ethos across time.

Pulling the Analysis Together: Making Claims about Ethos from the Immigration Hearing of Lai Soon She

The excerpt above taken from Lai Soon She’s immigration hearing is a narrative in that it is an account of a course of events that are connected in which the framing of the wedding story was contingent upon the input of She. She’s narrative was tellable (or compelling to her audience) in that the official had an interest in the event. But without the use of critical imagination and social circulation we would not understand the social meaning and the impact of She’s statement about her ride in the sedan chair. Using critical imagination, the fact that She’s family could afford a sedan chair and secure a hotel room for wedding preparation represented wealth. Through social circulation of what constitutes a wedding for a family of high social class, we can presume that the immigration official understood the significance of the sedan chair as a wedding symbol and a mark of affluence.

As for She’s detail in naming her husband’s two children, her move was necessary to corroborate with her husband. However, it was also strategic for the record in that the names of the children represented open slots for future immigrants (Lee 195). Using critical imagination, I can surmise that the immigration official asked the question concerning family attendance to confirm, for himself, that She’s marriage was legitimate.

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42 Lee, *At America’s Gates* 195. Immigrant families often claimed more children than they had in order to sponsor relatives or sell the remaining slots to interested parties.
However, Sik Foon Lai, She’s husband, had previously testified to the same exact questions. The official was also seeking consistency with She’s husband’s prior testimony. She then states that Lai’s mother was in attendance at the wedding but additionally She inserts the “names” of Lai’s children. In naming the children specifically, She adds detail. She did not explicitly name her own brothers, her parents or Lai’s mother, but She names the children (Sun Kin and Sun Quon). Based on understanding of how immigration processes work, it is safe to conclude that this was done not only for the effect of detail and consistency, but to establish future immigration slots for children (Lee 204).

The official then asked about wedding feasts. The inspector used the plural “s” in feasts. This indicated that the inspector might have been seeking a certain number of feasts. A common custom for a Chinese wedding is to have several wedding feasts because feasts are way to display wealth in Chinese culture. A wealthy family may have several large feasts over a period of several days. She replied, “one feast, but four tables.” She added “four tables.” Four tables spoke to social status of the groom’s family. Typically there are ten courses in a Chinese wedding banquet, and the cost of such a banquet is borne by the groom’s family. I use critical imagination to presume that immigration officials knew enough about Chinese wedding traditions to render that She and Lai Sik Foon’s social status were respectable.

The narrative of the wedding took place within an immigration hearing that is an institutional event in which the telling strategies used can be seen as a power-laden procedure that reached beyond the legal setting. She’s strategic narrative input was made in relation to social class and wealth. The question and answer exchange is a social
exchange that showed how She used symbols (sedan chair) to form the basis of belief that She is worthy of admittance into the United States.

The identification of social status that She sets for herself is an *ethos* of the moment. She demonstrates narrative coherence to express her social status rather than the transmission of a legal fact. It was a rhetorical act for her benefit. In the actual hearing, I suspect, the official could infer *ethos* not as an essential character of She, but as a mode of proof to meet the institution’s legal objective in the admittance of a merchant’s wife.

In the above example I used one excerpt under the theme of wealth to analyze the performance of a credible persona. In the three hearings that follow, each are divided into themes as well.

**Researcher Personal Knowledge and Study Limitations**

As far as my own role in this endeavor I can’t extricate myself from current life. I can however recognize my own perspective and how it may influence my interpretation of the past. My own involvement with Al Foon Lai’s history acts as a lens through which I view and understand these hearings. I am the family member of a paper son and my personal memory is communal with the biography of Grandfather Lai. My memory is a composite of memories that included paper immigration over the course of the 20th century. Writing history entails the careful selection and arrangement of historical traces among infinite possibilities including personal knowledge (Sharer 47). I am not a distant theorist in the ancient sense of *theoria*. As the researcher in this dissertation, it is important to acknowledge that I knew my grandfather Lai; our relationship was a part of my childhood life experiences. My uncles, Grandfather Lai’s sons, told to me what they remembered about their life experience with Grandfather. Their narratives played into the
construction of this research. Therefore, my membership as a Lai and an active participant in Lai family relations allowed me to read the documentation in Lai’s file while asking pointed and elaborate questions that static texts do not allow.

Paramount to the contribution to this dissertation was a combination of my personal knowledge of my Lai family experiences together with historical accounts written by Asian American historians. The knowledge I gained from Asian American historians allowed me to analyze Lai’s life and the political history with which his life was embedded. However, the personal knowledge that I contribute is not to find truth, but to account for the performance of *ethos*.

The extended period of time (1926-1965) covered in this dissertation risks generalization of an era and in overlooking the complexities of human interaction. I have decided to focus on events that took place over four decades because it allows me to view *ethos* over differing political and social contexts. On the other hand, the focus on one case may seem limiting to those in search of generalizability. However, in qualitative work that takes an interpretivist approach looking at one case over time promises to yield a number of robust findings, and I am comfortable with the trade offs involved in this choice. We now turn to chapter 4 to address the first research question:

*What does it mean or did it take to perform credibility as an immigrant seeking a permit to re-enter the United States (when a member of a paper family) in 1926?*
Figure 2. Grandfather Lai’s photograph shows a young man with slick black hair wearing a Western dark suit jacket, white shirt and grey tie. His gaze doesn’t reveal a hint of smile. Notarized on March 2, 1920 this document was his certificate of identity created in the midst of Chinese Exclusion. Beginning in 1909, all persons of Chinese descent were issued certificates to identify them as having been legally admitted into the United States (Lee 43). Dressed in a dark suit, white shirt and tie is how I remember my grandfather. I cannot recall him in any other mode of dress. It was as if all he owned were tailored suits.

Mother told me that she grew up in back of the family tailor shop. Over the years, Grandfather, a tailor, had grown his business from a small tailor shop into a large sewing factory of about one hundred employees. One year, for Grandfather’s birthday, Grandfather said that he would make the party dress for mother. Etched in my memory is the Chinese styled dress he made from dark blue satin silk with sequined cherry blossoms. I observed my mother with an auntie ogling the dress, not for the design, but
for the craftsmanship in the stitching. Grandfather did not use a pre made pattern; rather he designed the dress and he created the pattern and then stitched the dress. Later, mother showed me the detail in the stitching. “Pop made it,” she said, implying that it was made well because her father was a fine quality tailor.

Grandfather went to school to learn tailoring in Los Angeles. At least that is what I had been told by mother and an auntie. One day, on a family vacation, we were in Los Angeles and visited an herb store in Chinatown. The man at the store was a young man about the age of my parents. He was the son of the owner. His last name was Chan. I was told to address him as uncle.43 Mother told me that Grandfather stayed with this family who owned the herb store when Grandfather was living in Los Angeles going to school. The Chan family was not related by blood, but related because they came from the same village in China as my grandfather.44

Lai’s administrative hearing featured in this chapter took place in 1926, five years after Lai entered the United States under the paper name, Lai Sik Foon. In this chapter, I discuss how Lai performed a credible persona under the Chinese Exclusion Act. To this end, I describe the discourse and identities that were accepted, promoted and resisted within this specific type of administrative hearing by analyzing the transcripts, material evidence (available to the government from Lai’s immigration file), new evidence (that

43 In Chinese culture children show respect to all adult family friends by referencing male adults as uncle, and female adults as auntie. This show of respect continues as long as the family friend is alive. This was confusing to me as a child because I also called my family relatives uncle and auntie. There was no differentiation in address between family and friends. While this hierarchical referencing system is traditional Chinese culture, there was probably the added layer of paper families and the tightness of the Chinese community that had been built on paper immigration.

44 It was explained to me that everyone in the same village was related, not by blood, but by virtue of living together. Much in the same way Native American Tribes live together.
was presented by Lai), and the summary narration of the hearing proceeding. Through an analysis of the transcript in relation to these other artifacts, I analyze what it took for Lai to perform a credible persona versus what it took for the inspector to prove a credible documentation in the summary of his investigation. The historical perspective indicates that while Al Foon Lai’s encounter with immigration officials could appear to be objective and calculatedly de-personalized, underlying social and cultural narratives informed how Lai performed a credible persona. The summary of the investigation, in particular, illuminates the social and cultural narratives that contributed to the outcome of Lai’s case.

Returning briefly to the issues outlined in my review of literature (chapter 2) and the tools of narrative analysis outlined in my methodology (chapter 3), I show that the government inspector used what socio-linguists call “professional vision” to determine how Lai performed a credible persona. Through professional vision the inspector practiced bureaucratic ways of seeing a selected vision of reality (Goodwin 606, Maryns 188). Lai was very likely not the first Chinese merchant the inspector encountered seeking a re-entry permit. The inspector had heard similar narratives from other Chinese merchants. As such, Lai’s narrative aligned with a certain type of Chinese immigrant (a merchant). Lai, in turn, performed ethos according to the norms of administrative practice that were influenced by mainstream U.S. social beliefs of a Chinese merchant’s dress, speech and value to the economy of the U.S.

I begin with section I, a description of prior transcripts within Lai’s immigration file because these transcripts situate Lai’s position as a Chinese merchant under the Chinese Exclusion Act. Materials, such as an affidavit, were located among Lai’s file of
which the inspector had access prior to the hearing discussed in this chapter. In section II, I provide the legal context for the Chinese merchant in the frame of the Chinese Exclusion Act. In section III, I discuss the social norms that influenced notions of what a Chinese merchant should look like and how he should behave. The features of a merchant defined by social norms informed the trajectory of Lai’s re-entry permit proceeding. In section IV, I analyze the data from the hearing transcript between Lai and the immigration inspector. I use the tools of professional vision and tellability from narrative analysis to analyze Lai’s hearing transcript. I divide the hearing as it chronologically occurred while for each excerpt that I analyzed I assigned a theme to contextualize the central topic of merchant status in the U.S. In section V, I discuss the partnership list as material evidence that Lai maintained his status as a merchant within the confines of the Chinese Exclusion Act. In section VI, I analyze the summary of the investigation that was written by the inspector. The summary of the investigation shifts from an evidentiary procedure in the collection of facts relevant to the subject matter to that of a narrative summary of the same facts for a final decision on Lai’s application for a re-entry permit.

I. Prior Transcripts and Documents in Lai’s Immigration File

In 1926, Lai came before immigration officials a second time. The first time was when he entered the United States in 1920. Because this was the second time Lai met with the Bureau of Immigration Services, government officials had access to all of Lai’s documentation located in his file. At the time of the hearing analyzed below, Lai’s file

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45 See Appendix B. Documentation in Lai’s file show that officials sent for Lai’s file on March 9, 1926 and received Lai’s file on March 12, 1926. Lai’s present hearing is dated March 27, 1926. In addition, Lau (2006) states in her book “Paper Families,” immigration officials carefully compared recorded statements during the interrogation process in order to distinguish legitimate claims from illegitimate claims made by immigrants (105).
included transcripts from Lai’s immigration hearing in 1920 and an assortment of
documents used as material evidence, such as an affidavit dated 1920 (Appendix A), that
indicated that Chinese merchant Lai Kai On was Lai’s father. The affidavit spelled out
Lai’s (fictional) relationship to Lai Kai On. The transcripts and documents, found in Lai’s
file, allowed government officials to prepare questions in order to confirm Lai’s identity
and legal status in the hearing analyzed below. Together with the affidavit of Lai’s
relationship to Lai Kai On, were letters from the law office of attorney Dion R. Holm.
These letters were important in that the letters showed government officials that Lai had
hired someone to provide legal advice to assist with immigration procedures and
processing. A survey of over six hundred Chinese who entered the United States during
the Exclusion era revealed that 90 percent had hired immigration attorneys (Lee 139).
Relevant to this hearing is that, while attorneys were not allowed to participate or be
present at hearings, documentation from an attorney was an indication that the Chinese
immigrant could be telling the truth.46 In this way the ethos of the lawyer is extended to a
credible persona of the immigrant. In addition, government officials could expect to be
challenged in cases of denied entry, re-entry or deportation (139).47 Thus, it appears from
the evidence I analyzed that when dealing in important matters that concerned entry or re-
entry into the United States the Chinese may well have prepared for their hearings with a
rigor equal to the immigration officials.

46 Lee, Defying Exclusion 19. Also states that because the Chinese had hired the best lawyers in San
Francisco, one could also conclude that only the Chinese with financial resources could afford the lawyers.

47 Lee, At America’s Gates 139. John D. Nagle, Commissioner of Immigration 1927 said that attorneys were
“indispensible” allies to the Chinese.
II. Legal Context: The Chinese Merchants in the Frame of Exclusion

Due to the fact that section six of the Chinese Exclusion Act provided exempt status for merchants, maintaining merchant status was very important for those who wished to stay in the U.S. It was up to the Chinese immigrant to maintain his merchant status and many legal and social nuances made this process difficult.\(^48\) According to history scholar Erika Lee, unwritten in local regulations were class biases in Exclusion implementation. Officials believed that Chinese merchants should look like merchants (89). This included the notion that such merchants should display outward signs of wealth such as dress (a Western style suit) and be highly literate.\(^49\) In addition, officials also tried to ascertain whether someone was a merchant based on whether or not his employment required him to perform physical labor. Returning merchants were required to testify that they had not engaged in manual labor for one year (89). This included the skill of a tailor. Applicants for entry or reentry were advised (by lawyers) to deny knowledge of sewing on a button or threading a needle.\(^50\) Most important was to portray that one was in business and that at all times a merchant (90).

In addition, because immigration officials did not generally trust the Chinese immigrants, regulations that required that Chinese merchants requesting re-entry permits have “two credible witnesses” other than Chinese were established (Lee 91). The rule implied that real merchants would work with White businessmen (92). Thus, social and

\(^{48}\) Lee, *At America’s Gates* 226. This was codified in the Immigration Act of 1924. Inspectors had the right to examine Chinese persons not known to them.

\(^{49}\) Lee, *At America’s Gates*, 89. In 1906 the government required a literacy test for all Chinese claiming to be merchants. In 1917 Congress approved a national literacy test for all immigrants.

\(^{50}\) Lee, *At America’s Gates*, 89. Chinese warned each other to answer “no” to knowledge of sewing garments and to further state they know nothing of manual labor.
class standing as well as race played a role in assessing credibility. Middle and upper class White witnesses were looked upon more favorably and therefore, increased the chances for a Chinese merchant to be granted a re-entry permit (137).

III. Man of Wealth: Social Context

Merchants were seen as men who conduct business and thus have the potential to contribute to the economic growth of the United States. As such, at the time of the 1926 hearing, merchants held a higher socio-economic status in the U.S. than that of laborers, as it was the merchant who could do business to create jobs. We know factually that section six of the Chinese Exclusion Act did not target Chinese merchants, however the law does not explicitly say what a merchant should look like. The excerpts that I analyze below constitute a crucial part of Lai’s testimony in application for a re-entry permit because Lai, a paper son, had to do two things. First, in the moment of the hearing he had to retell the story that matched the narration in his immigration file that documented his paper family. Second, Lai had to meet the unstated expectations of the government official’s vision of a merchant, who at the same time questions Lai for credibility, consistency and detail. If Lai should fail to respond according to the official’s expectation, Lai could expose himself as a paper son, which could lead to deportation.

As I invoke from the point of view of the government below, I discuss Lai’s narrative in terms of tellability. By tellability I mean that the narrative Lai tells is tellable (of inherent interest and worth telling) to the inspector because the sequence of the discourse is pre-allocated or fixed (Atkinson and Drew 62). Since narratives are told to answer some stimulus from outside and to answer some point of personal interest (Labov and Waletzky 34), the concept of tellability emphasizes that Lai’s answers to the
inspector’s questions must conform to an overarching theme of material wealth. This theme is explicit with respect to the stated, and the unstated meaning of Chinese merchants.

Understanding the social and political contexts behind the Chinese Exclusion Act allows us (as readers) to add additional meaning to the following excerpts analyzed. I examine how *ethos* is performed (and read) within Lai’s administrative proceeding for a re-entry permit. I analyze excerpts chronologically (i.e. as they occurred over the course of the hearing). Each excerpt that I analyzed has a different theme.

**IV. Excerpts from Lai’s 1926 hearing for Re-Entry Permit**

The notion of *ethos* invoked with the meaning of character began with Aristotle, but like recent rhetorical scholars, I turn my attention to how *ethos* gains power through action. How Lai performed a credible persona is found in the midst of experience and action.

*Theme 1. Names*

The first thing that the inspector asked was if Lai is the same man who was admitted to San Francisco in 1920. The inspector invoked the voice of institutional authority. By commanding Lai to “Please state all of your (Lai) names,” and by invoking he voice of institutional authority, the inspector established his institutional identity as an official of the government. The inspector’s power was implied through his role as a government official and Lai was expected to respond to the inspector’s questions when asked. This imperative oriented Lai toward the institutional authoritative structure in that the inspector held institutional power because the inspector was empowered to make the final decision as to Lai’s re-entry permit. We see in the following fragment that the
inspector did not begin with a question. Instead, the inspector inserted the word “please” to politely command that Lai state all his names.

1 Q: Please state all your names.

2 A: Lai Sik Foon, boyhood name, Lai Sing Hoy, marriage name, Leon Lai, American name.

Beginning the interview proceeding with a command served two purposes, first to elicit information and second to show that the inspector controlled the event (cf. Walker 60). The force of the imperative cannot be ignored in that Lai was expected to answer the question and to do so honestly. In line two, Lai answered more than just his names but also included with each name, the purpose of his name within Chinese culture. It was culturally normal for a Chinese man to have more than one name; when viewed from a Chinese cultural context, Lai’s names were a cultural norm.\(^{51}\) The inspector commanded Lai to state all of Lai’s names. The words “all of” allowed Lai to offer several names. By using the words “all of your names”, the inspector permitted Lai to acknowledge having more than one name.\(^{52}\)

Opening the hearing with a command for Lai to state “all of his names” also announces that the official hearing has begun. This opening is also a signal to others present, such as the interpreter and the stenographer, that the sequence of questioning requires attention by all that are present (Atkinson and Drew 103). This command to state your name also

\(^{51}\) In Chinese culture one has a given name, for legal purposes, and a nickname, known to family and friends. As an example, my father’s given name is Clarence, but the name he is known under is Sonny because his Chinese name is Sung. So he is known as Clarence, Sonny and Ah Sung. I didn’t know my father’s name was Clarence until I was told in elementary school.

\(^{52}\) Lee, Ericka, states that evidence shows the government knew about this particular Chinese custom of having more than one name. Lau, *Paper Families*, 109 also confirms this cultural norm in pointing out that immigration officials often were confused with several names for one person and the variety of pronunciations.
means that everyone present knows the procedures of this hearing. The command to state one’s name initiates and organizes the turn-by-turn question-and-answer sequence that governs the rest of the hearing. The technique of gaining attention is a rhetorical device for the institution to establish its own credible persona. The inspector is able to establish the facts. Thus, Lai’s response in naming “all his names” was undisputable. Lai’s name and his entry into the United States as the son of a merchant were not debatable. The inspector established his credibility as one who is the voice of the institution by initiating the proceeding and in his command to Lai to “state all your names.” The command implied that the inspector would deal with incontrovertible fact.

After establishing Lai’s identity, in the next excerpt the inspector established the crux of the hearing: Lai’s legal status as the son of a merchant. The inspector indicated here (line 7) that he knew information about Lai’s father.

5. Q: What are the names of your father his age and whereabouts?
6. A: Lai Wong Hing also Kai On, his official name is Lai Yee Hen.
7. Q: Was he ever known as Lai Yee Fun?
8. A: The word “Hen” is sometimes pronounced “Fun”.
9. Q: His age and whereabouts?
10. A: Age 49 in San Francisco, Calif., is a teacher there.

In line 8, Lai positioned himself as knowledgeable about English and Chinese pronunciation. It was common for English speakers to hear more than one pronunciation of a Chinese sound. According to Lai, what appeared to be a discrepancy was not, since both “Hen” and “Fun” were two pronunciations of the same name. Although Lai was correcting the inspector, Lai used the word “sometimes.” The use of the word
“sometimes” softens his answer so that the response sounds more deferential. In this way, Lai’s explanation that, “The word Hen is sometimes pronounced Fun” worked for the benefit of Lai. Lai inserted the correction at a key moment (the beginning) to establish a credible persona. By softening his correction with the use of the word “sometimes” Lai diplomatically showed the inspector that the inspector’s understanding of Chinese pronunciation is not incorrect but there are other pronunciation alternatives.

The question, if “Lai’s father was ever known as Lai Yee Fun” (Line 7), came at the beginning of this proceeding. The question therefore, was one way for the inspector to establish his power and to set the tone of the hearing as a serious matter. Using critical imagination, I consider this may be an instance where the inspector intended to remind Lai that the inspector had another source of information that included not only Lai’s previous hearing testimonies, but also evidence of the names of Lai’s father from reports and affidavits recorded by government officials who had interviewed Lai’s father to verify Lai’s father’s merchant status.\(^{53}\) The inspector demonstrated his power by showing that he had done his research into Lai’s immigration history. The inspector not only knew the name of Lai’s father, but also the pronunciation of the father’s name as well.

The inspector asked an explicit question with reference to the pronunciation of the name of Lai’s father. The explicitness of his question demonstrated that he had access to Lai’s immigration file. In addition, the inspector was likely speaking with the aid of written notes that may have outlined his questions. The inspector displayed power in that he reviewed Lai’s immigration file and could operate from researched notes. Legal scholar Estelle Lau points out that written notes or pre-arranged questions were common

\(^{53}\) Documents in file show that government inspectors visited Lai’s father’s place of business and interviewed business partners, employees and customers in order to validate merchant status.
because inspectors would compare past testimony with present testimony as a measure of credibility to make sure the immigrant is who he says he is.54

The next theme in this proceeding addresses the issue of wealth, education and social status in China. From the excerpt below we see that Lai remained consistent with his and his family’s merchant status when asked to respond to questions about his paper family and about his business activities.

Theme 2. Social Status in China

In a bureaucratic hearing such as in this administrative application proceeding, applicants such as Lai present his case as an individual one. The questioning procedures in Lai’s hearing display some features of what Maryns, in quoting Charles Goodwin, refer to as “professional vision” or the way a bureaucrat might see a type of person through experience.

The transcript below suggests that Lai directly answered the inspector’s questions with specificity. His answers share a particular pattern in that his answers are short because the inspector was seeking specific background information that required one-word answers or short phrases. While eliciting background information of Chinese immigrants was a routine procedure, Lai’s responses were strategic as the next question sequence illustrates in how Lai corrected the inspector before the inspector could make an assumption about Lai’s home in China. The inspector’s follow-up question indicates that he was listening to Lai’s response with professional vision.

Q: Where is your home in China now?

54 Lau, Paper Families, 77-80, discusses in depth the increasing detail, systemization and routinization of questions. Particularly evident after 1915 so officials could compare past testimony with present testimony and testimony between witnesses.
18 A: My father’s family is living at Canton City but my wife’s father’s family lives in Shek Kee City.

