Utter(ing) Unspeakability: Identity, Meaning, and Mediatization in the Greg Haidl Gang Rape Trial

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Abstract

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Between the Steubenville gang rape case, the suicides of several teenage rape victims, and the fatal attack on a young female student in Delhi, contemporary news is full of stories about rape and sexual violence. Different forms of media played substantial roles in each of these cases - as records of the events, as pieces of evidence, as blackmail material, and as an organizing tool and avenue for public outrage. Each of these cases highlights the ongoing problem of rape culture and the complicated nature of representations of sexual violence, while also exposing the power of media as a purveyor of competing discourses, a tool of oppression and violence, and, potentially, an avenue for reclamation.

This dissertation investigates media representations of the Greg Haidl gang rape case to show how hegemonic discourses about sexual violence silence sexual assault victims and limit the pursuit of justice. Through an examination of media texts spanning from 2002-2012, this study explores how dominant cultural discourses about rape, innocence, sexuality, and criminality function to construct and constrain understandings of rape. Using a cultural studies framework influenced by feminist theory, critical race theory, geography, and performance theory, this work

focuses on examining how the juries in the two Haidl trials “read” the film the perpetrators created of their crime.

The study concludes with a short film that “reconstructs” Haidl trial coverage using an artistic praxis influenced by feminist film theory and cultural studies methodology. The film