19 Q: Has your wife always lived in Shek Kee City? Since you married her?

20 A: She lived in Canton City for a few months.

21 Q: Is she living with your people or with her people in Shek Kee City?

22 A: Just with my children now.

23 Q: You have a separate home by yourself?

24 A: Yes, we rent a house.

In line 18, Lai did not directly answer the inspector’s question. Lai informed the inspector that his own family lived in one city while his wife’s family lived in another. While the question gave Lai’s narrative tellability, Lai’s response was not satisfactory as it is illustrated by the inspector’s next question; “has your wife always lived in Shek Kee City? Since you married her?” (line 19). The implication was that Lai did not have a home in China. To sustain a home in China while living abroad was an indication of wealth, but to own a home in China was also an indication that Lai could plan to stay in China and sell his re-entry permit to another who would then enter the United States as Sik Foon Lai (Lee 194). The possibility that Lai could resell his re-entry permit falls within the professional vision of the inspector. The inspector would have likely been aware of permit re-sales from conducting other immigration and re-entry hearings. Therefore, my analysis suggests that the inspector through his professional vision continued to question Lai about his wife’s home in order to obtain details that he thought might be missing from the story (lines 19-21). Since Lai stated that his wife lived in Shek

55 Lee, *At America’s Gates*. Immigrants papers and identities were regularly traded among prospective immigrants and Chinese already residing in the United States.
Kee City, the inspector in line 23 asked if Lai had his own home. If Lai had a home in China, Lai had the option not to return to the U.S. In line 24, Lai answered affirmatively, but that the home with his wife and children was rented. Lai’s answer was strategic in that he showed that with a rented home in China he had no economic ties and thus, unlikely to stay in China and sell his re-entry permit to another. The word “rented” implied that Lai would most likely not stay in China, so any concern about him selling the re-entry permit to another was unfounded. At the same time, Lai showed he had the wealth to support a family in China while working abroad.

In the next excerpt, *a priori* reasoning about Lai’s background caused the inspectors to find evidence about social status of Lai while listening with that professional vision (Maryns 190).

41 Q: How many sisters have you?
42 A: One younger sister.
43 Q: How old is she?
44 A: About 26.
45 Q: Is she married?
46 A: No
47 Q: Where is she living?
48 A: In Canton City with her mother.
49 Q: What does your sister do?
50 A: Attending school.

Lai’s narrative that his family came from high social class was relevant as it matched the criteria for merchant class status. Lai’s sister (line 43-50) and her whereabouts had been
recorded in a previous file, but the key response to the inspector’s question was what Lai’s sister did (line 49). Lai’s sister attended school (line 50). The inspector asked about Lai’s sister because it was documented in Lai’s previous file that he had a sister. However, only wealthy Chinese women were educated (Lau 43). Lai’s response that his sister “attends school” was to prove to the inspector that Lai’s family was educated and thus, were from a higher socio-economic class. The phrase, “attend school” is key because that is what Lai’s sister does. Only a family from a high socio-economic class could afford to have a female child attend school. A female child from a lower socio-economic group would more than likely been married off to another family because the female child was a considered a financial burden. In marrying off a female child the financial burden moves to the husband’s family. Thus, the claim that Lai’s sister was in school was Lai’s proof that his family was of high social and economic status. As the son within this family Lai showed a credible persona by testifying that his family was of the merchant class. In addition, it was commonly understood, that the vast majority of Chinese women (particularly those from lower classes), were illiterate (Lui 93). Thus the official could infer that an educated daughter meant that a family was of high social class.

Being a successful Chinese merchant meant the accumulation of wealth, but wealth also meant the successful maintenance of transnational and familial ties with the village back home in China (Lee 120). Lai illustrated his social class through specific place names (Shek Kee) and a rented house. By naming a specific city and testifying that he rented a house for his family, Lai met his burden to prove that he had wealth because Lai could afford to rent a house in China as well as support his business and live in the United States. Specific place names matched with Lai’s wife in Shek Kee City and Lai’s
parents with Canton, recognized Lai’s wife and parents and their relationship to Lai (Atkinson and Drew 117) as transnational. Important here is that Lai described his homes in China, initially with a neutral place such as Canton and Shek Kee City, and then moved to the action of a rented house in Shek Kee City. By stating that he rented a house in Shek Kee City Lai provided a separate identity for himself from his parents from his wife’s parents and from his wife and children. In doing so, Lai showed the inspector his wealth and independence through his ability to support his wife and children in China separately from his own support in the United States.

The above theme showed the social class of Lai’s family in China; the next theme concerns Lai’s legal status as the son of a merchant upon entry into the United States.

Theme 3. Son of a Merchant in the United States

Membership in a group is usually determined by activities ascribed by convention (Atkinson and Drew 122). What conventions a given situation expects is determined through inference and because the process of recognizing a convention is a routine, in that this kind of interaction often goes unnoticed (122), but the aim in recognizing the routine is to formalize the activities that are conventional in society (124).56

The following excerpt shows the routine of gathering facts of what would constitute the son of an immigrant merchant in the United States. In most Chinese merchant families there were two main priorities: to educate the next generation and to generate wealth from business. In the following excerpt, Lai was allowed to show his family social and economic status in this question-and-answer sequence:

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56 Atkinson and Drew, p. 125 discuss the notion of membership categorization in which a religious groups such as Catholics and Protestants have standard characteristics and features. Those characteristics are ascribed as conventional activity. Membership categorization is used to enable co-participants to recognize the correctness of a description and the inferences that might be made from those descriptions.
Q: Where have you resided since coming to this country in 1920?

A: I lived 2 years in San Francisco with my father: 1 year in Watsonville: the rest of the time I was here.

Q: Where was the first place you lived after your admission?

A: San Francisco, remained there 2 years.

Q: What did you do during that time in San Francisco?

A: Attending School

Q: What did you do in Watsonville?

A: In business.

Q: Were you associated in your father’s business there?

A: Business handed over to me by my father.

Q: Were you simply taking care of his interest or did you own an interest yourself in the business.

A: The interest was given to me by my father.

Q: What was the value of that interest?

A: One thousand dollars.

Lai’s response that the value of his business interest was one thousand dollars confirmed his merchant status. One thousand dollars was the minimum required for a Chinese merchant to invest in a business in the United States under the Chinese Exclusion Act.

Lai described the value of his interest to enable the inspector to understand his membership in the merchant class. Lai invoked the use of the words “business”, “interest”, and “one thousand dollars” to demonstrate to the inspector that doing business was his activity. Because Lai’s father was a merchant and his father’s interest in business
was handed to Lai (line 60), Lai was also a member of the merchant class. Moreover, the reference using business terms enabled both Lai and the inspector to collaboratively recognize the correctness of the description of what a merchant should stand for. Since Lai had a monetary investment both inspector and Lai could agree that Lai was a merchant and not a laborer.

The next theme was for Lai to prove continued merchant status in the United States.

**Theme 4. Merchant Status**

Following questions about Lai’s status as the son of a merchant, the inspector continued to ask about Lai’s activity as merchant independent from Lai’s father. Lai answered the inspector from a business perspective.

67 Q: Give me the exact date of your arrival in Los Angeles.
68 A: November 1923
69 Q: What did you do when you first arrived here?
70 A: I did not do anything for the first month and a half or two months: on January 1, 1924, I joined the G.S. Chan Co., of this city.
71 Q: Is there a Chinese name to that company?
72 A: Sometimes known as Wuey Chun Tong.
73 Q: In what does that company deal?
74 A: Chinese herbs.
75 Q: What is the company’s present address?
76 A: 212 West 10th St…also a branch at Long Beach.
77 Q: Were you located at that number when you became a member?
A: Yes

Q: How much did you invest?

A: One thousand dollars.

Q: What are your duties there?

A: Salesman.

Lai met his burden that proved his merchant status in terms of what the inspector valued. Specifically, the inspector carefully questioned Lai about the specific location and name of the business that Lai purported to join. The inspector’s valued specificity in Lai’s answers in order to determine Lai’s credibility. For example, in Line 71 the inspector asked if there was a Chinese name to the G.S. Chan Company. The question elicited a response that indicated the veracity of Lai’s involvement with the G.S. Chan Company. Lai would know the Chinese name if he was a partner. Asking for the Chinese name of the G.S. Chan company also signaled to Lai that the answer better be true because the answers can and will be verified by others, thus, it would be useless to lie.

Lai’s response that the value of his business interest in the herb store was one thousand dollars confirmed his merchant status. One thousand dollars was the minimum required for a Chinese merchant to invest in a business in the United States under the Chinese Exclusion Act. Lai described the value of his interest in the herb store to enable the inspector to understand his membership in the merchant class. Lai invoked the use of the words “business”, “interest”, and “one thousand dollars” to demonstrate to the inspector that doing business was his activity. Moreover, the reference to the herb store using business terms enabled both Lai and the inspector to collaboratively recognize the correctness of the description of what a merchant should stand for. Since Lai had a
monetary investment in the herb store both the inspector and Lai could agree that Lai was a merchant and not a laborer because while he worked as a salesman he was an owner of the store.

In the next excerpt the inspector asked specific questions to understand Lai’s business interest. Lai revealed that he had invested $1000.00\(^{57}\) in the G.S. Chan Company. However, making an investment was not the same as active participation in a business. In this next excerpt, the inspector asked Lai to quantify the value of business and Lai’s interest in it.

114  Q: What do you pay the active members in salary?
115  A: I get $100 a month, Chan Shin gets $200 a month, the man in Long Beach gets $100 a month.
116  Q: How much of stock do you carry at the present time?
117  A: About $6000.00
118  Q: What is the value of the concern at the present time, do you know?
119  A: About $15000 for the equipment and renovation, each store.
120  Q: This $6000 stock that you referred to is part of that stock in Long Beach or is this a separate stock?
121  A: For both stores.
122  Q: What rent do you pay for your premises?
123  A: $150.00 per month
124  Q: Were you paying that much when you joined?

\(^{57}\) Lau, Paper Families 34. Exclusion laws allowed merchant status for a merchant to prove a $1000. Stake in a company. However, merchants also sold these stakes so that immigrants could be placed on company records for a sum of money.
Q: Are you covered by insurance?
A: Yes

Q: How much are you carrying?
A: About $6000.

Q: Can you tell me off hand about what your gross sales amounted to last year?
A: A little over $18000.00

Q: Did you make a profit from those sales?
A: A little over $2000.00.

Q: What did you give the silent members last year?
A: $150.00 for each thousand dollars invested.

Q: Then each member received $150 for his share of the profit?
A: Yes

Q: Did you turn some of the profit back into the capital stock?
A: Yes

Lai’s answer that the business gross sales was $18000 (line 131) and profit of $2000 (line 132), offered proof of Lai’s mercantile status because the dollar amounts showed a viable business. Lai’s ability to answer questions in detailed dollar amounts showed that Lai’s claim as a Chinese merchant, with the G.S. Chan Company, was credible. Lai showed credibility through evidence in his narrative of long-term growth expectations for his herb store: while each of the seven partners received a dividend of one hundred fifty dollars, the implication was that the rest of the profit was reinvested back into the company. In addition, Lai was not only an active partner in the business, but Lai’s interest was substantial. Lai’s substantial interest was stated as $18000 in revenue and
$2000 in profit. Therefore, given the profitability of the business Lai could demonstrate to the inspector that he had a personal interest in obtaining a re-entry permit because it was in Lai’s best interest economically to return to the United States. Lai’s profitable herb store was his interest in returning to the U.S.

While the above excerpt tested Lai’s commitment to his business, the next excerpt shifts to a comment made by the inspector. The inspector questioned Lai about his business partner returning from Europe.

149 Q: Have you been away from the city for any length of time during the past year?
150 A: Yes, I had a weeks’ vacation last year during the Diamond Jubilee at San Francisco.
151 Q: Has Mr. Chan been actively engaged as manager since his return from Europe?
152 A: Yes

The comment of Mr. Chan returning from Europe, on its face, seemed to have no pertinence to Lai’s re-entry application. However, the idea that Lai and Chan took a vacation at all spoke to the viability of the business in that Lai could afford a trip to San Francisco and Chan could afford a trip to Europe. The inspector introduced a completely new topic for which no foundation had been laid, particularly, about Chan, the manager, going to Europe. However, the function of the questions pertaining to Europe may have served an additional purpose. Using critical imagination the inspector may have been looking at Lai’s reaction because the term Europe is raised without foundation. If Lai acted surprised, then it was possible Lai did not really know Chan. Trial attorneys, during cross-examination, often pose sudden questions without foundation to create a reaction to an immediate prior question (Walker 63). A reaction from Lai would show that Lai’s
share in the company was fraudulent. Similar to the surprise question in the beginning of this proceeding in which the inspector questioned if Lai’s father was ever known as “Lai Yee Fun” (line 7), here the inspector brought up another surprise fact that Chan had gone to Europe. This comment about Europe could also be a signal to Lai that the inspector knew about Chan’s trip to Europe, if nothing more than to remind Lai that Lai’s testimony was not the only source of information available to the inspector. The statement about Europe may have been posed as a means to continue to assure control over the interview as a display of power. The role of the inspector as the one who will determine if Lai should be granted a re-entry permit implied power; however, in the case of a Chinese immigrant who is caught lying about his merchant status in the United States, the inspector also held to power to enforce deportation.

While the theme on taking a vacation established that Lai had merchant status through his business in the herb company, the next theme demonstrates that Lai did business with White Americans.

*Theme 5. Testimony*

The inspector asked about witnesses who would vouch for Lai’s mercantile status: these witnesses were White rather than Chinese. In order to answer the questions Lai recruited a voice called institutional community in which Lai addressed his White witnesses formally according to institutional standards.

165 Q: What witnesses other than Chinese will vouch for your mercantile status?

166 A: Miss Bentley

167 Q: Is she employed by the firm?

58 Lee, *At America’s Gate* 137 Middle and upper class White witnesses were looked upon favorably and increased a merchant’s chance of re-entering the U.S.
A: Yes

Q: How long has she been so employed, do you know?
A: She was already there when I joined the firm.

Q: Has she been there during the past year?
A: Yes

Q: What is her salary?
A: Eighty dollars a month.

Q: Who is your other witness?
A: Mr. Taggert

Q: How long have you known Mr. Taggert?
A: About 2 years.

Q: How frequently have you seen him in your store during the last 12 months?
A: About 4 or 5 times a month.

Q: Why does he come there?
A: He is a customer of ours—he is working for a newspaper (typist or something).

Above, Lai factually affirmed that his White witnesses were credible people (Lee 135). He did this by orienting his witnesses towards a formal identity by using formal English titles “Mr.” and “Miss”. Orienting the witness to a formal identity through word choice (Mr. and Miss) is invoked in institutional settings to assert a professional control over dialogue (Drew and Sorjonen 100). This excerpt shows the exchange was formal with the use of Mr. and Miss and by the use of last names. Addressing witnesses with the formality of a title and by their last name gives a blunt quality to Lai’s relationship to his witnesses. By blunt I mean formalizing the distance between him and them. Lai
acknowledged a formal style of discourse that is appropriate for an institutional setting (Drew and Sorjonen 97). Thus, this formal orientation in reference to his witnesses was to some extent one of the social resources available to Lai to create institutional cohesion between him and the inspector. Lai further communicated information about Mr. Taggert. In line 182 Lai told the inspector that Taggert not only was a customer, but that Taggert worked at the newspaper. The implication was that Taggert was employed in a credible industry. The inspector’s final questions indicated that Lai’s testimony had been sufficient—that Lai met his burden to prove mercantile status. Thus Lai performed a credible persona. In the final excerpt the inspector asked if Lai knew that the immigration law required an illiteracy test (line 187).

185 Q: What will be your address in China?
186 A: I am going back to my wife at Shek Kee: #4 Yuit Loy Street: Shek Kee City.
187 Q: Do you know that the immigration law provides for an illiteracy test?
188 A: Yes, I know.

The Immigration Act of 1917 required that all immigrants take a literacy test.59 Such tests distinguished the uneducated immigrant (Lee 87). The inspector signaled to Lai in this statement that if he were to bring in his (Lai’s) wife, she would be subject to the test. Lai did not respond with a simple “yes.” Rather he also said, “I know.” The words “I know” signal to the inspector that he (Lai) understood that the inspectors question was directed toward his wife. This is important because in this statement, the inspector recruited his authoritative voice as an administrative official with professional vision. The idea that Lai’s wife could be illiterate is a contention grounded in professional vision. Since most

59 The Immigration Act of 1917 implemented a literacy test that required immigrants over 16 years old to demonstrate basic reading comprehension in any language.
Chinese women of lower classes were illiterate, the inspector made the statement under a presumption that Lai’s wife was illiterate. Through professional vision, in assuming that Lai’s wife was illiterate, the inspector could access the law in his capacity and enforce the procedural rules by warning Lai that Lai’s wife may not enter as an immigrant if she were illiterate. Under immigration law, a literacy test was required of all incoming immigrants, the inspector’s question concerning the illiteracy test (line 187) and Lai’s response “I know” (line 188) displayed that Lai understood the warning of the inspector. With Lai’s understanding of the illiteracy test under the law Lai demonstrated a credible persona in that he showed that he was not ignorant of legal requirements for Chinese entry into the United States.

The next section addresses material evidence. Material evidence was offered to prove oral statements that Lai had made. Because material evidence is a form of documentation of an oral statement, the documentation can meet ones burden of proof.

V. Material Evidence- Partnership list marked “Exhibit A” 60

Just as testimony in a legal setting at its basic level is a tellable oral narrative of facts under oath, then material evidence is often provided in support of that testimony or to establish new understandings (Burns 89). Since the burden of proof in this administrative hearing was upon Lai to establish that he was a merchant, Exhibit A, the partnership list, was offered as material evidence of the legally determined element that Lai was a merchant in order to qualify under the section six exceptions to the Chinese Exclusion Act. The partnership list provided additional support for the interpretation that he was a merchant. Of consequence here was that the addition of material evidence was a

60 See Appendix B
means to add to the narrative that Lai had started to create which had established that he was a man of wealth and also that he was associated with men of wealth. Bakhtin emphasized that the voice of an individual is tied to the voice of others. From this perspective the point of reference in the partnership list was a list of seven men who each invested $1000.00 in the G.S. Chan Co. Chan Shin, the first name listed was the manager and a witness who testified that Lai was a member of the company. From Lai’s testimony, Chan Shin was the merchant that was known by the inspector. As equal partner to the men named, the list showed that Lai was engaged in business with other reputable merchants.

Material evidence, such as the partnership list, was written in the respected convention of American business writing. The convention placed the names of each merchant in alphabetical order along with the amount each merchant invested and the date of investment. As such, the partnership list contributes to the establishment of ethos because the listing was according to American business convention. The list was respectively organized as a table in alphabetical order. Lai and his partners were Chinese merchants not born and educated in American English or American business practice. The fact that the partnership list was written in both English and Chinese was to demonstrate that Chinese merchants did understand American business convention with respect to Romanized letters of Chinese names and the listing alphabetically. The partnership list established ethos and demonstrate that the Chinese merchants listed were men of wealth because only men of wealth had the ability to hire proper lawyers to write in English and Chinese (Lee 139) in Romanized letters representing Chinese names alphabetically. Listed in alphabetical order were the partners to the business by location.
of store. Each partner’s interest included the date the partner acquired the interest and the position held within the company. Thus, the partnership list contributed the story of the herb store in ways that increased the herb store credibility as a business. Lai, as a partner in the herb store met his burden to prove he was a merchant with the partnership list. In these ways, the use of material evidence (e.g. partnership list) supported Lai’s performance of ethos, by providing further support for the interpretation that he was involved in a legitimate business.

The next section below shifts from a focus on documents (and how they have been used) to a narrative summary of the hearing that provides justification for an administrative decision. Written by the inspector, the hearing was summarized with information drawn from the Lai’s testimony. That the inspector was apparently a professional required to write a summary shows how Lai performed a credible persona in a different light.

VI. Summary of Investigation

The summary of investigation shows how narrative might be used for a rhetorical purposes (to establish particular understandings and meanings). While the decision was not the only possible result under the applicable law, it was not without practical reason. Beginning with the opening paragraph, the inspector reviewed Lai’s recorded chronology from the time Lai entered the United States to his present occupation as a partner in a Chinese herb store in Los Angeles.

Lai Sik Foon was admitted at San Francisco, Calif., on February 27, 1920, as the son of a merchant, as per his file No. 18692/9-9, and issued certificate of identity No. 30071, both herewith. The testimony discloses that in November of 1923 this
applicant came to Los Angeles, Calif., from Watsonville, Calif. Where he claims to have had a mercantile interest given to him by his father, and in January of 1924 he joined the G.S. Chan Company (also known as Wuey Chun Tong) dealers in Chinese herbs and teas, at 212 W. 10th St., this city, he purchasing the share of Yim Mow Chew for $1000. And has acted in the capacity of herb owner, salesman and general worker in connection with this business ever since.

The inspector’s opening sentence included Lai’s date of admittance taken from Lai’s file number 18962/9-9. Information of Lai’s arrival and admittance into the United States was not provided in the current hearing. However, by stating Lai’s immigration file number, the inspector provided a foundation that Lai, the man who was before him at this hearing, was the same man whose file number is 18962/9-9. Thus, information that was documented, in the current hearing, was aligned with information provided at an earlier date as documented in a previous file. In these ways the inspector attempted to show that Lai’s legal status in terms of admission to the U.S. was well established and settled. Therefore, from the point of view of the official, Lai’s date of admission was clear and a narrative of legitimacy emerged. For purposes of granting a re-entry permit the narrative began in Los Angeles in November of 1923.

The inspector used the key word “mercantile interest” to show Lai had a credible persona as not only the son of a merchant (interest given to him by his father) but also as a merchant (he joined the G.S. Chan Company purchasing shares for “$1000”). Another version of “mercantile interest” is the word “owner” (Lai acts in the capacity as owner). Key to using the terms “mercantile interest” and “owner” was that the inspector could show that Lai maintained his professional status as a merchant throughout his stay in the
United States.\textsuperscript{61} Equally important, in the same sentence the inspector stated that Lai purchased his share in the G.S. Chan company for one thousand dollars. Since one thousand dollars was the legal minimum needed for merchant status, locating these key terms together in the second sentence of the summary helped to establish Lai’s credible persona.

The inspector then proceeds to describe the business and employees:

The firm is composed of 7 members, 2 actively engaged in the local store and 1 in the branch store at Long Beach, Calif. The local firm is located in the heart of the white business section of the city and evidently conducting a prosperous business with people of all classes.

To enhance that the business was active with seven members and two stores, mentioned here is “that the firm is located in the white business section of the city”. That there was a white section of the city, suggested that there must also have been a Chinese section or a Chinatown. The G.S. Chan Company was not in Chinatown. Doing business with white clientele, like providing white witnesses (Lee 135), enhanced the credibility of the Chinese merchant. Integrating salaries, stock value and profits (salaries are $100 per month, stock value is “$6000” and profits of $2000) were indicative that Lai had a legitimate business. A legitimate business was part of the narrative that a person from the merchant class had economic wealth. The narrative of the wealthy Chinese merchant was embedded in Lai’s actions that were recounted in a chronological and logical way during the hearing. The details revealed of Lai’s business were analogous to any well-constructed story that had a beginning, middle and end. While Lai’s hearing was an

\textsuperscript{61} Lee, Erika. At America’s Gates. p. 202. Chinese merchants were forced to maintain merchant status or risk being deported.
evidentiary procedure designed to support the idea that his status was legitimate (at least legally) inspector needed to write the summary to make sense of the information provided so that he could justify the decision.

In the next section of the inspector’s summary, some facts are not recited as such, but quotations of the inspector’s opinion. For example, the factual summary about Lai ends before the inspector narrates a persona of G.S Chan. The summary follows:

G.S. Chan, or Chan Shin, is also known as Dr. G.S. Chan because he is a chiropractor, having secured two state diplomas. He is the manager and has resided in this city for a number of years, and is rated to be a very wealthy Chinese. In 1924 he and his daughter secured approval of form 430 for a trip to Europe. He confirms the statement of the applicant as to the latter’s mercantile status with the company that bears his name.

Here, references to “G.S Chan” were used as a rhetorical device to show that inspector has met his burden in writing this decision. In Plato’s Phaedrus Socrates tells his partners that one should present probable evidence based on commonsense generalizations (Burns 227). What is common sense is a reservoir of beliefs of a particular culture. At its most basic conception common sense is prejudgment about what is probable. Probable here was that Lai was a merchant because G.S. Chan, a respectable man of wealth, was Lai’s partner in business. G.S. Chan was educated and held two diplomas. Plato’s common sense supported the theory that Lai, through his business with G.S. Chan, continued to hold merchant status to be exempted from the Chinese Exclusion Act. It is impossible to tell a story without making judgments about the people who take action on certain events. So while the law did not explicitly define merchant, the inspector’s questions encoded an
opinion of what appeared to be a factual narrative of how a merchant was to be understood.

The credible persona of the inspector was implied, as he was the official who oversaw this hearing and recognized a credible applicant. The attention to Lai’s economic wealth was used to bolster the inevitability of the decision. For example, Lai was admitted to San Francisco as the son of a merchant; subsequently Lai became a merchant through his investment in the G. S. Chan Company. The focus was on Lai and his immediate act of business ownership.

The decision to grant Lai a re-entry permit can be best understood as arising out of an interactional negotiation and a cumulative process of meaning-making both of which established his connections to and participation in business ventures. Technical evidence such as business location in a White community was added as ancillary but relevant to economic contribution. Using critical imagination I can surmise that Lai’s references to business wealth and his repeated use of business terms were the most persuasive rhetorical strategies used.

VII. Discussion and Summary

This chapter pursued my project’s first research question: *What did it mean or what did it take to perform credibility as an immigrant seeking a permit to re-enter the United States (when a member of a paper family) in 1926?*

Methodologically, it is not possible to piece together the processes by which Lai prepared responses for his re-entry permit hearing with immigration services. The preparation of this hearing with immigration involved a lot of detailed preparation with the help of many people from within the Chinese community and immigration lawyers
What was Lai thinking on how to perform a credible persona with immigration officials? My methods can’t answer this question; instead I have used narrative analytical methods in tandem with feminist methods of critical imagination and social circulation to attend to the discourses that circulate in and among Lai’s testimony in his re-entry permit application hearing and also to show how understandings of credibility were established in and through interaction. As I invoke this orientation below, such an analysis reveals that Al Foon Lai performed a credible persona as a Chinese merchant according to evidentiary standards defined by government officials.

Under the Department of Labor, the objective of excluding Chinese labor was to protect white American workers. Thus, the task of differentiating the laborer from the merchant became the job of government officials. In addition, the U.S. Supreme Court gave unprecedented power to the immigration bureau, in that decisions by the bureau of immigration could not be appealed (68). Thus, the Chinese merchant who sought entry into the United States faced a challenging infrastructure. Through critical imagination I inferred that Lai was dressed in Western attire for a reason. While we cannot know for certain what Lai intended, it is reasonable to wonder whether being dressed in Western clothes helped him successfully entered the United States as the son of a merchant in

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62 Lee, At America’s Gates. Immigration lawyers were indispensable to the Chinese. The Chinese could not have done many tasks on their own. I was told by my uncle that he remembers as a boy that grandfather had immigration lawyers at their home on several occasions.

63 During the period 1898-1902 the Bureau of Immigration became more centralized and restrictive with regard to the Chinese immigrants (Lee 65). Immigration was under the Department of Customs. Thomas Powderly, U.S. Commissioner General of Immigration claimed to “exclude all undesirables-especially Asian-immigrants from the United States” (65). In 1913, immigration matters were placed under the control of Department of Labor (Lau 19). The shift from the Department of Customs reflected a change in perception that regulation of the flow of people across U.S. borders had greater impact on labor and business than on the flow of goods into the country (20).

64 Lee, At America’s Gates. Ju toy v. United States, 109 U.S. 253 (1905)
Contrast Lai’s immigration photo with a photo of Lai’s family (see figure 4 chapter 6) that was taken in China. The photo taken of Lai and his family in China was a formal picture in which the family was posing in traditional Chinese clothing. Lai and Lai’s father in the photo are wearing Chinese tunics. According to historian Ericka Lee, in an effort to impress immigration officials, Western-style suits, in particular, were considered signs of economic success and immigration officials interpreted the Western-style suit favorably. We also know that Western clothing was not common in China and that Lai’s choice to wear a western suit may well have been a deliberate effort to dress the part of the American merchant. The suit and tie is the Western norm for a businessman. Lai, dressed in a suit and tie was one part of his performance of ethos.

The next element for merchant status was for Lai to deny skills that might be associated with common labor such as tailoring because immigration officials measured merchant status by whether or not physical labor was performed (Lee 89). As in his testimony, Lai did not claim any tailoring ability. As part owner of an herb store, Lai claimed he worked as a salesman (line 81) to collect a salary (line 115). This apparently was not considered physical labor by the inspector as shown in line 114 when the inspector asked Lai what Lai paid active members in salary. Lai responded in line 115 that he gets $100 dollars a month. Thus, since the inspector referred to Lai as an active member, Lai met his burden to prove he was a merchant in his capacity as a part owner in the herb store. Lai’s claim that he was a salesman in his herb store indicated to the inspector there was no physical labor involved in his work. Therefore, Lai performed a credible persona in not implicating himself as a laborer.
Regulation also required that to prove mercantile status the Chinese immigrant must have White witnesses to testify on his behalf and material evidence of an active business. In this case, Lai acted at least predictably. Lai provided White witnesses and a partnership list. This was a performance of a credible persona because Lai met the expectation of the inspector. From a legal point of view this was logical. However, from a narrative point of view it could also play into the story that Chinese could not be trusted. Lai, a Chinese man was dressed in the character of a merchant because he was a merchant even though his name Lai was not his birth name. A Chinese man in Western suit, who had an education and owned a business, contributed to the unstated narrative that constituted mercantile status. The narrative did not reveal Lai’s other work skills.

To recognize Lai’s strategy for establishing his credible persona, however, does not explain the complexity of the institutional system of the administrative hearing under the Chinese Exclusion Act. Lai’s strategy was only a strategy. Lai established a recognizable identity as merchant through narrative coherence and also with his appearance. He seemed to be aware of the expectations regarding what a merchant should look like and he used his knowledge to perform and display identities that allowed him to avoid potential deportation for fraudulent entry as a paper son. In all these ways, Lai performed a particular sort of ethos in credible ways, and this provided opportunities that might not have been available if he had made different choices. Ironically and perhaps sadly, Lai achieved this after beginning with a false truth. Thus, the logic of ethos goes beyond credibility in character. In this case ethos, in terms of character, is a minor element in persuasion. As a minor element, I align with what Farrell said that ethos is more than the character of a speaker. But I extend Farrell in noting that it was Lai’s
management of his narrative coherence in dialogue that convinced his audience (in this case the inspector) that Lai was a merchant and should be therefore be considered exempt from the Chinese Exclusion Act. In sum, Lai’s strategy to dress in in a Western suit, and not discuss his ability to tailor constituted a successful performance of ethos as a legitimate Chinese merchant.

Summary

In this chapter, I examined the institutional stance of the meaning of “merchant” under the Chinese exclusion law and the meaning’s impact on one Chinese immigrant in application for a re-entry permit. The meaning of the term “merchant” and how a Chinese immigrant was deemed credible by institutional standards was greatly influenced by the social circulation of the meaning of the term “merchant” among the inspectors who represented the government. The analysis of data in this chapter highlights the ways in which a social norm (the merchant meaning) and ethos performance interacted and influenced both participants while in a dialogue under the constraints of an administrative hearing.

Lai did not need to change the facts of his paper family narrative. Lai’s persuasive force as a merchant involved his seemingly good character and good sense, because he was able to provide material evidence to back up his testimony that he was, a merchant. The consistency of Lai’s narrative satisfied the burden on him to prove he was a merchant – the criteria required for him to avoid deportation.

65Aristotle, *On Rhetoric*, 112, 1378a. Ethos is the creation of a speaking voice that the audience will believe. You will create the appearance of good sense, good moral character and good will.
Figure 3. In this 1956 photograph, grandfather, like in his 1920 certificate of identity, was dressed in a suit, tie, and white shirt. His hair was still black but his hairline had receded. There was still no hint of a smile. Notarized May 1, 1956, this document was his certificate of naturalization. Chinese immigrants were able to become naturalized citizens since the Chinese Exclusion Act was repealed in 1943. Lai’s petition for naturalization shows that he applied in his paper name.

One day I was in Grandfather’s kitchen when mother was speaking to a family friend. This friend was taking a trip overseas for the first time since immigrating to the U.S. This friend was explaining to mother that now that she was a naturalized citizen she felt comfortable to travel abroad. Mother responded that her father had done the same thing a while back. Mother said, “My father always said he wasn’t leaving the country
until he became a citizen. Then he became a citizen and went on a trip.” In retrospect, I can now understand the meaning of my grandfather’s words even if mother didn’t at the time. The impact of Chinese immigration laws on Chinese immigrants was great. They were subjected to inconvenience and harassment every time they reentered the country, tried to sponsor a relative or happened to be in Chinatown during an immigration raid (Lee 239).

Mother told me that Grandfather was highly respected in Chinatown and to many in the garment industry in San Francisco. One day I heard mother say, “Really, you’re president?” Grandfather had just told her that he was the new president of the California Garment Association that was headquartered in San Francisco. Mother assumed incorrectly and thought he said the president of the Chinatown division in San Francisco. But he corrected her and said, “No, I am president of the entire association.” As a child, I wasn’t aware that Grandfather was well known except I do recall all the Chinese banquets we attended with him during Chinese New Year. He belonged to many Chinese business associations (I think five or six), and we, as the Lai family, attended nine-course Chinese banquets every evening for two straight weeks during the new-year celebrations. Some banquets had up to one hundred guests. Our family tables were always at the front near a stage among the leaders of Chinatown businesses, and I observed that Grandfather was the one everyone knew, everyone said hello to and everyone made sure to say good-bye to.

Lai’s administrative hearing in this chapter took place in 1960, thirty-four years after the hearing in the previous chapter. This hearing was a confession under the

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66 It is unclear to me whether mother knew her father was a paper son at this time.
Chinese Confession Program. The U. S. was in the Cold War against Communist China and the Soviet Union. While the main goal behind the Chinese Confession Program was to end paper immigration, the Chinese Confession Program was also used as a tool root out suspected Chinese Communists and to protect the nation from Communist infiltration. Lai’s testimony in 1960 was required, and his goal was to prove that he was not a threat to the public interest. “Threat to the public interest,” as stated in the Chinese Confession Program was understood to mean Communist (Ngai 10). Therefore, the tone of the hearing in this chapter is markedly different from the administrative hearing in the previous chapter. In this chapter, the tone of the hearing is accusatory. By “accusatory” I mean that the tone of this hearing implies that Lai bears responsibility for having committed a fraud by entering the United States under a paper name. As such, Lai was ordered to appear to confess to his paper name. Thus, the questions in this hearing are more hostile in that officials command Lai to respond to questions. Lai’s claim to and performance of ethos then became based on testimony that established that he was not a threat to national security.

In this chapter through an analysis of the transcript of the hearing, I compare what it took for Lai to prove a credible persona while interacting with an aggressive, sometimes hostile, immigration officer. A close analysis of excerpts from the transcript of the hearing shows that Lai and the inspector worked collaboratively to accomplish this production of a credible persona. I also examine the written report of the investigation and official decision. My analysis of the data in this chapter contributes to our understanding of yet another dimension of how a credible persona is performed. While a wealthy merchant was the social norm to which Lai had to ascribe his ethos in the
previous hearing in 1926, in 1960, during the Cold War Lai’s *ethos* depended on demonstrating a lack of affiliation with Communist groups, agendas and ideologies— a primary political concern of the U.S. government at the time.

In the previous chapter, I described how the inspector used “professional vision” to scrutinize Lai’s *ethos* as a Chinese merchant and how the social and administrative context influenced how Lai established in his testimony that he was a merchant and thus should be considered exempt from the Chinese Exclusion Act. I illuminated the different ways *ethos* is more than the characteristic trait of a speaker, but a performance of identity aligned with audience expectation. My examination of how Lai met his burden of proof allowed me to comment on how social narratives, such as wealth of a Chinese merchant permeated the talk of what was said and how Lai met his burden through words. Lai effectively fit the inspector’s vision of a merchant. In this way, the previous chapter offered evidence that *ethos* is more than the intrinsic character of a person; as a function of social beliefs that is also achieved and shaped in and through interaction.

In this chapter, I add depth to the material presented in chapter 4 by primarily using professional vision, reported speech, and footing, concepts from narrative analysis, to analyze the hearing in this chapter. By professional vision I mean that the inspectors in 1960 had an expectation of what a Chinese paper son would admit to in a confession because Lai was one of many Chinese paper sons that made a confession under the Chinese Confession Program. Thus, the inspector conducting the 1960 hearing used “professional vision” or expectations gained through his professional experience to determine Lai’s *ethos* as did the inspector in 1926.
In addition, the inspector also used what sociolinguist call “reported speech” to undermine Lai’s credibility. Recall from chapter 3 that reported speech is speech that a witness (Lai) said in a previous context, but used in the present context (by the inspector) to undermine the witness ethos (Matoesian 105). So while Lai’s ethos was challenged (because of his presumed fictional name), this chapter explores how Lai, through the course of the hearing, harnessed the tension surrounding his alleged fictional name in order to maintain some standing in the hearing. Finally, recall from chapter 2 (review of literature) and chapter 3 (methodology) Goffman’s concept of footing. In this chapter, Lai used what Goffman’s calls footing to demonstrate his alignment with the inspector and the goals of the Chinese Confession Program.

I begin this chapter with section I, the political context of the Chinese Confession Program that informed the purpose for this hearing. In section II, I then use tools of professional vision, reported speech and footing to analyze the hearing transcript between Lai and the inspector. The entirety of the transcript is divided into two parts. Part 1 carries an accusatory tone because the government focus was to resolve Lai’s paper status and eliminate future paper immigration. Part 2 carries an inquisitorial tone because the government was focused on rooting out Chinese Communists in the name of national security. Within part 1 and part 2, my analysis of the hearing is chronologically divided into six themes. Following the transcript analysis, in section III and IV, I analyze the inspector’s administrative comments and report of the investigation. The administrative comments and the report of investigation were written on standardized forms; as such, the analysis shifts from the gathering of facts to a narrative summary of the facts gathered.

67 Matoesian, discusses reported speech as a common tactic in court trials that lawyers use particularly in cross examination in order to undermine witness credibility in front of a jury.
I. Chinese Confessions in the Context of the Cold War

The goal of the Chinese Confession Program was to put a stop to paper immigration that continued despite the repeal of the Chinese Exclusion Act in 1943. The Chinese Confession Program was not a law, but an administrative procedural hearing to adjust the status of Chinese persons who attained legal status through paper immigration (Ngai 10) or if through paper immigration the person was found to be a threat to the public interest the person could be deported. Confessing to paper immigration was considered voluntary; however, if immigration officials had reason to suspect paper immigration, then the suspected immigrant was ordered to appear before officials and answer to the evidence gathered (Ngai 23). In addition, since confessors were assumed to be paper immigrants, the goal for the confession proceeding was to force confessors to implicate other paper family members (Lee 241). As such, the act of a confession created a heightened state of anxiety for many Chinese immigrants like my grandfather. In 1949 China had become a communist country. The Eisenhower administration believed that persons of Chinese ancestry living outside of China were loyal to the Communists (Ngai 10). There was great concern over illegal Chinese paper immigration and the potential for Chinese Communist spies (10). Since the Chinese Confession Program did not shield a Chinese immigrant from deportation, a heightened sense of anxiety pervades Lai’s 1960 proceeding below.

My analysis in part 1 of Lai’s hearing was to resolve the issue of the paper immigration. My analysis in part 2 points to ideological anxieties that were lodged within...
a broader political concern of Communism during the Cold War. In this respect, Lai’s burden was to prove he was not a threat to the public interest.

II. Part 1: Resolving the Paper Immigration Status of Al Foon Lai

Al Foon Lai AKA Lai Sik Foon Record of Sworn Statement (April 1960)

Theme 1. Names

As stated in chapter 4, opening statements are an opportunity to position oneself or create locally recognizable identities that in turn establish institutional credibility. In this hearing’s opening statements Lai also had an opportunity to establish a credible persona. Lai however, had to manage this burden in an impossible situation. The Immigration Naturalization Service (INS) ordered Lai to appear at an informal interview as Lai was suspected to have a paper identity. A statement by an informer, who knew Lai’s birth name, was the proof used to confront Lai. The informal interview was in actuality a proceeding implied to be a confession with an INS official (Ngai 23). The official, who I refer to as the inspector in this chapter, asked questions from a standard series of questions. The series of questions would require a claim of paper identity and the names of true family members, paper family members, and complete addresses (23). The following excerpt reveals the problem inherent in gaining or maintain ethos in a confession proceeding.

1 Q: I am an officer of the United States Immigration and Naturalization Service, and desire to question you under oath regarding your right to be and remain in the United States, and regarding other members of your family.
Any statements which you make must be of your own free will and may be used as
evidence in any deportation or other proceedings. Are you willing to make such a
statement under oath?

1a A: I do.

2 Q: Do you swear that all the statements you are about to make will be the truth,
the whole truth, and nothing but the truth, so help you God.

3 A: I do.

4 Q: What is your full and correct name?

5 A: My true and correct name is Al Foon Lai.

6 Q: Have you ever used or been known by any other name or names?

7 A: I am also known as Lai Sik Foon.

The introduction (lines1 and 2) was characterized with an institutionalized ritual that
played a crucial role in maintaining control over the witness (Atkinson and Drew 35).68
The inspector in effect heightened institutional credibility by using language such as “
officer,” “oath,” and “swear” to inform Lai of the interview’s purpose and potential
consequences in the outcome of the interview. This form of language pulled the event out
of ordinary everyday talk and implied that this event constituted a legal administrative
proceeding. The initial statement established that the inspector was the authoritative voice
of the institution (INS) and as the official who is able to command that Lai take an oath.
Since the institution assumed that Lai’s presence in this hearing was voluntary, there was
the implication that Lai was present to confess to his paper identity. In addition, the
statement also commanded that “any statement will be of free will” and asserted that “any

68 Atkinson and Drew discuss the turn taking system in a legal setting is a system unlike conversation in
that not anyone present may begin talking.
“statement” may also be used against him in a “deportation hearing or other proceeding.” These statements (in line 1) read together contradicted each other and raised questions of giving voluntary statements in a coercive environment. It was assumed that the confessor was present of his own free will. Thus, in the beginning of the hearing, an oath “to tell the truth” and to force Lai to swear that any statement was of Lai’s “free will,” suggested that Lai would take personal responsibility for any unlawful deeds he admitted to in his testimony.

Like in chapter 4, the second question asked if Lai had been known by other names. Because this hearing was expected to provide a confession for being involved in paper immigration, this question seems intended to focus on ways that, as a paper son, Lai would likely have several names that include a birth name, a nickname within his birth family, and a paper name. Lai responded to the inspector (line 5) that his true and correct name is Al Foon Lai. Al Foon Lai is a legal name because it was the name recorded on Lai’s legal documents. I can only imagine, however, that Lai’s response would have been hard for the inspector to ignore in that the expectation was that Al Foon Lai could be Lai’s paper name. Lai repeated the inspector’s words “true” and “correct,” and Lai’s repetition of those words appear to my critical imagination to emphasize that he did understand the inspector’s question and that he gave the inspector truth. The use of the words “true” and “correct” have enormous power particularly in a legal administrative context. Simply by repeating “true” and “correct”, Lai exhibited agency by emphasizing that his name is his true and correct name because the inspector may not have expected to hear Lai claim that his name was true and correct.

69 Certificate of Naturalization.
Al Foon Lai conceded in line 7 that he was also known as Lai Sik Foon. Lai Sik Foon was his immigration name, which for purposes of this hearing was presumed to be a paper name. By stating Sik Foon Lai, Lai implies that the name Lai is not only a legal name but a true name. Lai essentially confirmed facts that were already in evidence (the file documents). This, however, did not help the inspector because Lai’s true name should not match with the file names if Lai was a paper son. At this point in the hearing the inspector left this line of questioning concerning Lai’s true name. However, what Lai established for the record in this opening narrative was that Al Foon Lai and Lai Sik Foon were true legal names. In the next theme, the inspector sought to draw out Lai’s true name through additional questioning.

Theme 2. Reframing the Paper Family

Professional vision emerges here because of the inspector’s understanding of paper immigration as a commonplace process and his knowledge that many Chinese men used false names in order to gain entry into the United States under the Chinese Exclusion Act. The government was now charged to convince Lai to confess to his false name. Thus, the question-and-answer sequence allowed the inspector to manage Lai’s responses to prevent Lai from stating implausible facts. The narrative in this excerpt shows two perspectives. Since the purpose of the hearing was to elicit a confession to a paper name, the perspective of the inspector is accusatory. Lai stated that his true name was his immigration name Lai Sik Foon. This is rhetorically significant because ultimately the inspector must judge Lai’s credibility through Lai’s words.

8. Q: What is your true blood father’s name?

9. A: My true blood father’s name is Chan Jin Ng.
Q: Then you were born under a different name than the ones you gave a moment ago. Is that correct?

A: I was raised up by the LAI family and the LAI’s adopted me when I was a little boy. I was born under the name of Chan Dong Leong.

In line 8 and 10 the inspector pointed out the inconsistency in Lai’s testimony: Lai’s true father’s name was inconsistent with Lai’s current name. The inspector used the word “blood” emphasizing that the inspector did not desire the name of Al Foon Lai’s paper father, but Lai’s blood father. The inspector’s statement, “Then you were born under a different name” in line 10 implied that Lai was a paper son and that he entered the United States illegally. The inspector’s added question, “Is that correct?” (line 10) was a leading question using accusatory language that gives of false impression of truth. In this context, “Is that correct?” is a loaded question in that there is the implicit assumption that Lai had just told a lie. Lai, however, made an important decision not to engage with the inspector by answering yes or no to the inspector’s closed-ended question (line 11). Instead Lai stated that “he was adopted by the Lai family” (line 11). Since the inspector did not intervene, it is reasonable to assume that Lai’s response served as a plausible answer to this prior accusation. Lai denied that he lied by stating he was adopted. Lai did not frame his response as an excuse or a justification that would imply that he entered the U.S. under pretense. Lai’s response that “he was raised by the Lai family” said that Lai could not be a paper son because Lai’s father was his adopted father and, thus, the same as his real father. By framing his paper status as the result of his adoption by the Lai family, Lai redirected the illegal-paper-son narrative.
Lai presented a different narrative than the storyline of him employing a false or fraudulent name to enter the United States. Lai began the new narrative that he was adopted and, thus, did not enter the United States under a false name. Adoption presents a different version of paper immigration than that of perpetrating and creating fictional names. Lai’s response that “he was adopted” did not focus Lai’s attempt to avoid responsibility in using the Lai name as his identity; he maintained responsibility in using the Lai name. The word “adopted” displayed that Lai met his burden of proof that his name was legal. Lai wove an adoption narrative and gave the inspector a comprehensive narrative as to the reasoning behind Lai’s name. The term “adopted” is not found in the Chinese Exclusion Act or in the Chinese merchant and family exception. Lai’s use of the term “adopted” pulled the story of paper immigration out of categories provided by the Chinese Confession Program. The Chinese Confession program was explicit in that the confessor was there to confess his or her false status due to paper immigration (Ngai 21). Name change due to adoption was not within the purpose of the Chinese Confession program. Therefore, by stating his name was the result of adoption, Lai urged the inspector to judge him differently than the paper son who admitted to false status due to a paper name.

Over the course of the proceeding, the inspector’s responsibility was to understand Lai’s actions in a narrative form. Storytelling is a common approach to understand why something happens. In the *Grammar of Motives*, Kenneth Burke posited a dramatic pentad as a way to help understand individual action in society. They are 1) Act (what is done), 2) Agent (who performs the act), 3) Scene (where and when the act occurs), 4) Agency (how the act is accomplished), and 5) Purpose (the motive for the
act). Built around elements also operating in Kenneth Burke’s pentad (that an agent performs an act within a scene), Lai’s response of adoption forced the inspector to interpret a scene of adoption in relation to immigration. Thus, as Lai imposed the notion of family adoption, Lai’s claim of adoption met his burden of proof by redefining his role in paper immigration.

In the next excerpt the inspector used reported speech to construct questions based on Lai’s file from previous hearings. Reported speech is often used in order to reduce the credibility of a witness testimony (Matoesian). The inspector’s questions pertained to members of Lai’s paper family:

26 Q: When you entered the United States you claimed your father’s name was Lai Kai On. Was that man any blood relation of yours?
27 A: No
28 Q: How is it that he brought you to the United States as his son?
29 A: He and my father were very good friends and he became as my godfather. That is why he brought me over here.
30 Q: Did he charge you any money to bring you over here?
31 A: No. Nothing.

Lai could not deny that he stated in a prior hearing that Lai Kai On was his father. The inspector made an accusation that Lai told a lie when he entered the United States in 1920. The phrase “you claimed your father’s name Lai Kai On” (line 26) seems to be intended to create the impression that Lai was not credible. In the next question the inspector uses the word, “How,” which indicates that the inspector was also seeking new information. This is shown in line 28 when the inspector states, “How is it that he brought
you to the United States as his son?” With this question the inspector highlights the contradiction that Lai’s claimed father at immigration was not his blood father (line 28). Lai did not acknowledge the accusation of the alleged contradiction. In line 29 Lai stated that his immigration father was his godfather. This did not mean that there was no contradiction or that he was not accountable to the alleged contradiction. Rather, the strategy of stating that Lai’s immigration father was his godfather eludes the contradiction. By side stepping the contradiction, Lai discredits it. More importantly, Lai stated that he did not pay anything to be brought to the United States (line 31). In not paying money to his godfather, Lai could effectively claim that he did not enter the United States through paper immigration, but through a familial tie. Lai emphasized that he did not pay money to his godfather by using the word “nothing” (line 31). Since paper slots were bought and sold and Lai denied that he had bought a paper slot his response emphasized he was adopted.

Since Lai had confessed to his birth name, the next excerpt of questions centers on naming the rest of Lai’s paper family. The strategy of the inspector was not only to induce Lai to confess to a paper name, but also to uncover the Lai paper family tree in order to stop further illegal paper immigration in the public interest.

**Theme 3. Paper family**

The main focus in this next segment is to use known information of the names of Lai’s paper family to gain unknown information of where they might be right now. In asking about paper family relations, the inspector used what sociolinguists call reported speech as a strategy to identify other fraudulent claims and uncover additional fictive

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70 Lau, Estelle 36. The Chinese called the process of paper immigration “purchasing paper”. A slot could be bought and sold.
slots of fictional persons. As a result, the tone of the examination continued to be accusatory, but the content of the questioning shifted from pursuing allegedly fraudulent claims that Lai made of himself to fraudulent claims of others. Gradually, the questioning took on a more neutral tone in that the questions were designed to build facts progressively to provide a record of descriptive accuracy in order to document paper immigration.

32 Q: When you entered the United States you also claimed a brother, Lai Sik Min. Was that person any blood relation of yours?
33 A: No
34 Q: Where is he now?
35 A: I don’t know where he is and I don’t know him.
36 Q: Was he a true son of your immigration father?
37 A: No. He is not.

While the tone in lines 32-37 appeared neutral for the purpose of information collection and documentation, I perceive from the transcript that there was still a great deal of tension in the hearing room that day. The inspector invoked a statement before asking a question in line 32. The inspector demonstrated this by using reported speech naming, Lai Sik Min (line 32) Lai’s paper brother. The inspector can make this claim because Lai claimed Lai Sik Min as his brother under oath in his immigration hearing in 1920. In the case of this confession, Lai could reasonably conclude the inspector has read the file because the inspector said the name “Lai Sik Min.” For Lai to ignore his knowledge of a paper brother would undermine his credible persona. In addition as a stated purpose of The Chinese Confession Program there was another issue. While the purpose of this
proceeding was to induce Lai to confess to his true name, the INS and the Department of Justice sought the names of other paper sons. After Lai admitted that there was no blood relation to Lai Sik Min (line 33), the inspector questioned Lai as to the whereabouts of Lai Sik Min (line 34). Lai responded that he didn’t know (line 35) and that he didn’t know his paper brother. Lai’s answer was effectively a non-answer as to his knowledge of his paper brother. Lai’s lack of knowledge reduced his personal responsibility for his paper brother. Since Lai stated that he did not have contact with any of his paper brothers, Lai gave his best answer by not implicating himself as an informer. Lai stated that he did not know his paper brother. Thus, he could not inform on someone he did not know. In this case, he performed a credible persona through lack of knowledge because by lack of knowledge, Lai could not be implicated in perpetuating paper immigration.

In the next excerpt the inspector broaches the question of Lai’s wife and children. The inspector’s general strategy was to close off fictive slots to ward off future paper immigration.

50 Q: When and to whom were you first married?
51 A: The first time I was married in China in CR8 (1919) to Wong Shee.
52 Q: What happened to that marriage?
53 A: She passed away.
54 Q: Were any children born of that marriage?
55 A: One son and one daughter.
56 Q: Will you give their names and present address?
57 A: My daughter’s name is Chan Shun Kun, and my boy’s name is Chan Shun Kuen. They have both passed away during the war.
Q: Was either of them in the United States?

A: No.

By testifying that his first wife and two children were no longer alive, Lai effectively closed the fictive slots that could lead to future paper immigration. The inspector moved on to ask about Lai’s second wife, Lai Soon She, who died in 1940. Since Lai’s five children with Lai Soon She were all born in San Francisco, no further questioning was needed because there were no potential open slots that would lead to further paper immigration. By stating that persons were no longer alive Lai performed a credible persona in this moment by naming the children as they were documented previously and relaying a plausible reason for their deaths. The Chinese Communist Revolution in 1949 was a major political event following World War II that in the wider context informed U.S. Cold War foreign policy (Chi-Kwan 1147). Therefore, due to a brutal war in China in which a Communist Revolution had taken place, it was plausible the children that Lai named had died in a war.

Since paper immigration appeared to be closed in terms of Lai’s paper familial relationships, the inspector then turned to questions concerning Lai’s citizenship. Documents show in Lai’s file that he applied for citizenship in his immigration name. The issue of citizenship is relevant in that Lai could have applied for and naturalized as a citizen under a fictional name.

**Theme 4. Citizenship**

With respect to Lai’s third wife Mary Yow, Lai emphasized that she was born in Locke, California. The questions took a turn because the relevance of Lai’s responses relates to citizenship.
Q: When and to whom were you next married?
A: I was married again in 1941 to Mary Yow, who was born in Locke, California.
Q: How many children if any, were born of this marriage?
A: Three, two boys and one girl, all born in San Francisco.
Q: Your file shows that you were naturalized as a citizen of the United States on May 1, 1956. On your petition for naturalization you stated your name was Lai Sik Foon and you did not give your true name of Chan. Why is that?
Q: I was about five or six years old when I began living with the Lai family and I have always considered my name as Lai so that is why I gave the name when I naturalized. I have never used the family name of Chan since I was a small boy.

Crucial to this testimony was Lai’s statement that Mary Yow was borne in Locke, California (line 69). This meant that Mary Yow was a U.S. citizen by birth. That Yow was a U.S. citizen spoke to the fact that Lai became a naturalized U.S. citizen based on his marriage to a U.S. citizen. The fact of how Lai became a naturalized citizen is documented in his petition for U.S. citizenship where it was shown that Mary Yow was a U.S. citizen by birth. Furthermore, Lai’s marriage to Mary Yow, a U.S. citizen, is explicitly stated in the report of this investigation, written by the inspector. Thus, the inspector couldn’t prove that Lai’s citizenship was a fraud.

The inspector then in line 72 can only question Lai’s continued choice in using the Lai name. Lai responded that living with the Lai family, he considered himself a Lai since he was five or six years old (line 73). This statement was an extension of his earlier testimony that the Lai family adopted him (line 11). Since this statement adds to Lai’s earlier statement of adoption, he showed consistency in his adoption narrative. Lai added
to the narrative that he was adopted as a small boy and never used his blood family name Chan. This narrative can be described as a dramatization of experience (Defina and Georgakopoulou 141). Lai dramatized his adoption to compel meaning and believability (141). The dramatization of Lai as a small boy of five or six adds specific evidence to Lai’s adoption narrative. The addition of specific detail as to his age when adopted and his reasons for using the Lai name was to perform a credible persona.

I now turn to part 2 of this hearing. Beginning with line 74, the cadence of the questioning took a decisive turn. The cadence is that the inspector asks questions because he does not know exactly what Lai’s responses will be, thus the tone is inquisitorial. The content of questions turn from questions about Lai’s paper family connections to Lai’s potential associations with Communists.

**Part 2: Al Foon Lai: Communist Infiltration**

Perhaps the most important aspect of the following line of questioning was the inevitability of the inspector’s judgment that could also be influenced by Lai’s association with communist ideology. Infiltration by the Chinese Communist was viewed as a threat to national security (Ngai 24). Since the Eisenhower administration believed that Chinese persons outside of China were loyal to China, the implications of an anti-communist narrative against Chinese Americans cannot be overstated. The American anti-Chinese Communist narrative that developed during the Cold War informed the policies and practices that led to the Chinese Confession Program. For example, in February 1956, the U.S. Department of Justice impaneled a grand jury to investigate Chinese fraudulent entry. This was in coordination with the U.S. Department of State in seeking action to root out Chinese Communist infiltration (Ngai 14). Subpoenaed were
officers of Chinese family and business associations that required the names of all association members including records of dues, assessments, contributions and financial statements (14). For Lai, a leading member of one or more Chinatown business associations, an investigation into his business and personal history would be a continuation of Cold War anti-communist furor. In 1954, Senator Joe McCarthy had begun his rampage by making accusations of treason to persons he suspected of associating with communists. While the Chinese community legally challenged the subpoenas and won (Ngai 15), the political narrative against Chinese Americans during the Cold War provides coherence to part 2 of Lai’s hearing.

Theme 5. Who do you know and how do you know them?
76 Q: What is your present occupation?
77 A: I have a sewing factory at 1165 Powell St.
78 Q: Who owns the sewing factory at 758 Broadway?
79 A: Henry Chun. His Chinese name is Chun Leong.
80 Q: Did he buy the factory from you?
81 A: No. I just gave it to him because it would have cost too much to move it.
82 Q: Did he use to work for you?
83 A: No.
84 Q: How long have you known Chun Leong?
85 A: About two years.
86 Q: What part of China is he from?
87 A: Also Chungshang.
88 Q: Do you know his wife, Choy Young?
A: I know her.

Q: How long have you known her?

A: About the same time I have known her husband.

Q: Do you know her mother Yuen Shee, who runs the Chung King Cigar Store on Jackson Street?

A: No, I don’t know her mother.

Q: Have you heard that her mother runs that cigar store on Jackson Street—just by talk?

A: No.

The inspector asked for Lai’s occupation (line 76), not to establish Lai’s occupation, but to signal to Lai that the inspector might know an answer. This is evident in line 78 when the inspector asked, “who owns the sewing factory at 758 Broadway?” Lai told the inspector (line 77) that his sewing factory was at 1165 Powell St. Likely, this was not the answer the inspector expected. I say this because the informant who reported on Lai, as a paper son, also reported Lai’s place of business since the INS would have asked the informer for a known address in order to contact Lai for this hearing. Since the inspector’s question “who owns the sewing factory at 758 Broadway?” was explicit with an exact address, the question implied inconsistency in the narrative (Drew 471). As an implied inconsistency, the inspector’s question, “who owns 758 Broadway St?” (line 78) was an exhibition of power since Lai did not mention 758 Broadway St. In stating “758 Broadway” as a fact with no previous foundation to reference the fact, this question was a signal to Lai that the inspector knew something of the sewing factory located at 758 Broadway St and that Lai’s current testimony was not the inspector’s only source of
information. In this moment, Lai performed a credible persona by responding to the implied accusation of inconsistent testimony; Lai explained that the owner, Henry Chun (line 79), became owner of the sewing factory at 758 Broadway St.

In providing the name “Henry Chun” Lai denied there was inconsistency in his narrative. In addition, in line 81 Lai responded to the inspector’s question that Lai did not sell his factory at 758 Broadway to Henry Chun; instead, Lai stated that he gave the factory to Henry Chun because it would be costly to move. Lai constructed the response “that he gave the factory to Henry Chun.” This response allowed him to control the construction of his narrative. In this way Lai once again reframed the narrative. The inspector’s tone was accusative and seemed to reflect a belief that Lai might have been lying about his place of business. Instead, Lai stated a plausible reason that he no longer owned 758 Broadway. Thus, Lai exhibited agency by rebutting the inspector’s inference of inconsistency as to the location of Lai’s place of business.

Furthermore, in line 79, Lai oriented his response towards an institutional logic of the hearing by stating Henry Chun before Chun Leong. Lai’s strategic placement of Henry Chun before Chun Leong can be characterized as an institutionally oriented interaction (Drew and Sorjonen 92). Lai stated an American name before the Chinese name because the institutional setting shaped the rhetorical use of an American name before a Chinese name (Drew and Heritage 23). By using the American name “Henry Chun,” Lai aligned with the inspector to an institutional task (Drew and Sorjonen 92). This meant that Lai was in dialogue with the inspector who was the face of an American

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71 Drew and Heritage discuss how institutional interaction is shaped by the constraints of the institutional context. Institutional contexts are manifested in the particular actions of the professional and lay individuals (24).
institution; as such Lai expressed the name Henry Chun by an American identity. Recall, from the previous chapter Lai also oriented the names of his White witnesses Miss Bently and Mr. Taggart to the institutional logic by inserting the formality of Miss Bently and Mr. Taggart. Like in chapter 4, in this hearing, Lai showed that he was aware of the American institutional context. The orientation towards an institutional identity was a tool available for Lai to use strategically under an asymmetrical power situation. By referring in English to Henry Chun before the Chinese name Chun Leong, Lai performed a credible persona.

The intensity of the questioning continued in lines 92 and 94. The inspector first asked if Lai knew Yuen Shee, who runs the Chung King Cigar Store on Jackson Street. Lai said “no” (line 93) but the inspector continued to ask if Lai had heard about Yuen Shee’s cigar store (line 94). The second question, “if Lai heard about Yuen Shee’s cigar store (line 94) is a continuing utterance of the first question in line 92 (Longacre 130). A continuing utterance occurs when questions are related, but the speaker of the first question is not satisfied with the response, so the first speaker continues with a counter question (130). When the inspector was not satisfied with Lai’s response of “no” (line 93) that he did not know Yuen Shee, the inspector’s following question (line 94), “have you heard that her mother runs that cigar store on Jackson Street—just by talk?” was the inspector’s response to renegotiate Lai’s answer. To renegotiate Lai’s answer is seen in the use of the word “just” (line 94). “Just by talk?” shows that the inspector was in disagreement with Lai’s answer of “no” he doesn’t know Yuen Shee. The word “just” could also be the inspector maintaining control over the dialogue (130). However, Lai’s final answer “no” (line 95) was the outcome of a struggle that Lai was in control of this
narrative. Who controls the narrative has implications on who holds credibility. The inspector’s first turn (line 92) “do you know Yuen Shee?” was initiated. Lai’s second answer (line 94) “no” resolved the question. The inspector chose to assume Lai had a connection to Yuen Shee in line 94 “Have you heard that her mother runs that cigar store on Jackson Street—just by talk?” At the end of this question the inspector was in control. However, Lai gave the final answer in his second turn (line 95) “no.” Since Yuen Shee was not in any of Lai’s previous documentation, the inspector could not know if Lai knew Yuen Shee. If Lai knew Yuen Shee, the evidence could only come from Lai. Lai was able to subvert this particular institutional question sequence because Lai’s answer had to come from Lai’s mouth. Important here was that there was no clue given as to the relevancy of the initial question in this sequence (line 76) when the inspector asked Lai about Yuen Shee. The question of Yuen Shee was the prerogative of the inspector, since it was only he (the inspector), according to the rules of the hearing, who can initiate talk by asking questions. While the question should have relevance to something in the hearing, it did not have to be relevant to the immediate context of the dialogue or even apparent to Lai. The implication of Lai’s credibility is in Lai’s final “no” (line 95). By asserting that he did not know Yuen Shee, Lai asserted control over this narrative.

In the next excerpt, the inspector questioned Lai further about several Chinese persons. In this sequence, the inspector constructed questions that presumed Lai knew the persons named. However, Lai’s responses suggest changes in what Ervin Goffman calls “footing” as indicated by Lai’s detailed responses to provide information that would help the inspector to determine that Lai was not Communist.

*Theme 6. Institutional Alignment*
The compressed nature of administrative hearings, such as this confession proceeding, required officials to choose to focus on a small number of factual issues that they deemed most important. The question-and-answer format structured the inspector’s decision. Thus, it became paramount that Lai perform his answers according to the same structure in order to appear credible to the inspector. Perhaps because the Eisenhower Administration had recently claimed that networks of Chinese spies were infiltrating the United States, the inspector chose to focus many of his questions on Lai’s knowledge of potential Chinese spies as illustrated in the following two excerpts.

96 Q: Do you know Choy Sut Chew who runs the Center Dry Goods Store on 751 Jackson St?
97 A: No
98 Q: Have you ever seen that person?
99 A: No
100 Q: Is he from the same part of Chungshan District as you?
101 A: The same but different village.
102 Q: How far apart are your villages?
103 A: About 90 miles.
104 Q: What is the name of your village in China?
105 A: Char Yuen Village, also known as Char Tung.

While Lai claimed he did not know Choy Sut Yew, he claimed that he did know the village in China from where Choy Sut Yew originated. When Lai claimed not to know Choy Sut Yew (line 97) the inspector resorted once again to a continuing utterance as he did in the previous sequence of questions concerning Yuen Shee in lines 92-94. The
inspector asked a counter question by asking if Lai had seen Choy Sut Yew (line 98). Lai again responded in the negative in line 99. In line 100 the inspector then presented another counter question and asked if Choy Sut Yew was from the same village as Lai. In line 101 Lai resolved the dialogue by conceding that Choy Sut Yew was from the same district, but a different village. In this fragment, the inspector never accepted Lai’s initial response that Lai did not know Choy Sut Yew. The inspector’s third question pushed Lai to bring resolution to the dialogue. Lai conceded to answer that he did know the village from where Choy Sut yew came. Once it was settled that Lai might know Choy Sut Yew (since Lai knew of the village), the inspector effectively regained control of the narrative. The dialogue shows that the inspector took control over the narrative through his follow up question in line 102. The inspector asked for the distance between the villages. Lai responded “about 90 miles” (line 103). By asking Lai the distance between the villages, Lai gave an answer that would appear to be correct. To provide an answer that could be correct would be performing a credible persona.

Responding definitively with the statement “90 miles,” showed Lai’s willingness to clarify his earlier answer of not knowing Coy Sut Yew. In this way, Lai employed what Goffman calls “footing.” That is, Lai oriented himself in relation to the inspector within the institutional frame that was concerned about Communism. Lai signaled that he was not a threat to national security by telling the inspector “90 miles,” a specific number in “miles” reported in the American unit. In China at the time, distance was not measured in miles. The tense U.S.-China relationship at this time was not lost on Chinese Americans (Ngai 10). It is likely that the inspector would not have asked of Choy Sut Yew unless there were government suspicion that Choy Sut Yew was associated with
Communist China. Lai’s testimony as to his knowledge of Choy Sut Yew was unhelpful (because Lai claimed he did not know Yew); nevertheless, the information was believable in that Lai’s village was too far (90 miles) for Lai to have relations with Choy Sut Yew prior to living in the United States. Therefore, Lai maintains credibility (tentatively) with the inspector because it is indeed possible that he had no connection with Choy Sut Yew and, therefore, no associations with anyone in Communist China. The following excerpt displays further how Lai used footing to show he was not a threat to national security.

108 Q: Have you heard the name or do you know the person called Choy Joe Git, also known as Choy Chong Ming, who runs the World Theater on Broadway?

109 A: I don’t know him.

110 Q: Have you been to the moving pictures in the past in that theater?

111 A: Once or Twice.

112 Q: Did the pictures you saw appear to be slanted in favor of Communism and against the United States?

113 A: I only saw the movie that was singing. That was all.

Asking Lai about the moving pictures at World Theater reflected the government’s fear (line 110 and 112) that a sizable ethnic Chinese population would be susceptible to political seduction by Communist China (Ngai 10). Lai’s response in line 113, “I only saw the movie that was singing. That is all,” emphasized that Lai did not witness any Communist propaganda. Lai’s added emphasis of “that is all” shows he was deliberate. The phrase “that is all”, emphasized that Lai did not witness communist propaganda. In Lai’s comment “that is all,” he aligned with the inspector reinforcing that he did not
engage in communist propaganda. By describing himself as someone who does not engage in Communist propaganda Lai indicated he was not a believer in Communist ideology. In this way Lai exhibited a credible persona. In the next excerpt, the inspector questioned Lai about another potential connection to an alleged Communist.

114 Q: Do you know a person who is now in Hong Kong and was in the United States under the name of Choy Jew Fook whose true name is Choy Hung Chow?

115 A: I don’t know him but I heard about him.

116 Q: Have you heard what he is doing in Hong Kong?

117 A: I heard that that person is the one who decides whether you can go into Communist China or not and if you want to go and he allows it, he gives a permit to go there.

118 Q: Where did you hear that this person is in Hong Kong and in this position?

119 A: I have some friends who came from South America and they told me about this person.

120 Q: Will you give me the names and addresses of the people who have stated this?

121 A: This man went back to China from South America and he pass by here and he told me about this person—Choy Hung Chow. Now this person returned to the United States and he is now in Europe.

122 Q: What is his name?

123 A: Philip Chow

124 Q: What is his Chinese name?

125 A: Chow Kum Tow

126 Q: Of what country is this man a citizen? Do you know?
A: He was born in South America.

Q: What is his occupation?

A: He is in the import-export business in South America.

Throughout the above excerpt, Lai was able to limit his answer while at the same time giving just enough detail to appear helpful with information. With each answer Lai provided additional details about Choy Hung Chow (line 114). In this context, a tellable narrative not only increased the inspector’s knowledge, but also gave Lai credibility because it showed that Lai was willing to cooperate by answering the inspector’s questions. The inspector was interested, however, in how Lai knew about this person (line 118). Lai responded that he knew Chow from some friends in South America (line 119). Lai’s reference to “some friends in South America,” in line 119 was not specific, but his response added to the characterization of the scene (Drew 491) that Lai did know several people who may have information. Lai created an impression that his ability to inform on Chow was limited in that any knowledge he could convey would not be available, accessible or useful to anyone in the United States. With this impression, Lai attempted to perform a credible persona by trying to be helpful. The inspector continued to show interest however, because in his next question he asked Lai for the names and addresses of the people in South America (line 120). Lai explained, in line 121, this man (Chow) was now in Europe. Lai implied that he had no addresses for Chow to give. However, in line 123, Lai gave the inspector the man’s English name “Philip Chow” after the inspector asked for it (line 122). By stating that the man Philip Chow was in Europe, Lai implied that he had no way of contacting Philip Chow. The detail that Lai provided showed Lai’s alignment with the institutional goal of finding Communist.
In the final excerpt, the inspector did not limit Lai’s answers to yes or no entirely. The last question was left open for Lai to comment. Lai was now given an opportunity to say what he wanted. This rhetorical strategy allowed Lai to appear to choose to give a free statement.

141 Q: Are there any other statements you care to make at this time?
142 A: I have nothing more to say. I just want you to know that I will keep the name Lai.

Lai’s statement in line 142, “I just want you to know that I will keep the name Lai,” was a powerful statement as to his identity. Under the Chinese Confession Program a confessor who was not deemed a threat to national security would qualify for an adjustment of status under the law (Ngai 21). This meant that Lai’s name could be legally changed to his birth name provided he was not a threat to national security. In stating that Lai would keep his name, he remained consistent in his narrative that he was adopted. By being consistent with the adoption narrative Lai was able to control questioning to give the illusion of a credible persona.

In the excerpts above, the inspector controlled the exchange by limiting Lai’s ability to answer. The task for Lai was to control the power of the inspector while providing the illusion of complicity and compliance. The inspector asked questions that allowed for Lai to performed a credible persona. Lai executed this illusion in order to demonstrate that he was not a threat to national security.

The next section below shifts from attention to gathering facts to making an administrative comment and then providing a narrative summary for a report in order to present a recommendation.
III. Administrative Comments

The inspector summarized his comments with the key facts drawn from Lai’s testimony with a recommendation. The inspector’s report of the investigation culminated in the outcome (his decision); the details he selected from the hearing for the report justified the decision. In both the administrative comments and the report of investigation that follow, *ethos* of the writer is demonstrated.

On April 22, 1960, two days after the above hearing, the inspector, William Jones, signed comments. Similar to the report in chapter 4, comments were written on a standardized form with the heading of the “Department of Justice” titled “Administrative Page.”

The comments follow:

The SUBJECT has resided in the United States since 1919 and have never been arrested or ever been a member of any subversive organization. Although he admits his true family name was CHAN and the person who brought him to the United States was not his true blood father, he has used the name of Lai since the age of five or six. It appears that this case would come under the purview of the policy outlined in the Department of Justice Circular letter No. 107, dated September 20, 1909.

It is recommended that this case be closed.

The above comments foreshadow the decision in the final report of the investigation which was the crux of the hearing. The comment began with using the term “SUBJECT” to mean Lai. In using the term “subject” for Lai, the inspector made a rhetorical move to distance himself from Lai. Referring to Lai as the “subject” could give the reader a sense
that the inspector would be making an objective comment about Lai. The inspector’s comment continued with “Although he admits his true family name was CHAN and the person who brought him to the United States was not his true blood father, he has used the name of Lai since the age of five or six.” This sentence, beginning with “although,” implied that the subject did what was expected by making a confession. However, the reason behind the subject’s confession, that the subject was adopted and used the name Lai, was not an expected reply. As such, because the “subject” had used the name Lai as a child, the inspector implied that the “subject” should not be prosecuted for using the name Lai for immigration purposes. The inspector closed his comment by citing the authority of the Department of Justice Circular letter no. 107. Referring to Lai as the “subject” credits the inspector with ethos indicating that he was being objective in his comments. By citing the Department of Justice circular letter no. 107, the inspector used authoritative logic to support his recommendation to close the case. The inspector’s comments are short, but nevertheless created a narrative that explained his recommendation.

IV. Report of Investigation

The inspector recommended closing Lai’s case on April 22, 1960. The report of investigation marked that this case was closed and was signed and dated 5/6/60 by William Jones, Investigator and 5/9/60 by Ralph Stanley, Inspector General. The report was written on a standardized document entitled “United States Department of Justice, Immigration and Naturalization Service, Report of Investigation.” This persuasive document provided an organizing framework to recommend and complete a decision. As a standardized document, titled sections provided the document ethos because it ensured
that the necessary information was included and regularized. For example, the titled sections at the top of the form included the title of the case (LAI Al Foon aka LAI Sik Foon aka CHAN Dong Leong), dates, file number, nationality and the type of investigation. As the titles on the form indicate, the document structured a means for composing (and receiving) and an official report by regularizing meaning and the process of composition (Munger 3).

Of particular interest is how the inspector referred to a particular United States Code, “U.S.C (Natz. 05/01/56).” Lai’s case was the subject of fraudulent naturalization under the United States Code (U.S.C.) for naturalization of citizenship. The date 05/01/56 was the date Lai became a naturalized U.S. citizen. The inspector inserted the term “revocation” to indicate that Lai’s case concerned the revocation of Lai’s citizenship. This term “revocation” illustrates the seriousness of the case as it involved a potential revocation of citizenship. Since the ultimate decision was not to revoke Lai’s citizenship, the findings in the report must provide credible facts that lead to the end decision. It is up to the inspector to show his own credibility in filling out the form to give credence to the ultimate decision.

Like the summary of investigation in chapter 4, the report for this confession hearing needs to convince the readers that the findings are credible and that the inspector performed his duty to investigate the immigrant objectively. A standard frame ensured that the inspector would provide all information needed for a decision that was made objectively. Ultimately, the decision to close the case was made by the inspector general of immigration however, the inspector who conducted the hearing and wrote the report provided objective facts to support his recommendation (Munger 1). The report was
important because it remains as evidence that the inspector conducted a hearing in an
objective manner.

The prominent feature in the report is the opening statement that followed the
titled boxes. It read as follows:

This investigation is based on the admission of the SUBJECT’s immigration
brother, LAI Sik Shun, that he and the SUBJECT were not true blood sons of the
person that brought them to the United States.

The inspector used the term “SUBJECT” to mean Lai. In referring to Lai as the
SUBJECT in his report, the inspector built his professional authority by distancing
himself from Lai. In analyzing this feature, the context of the report was institutional.
Therefore, the inspector oriented Lai as the subject in order to distinguish his relationship
to Lai as objective. Absent in this first sentence in the report was anything that could be
construed as subjective. The rest of the report then followed as an objective assessment of
his recommendation:

On April, 20 1960, the SUBJECT appeared at this office and gave a sworn
statement, attached as Exhibit “A”, in which he admitted that he was not the son
of LAI Kai On, the school teacher that brought him to the United States as the son
of Section 3 (6) nonimmigrant. The SUBJECT naturalized in San Francisco on
May 1, 1956. He claims to have never been arrested or in trouble with the police
of any country. He is married to a citizen of the United States and has eight
United States born children. He claims that he has used the family name LAI
since he was about five or six years of age.
In the above paragraph, Lai and the inspector are absent. While the “subject” admitted that he was not the son of Lai Kai On, the reader can only assume that the subject is “Lai” and it was the inspector who heard Lai admit that he was not the son of Lai Kai On. According to the logic of this convention, Lai was presented in an objective manner. In addition, the third-person point of view helps make the facts appear more objective and consequently the inspector appear more professional.

Another feature supporting the appearance of the inspector’s professional *ethos* was the use of appropriate administrative and legal jargon in stating a recommendation. This is also an indicator of expertise in a professional field (Munger 6). Consider the following recommendation in the report:

> It appears that the SUBJECT’s case would come within the purview of the Department of Justice Circular Letter No 107, dated September 20, 1909, in which the policy is set forth regarding revocation of naturalization.

The inspector conveyed his recommendation in just one sentence while marking himself as professional. The inspector general, in reading this recommendation, could have gleaned very quickly for instance, that the Department of Justice Circular Letter No 107 was the basis for the inspector’s recommendation on Lai. The inspector also indicated that he was referring to the specific part of the policy on revocation of naturalization. All this marked the *ethos* of the inspector who conducted Lai’s case. The recommendation of the inspector was presented, as well founded, that is based on sound reasoning of accurate evidence.

The inspector’s recommendation and his reasoning behind it, constituted a narrative in its own right. As a narrative, it summarized in chronological fashion and
coherently Lai’s responses from the hearing. However, since the inspector general made the final decision, the inspector had to construct his professional authority in his narrative. The report is a narrative story that has a beginning, middle and end that described Lai’s life as a paper immigrant. However, important to understand is that document’s *ethos* indirectly shaped Lai’s *ethos*. The document was a manifestation of Lai’s positive performance of *ethos* throughout his hearing.

V. Discussion

The question driving this chapter has asked: *What did it mean or what did it take to perform credibility when accused as a paper son in 1960?*

In this chapter, I have argued that matters of Lai’s *ethos* were concerned not with Lai’s intrinsic character in this 1960 hearing, but with his ability to prove a credible persona given the political concerns due to the Cold War. Since Lai’s performance, as a paper son was scripted in his 1926 hearing with the INS, Lai could not win moral points in this hearing concerning his character. The fear of Communism permeated Lai’s confession because of the belief that China (and hence, all Chinese) was lost to Communism after the Chinese Communist revolution in 1949. The INS had the power to deport Lai based on fraudulent status (U.S. Citizen based on fraudulent name); however, the INS chose not to deport as seen in the report of investigation. The report itself gave no mention that Lai was not a threat to the public interest; nevertheless, the inspector performed the act of a bureaucrat doing work in the name of the public interest as seen in the 70 questions devoted to Lai’s potential involvement with Communist. Indeed, Lai acceded to the nature of the inspector’s questions. To do so Lai changed his footing in that he aligned with the inspector through the insertion of small informational details in
his knowledge of Choy Jew Fook (line 115) as a person who was able to get someone into Communist China and in giving details about a man named Choy Hung Chow (line 121) who was born in South America and currently in Europe. In providing informational details of persons who the inspector was interested, Lai performed a credible persona.

The purpose of this hearing was to inquire about the disparity between Lai’s immigration name versus his birth name. In part 1 the hearing took on an accusatory tone with a threat of deportation. For example, in line 10, the inspector did not ask Lai “how” Lai was born under a different name (Chan). The inspector made a declaration by eliciting the name of Lai’s birth father in line 9 and then attributing the name Chan, to be Lai’s true and correct name. The inspector followed his declaration with a leading question “is that correct?” This is a blatant exhibition of power in that the question is restricted to a yes or no response. The question was accusatory in that it presumed that Lai had just told a lie. The question “is that correct” implied that Lai’s immigration name was fraudulent. As a Chinese man, who entered the U.S. under an alias name, Lai was suspect with possible ties to Communist China. The inspector sets up his assumption that Lai could be a threat to the public interest throughout his questioning in part 1.

Lai was a known businessman in Chinatown. As a business leader it was probable that the Department of Justice sought to question Lai because of Lai’s potential knowledge of Communist infiltrators within Chinatown. Questioning Lai could be seen as rational, because Lai could be a source of information. What Lai needed to do in this hearing was to provide responses with enough detail to satisfy the expectation of the question-and-answer sequence so that he (Lai’s) would appear to be helpful not only to close off paper immigration, but also to lead officials to possible Communist infiltrators. The question-
and-answer sequence showed how Lai performed ethos in dialogue. Lai proved to be helpful with in a sequence of turns. In this way I extend Farrell, in that I show how ethos is performed with each utterance in dialogue.

Implicit throughout the confession was the emphasis, on the part of the inspector, that Lai was hiding a different self throughout the hearing. In part 1 the inspector used professional vision to assume that Lai would tell a story as previous paper sons have done under confession. By professional vision I mean to imply that the inspector no doubt had interviewed many paper sons like Lai. Thus, the inspector had certain expectations as to how Lai would answer questions. Of the 11,000 Chinese confessions that took place between 1957 and 1965 (Ngai 22), a cursory review shows that most paper sons confessed a false name (22). This was evident in line 10 when the inspector asked how Lai could be a true name if Lai’s true father was Chan Jin Ng. Lai however, denied he had a false name and that he harbored a different self under a paper persona. His claim was that his name “Lai” was just as true as his birth name “Chan” because the Lai family adopted him. Lai however, could be giving a performance of another kind. The fact that Lai was adopted could not be proven. Therefore, the fact that a Chinese merchant adopted Lai, could give Lai legal standing to remain a U.S. citizen because he could have not committed fraud.

In the initial exchange in part one, I used the facts in Lai’s previous hearings to conclude that Lai intentionally chose to give his immigration name as his true name. In his everyday life Grandfather was known as Al Foon Lai. He used no other name in the Chinese community. In addition, the Lai surname was the name of his children and grandchildren. By 1960, the Al Foon Lai family in the United States was an established
family that spanned three generations. Thus, Lai stood by the name “Lai.” The voice Lai spoke when he said, “My true name is Al Foon Lai,” (line 5) was a performance of a credible persona made directly to the inspector.

However, I also conclude that in this case Lai and the inspector were both performers. When Lai said “I have nothing more to say, but I want you to know I will keep the name Lai” (line 142) the “you” referred to the inspector, of course, but not only to the inspector as the face of the INS, but also to the inspector as a real person behind the administrative persona. By this I mean that throughout the hearing the inspector performed a persona as a government official whose role was to question Lai critically and to question Lai’s credibility. *Ethos* or credibility then was dispersed in the momentary movements during discourse that confused speaker and listener. Lai’s previous transcripts showed that the shared knowledge between Lai and the inspector was a common understanding of the role of the inspector and the inspector’s power to deport. In this hearing, Lai performed a credible persona with awareness that the inspector had the power to recommend deportation if Lai was judged to be a threat to the public interest. Lai’s last line “I want you to know I will keep the name Lai,” suggested that Lai’s strategy was not only not to confess to a paper identity, but also to prove his identity in a legal context.

Finally, the report of investigation was a good characterization of a standard form for producing a government written report. In this way the report was a performance of *ethos*. The report made the decision of the inspector official. The regularization of the standard form ensured that included in the report was the required knowledge of the case. So while there was no mention of public interest in the report of investigation, the
decision to close Lai’s case was influenced by Lai’s responses in that he was not a threat to the public interest.

VI. Summary

The Cold War and anti-Communism sentiment influenced and guided the actions taken by the Chinese Confession Program. The questions in the second half of Lai’s 1960 hearing were asked in an ad hoc manner and only asked because Lai was an immigrant from China, a country controlled by Communist ideology. Paper immigration had continued past the repeal of the Chinese Exclusion Act in 1943, and the U.S. government was suspicious that paper immigration would be a means for Communist infiltrators to enter the United States. From this perspective, Lai’s credibility was questioned because he entered into the U.S. as a paper son from a country that had become Communist. The context of the Cold War and the political event of the Chinese Communist revolution placed Lai in a position to negotiate his ethos. The U.S. government held the power to deport for either fraud in paper immigration or as a threat to the public interest. The threat to the public interest was a clear statement written in into the Chinese Confession Program to mean a Communist threat (Ngai 10).

Lai’s performed ethos by first, confirming facts that were recorded in his previous hearings and second, by aligning with the goals of the inspector. In the first half of the hearing Lai communicated to the inspector details of his paper family and details of his living family. Lai answered with the details of his paper family that was consistent with previous recorded facts. Second, Lai testified that he did not know persons who might be associated with Communist. Lai presented a coherent narrative that explained his status
as a paper son and that he had no ties to communism. In addition, Lai offered to try and help the inspector with finding a person of interest when asked. In this way Lai aligned with the inspector’s goals. The goal for the inspector was to determine if Lai was a threat to the public interest. Lai showed that he was not a threat by claiming that he did not have associations with suspected Chinese Communist persons and his willingness to assist to provide information of persons suspected of Communist associations.
Figure 4. A reference to each person in the above photo is in Chinese-English from the point of view of a grandchild of Al Foon Lai. GungGung (Lai) is grandfather, PoPo (Lai Soon She) is grandmother, Tai Po is great grandmother and Tai Gung is great grandfather. The eight sisters are the sisters of GungGung (Lai). A grandchild of GungGung would reference each sister according to her birth order (Auntie 1, 2... etc.). I speculate that this photo was used as material evidence in the hearing analyzed in this chapter.

I knew from a young age (via Mother) that Grandfather (GungGung) had two wives. The number of sisters was never clear to me. Equally unclear were relatives who
appeared now and then from Hong Kong. I recall an evening that mother said we were going to a family dinner (Lai family dinners were always nine-course Chinese banquets in Chinatown). Apparently, a relative had just moved to San Francisco where we were living from Hong Kong. For Mother dinner entailed meeting a first cousin for the first time. At the dinner, Mother talked incessantly (in Chinese) to her first cousin. Mother introduced me to our cousin, “This is your cousin. She is number six auntie’s daughter.”

In retrospect, these dinners seemed to happen more often than not as grandfather aged. What was noticeable to me was that he appeared (still in a suit and tie) to be always happy. When he died Grandfather’s sisters were seated, per Chinese tradition, adjacent to Grandfather’s coffin. The surprising moment for me was when all of his sisters let out ear piercing wails. Since it was my first funeral, I asked mother what the wailing meant. She said that Grandfather was very special because he helped his sisters to come here (United States) and they (the sisters) were forever grateful.

Lai’s administrative hearing in this chapter took place in 1965, five years after the hearing in the previous chapter and forty years after the administrative hearing in chapter 4. The hearing in this chapter was a confession under the Chinese Confession Program (similar to the previous chapter): however, there was some tension during the 1965 hearing due to the fact that Lai was not truthful in his 1960 confession with regard to his blood family. In the 1965 hearing, to be analyzed in more detail below Lai needed to establish that he was a blood relative to eight sisters. In order to do that, he would have to add to what he said during the earlier confession (provided in 1960). In the 1965 confession, Lai revealed additional information to immigration officials that he had eight
sisters whom he did not report in 1960. Lai needed to prove a blood relation to his sisters in order to sponsor three of his sisters as immigrants to the United States from Hong Kong. This 1965 hearing began as a confession, but what was different from his 1960 confession was the inquisitorial tone in this hearing. By inquisitorial I mean that the inspector asks questions to pry information from the witness. As inquisitor, the inspector generally does not already know an answer to the question but is curious as to the answer a witness might give. Recall, the 1960 hearing was accusatory. By accusatory, it was implied that Lai was to blame and was responsible for any fraudulent behavior found as a result of his alleged paper immigration. In this 1965 hearing Lai was not ordered to appear before the Immigration and Naturalization Service (INS); in fact, Lai’s appearance was voluntary. This hearing however, was still conducted under the rules of the Chinese Confession Program, thus Lai could still be deported.

In the previous chapter, I identified the ways that the Chinese Confession Program during the Cold War viewed Lai as a Chinese immigrant, and how Lai performed a credible persona by understanding the concern that revolved around Communist fear. The previous chapter also offered evidence that ethos, at least in involuntary confession, was not based on Lai’s good character, but in whether he answered questions to alleviate the political concerns concerning Communist associations with Communist China. In this chapter, I add depth to the material presented in the last chapter by exploring the challenge for Lai in performing a credible persona in confessing that his earlier confession about his family was not complete and therefore not entirely truthful. This 1965 confession required Lai to retell his story in order to add in information that had been left out in his previous story. As such, the inspector could not
have known exactly what Lai would say and thus, not have a pre-set vision of Lai’s narrative. However, as a government bureaucrat, the inspector had the power to guide questions to control the narrative. By this I mean that the inspector continued to control the narrative with the questions he asked and with particular (inquisitorial) tone—both of which seemed to elicit information from Lai. Thus, in contrast to the 1960 hearing, the tension in the 1965 hearing is greater because Lai’s new information about his blood family casts doubt on the claims he made in 1960 about his adoption, his marriages, and his children.

In my analysis of the following 1965 confession, I contend that the inquisitorial tone of the questioning could not have happened without changes in immigration law that affected Chinese immigrants. For example, because of political upheaval in Communist China, the United States began accepting Chinese refugees with first priority given to those who already had family/relatives living in the United States. In this way, my analysis of the 1965 hearing shows that Lai continued to orient his responses with regard to both the political concerns of the Cold War and to institutional expectations. My analysis contributes to our understanding of another complication regarding how Lai performed a credible persona. While ethos was a mode of proof as a function of a political concern in the previous hearing, a relationship of trust needed to be established in this hearing in order for proof to be believable. In this hearing, Lai builds a relationship of trust with the inspector through his responses. Melissa Weresh calls the term trust a “relationship attribute” (234). In this sense the “attribute” is a case in which the audience perceives the speaker to have what Aristotle determined to be ethos. While Weresh’s understanding of ethos meant “character” I find her text-centered analysis of the trust
attribute useful in the application of *ethos* as a mode of proof. In this chapter’s hearing, Lai fostered a trust attribute with the inspector by being transparent about his past in his responses to the inspector’s questions.

To help understand the people involved and the cultural implications of this 1965 hearing, section I below is a snapshot of the Lai family through the illustrated family tree in figure 4 and its cultural implications. Stratified by generation, the page out of the family book shows the family blood relations that pertained to the contents in this third hearing. Section II provides the legal and political context that frames Lai’s voluntary confession. Section III is the analysis of the transcripts. I analyze “reported speech” and changes in “footing” to understand how Lai built a trust attribute with his audience. Lastly, the analysis includes the family photo pictured above (figure 3) that was possibly the photo used as evidence during the hearing. Section IV in this chapter is an analysis of the summary of the final decision made by the inspector in 1966. The summary is provided to understand from the inspector’s view Lai’s performance of a credible persona.

I. Chan\textsuperscript{72} Family Tree

\textsuperscript{72} If Lai had entered the U.S. under his birth name, Lai would have been “Chan”. “Chan” was the English pronunciation for the Chinese character represented in Lai’s Chinese name.
In this chapter I examine how Lai worked collaboratively with the official asking questions to a credible persona through narrative analysis in the context of the administrative hearing by using tools of narrative analysis. The family tree shows the distinction between historical facts of the Lai family tree and the fictional facts of Lai’s paper family tree illustrated in chapter 1. The Lai family tree portrays Lai’s identity.

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73 I have in my possession a copy of the family book. The evidence of a family book demonstrates the social class of the Chan family. My great-grandfather was a Chinese scholar. Scholars were among those at the top of the social hierarchy. Names are written in traditional script and high social classes kept family genealogy books such as the one shown here.

74 Mary Yow would be my step-grandmother. She married grandfather in 1940 when mother was a young child.

75 Under Chinese tradition, a woman leaves her family and marries into another. Typically that is why daughters are not typically named (but numbered). However, mother’s name was written into the Lai family tree. This could be a reflection of the generation born in the United States. It appears that grandfather had her name written. In addition, under Chinese tradition the daughter’s family would not be listed because the daughter married into another family. In the copy of the Lai family tree provided for this dissertation, my mother wrote the name of her husband, her children and all other English names that are shown.
through his family relations with regard to familial obligations. For example, in Chinese culture, the primary guide to one’s behavior is one’s place in the family, in that one’s position in the family is specific and inalienable (Hsu 2). Rewards and obligations to other members within the family as well as prestige and power is linked to one’s place (51). Thus, Lai’s world-view as a Chinese man is situation-centered in that Lai is confined to a set of rules. The Lai family tree shows that Lai is the only male in generation nineteen. Lai’s name is placed directly under his parents while Lai’s eight sisters are not designated with their individual names. The meaning of Lai’s placement in the family tree is that Lai will hold the position of power and prestige as the patriarch of his family when his father and mother (eighteenth generation) pass. Thus, a patriarch has inalienable obligations to the family. Thus, as the only male in the nineteenth generation, Lai’s obligation was to care for his eight sisters as well as his own children and grandchildren. In Chinese culture, obligations extend to ancestors, descendants and to extended relatives (51). Thus, at the time of the hearing analyzed below, during political upheaval in China, Lai had familial obligations to attend to the welfare and safety of his sisters as they sought refuge from the Communist revolution in China.

II. Legal and Political Context

By 1965, the legislative aspects of immigration reform reflected compromises between humanitarian efforts to take in refugees, family reunion and improvement of the American image in Asia. While Chinese refugees in Hong Kong were persons that

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76 Hsu, F.L.K., Clan, Caste and Club, D. Van Nostrand Company, Inc. 1962. According to Hsu, the situation-centered world view aptly defines the Chinese clan, because the family is characterized by ties which permanently unite its members.

77 Ibid. 51 Collateral relatives include all relatives that vary in degree to nearness.
represented a repudiation of communism and a demonstration of sympathy and concern for Asian people (Chi-Kwan 1180), the refugee measure (1962) and subsequent immigration reform (1965) that the U.S. government undertook benefited Chinese Americans in the United States as it did their refugee relatives.

The impetus for immigration reform in 1965 was at the intersection of the injustice of the national origins quota system, the Cold War and the Civil Rights struggles in the 1960’s (Marinari 237). The Immigration Reform Act of 1965 or the Hart-Celler Act was signed by President Lyndon Johnson to abolish the national origin quota system that was biased toward Europeans. It was because of caps placed on specified countries in the Asian Pacific Triangle that White House staffers convinced President Johnson that immigration quotas damaged U.S. reputation abroad (Marinari 223). Prior to the Immigration Reform Act of 1965, the law delineated an Asian Pacific triangle that stipulated a cap of 2000 persons who could emigrate into the U.S. from the triangle region. Quotas on immigrants generally caused tensions not only in the relationships between U.S. allies in Europe, but also in the negotiation of foreign policy in the Asia-Pacific region (226) because national origin quotas contradicted Johnson’s pledge to eradicate racial and ethnic discrimination in the country (224). Thus, immigration reform was largely due to the civil rights movement that focused on equal treatment regardless of


The Act allowed a cap of 2000 persons in a territorial concept called the Asia-Pacific Triangle. Each country within the Asia Pacific Triangle was allowed a quota cap of 100. This quota cap only applied to Asians.
race or nationality. Immigration reform in 1965 was dramatic in that it opened the doors to Asians.

The Hart-Celler Act of 1965 abolished quotas on race and national origin in immigration and emphasized family reunification (Keely 159) and humanitarian concerns (158). However, immigration reform was also inextricably tied to Cold War politics. For example, many of the Chinese that fled from the Chinese mainland to Hong Kong were refugees from Communism (Chi-Kwan 1154). American interest in Chinese refugees in Hong Kong was of instrumental value to U.S. national interest because psychological warfare became a main component in Cold War Policy under President Dwight Eisenhower (1156). Psychological warfare, a military strategy, is to influence the mind of the enemy. Thus, helping Hong Kong refugees countered allegations that the United States cared only for the White race and little of the Asian people (1156). In addition, some Chinese escapees from Communist China could be a resource to the American Consulate General in Hong Kong with intelligence. In 1962, the Kennedy administration took action on behalf of the Hong Kong refugees. Between 1962 and 1966 Washington made an effort to admit to the United States about 15,000 Chinese refugees with preference to family reunion cases (Hsu 17). An article titled “U.S. to Ease Chinese Quota For Hong Kong Refugees” was on the front page of the New York Times in 1962. The article is evidence of social circulation that shows how Cold War politics influenced Chinese immigration decisions. Explicitly in part, the article stated:

79 Lee, At America’s Gate, 247. Cold War politics and civil rights activism exposed the hypocrisy of American regulation of immigration.
80 Chi-Kwan, Mark. The Problem of People, Modern Asian Studies 41, 6 (2007) p. 1175
81 See Also. Frankel, Max “U.S. to Ease Chinese Quota For Hong Kong Refugees”. New York Times, 23 May 1962, ProQuest Historical Newspapers: The New York Times

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Washington’s decision to make at least a token effort to relieve the strain on the British Colony—an effort that might encourage other countries to follow suit—was announced today by President Kennedy. (1)

The phrase “at least to make a token effort” suggests that there is a story behind the effort to accept Chinese refugees despite the immigration quotas in place. The following phrase, “to relieve the strain on the British Colony”, gives us one answer to the story behind the effort to accept Chinese immigrants. The fragment, “to relieve strain”, shows that Washington saw the problem of Chinese refugees as a British responsibility (Chi-Kwan 1158)\(^82\), however, following up the statement, the next phrase states, “an effort that might encourage others to follow suit,” tells us that the relaxing of the Chinese immigration quota was not entirely humanitarian, but a way to benefit the Cold War cause in a highly publicized effort.\(^83\)

Family reunion meant that refugees who had family in the United States that were either U.S. citizens or permanent residents would have priority to immigrate (Frankel 1). In the next section I analyze Lai’s testimony from Lai in which he voluntarily comes before immigration officials to confess that he was a paper son in order to prove a blood relationship to his sisters who were in Hong Kong. The risk however, remained that under the Chinese Confession Program; Lai could be stripped of U.S. citizenship, deported or both for perjury in not being truthful in the 1960 hearing.

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\(^{82}\) Chi-Kwan. By 1960, Chinese refugees in Hong Kong numbered one million. It was the Eisenhower administration that saw the Chinese refugee problem as a British responsibility. As the Cold War continued into the Kennedy administration assisting in the leadership, in solving problem of too many Chinese refugees, would contribute to the Cold War cause.

\(^{83}\) Ibid.
III. Analyzing Al Foon Lai’s 1965 Sworn Statement

Dated May 13, 1965, Lai appeared before the inspector W. R. Moore to give a sworn statement before the Department of Justice, Immigration and Naturalization Service. Stated on this transcript (Appendix B) is the statement that this proceeding was “in the English language” and that an “interpreter is not used.” The excerpts below are divided into seven themes that are ordered chronologically. In this hearing Lai must confront the truth because some accounts that were claimed in his 1960 hearing were inconsistent with documented facts made known to the inspector prior to this 1965 hearing. In order for Lai to be successful in this hearing he must distinguish between what facts were true and build trust with the inspector. To cover some of the subtle complexity in the dialogue between Lai and the inspector, I use Goffman’s concept of footing as discussed in chapter 3 to show how past and present discourse shifts Lai’s alignment with that of the inspector in order to develop trust. Furthermore, inherently unstable and unreliable about the act of confession in its meaning and its motives (Brooks 125) is an asymmetrical encounter in which the inspector holds the power to make the final decision in the outcome of Lai’s case. The role of the inspector is pre-established as the director of the hearing who determines the course of the discourse. This hearing began with standard opening procedure that required an oath to tell the truth, however it was not the same standard opening procedure that is documented in the 1960 hearing. The main difference is this hearing allowed for a lawyer to be present. The right to have a lawyer present shows that Lai, a Chinese immigrant, was given a right he did not have before, but with the right to a lawyer also came the greater responsibility to be truthful because of increased consequences for not telling truth with jail and/or a monetary fine.
While opening procedures became standardized by 1965 to provide a benchmark to document voluntariness, confessions of truth are often regarded with suspicion (Brooks 133). This first theme illustrates the tension in documenting the voluntariness of a confession. But it is also an opportunity for Lai to perform a credible persona.

**Theme 1. Institutional Orientation**

1. Q: You are advised that you have the right to remain silent, but that any statement you do make, however, may be used against you, or any other person in criminal or civil proceeding. You also have a right to consult a lawyer of your own choice, at your expense. Do you understand?

2. A: Yes

3. Q: Do you wish to be represented by an attorney at this time?

4. A: No I don’t want a lawyer.

5. Q: Are you willing to answer my questions at this time?

6. A: Yes

7. Q: Will you stand and be sworn. (Respondent complies) Do you solemnly swear that the statements that you are about to make will be the truth, the whole truth and nothing but the truth so help you God?


9. Q: I wish to further advise you that to knowingly and willfully make false statements in a proceeding of this kind is a violation of the United States Law. Any person found guilty of so doing may be fined $5000.00 or imprisoned for five years, or both. Do you understand?

10. A: Yes I know it.
Noted in this hearing, Lai was not using a Chinese language interpreter. While Lai had the legal right to a language interpreter he chose to give testimony in English. In Lai’s previous hearings he had utilized a Chinese interpreter. Thus, not using a Chinese interpreter in this hearing suggests that Lai made a conscious decision to testify in English and in his own words. This could be seen as an act of building trust with the inspector that Lai intended to tell the truth and directly from his own voice. Contrast to the previous hearing in which Lai did use a Chinese interpreter named Jenny Seto.

The above opening is similar to the opening statements in Lai’s Confession proceeding five years earlier (chapter 5). However, much had changed in five years with regard to taking voluntary confessions in administrative proceedings. Most notably different from previous hearings, is the confessor’s right to remain silent and right to have an attorney present. In addition, in line 7, Lai was referred to as “respondent”. Respondent is defined as one who answers in reply to a thesis or the defending party in a legal case. In the last hearing there was no reference for Lai with the exception of Lai as the “subject” in the inspector’s decision. Reference to Lai as the respondent in this hearing implied that Lai was present to defend himself in the present proceeding. The right to remain silent and the right to have an attorney present are standards that came out of the need to create a set of guidelines for constituting voluntary confessions (Brooks 115)\textsuperscript{84}. In addition, the reading of standard rights before taking a confession was a leap forward with regard to Chinese immigrants in particular.\textsuperscript{85} The addition of the right to

\textsuperscript{84} Brooks, Peter. Storytelling Without Fear? Confession in Law and Literature, p.115. Brooks discusses the tension between voluntary verses compelled confession. In 1964 the Supreme Court moved toward more specific rules such as right to counsel in pre-trial questioning (Escobedo v. Illinois (1964)) and later the right to remain silent (Miranda v. Arizona (1966)) in criminal law.

\textsuperscript{85} Under Chinese Exclusion attorneys were not allowed to be present (Lee 139).
remain silent and the right to an attorney was created in that a confessor should be able to tell his story without fear. Line 9 continued with the standard warning that any false statement made willfully could result in a five thousand dollar fine or imprisonment. The importance of reading a warning cannot be underestimated because it reflects a distinct change in the social and political mood of the time in that there was concern for the nature of how confessions were invoked (131). The concern came out of the Supreme Court ruling in Escobedo v. Illinois (1964) and later in Miranda v. Arizona (1966) to address the tension concerning a voluntary versus compelled confession. Thus, the reading of the standard warning in this hearing constituted a performance of credibility on the part of the institution in order to demonstrate that the respondent’s confession was voluntary. The factual content of the warning constituted an act of striving to do justice to a confession (130) on the part of the institution.

The opening proceeding gave Lai and opportunity to establish his position as respondent. In line 4 Lai stated, “No I don’t want a lawyer”. With this statement Lai waived his right to a lawyer. Lai explicitly said “No” with the phrase “I don’t want”. He waived his right with the word “no” and then affirmed and clarified his choice with the phrase “I don’t want”. To move forward in a confession proceeding without a language interpreter or a lawyer in a confession proceeding, Lai demonstrated to the inspector that Lai spoke English on an equal level with the inspector because they spoke the same language. Speaking the same language could be viewed as providing a sense that the participants (Lai and the inspector) are in agreement as to the rules of this proceeding and

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86 From the legal perspective (Warren Court) became active in expanding due process of law to all citizens. An inclusive vision of who belongs in the national community. Zeitlow and the rights of belonging.
the consequences for not being truthful. Since there was no interpreter or lawyer present, Lai spoke for himself and he also understood that a stenographer recorded his exact words. Furthermore, in reference to the inspector’s recitation of the law for false testimony, Lai stated, “Yes, I know it” (line 10). Lai did not simply say “yes” he added the phrase “I know it”. In adding the phrase “I know it” to his “yes” response Lai’s confirmed that he understood the rules and his responsibility to be truthful. By this acknowledgement, Lai enacted a performance of credibility.

The above opening statements were an opportunity for each party to establish credibility with respect to their understanding of the testimony to follow. This was stated with the recitation of the standard opening procedure and Lai’s expressed agreement with the rules. In the next theme, Lai had the opportunity to show consistency in how he identified himself.

**Theme 2. True and Correct Name**

The function of this next question is to make sure the man before him is who he says he is.

11. **Q:** What is your correct name?

12. **A:** I was naturalized under the name of Al Foon Lai. My immigration name when I came to the United States was Lai Sik Foon. My true name under which I was born was Chan Tung Leong.

Lai stated explicitly each of his names. His use of “true” in line 12 refers to Lai’s birth name. As we saw in chapters 4 and 5, all three of Lai’s names were established and documented in his previous hearings. Lai remained consistent in his testimony from the standpoint that all his names are true and correct as they were documented in previous
hearings. This implies that truth was performed in the recitation of the consistency of his names. Lai carefully qualified Al Foon Lai as his naturalization name, Lai Sik Foon as his immigration name, and Chan Tung Leong as his birth name. Each name was legal and “true” when partnered with its appropriate legal category. The legality of all of his names was affirmed in his 1960 confession. Lai’s immigration name and American name are also confirmed in his legal documentation as a naturalized U.S. citizen. This documentation of all of Lai’s names is significant in that Lai could not be accused of lying (fraud). Therefore, Lai was performing his credibility by stating all of his true and correct names.

In the next excerpt, Lai made a confession that he did not tell of his sisters in his previous confession. When the inspector asked for clarification, Lai qualified his response by shifting his footing.

**Theme 3. Transparency**

Tradition in criminal law established that a voluntary confession must be of free will. This confession, in the context of an administrative hearing, is valued with the same force as criminal law because Lai could be fined and/or put in jail for perjury and deported as if a criminal. Administrative proceedings however, do not fall under the purview of criminal law. So in terms of confession within an administrative proceeding the environment while similar to a criminal trial, in reality, the confession is unintentional because the confessor was put in a situation in which he is pressured to confess (Brooks 127). Therefore, the nature of confession must be addressed according to its context. In this particular context, Lai confessed to not making statements he should have made in a

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87 In criminal law voluntariness of confession proceeds from a belief that further denial is useless and perhaps prejudicial (Justice Jackson’s dissent *Ashcroft v. Tennessee*, 322 U.S. 143 at 160ff).
previous confession. However, the context in this hearing allowed for Lai’s confession to shift footing from speaking of a past transgression to narrating in the present in order to align himself with what is at issue in the present.

17. Q: In that statement [1960] did you tell Mr. Jones all the facts about your sisters that were in the United States at that time?

18. A: No, I did not.

19. Q: Why did you not tell Mr. Jones about your sisters that were in the United States?

20. A: Because I don’t want to start trouble. I know they got lots of trouble.

21. Q: You have heard that I have talked to your sisters and taken statements from them. Is this correct?

22. A: Yes

After Lai confessed in line 18 that he did not tell Mr. Jones in 1960 all the facts about his sisters, we learn in line 21 that the inspector had, previous to this hearing, taken statements from Lai’s sisters. Lai confirmed from line 22 that he knew the inspector had spoken with his sisters. Thus, beginning with line 18, Lai was placed in a position to confess. In this excerpt, if Lai denied that he knew of his sisters meeting with the inspector, it would hurt his credibility.

In Line 19, the inspector requested a crucial piece of information. Since Lai did not mention his sisters in his 1960 hearing, the inspector wanted to know why. Lai responded in line 20 with “I know they got lots of trouble”. The word “trouble” is ambiguous. We are unsure as to what “trouble” Lai is referring however, ambiguity in the word “trouble” could be a convenient way to avoid confirming damaging or discrediting
information. Because the word trouble is not defined, left unsaid is whether or not there is something more that Lai is hiding. If there was damaging information that Lai did not want to mention then just stating he did not want to cause trouble could be a way to avoid an attempt by the inspector to dig deeper into Lai’s reasoning for not mentioning his sisters.

Subtler is that Lai shifts footing by moving from relaying information from the past (I don’t want to start trouble) to the present (I know they got lots of trouble). Shift in footing is a way to talk about a change in the frame of events (Matoesian 109). By projecting himself into the current narrated moment with the words “they got lots of trouble”, Lai alternated from speaking about the past, to speaking from the past, into the present. This shows Lai’s ability to mobilize power to minimalize his past transgression of not being truthful in his 1960 confession (about not mentioning his sisters) and instead speaks about “trouble” in the present. The effect of Lai’s use of footing draws the discourse away from what Lai had done in the past to shift to a present objective. In this way Lai performs a credible persona by reframing the issue of not mentioning his sisters to that of trouble that is tied ambiguously to the administrative process.

The change in footing allows for Lai not mentioning his sisters in 1960 to no longer be part of the immediate interaction. The shift using footing can be seen as a display to the inspector that the reason for not mentioning sisters in 1960 is insignificant to the issue at hand. The inspector did not press Lai to clarify “trouble”, instead the inspector implied that Lai must “know” that Lai’s sisters have spoken with the inspector (line 21). The inspector used the words “you know” to shift the dialogue from asking a question to confirming a fact. The statement “you know I have spoken with your sisters,”
was to resolve the current purpose, which was that Lai had blood sisters. Lai’s reason for not mentioning his sisters in a previous hearing remains unresolved. Yet, the inspector allowed it to remain unresolved. The significance of an unresolved thread is that in terms of the entire hearing, Lai’s reasons for not mentioning his sisters in a previous hearing was immaterial to the crux of the case. The fact that Lai held himself accountable for the prior fact of not mentioning his sisters can be viewed as an act of performing credibility by telling a truth.

In the next theme the inspector solicited information about Lai’s sisters and Lai’s parents through questions. With each question, Lai responded with an answer and sometimes with additional comments.

Theme 4. *Evidence*

In this next excerpt, Lai is questioned specifically about his sisters.

23. Q: How many true sisters do you have?
24. A: Altogether I have eight sisters. One of them died. She died a long time ago.
25. Q: Is either your father or mother still living?
26. A: No
27. Q: Was either you mother or father in the United States?
28. A: No
29. Q: How many sisters are now in the United States
30. A: (Displaying old family group photograph, pointing out persons on that picture). Four.

It is unclear from this transcript which sisters the inspector had spoken, but the fact that Lai knew that the inspector had spoken with several of his sisters, Lai also knew
what was said between the inspector and his sisters. The inspector asked the question “How many sisters do you have?” (line 23). Since the inspector had met Lai’s sisters this question is a test question. The inspector could compare what he learned from Lai’s sisters with what Lai says. The question tests Lai in affirming that Lai is telling the truth. In line 24 Lai answers factually that he has “eight sisters” however, Lai added an additional fact that one of his sisters died a long time ago (line 24). Lai stated the additional fact as a detail that the inspector may or may not know. This detail is important in that it showed that Lai is willing to give information to the inspector. A demonstration of providing information not specifically asked for signals to the inspector that Lai is willing to provide more information, and thus a performance of credibility. Narrative theory focuses on how stories are received, not simply what they say (Gewirtz 144). The additional fact that Lai’s eldest sister died a long time ago told the inspector a personal note. By personalizing the narrative, Lai primed the inspector to trust that Lai told the truth. Additionally, in law, the questions and answers are transactions in that tellers affect listeners and listeners affect tellers (Gewirtz 144). In this particular fragment, the communication between Lai and the inspector was an exchange of information or a transaction that could have affected Lai’s ethos. If Lai’s answer did not match with the inspector’s expectation, or if it had contradicted something that the inspector already knew, then it is fair to say, Lai’s ethos would have been affected negatively. According to Weresh, a strategy that organizes into the discourse a personal note is a move to influence audience emotion (243). Priming an audience for an emotional response serves as an ethos function to establish a trust relationship (244). Therefore, the personal note about Lai’s elder sister could be seen as an organizational strategy to impact persuasion.
The inspector next asked about Lai’s father and mother (lines 25-28). These questions that follow were routine exchanges. However, the question about Lai’s parents presented a unique opportunity to show that he (Lai) could be believed. Lai answered with a simple “no”, his parents are no longer alive nor have they been in the United States. There was no reason to belabor the issue of Lai’s parents if the inspector already received those same answers from his sisters.

Following the questions about Lai’s parents, line 29 asked how many of Lai’s sisters are in the United States (line 29). Lai responded by presenting an old family photo (Figure 4). Since the stenographer recorded the action of displaying an old family photo (line 30), we can presume the photo included Lai, his parents, and his eight sisters. As Lai pointed to his four sisters (line 30) who live in the United States, Lai proved that he had sisters. Since Lai’s story was his to tell (or show through the photo). The picture of people put Lai’s eight sisters in concrete form. The photo, as concrete evidence of his family, became more believable than not. The display of the photo and the pointing to his sisters who reside in the United States was an act to be transparent with his family relationships. Ethos is in the photo. The photo adds to Lai’s narrative that Lai’s sisters were his true sisters. It was at this point the photo’s ethos is derived through Lai’s ability to point out his sisters. The photo told Lai’s narrative of having eight sisters and therefore a performance of credibility.

Theme 5. Confession

In the following excerpt, Lai made a confession about his children who were paper children.
31. Q: When you made the statement for Mr. Jones in 1960, did you truthfully give the information as to your marriages?

32. A: Yes. I told Mr. Jones the truth about my three marriages.

33. Q: You stated at that time, I believe, that your first wife Wong Shee had borne you two children, a son and a daughter, and that both of these children were now deceased. Was it true that this wife did bear you children or were these paper children?

34. A: These were really paper children. I never attempted to bring anybody to the United States under these identities.

The words “true” and “correct” are used in reference to statements Lai made in his 1960 confession with Mr. Jones. Lai admitted in line 32, that he was truthful of his three marriages. The inspector never asked the number of marriages in his question however, Lai responded with that he told Mr. Jones of his (Lai’s) three marriages and that the children he claimed with Wong Shee were really paper children (line 34) or a slot for someone to fill through paper immigration. This is a confession that revisited paper immigration because from Lai’s family tree we see that Lai had only two wives, Lai Soon She and Mary Yow. Since there was no name listed as Wong Shee on the Chan family tree, Wong Shee was fictitious. The only purpose for Wong Shee was to account for children in order to create slots for future paper immigration. By closing off the slots for future immigration Lai is in alignment with the goal of the Chinese Confession program to end paper immigration. Thus, closing the paper immigration slots was Lai’s performance of ethos.

Theme 6. Strategy of Cooperation
In this next excerpt, paper immigration was revisited and questions were asked about the husband of Lai’s sister, Chan Po Yin.

39. Q: Do you know the immigration husband that your sister came to at that time?
40. A: I didn’t know.
41. Q: Do you know any of his immigration sons or where they could be located?
42. Q: I don’t know. I understand that he had only one real son but I don’t know which one that would be. I don’t really know his Chinese name.
43. Q: Do you know anyone who could help me locate any one of the children that Wong Jung brought to the United States?
44. A: No really I don’t but I will try to find out and let you know if you will promise me that you will not tell his sons or paper sons that I was the one that helped you.

In line 43, the inspector asked if Lai knew anyone who could help the inspector locate the children that Wong Jung, Chan Po Yin’s husband, brought to the United States. The word “help” appears intentional. As the face of institutional authority, the inspector was charged with eliminating future immigration slots, which was why he would want to find Wong Jung’s children, but the inspector was also the public image of the INS. As the public image of the INS, he also needed to preserve a degree of power in making his decision regarding cases such a Lai’s case. The inspector’s job in line with the main purpose of the Chinese Confession Program was to close off paper immigration. The inspector had the power to question Lai about any persons connected that might have open slots. Therefore, inspector did not just ask questions of Lai, but of additional persons not directly related to Lai. The freedom to question Lai of additional persons was in the inspector’s power to work to close more paper slots. In addition, the request for
“help” (me to locate) stresses reciprocity with Lai. Lai responded in line 44 that he could try to help the inspector. Lai attended to the inspector’s probe for help with a shift in footing. Lai moved from past (No I don’t) to the present with the words “but I will try”. At the same time the statement “I will try” came with a request. In this request Lai asked that the inspector not implicate Lai as an informer. Lai demonstrated a shift in footing in using the word “try”. By trying to help the inspector Lai builds a trust relationship. The word “help” inferred that Lai and the inspector agree to something. With the phrase “I will try” Lai implied that he had some ability to speak with his sister. Furthermore, that Lai did not want to be implicated as an informer suggested that Lai would be taking a risk. Informing on his sister’s husband would harm his relationship with his family and impair his reputation among Chinese Americans. In order to preserve his credibility with his community, Lai performs credibility in front of the inspector.

*Theme 7. Family in the United States*

Lai in the following excerpt cooperated with the inspector with regard to his family to add detail to his responses and some emotion. The following fragment touches on the narrative of family reunification, which was a main component of the Hart-Cellar Act in abolishing immigration quotas based on race and national origin.

47. Q: Besides your four sisters and your own children, do you have any close blood relatives in the United States?

48. A: No. Other than my four sisters and my one nephew Chan Leon, I have no blood relatives in the United States. Three of my sisters are still living in Hong Kong. I nearly forgot, I do have a niece that lives in Honolulu, but her father, my sister’s husband was born in Honolulu and so this girl is a United States citizen.
Q: Is there anything further that you would like to state at this time?

A: There is nothing further concerning myself but I hope that someday soon I can help my three sisters that are in Hong Kong to come to the United States if they want to.

The above excerpt is a narrative, although not presented as one. It was presented as factual statements of Lai’s family who lived in the United States and Hong Kong. Indeed, if we did not have the inspector’s decision concerning this proceeding we might not have treated it as a narrative. Here is the heart of the narrative or the complicating action in Labov’s (1967) terminology:

Lai said that, not only do four of his sisters live in the United States, but so do 2 of his sister’s children of which, like his eight children, are U.S. citizens by birth. It would be morally decent to bring his three sisters over from Hong Kong to keep the family together. The inspector asked if Lai had anything more to say (line 49). Lai said that for himself there is nothing, but (considering the political situation in China) he hoped to be able to aid his sisters in coming to the United States.

The heart of this narrative is about Lai’s sisters and two of his sister’s children who live in the United States. The inspector continued to question on the issue of Lai’s blood relatives in order to inquire if there were more paper immigration slots that might exist in connection with Lai. It is also possible that the inspector asked about other blood relatives to test Lai for truth. Since the inspector had met with Lai’s sisters prior to this hearing, it was possible that the inspector already knew about Lai’s nephew, Chan Leon and Lai’s niece who lived in Honolulu. Since Lai was aware that the inspector had met with his sisters, it is likely that mentioning his nephew, Chan Leong and his niece in
Honolulu would be a performance of credibility because of the strong possibility that Lai’s sisters had informed the inspector of all the members of Lai’s family. In addition, Lai’s niece in Honolulu was a U.S. citizen by birth was likely to confirms there were no paper slots open in connection with Lai’s family. Therefore, in his performance of naming all the members of his family Lai effectively closed off paper slots. Lai performed a credible persona that gave credence to his last statement in line 50, “to help my three sisters that are in Hong Kong to come to the United States”. His last statement is a reference to the reason for this hearing. Lai reminded the inspector that Lai was here to prove his blood relation to his sisters so they (sisters) may immigrate.

In the following section, I shift to the final decision written in 1966. In the decision, the inspector shifted attention from the documentation of facts to that of a narrative summary of the facts.

IV. The Final Decision 1966

In March of 1966 Lai petitioned to have his sister Shau Kwan Chan immigrate to the United States from Hong Kong (See Appendix A). The decision to allow Chan to immigrate was approved and based on Lai’s confession that he was her blood brother. In April of 1966, the final decision that Lai met his burden of proof that he was Chan’s blood brother was written as a memo and sent to the U.S. Consulate in Hong Kong.

Performing a Credible Persona

The decision dated April 5, 1966, held that Lai met his burden with prima facie evidence of his familial relationship to Chan. But it is also evidence that Lai portrayed a credible persona per the inspector’s decision. The decision is an example of the power of narrative and rhetorical dimensions and implications of administrative decisions.
The initial statement of facts began with “The petitioner” and used “the petitioner” throughout in reference to Lai. In addition, the statement of facts are not narrated by the author, instead are quotations of Lai’s statements that were documented in Lai’s testimony. The decision begins with a summary of Lai’s immigration history:

The petitioner, Al Foon Lai, is the subject of file A4 117 010 which indicated that he was first admitted to the United States through this port on February 27 1920 as a merchant’s son of Lai Kai On, a recognized merchant. He departed for China on May 11, 1926 and returned on June 6, 1927 and was readmitted as a returning resident in possession of a permit to reenter the United States. On May 1, 1956 he was naturalized in the United States District Court, Northern District of California, Certificate of Naturalization No. 7546284, at which time the Court changed his name from Sik Foon Lai to Al Foon Lai. On April 20, 1960 he voluntarily appeared before an officer of this Service and confessed to illegal entry into the United States… On April 22, 1965 this Service decided not to revoke his naturalization on the basis of his illegal entry. On May 13, 1965 he made another statement before an officer of this Service…

The narrator began his decision innocuously following the norm of legal decisions. Institutional decisions are almost always written in a tone of impersonality, suggesting that the documents are objective and professional (Munger 5). References were made to Lai’s file number and dates of testimony. The factual summary is straightforward, but the statement of facts is not neutral. The use of the term “petitioner” to mean “Lai” is a rhetorical device to place Lai as an institutional object of the case and to create objective distance from the writer. The point of the rhetorical device was to give the document
More precisely, Lai’s human actions were irrelevant, because legal proceedings are a product of impersonal institutional judgment. However, if the author established his own ethos as one who was able to properly make an institutional decision, then the decision, that was in Lai’s favor is a demonstration that Lai performed credibility throughout his hearing.

After the establishment of document and writer ethos, the writer turned to evidence that supported his decision. Evidence was necessary to establish and to bolster the author’s decision that Lai had met his (Lai) burden in proving his relationship with his sister. The label “petitioner” deflects the many facts that could weaken the ultimate decision. For example, Lai acted illegally in entering the United States as a paper son. Referencing Lai as the “petitioner” reminds the reader of the focus of this petition. It is not that Lai had committed an illegal act in the past, but to focus on the immediate action of proving a familial relationship between two people. The following excerpt in part, laid out the writer’s evidence:

The petitioner was interviewed on March 25, 1966 and the facts and allegations in this petition and the relating files were verified by him. The petitioner submitted individual photographs of himself and of the beneficiary of this petition, identifying the latter photograph as the most recent photograph he has of his sister, Shau Kwan Chan….

…The Petitioner was not adopted by the Lai family as alleged in his first confession statement. He stated that Lai Kai On, who brought him to the United
States was not related to him in any way…The petitioner stated that he had no
brothers but eight sisters.

The first sentence made clear that Lai verified facts of his history in front of the inspector
and that the inspector attached Lai’s documented evidence to this petition. This statement
suggested to the reader that the decision was sound because the author gathered the facts
and evidence to which Lai confirmed. In addition, the author wrote that Lai, the
petitioner, provided additional evidence in the form of photos. The addition of photos
gave additional support to the decision that Lai met his burden. Next, the author lists
Lai’s eight sisters. Each sister was listed (not in birth order) with their marital status,
number of children and current country of residence. Included in an attachment was the
group photo of Lai’s family (Figure 3). The written list of sisters showed that the author’s
conclusion, that Lai is the blood brother to Chan, was supported and logical. Crucial in
the decision was the detail of Lai’s eight sisters and attachment of photos.

The decision was thus, defensible. Lai was petitioning to authorize a visa for his
sister to immigrate. The reasoning that led to the decision required Lai to provide
evidence of his citizenship and blood relation. Instead of focusing on Lai’s illegal entry,
the author focused on Lai’s confessions and an accounting of Lai’s entire immediate
family. The evidence included two photos, one of Lai and one of Chan, Lai’s signature, a
group family photo of Lai and Chan with their blood family, Lai’s 1960 confession, and
Lai’s 1965 confession statement. The accumulation of the evidence was what gave the
decision credibility in terms of proof of his blood relationship to Chan. Thus, by
providing photos and detailed names of his sisters Lai performed a credible persona from
which the inspector could make a credible decision.

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The decision was made in a narrative mode. Burns suggests a theory that narrative of a trial verdict creates intelligibility of human action. While an administrative decision is not the same as a trial verdict, the rendering of a decision is very similar. A series of events does not have meaning until it is configured as a narrative. Investigators in many fields have concluded that narrative forms the deep structure of human events (Burns 222). Intelligibility is the connection between the event and the story of the event (223). The facts, as they are received in a written record, is one level of meaning. The law to the record interprets the meaning. To the extent that the decision is a narrative, it is not so much a product of research, analysis and reasoning, but a mechanical reading of the underlying evidence that relates to the proceeding at hand. In this case, the evidence was marshaled together as credible proof that Lai was related to Chan and that the authors decision was correct.

V. Discussion

Research Question 3: What did it mean or what did it take to perform credibility as a responsible sponsor of other immigrants in 1965 after having been accused as a paper son?

The research question above was meant to guide the investigation of this chapter. However, I discovered that Lai’s credibility with the inspector was constituted through constant discursive articulation and changes in footing which allowed Lai to downplay even discount his previous status as a paper son and focus attention instead on the present purpose of this particular hearing. In addition, the strategic changes in footing and alignment that I have identified and analyzed helped Lai to performed a credible persona, and his efforts were bolstered by the fact that he did not use words in a manipulative
manner. For instance, in stating his true and correct names, Lai qualified each of his names. Lai was naturalized under the name Al Foon Lai, immigrated under the name Sik Foon Lai and born under the name Chan Tung Leong. With each name he stated a fact that had been documented in previous immigration and naturalization records. By matching his names exactly to previous documents, Lai strategically and selectively added to the performance of a credible persona.

By reading Lai’s testimony from his past hearings together with the Chan family tree, while taking into account the political history with regard to Chinese refugees in Hong Kong I can understand Lai’s strategy to provide a voluntary confession in order to sponsor his sisters who were in Hong Kong. The Chan family genealogy tree informed me about family relations that are culturally specific in Chinese tradition. The organizational structure of the family tree provided insight into traditional Chinese culture with regard to familial relations and obligations. As a result of his committed obligations to his sisters, Lai decided to make a confession about his previous statements in his 1960 confession. For example, when asked about his three marriages (line 31) Lai affirmed in line 32 that he had three wives. However, Lai confessed that the two children he had with Wong Shee (line 34) were paper children. In telling the truth about the paper children, Lai was transparent in giving a confession that the inspector expected. However, to tell the truth about Wong Shee was not necessary because the goal for the Chinese Confession Program was to stop paper immigration. Wong Shee had already been declared dead in 1927 and Lai re-affirmed Wong Shee’s death in his 1960 confession. Through the Lai family tree, Chinese tradition tells me that Lai’s world-view was situation-centered, thus, to admit that Wong Shee was fictitious in this second
confession would not have added value to the task at hand—which was to prove his relation to his sisters. Thus, regardless of the fiction of Wong Shee, Lai maintained his ability to stabilize any tensions that the confession of paper children might bring. Lai’s cultural and family background motivated his confession, but Lai’s ability to recursively explain his past family and connect their existence to historical events was a performance to create a credible persona.

Using historic news events and a reading of the policies that governed the Chinese Refugee program, I found ways to identify how Lai performed a credible persona within the confines of a legal institution and the political concerns of the times. For example, I took the legal and political history that governed the policies of the Chinese Refugee Program. In 1962, the article titled “U.S. to Ease Chinese Quota For Hong Kong Refugees” was on the front page of the New York Times. As a piece of journalism, the article from the New York Times circulated widely in news media. The circulation of such an article shows us how Cold War politics influenced Chinese immigration decisions. Within the article, the phrase “at least to make a token effort” suggest that there was a story behind the effort to accept Chinese refugees despite the immigration quotas in place. The term “token” is explicitly used and as an adjective implies that the effort was done as a symbolic gesture to aid Chinese refugees. That gesture was humanitarian, but also a part of Cold War politics in showing that the United States had good intentions in caring about people in Asia. Thus, we can understand the U.S. political motive to help refugees. Lai may not have known the U.S. political motive but given that this was during a Cold War with Chinese Communism, Lai did understand the need of his
sisters who had escaped Communist China. Lai’s motivation to help his sisters aligned with the U.S. motivation to help Chinese Refugees.

The timing of Lai’s 1965 voluntary confession coincided with the relaxing of Chinese immigrant quotas for refugees from Hong Kong and immigration reform in 1965. Providing that Lai could demonstrate to be a blood relation to his sisters, the immigration laws would allow for his sisters to enter legally. From the Lai family tree I can understand Lai’s obligation to his family with regard to the Chinese Revolution that began the Cold War with China. The U.S. acceptance of Chinese refugees was a piece of history that helped to tell a story of Lai’s motivation to bring a confession.

More important for Lai was his ability to show that he was credible in volunteering to give a confession to name his birth family. Weresh states that one of the qualities of ethos is a relationship attribute. By this, Weresh means that the narrative comports with the audience expectations and therefore the audience maintains trust in the speaker to be demonstrating truthfulness. While Weresh discusses the place of ethos in legal writing, her explanation of the trust and relationship attribute proves fruitful in my exploration of ethos as a mode of proof in this administrative hearing. What I find insightful is that she discusses the narrative coherence that allows for a speaker to bond with the audience due to shared information that is internalized by each party. For example, immigration officials commonly encountered “paper sons” during confessions. As one of the many paper sons who entered the United States during Chinese Exclusion, Lai’s narrative of his experience as a paper son as recorded in Lai’s 1926 and 1960 immigration file was not unusual. Lai’s narrative could be relayed to government inspectors and those government inspectors had high clarity as to the meaning and history
of a paper son. Lai could build a trust attribute through narrative coherence of his story by confirming what facts in his past files were true and what facts were false.

VI. Summary

The hearing in this chapter is one instance in which Lai’s narrative as a paper son, shows how his lived experience intersected with immigration law and administrative changes with respect to Chinese immigrants. Lai’s victory was in not being deported and winning the ability to sponsor his sisters into the United States. Lai’s success was in convincing the inspector that he had eight sisters by telling a coherent story from the start of the proceeding. At the start Lai began with his statement that his names were all legally true and his main objective was to show credibility in telling the story of his paper family and credibility in the story of his blood family.

The outcome of this proceeding however, was not inevitable. Indeed it was possible that an ill advised immigrant with similar facts in his history may not have overcome this legal proceeding because the first rule in any proceeding is to take an oath to tell the truth. In Lai’s 1960 proceeding, Lai did not tell the truth about his blood sisters, thus the reason for this second proceeding. Lai’s rhetorical strategy such as in detailing his legal names and in detailing his blood family’s names, such as naming his nephew Chan Leong (line 48) made Lai’s testimony appear more true than not. By studying Lai’s immigration file using historical events and the Lai family tree, I illuminate the context of Lai’s choice to volunteer to make a statement of confession to meet the obligation he held to his family through his role in his family. The fact that the immigration law explicitly allowed for Lai to sponsor his sisters brought a cognitive connection between Lai’s family obligation and the goals of the Chinese Refugee
Program. What we think of *ethos* then extends Farrell. Ethos becomes more than the character of speaker but also, a product of political concerns, personal concerns and institutional expectations that change over time. In this chapter, Lai’s performance of a credible persona became a construct judged by a demonstration of proof through dialogue with the development of a relationship of trust and transparency in paper and blood family relations.
CHAPTER 7

CONCLUSION

With this dissertation I have studied the performance of a credible persona (ethos) in legal administrative hearings that concerned a Chinese immigrant under the Chinese Exclusion Act. The discourse analyzed is turn-by-turn question and answer testimony within a series of administrative hearings that concerned a Chinese immigrant where the immigrant (Lai), who speaks before the institution, is constrained by a specific political moment that circulates as an available means for persuasion. I argued in this dissertation that Lai’s persuasive tactics contributed significantly to the outcome: decisions not to prosecute and deport him, and that his tactics to prove a credible persona can be identified and analyzed.

The project analyzed the co-construction of immigrant testimony. Such testimony generated facts meant to serve as evidence so that the inspector was able to make a decision that concerned Lai. For that reason, a legal administrative hearing is in narrative mode; that is the facts gathered must be structured into a narrative to make those facts meaningful. My analysis posits that what makes immigrants persona credible under these conditions is the co-construction of a narrative that melds of institutional priorities, speaker’s strategies and social and political concerns. My analysis shows that this discursive mix infuses the questions asked and the responses articulated over the course of each hearing.

Since Aristotle, scholars have sought to understand the role of ethos in public speech. The contemporary complexity of the interrelationship among institutional
priorities, speaker’s strategies and political concerns means that *ethos* is achieved through narrative coherence of the specific political concern and social norms of that time rather than anchored in the intrinsic character of the speaker. In this dissertation, to analyze what makes a credible persona it was best to stay away from true/false binaries that are often part of the fact finding in legal settings. Instead, I analyzed Lai’s performance of a credible persona in terms of narrative analysis to further situate my analysis of his immigration hearings. I also turned to feminist tools of critical imagination and social circulation. My analysis indicates that the performance of a credible persona relied upon narrative coherence that infuses social norms and addresses the political concerns of the institution; in Lai’s case, narrative coherence was achieved through collaboration between Lai and the inspector. Thus, the questions asked by the inspector and the responses articulated by Lai produced a narrative coherence that favored the cultural, political and institutional norms that circulated at that particular moment in time.

Lai’s performances of a credible persona depended on the institutional context of the administrative hearing and the political context that governed Chinese immigration law and policy. For example, Lai had to contend with the political concern that enveloped each hearing. First, in the 1926 hearing the political concern was economic in that Lai had to prove merchant status. Second in the 1960 hearing Lai had to show that he was not a threat to the public interest during the Cold War. Third, in the 1965 hearing Lai had to convince the inspector that he was the blood brother of eight sisters so as to allow three of them to immigrate to the United States as refugees. In each hearing I focused on Lai’s testimonies not only for what was being asked, but how Lai structured his answers.
Lai’s name was fictional, however, his ethos was not measured by the truth of his name. In each hearing Lai performed a credible persona that was measured by a governmental standard at the time. What constituted a credible Chinese merchant in 1926 was a show of wealth through business ownership and profits from that business. What constituted a credible persona as a confessor in 1960 was not having associations with Chinese Communists. What constituted a credible persona as a confessor in 1965 was being transparent about both the paper family and the blood family. What then is static and stable in Aristotle’s notion of ethos this study shows ethos to be contingent and dynamic and attentive to the current norms of rhetorical culture (Farrell 6). This study suggests that since humans construct ethos, ethos is performed over the course of discursive exchange between and among speakers. Thus, I extend and complicate Farrell’s point that ethos is more than the intrinsic character traits of a speaker; credibility is a mode of proof derived from the norms of competence from a specific culture (69). In the administrative hearings, I have analyzed in dialogue speakers’ questions and answers that were influenced by institutional agendas, political concerns, cultural norms and individual beliefs and practices.

I. Ethos as a Function of Social Norms

For a persona to be judged credible, its performance must conform to prevailing social norms. By social norms I mean what people judge to be acceptable behavior within a particular social setting and social situation. I make this argument through each of the preceding three chapters, perhaps most vividly in the analysis of Lai’s 1926 hearing. The point I want to make here is that conforming to social norms allowed Lai to demonstrate that he belonged in the United States and that he should not be deported. By conforming
to a norm about merchant wealth and education, Lai’s hearing provided an evidentiary narrative to demonstrate that he was not a threat to the U.S. economy.

In the 1926 hearing, Lai had applied for a re-entry permit for re-entry into the United States under the Chinese Exclusion Act (chapter 4). The scene is an administrative hearing in which Lai presents himself as a merchant. The focus is on Lai’s merchant status and his consistencies or inconsistencies in testimony. The passage of time is taken into account too, such that while Lai entered the United States as the son of a merchant in 1920, he must demonstrate that he held continuous merchant class status since his entry. Lai brought with him documented evidence of a partnership list of his herb store and witnesses to testify to his merchant status. I analyzed not only what Lai said, but also, what he didn’t say. By this I mean that while the focus of the hearing was on the meaning of merchant as it pertained to Lai, he also could not be perceived as a laborer because laborers were suspected of stealing American jobs. Crucial to his testimony was that he not reveal any ability to sew or that he had been in school to gain skills of a tailor. We must attribute to what Lai didn’t say (that he was a tailor) as a strategy with the inspector.

To avoid being branded a laborer, Lai also, for example, did not volunteer additional information than what was asked. For example, when the inspector asked (chapter 4 line 55) what Lai did while in San Francisco, Lai responded, “attending school” (chapter 4 line 56). The inspector did not ask about the school or the kind of study. So there was no reason for Lai to elaborate. Lai allowed for ambiguity with regard to “school”. It could be inferred that Lai was in school becoming educated, an emblem of class status because education was believed a marker of the merchant class. In addition,
the inspector’s summary of investigation named Lai’s business and profits-the image being pointedly an educated business owner. The inspector’s vision of a credible merchant was most clearly expressed in his evaluation of Lai’s testimony against the evidence of documents and of White and Chinese witness testimony. Lai proved his case because he had an ownership interest of one thousand dollars (see also: chapter 4 line 79) and profits of two thousand dollars (see also: chapter 4 line 32). The dollar amounts in concert with the witness testimonies of G.S. Chan, Miss Bentley and Mr. Taggert point to the attitude of the inspector with respect to Lai’s credibility. But because Lai never mentioned an ability to sew, Lai’s testimony showed emblems of merchant status and thus cohered with the inspector’s working definition of a Chinese merchant.

The transcript from the hearing indicates that the inspector selected markers to frame a narrative of merchant ethos. Both parties to the hearing were assumed to understand the markers for wealth and social status. This was not completely unreasonable because the Chinese Exclusion Act stated that proof of merchant status was a one thousand dollar stake in a business. In addition, Lai understood the markers because he had gotten help to learn what those markers were and portrayed himself as adhering to the criteria for membership in the merchant class. The passage of time from when Lai landed in 1920 as the son of a merchant to a merchant in 1926 was accounted for. Lai’s portrayed himself in terms of what was socially acceptable from the inspector’s point of view of how a merchant should behave and what a merchant should have in terms of wealth. In this way Lai demonstrated that he had conformed to the American notion of a merchant and therefore belonged in the United States.
II. *Ethos as a Function of Political Concerns*

For an immigrant to be judged a credible persona his performance must align with institutional political concerns. By political concerns I mean what people judge to be acceptable responses with prevailing political institutions. The hearing in chapter 5 was a confession in which Lai had to participate in a confession hearing because he was deemed to have committed a fraud by entering the United States under a paper name. Lai’s fraudulent behavior was intentional, illegal, and therefore could also be seen as socially deviant. By deviant I meant that Lai performed an unacceptable social behavior by entering the United States under a paper name. Since Lai’s paper name was false, Lai’s entry was illegal. Thus, from the start of the confession hearing Lai’s *ethos* was undermined. However, in 1960 during the Cold War the political concern here was whether Lai posed a threat in the public interest in the context of the Cold War. The institutionalized political concern was about whether Lai was a Communist. Communist could infiltrate the United States through paper immigration, so paper immigrants needed to be examined. The text of Lai’s hearing provides evidence of how *ethos* was negotiated in the context of an institutionalized political concern despite the fact that Lai’s fraudulent behavior was an established fact. Lai’s testimony cohered to the American political belief that Communism was evil: he communicated a credible persona by showing that he was a naturalized American citizen who neither associates with Chinese Communists nor exposed himself to Communist propaganda.

In this 1960 confession, the facts of Lai’s situation as a paper son were known, in part, because there was an informant. However, the question and answer format used to question Lai was carefully selected as a rhetorical device to draw specific responses that
would both force Lai to admit to a paper name and to reveal whether Lai harbored a Communists ideology. So in chapter 4, which I eschewed the truth verses rhetoric dichotomy in favor of only describing the techniques Lai used to perform a credible merchant, in chapter 5, truth is confronted because Lai’s immigration status was built on paper. Lai did not deny he was a paper son instead he presented an alternative story that he was adopted by the Lai family (chapter 5 line 11). The details that Lai gave of his adoption by the Lai family did not change the fact that Lai’s name was not his true name significantly in that his adopted name cohered to past records that his name was Lai. Lai performed a credible persona by introducing the detail of being adopted for its value to cohere to his past record.

In part 2 of the hearing, the immigration inspector constructed a new scene. The form of questioning was the same as in part 1; however, the questions reflected the political ideology of the U.S. during the Cold War. The tone in part 2 transformed from a confession to one of inquiry. By inquiry I mean that the inspector asked questions, but did not know what answers Lai would give. In the context of the Cold War, part 2 highlighted the United States government’s political concern in eliminating paper immigration so as to root out communist infiltration. For example, in San Francisco, owners of the World Theater on Broadway were prosecuted for fraudulent citizenship (paper immigration) because government officials believed the owners leaned ideologically toward Communist China (Ngai 25) and that as communist infiltrators, the owners showed communist propaganda in their movie theater. The inspector asked Lai directly if movies Lai saw at the World Theater on Broadway were slanted toward communism (chapter 5 lines 108-113). Lai said, “I only saw the movie that was singing.
That is all”, (line 113,). With Lai’s words “that is all” Lai denied he was associated with Communists or the owners of the World Theater on Broadway. Lai’s words cohered to the American political belief that communism was evil. A credible persona became a function of Lai showing that he was a naturalized American citizen who did not associate with Chinese Communist.

III. Ethos as a Function of Institutional Expectations

For a persona to be judged credible, performance of ethos was also dependent on institutional expectations. By institutional expectations I mean the knowledge, resources and values that are held by the institution and judged as acceptable behavior within that particular institutional setting. Lai’s 1965 hearing was also a confession. The example of the performance of a credible persona as a function of an institutional norms began with the strategic purpose of the oath. The oath is a commitment to tell the truth. By 1965 the oath became standard procedure in Chinese confessions. As an institutional standard procedure, it advised Lai of his rights, but it also advised of Lai of his responsibility and the consequences for not telling the truth. The burden then of performing ethos is upon Lai, as he agreed to tell the truth he demonstrated credibility.

Following the standard procedure of the oath, Lai conformed to an institutional norm to perform credibility by stating his three true and correct names; his immigration name Lai Sik Foon, his naturalization name, Al Foon Lai and his birth name Chan Tung Leong were his true and correct names because those names had been institutionally documented in previous administrative hearings. By stating his names according to legal documents Lai performed a credible persona per institutional standards because each name was matched in legal documents recorded by the institution.
In 1965 Lai came forward to confess further about his eight sisters. Ultimately the U.S. accepted Lai’s confession that he had eight sisters as truth. The decision was not based on Lai’s past fraudulent testimonies, but on political reasoning for the U.S. to provide humanitarian assistance to take in Chinese refugees from Communist China. Lai’s performance of a credible persona was the act of presenting evidence in the form of testimony per the institutional standard of the question and answer sequence that included material evidence of a family photograph. Testimony taken from a question and answer sequence and material evidence were accepted institutional standards from which Lai’s credible persona was measured. From this perspective Lai conformed to the institutional norm in keeping with his oath by answering questions when asked and producing an appropriate piece of material evidence.

Equally important, in terms of a performance of a credible persona, was that since Lai’s position as the confessor was weak; his strategy would be to respond to questions with transparency. Here the inspector guided the narrative to find Lai’s paper relations and to document Lai’s true relatives. All questions asked by the inspector added up to narratives that told of Lai’s paper family and of Lai’s true family. By telling the story of both families (paper and true) Lai demonstrated his desire to keep his oath to tell the truth. In meeting the institutional expectation to tell the truth Lai demonstrated a credible persona.

IV. Implications and Further Research

In closing, I hope that this thesis serves one final purpose to support the larger proposition that ethos is essential to study in institutionalized settings. The narratives produced in Lai’s hearings illuminate ethos as a dynamic mode of proof that depends on
social norms, political concerns and institutionalized expectations. This thesis offers a framework for analyzing dialogue when *ethos* is performed in asymmetrical power situations. Asymmetrical power situations are rhetorical forums with speaker norms that are situation specific in who may speak, what may be spoken about and how speakers are held accountable. Lai’s three administrative hearings were structured forums in which the institution held the power, yet institutionalized power is open for dispute, because in the end it was that same institution that lent legal legitimacy to Lai’s past. By viewing *ethos* as a function of the institutional, political and social contexts of a dialogue or narrative we can see how structured questions in administrative hearings can influence how ethos is or fails to be constructed. The implication is whether institutional *ethos* is based on what is expedient at any given time rather than on a set of structured rules.

The larger question is that of immigrants generally. The three hearings involved a Chinese immigrant who had the burden to prove he was not a threat. His performance of ethos was based on not being a threat to the economy (1926) and not being a threat politically (1960, 1965). Further research is needed to understand the interplay of institutional ethos and whether immigrant performance of *ethos* is an act of countering audience fears and to discover if *ethos* is more about not being something the audience fears than about what the audience likes.

V. Final Thoughts and Limitations

Perhaps the biggest limitation of this study is that it is about one Chinese immigrant. Thus, this study is neither descriptive nor definitive of the essence or performance of a credible persona. Instead it is a beginning to the larger questions of *ethos*, particularly its meaning in institutionally controlled contexts. That being said, my
grandfather’s immigration file has allowed for a qualitative rhetorical analysis of textual data that is not a performance per se for a researcher, instead a reflection of discourses that occurred in controlled administrative settings. Throughout this study I attempted to remain cognizant of the ways in which my biases function on the text but there can be no doubt that the discourse taken on its own, without personal knowledge of my grandfather, would only give us part of the picture. Without my personal knowledge the texts would give us a one-sided presentation. Lai and government officials constructed through interaction some version of the world in which they lived. And this rhetorical study is then viewed in a larger arena of public possibility implied by a more open rhetorical forum.
WORKS CITED


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APPENDIX A

TRANSCRIPT 1927 LAI SOON SHE TESTIMONY
EXAMINATION OF APPLICANT. Admonished that she is still under oath.

Q. What are the names of your father and mother?  A. My father is SOON CHEW PONG and SOON JAY - my mother is SEU SHEE.

Q. What is the present age, whereabouts and occupation of your father?  A. 61 years old - he is returned and is living in my house in the JOR BOO TAU VILLAGES, H. S. D., China. Prior to year before last he lived in this country where he was a merchant.

Q. Do you know when your father first came to the U.S.?  A. No.

Q. Can you recall when your father last arrived in Shek Kee City from this country?  A. Yes, in the 2nd month of year before last or CH 14.

Q. Did your father ever tell you the name of the vessel on which he returned to China?  A. No.

Q. Did your father ever tell you the name of the firm of which he was a merchant in this country?  A. Yes, the TONG SUN COMPANY at Sacramento, Cal.

APPLICANT now states: I am a female of the Chinese race, 23 years old, Chinese reckoning, born KS 11-10-3 (October 30, 1905) in the JOR BOO TAU VILLAGES, H. S. D., China, where I have resided with my mother since birth. I have been a student in China and can read and write Chinese only. I have never applied for admission to this country before and have never been denied admission thereto or deported therefrom. I have $10.00, but I am dependent on my husband and destined to him to Los Angeles, California. My purpose in coming to this country is to join my husband, and I expect to reside in this country as long as he desires. I have never been arrested nor have I ever been supported by charity. Neither I or any members of my family have ever been inmates of an institution for the care and treatment of the insane. I do not believe in polyandry nor am I an anarchist or opposed to organized government.

PERSONAL DESCRIPTION: Height 5'4" in American slippers; pit outer corner of left eye; pierced ears; mole under right jaw; pit scar upper forehead; black hair; brown eyes; medium complexion.

Q. When you purchased your ticket from the steamship company which brought you to this country, were you asked by the steamship company officials whether you could read and write?  A. No.

Q. Did the steamship officials also ask you if you had a viss?  A. No.

Q. How many brothers and sisters have you ever had?  A. Only two younger brothers.

Q. State the name, ages and whereabouts of your two brothers?  A. They are:

Soon Quai Bin - 15 yrs. old - Living in Jor Boo Tung Village.

Soon Quai Fin - 14 yrs. old - Living in Jor Boo Tung Village.

Q. What are all the names your husband is known by?  A. LAI SIK POON and LAI SING HOY, no other names.

Q. How many times has your husband been married?  A. Twice.
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Q. Do you know the name of the first wife of your husband? A. I don't know.
Q. Has your husband ever told you that he had a first wife? A. Yes, he has.
Q. Did he tell you about her in the last six months of last year? A. No.
Q. Do you know if your husband ever had any children by his first wife? A. Yes, a son and one daughter.
Q. Describe these two children and state their present whereabouts? A. They are

<table>
<thead>
<tr>
<th>Liu Hanjun (the son)</th>
<th>8 years old</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liu Hanjun (the daughter)</td>
<td>10 years old</td>
</tr>
</tbody>
</table>

They are both living

in Boston with

my father-in-law.

Q. Has your husband ever told you where his two children by his first wife were born? A. No.
Q. Have you ever had any children by your husband? A. Yes.
Q. Did you meet your husband the second time? A. In the last six months of last year. Also at my house.
Q. How many times did you see your husband altogether before your marriage to him? A. More than 5.
Q. In what house were you and your husband married? A. In the house occupied by my husband in Nenxi City - I remember that I was seated at that table in a Golden chair in front of a house in Nenxi City.
Q. Was anyone of your husband's family present at his house in Nenxi City where you married him for your marriage? A. Only my husband's mother and his children, Liu Zili and Liu Ziting.
Q. At what time of day did the marriage ceremony take place in your husband's presence? A. 10:00 o'clock in the morning.
Q. Were you accompanied to the house of your husband so your marriage date? A. My father, mother and my two brothers.
Q. Were any feasts held at your marriage? A. Yes, a feast at our table.
Q. At what time of the day did the feast occur? A. At 10:00 o'clock in the evening.
Q. Were any musicians employed to make merry at your feast? A. Yes.
Q. Did any Buddhist priest officiate at the marriage ceremony of you and your husband? A. Yes.
Q. Did any officials at your marriage ceremony? A. No.
Q. Was there any special ceremony present at your marriage? A. No.
Q. Were you ever present in China by the name of Liu Gutong? A. Yes, he is in the teacher institute in Nenxi City.
Q. Was he present at your marriage? A. Yes.
Q. Did he have any part in the conduct of the ceremony? A. He was the master of ceremonies.
Q. Was there anyone present at your marriage ceremony other than your husband, not now in the U.S.? A. Yes, LUO GU GUTONG.

Q. Is it stepping on a relative of yours or a relative of your husband? A. No.
Q. Have you ever had any differences with your husband? A. No.
Q. Was he in your house on your marriage day? A. Yes.
Q. How long did the marriage ceremony last? A. About an hour.
Q. Did all the guests at the feast depart from your husband's house at the conclusion of the feast? A. Yes.
Q. Did your parents and your brothers also return home after the feast? A. No, they went to a hotel in Nenxi City.
Q. Following your marriage to your husband did you move to reside in his house in Nenxi City until the time you both left to come to this country? A. Yes.
Q. Describe your husband's house in Nenxi City in which you and we lived? A. It was a two-story brick house with one parlor, 9 bedrooms, 1 kitchen and one room for storing wood, and another room used sometimes for storing goods.
Q. Have you understood the previous interpreter? A. Yes (some Chinese).

INTERPRETER: C. Richards translates for Sen Ma.
Q. What room did you and your husband occupy in that house? A. The room on the left side going into the house. So, I mean the room on the right hand side going into the house - the second room from the entrance.
Q. What room in the house did your mother and your husband occupy? A. The room back of the parlor.
Q. In what room did the children of your husband by his first wife sleep? A. They occupied the room back of the parlor with my husband's mother.
Q. Were you, your husband, his children, and the mother of your husband, the only occupants of your husband's house from the time you married him until you came to this country? A. Yes.
Q. How many beloved in your husband's house were accommodated during that time? A. There was the room where the wood was stored and one other room.
Q. Were the bedrooms in which you and husband slept lighted? A. There is a window in the partition of the room in front of the room that we slept which looks into the light.
Q. Are there any windows in your husband's house in Nenxi City? A. There are two windows.
Q. Were you seated at the house? A. There is one window in the partition near the room occupied by myself and my husband - and there is one in the kitchen.
Q. Are these two windows located on either side of the front door of your husband's house? A. Yes, there is one on each side.
Q. How was the room below on the left hand side of your husband's house lighted? A. There is a small skylight in that room, which is covered with glass.
Q. Did anyone ever sleep in that room while you and your husband lived in his house? A. My mother-in-law occupied that room at times.
APPENDIX B

AL FOON LAI HEARING TRANSCRIPTS 1926-1965
Q. Where store did you purchase?
A. The new store.
Q. Did you pay cash for your share? A. Yes.
Q. How many members were in that firm when you joined? A. Seven.
Q. How many members compose the firm at present? A. Seven.
Q. What is the present capital stock of the company? A. Seven thousand dollars.
Q. How much stock? A. Seven thousand dollars. A. Yes.
Q. Did you receive $50,000 interest? A. Yes.
Q. Did you have one of the profit back into the capital stock? A. Yes.
Q. Just what are your particular shares in connection with being a stockholder, do you supply medicine or prepare medicines or what? A. I supply homeopathic medicine.
Q. What are you the manager when you joined? A. Yes.
Q. When you paid your $500 in stock, did you pay the manager or did you profit from that? A. Yes.
Q. The new store.
Q. Since you become a member have any one visited China as a member of that company? A. No.
Q. Do you know the last visited China as a member of that firm? A. No.
Q. Were you ever in China since you joined the firm? A. No.
Q. Do you know any of the members, their duties if actively engaged? A. Yes.
Q. What was the name of the members, their duties if actively engaged? A. (1) Chan Ho, member. (2) Yen, member. (3) Yen, member. (4) Chan, member. (5) Chan, member. (6) Chan, member. (7) Chan, member. A. Yes.
Q. The member to which you enquired himself entirely in the branch in Long Beach does he? A. Yes.
Q. Do you think there are only 6 active members in the local firm, yourself and the manager? A. Yes.
Q. What do you pay the active member in salary? A. I get $100 a month. Chan gave me $100 a month, the man in Long Beach gave him $100 a month.
Q. How much of a month do you carry at the present time? A. About $6,000.
Q. That is the whole sum of the stores at the present time, do you know? A. Yes.
Q. How much $6,000 does that you referred to is present at that store in Long Beach? A. Yes.
Q. That rest do you pay for your present? A. Yes.
Q. About $100 a month. A. Yes.
Q. Then you pay that and what you dispose? A. Yes.
Q. How much are you surprising? A. About $6,000.
Q. Yes you tell me about what your gross sales amounted to last year? A. A little over $6,000. We did make a profit from those sales.
Q. A little over $6,000. A. Yes.
Q. What did you place the gross sales and place last year? A. About $6,000. A. Yes.
Q. Did you have some of the profit back into the capital stock? A. Yes.
Q. Just what are your particular shares in connection with being a stockholder, do you supply medicine or prepare medicines or what? A. I supply homeopathic medicine.
Q. What are you the manager when you joined? A. Yes.
Q. When you paid your $500 in stock, did you pay the manager or did you profit from that? A. Yes.
RECORD OF SWORN STATEMENT

Office: Immigration and Naturalization Service

File No.: 26-LIT-610

Statement by: Al Pou 1st and Hui 2nd Pou

In the case of: Al Pou 1st and Hui 2nd Pou

At: Room 113, 650 Sansome Street

San Francisco, California

Date: April 20, 1960

Before: (Title) Investigator William E. Jones

In the Chinese language. Interpreter Jeezi Sato used.

Q. I am an officer of the United States Immigration and Naturalization Service, and desire to question you under oath regarding your right to be and remain in the United States, and regarding other matters of your family.

A. Yes.

Q. Do you swear that all the statements you are about to make will be the truth, the whole truth, and nothing but the truth, so help you God.

A. I do.

Q. What is your full, true and correct name?

A. My full and correct name is Al Pou 1st.

Q. Have you ever used or been known by any other name or names?

A. I was also known as Hui 2nd Pou.

Q. What is your true blood father’s name?

A. My true blood father’s name is Cheung Soo Hing.

Q. What is your true blood mother’s name?

A. My true blood mother’s name is Cheung Soo Hing.

Q. What血 was your true blood sister’s name?

A. Cheung Soo Hing.

Q. Where was she born?

A. She was born in China.

Q. Was either of your parents ever in the United States?

A. No.

Q. Were any of your father’s brothers ever in the United States?

A. No.

Q. When you entered the United States a person by the name of Cheung Tom Seng was a witness for you. Was that person any blood relation to you?

A. No. He was a friend.

Q. Also Cheung Seng Hing was a witness. Was he any blood relation?

A. No.

Q. Do you have any blood brothers and sisters?

A. No.

Q. When you entered the United States you claimed your father’s name was Hui 2nd Pou. Was that person any blood relation to you?

A. No.

Q. How is it to be brought you to the United States as his son?

A. He and my father were good friends and he became my godfather. That is why he brought me.

Q. Did he change any money to bring you over here?

A. No. Nothing.

Q. When you entered the United States you also claimed a brother, Hui 2nd Pou. Was that person any blood relation of yours?

A. No.

Q. Where is he now?

A. I don’t know where he is and I don’t know him.

Q. Was he a true son or not of your immigration father?

A. No. He is not.

Q. You also claimed an immigration brother, Hui 2nd Pou. Was that person any blood relation of yours?

A. No.

Q. Was he a true son of your immigration father?

A. No.
Q: How many children, if any, were born of this marriage?
A: Three, two boys and one girl, all born in the United States.

Q: Your file shows that you were naturalized as a citizen of the United States on May 1, 1926. On your petition for naturalization you stated your name was Loo Bin Foo and you did not give your true name of CHII. Why is this?
A: I was told to use the name CHII. It was easier to spell. I am Loo Bin Foo.

Q: Will you state your present occupation?
A: I have a sewing factory in 1500 Powell Street.

Q: Who owns the sewing factory at 1500 Powell Street?
A: My brother, Choo Hoon.

Q: Did he buy the factory from you?
A: No. I just gave it to him because I would have cost too much to keep it.

Q: Did he seek to work for you?
A: No.

Q: How long have you known CHII Leung?
A: About two years.

Q: Was your last name able to be found?
A: No.

Q: Are you acquainted with CHII Leung?
A: I know her.

Q: How long have you known her?
A: About the same time I have known her husband.

Q: Do you know her mother, CHUH Young. Who runs the CHING CIGAR store on Jackson Street?
A: No. I don't know her mother.

Q: Have you heard that her mother runs that cigar store on Jackson Street -- part by part?
A: No.
As you know, ORI, the alias of ORI, Jack Shaw, who runs the Center City Book Store on 5th Avenue...

A: OK.

Q: Have you seen that person?
A: No.

Q: Is he from the same part of Shanghai District as you?
A: No, from the same district but a different village.

Q: How far apart are your villages?
A: About 50 miles.

Q: What is the name of your village in China?
A: Chai Tsin Village, also known as Chai Tong.

Q: I show you a photograph as an affiant of a person calling himself CNN Joe Shi, also known as CNN Ching Hong, who runs the World Theatre in Broadway.
A: I don’t know him.

Q: Have you ever been to any of the movie pictures in the past in that theatre?
A: None or below.

Q: Did the pictures you see appear to be anti-American or anti-communist in nature? Or anti-American and anti-communist? Or were there anti-American and anti-communist pictures in the year that you are referring to?
A: All anti-American.

Q: Do you know a person who is now in Hong Kong and who was in the United States under the name of CNN Joe Shi. What is his true name in CNN Ching Hong?
A: I don’t know him but I heard about him.

Q: Have you heard that he is doing in Hong Kong?
A: I heard that this person is doing business in Hong Kong and that he is doing business in the United States.

Q: Where did you hear that this person is in Hong Kong and in this position?
A: None of my friends who come from South America and they told me about this person.

Q: Would you give me the names and addresses of the people who have stated this?
A: This man went back to China from South America and he passed by here and told me about this person -- CNN Ching Hong. Now this person returned to the United States and he is now in Broadway.

Q: What is his Chinese name?
A: CNN Huang.

Q: What is his American name?
A: CNN Bui Yu.

Q: What country is that man a citizen of, do you know?
A: He was born in North America.

Q: What is his occupation?
A: He is in the import-export business in South America.

Q: Have you ever heard that CNN Ching Hong is a blood relative to CNN Bui Yu?
A: No.

Q: Have you ever seen CNN Ching Hong when he was over here?
A: No.

Q: I show you a photograph of a person calling himself ORI who used the name of CNN Ching Hong to obtain a passport in 1973. Do you know him?
A: No.

Q: I show you a photograph of a man called ROG who has the identification number of the passport. Do you know him?
A: No.

Q: I show you a photograph of a person called WOG who is wearing a photograph of the man on his identification card. Do you know him?
A: No.

Q: What is your home address?
A: 207 Jackson Street.

Q: Are there any other statements you have made at this time?
A: I have nothing more to say. I just want you to know that I will keep the same AI.

I hereby certify that the foregoing is a true and correct transcript of my stenographic notes taken at this proceeding.

[Signature]

At the instance of the stenographer, stenographer.

[Signature]

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I am an Officer of the United States Immigration and Naturalization Service authorized by law to administer oaths and take testimony in connection with the enforcement of the laws of the United States. I desire to question you under oath regarding your status under the United States Immigration and Nationality laws.

Q. You are advised that you have a right to remain silent, but that any statement you do make, however, may be used against you, or any other person, in criminal or civil proceedings. You also have a right to consult a lawyer of your own choice, at your expense. Do you understand?
A. Yes.

Q. Do you wish to be represented by an attorney at this time?
A. No, I don't want a lawyer.

Q. Are you willing to answer my questions at this time?
A. Yes.

Q. Will you stand and be sworn. (Resembles complex.) Do you solemnly swear that the statements that you are about to make will be the truth, the whole truth and nothing but the truth as you know it?
A. I do.

Q. I wish to further advise you that to knowingly and willfully make false statements in a proceeding of this kind is a violation of the Immigration and Nationality Act. Any person found guilty of so doing may be fined $5,000 or imprisoned for five years, or both. Do you understand?
A. Yes, I know it.
Q. You stated at that time, I believe, that your first wife WONG CHIT had borne you two children, a son and a daughter, and that both of these children were deceased. Was it true that this wife did bear you children or were those paper children?
A. These were really your children. I never attempted to bring anybody to the United States in these identities.
Q. All of your true children were born in the United States. Is this correct?
A. Yes.
Q. Our records indicate that your sister CHAN PA TIN entered the United States in the assumed identity of a woman named LAM BOW TIN. Is this correct?
A. Correct.
Q. Did you know the immigration husband that your sister came to at that time?
A. I didn't know.
Q. Do you know any of his immigration men or where they could be located?
A. I don't know. I understand that he had only one real son but I don't know which one that would be. I don't really know his Chinese name.
Q. Do you know anyone that could help me locate any one of the children that WONG CHIT brought to the United States?
A. No. I really don't but I will try to find out and let you know if you will promise me that you will not sell his son or paper name that I was the one that helped you.
Q. When you came to the United States you claimed four brothers. Do you know if all of your immigration brothers have adjusted their immigration papers?
A. To the best of my knowledge all of them that are still alive have fixed their immigration papers.
Q. Besides your four sisters and your own children, do you have any close blood relatives in the United States?
A. No. Other than my four sisters, my one nephew CHAN LIM, I have no blood relatives in the United States. Three of my sisters are still living in Hong Kong. I nearly forgot. I do have a niece that lives in Honolulu, but her father, my sister's husband, was born in Honolulu and so this girl is a United States citizen.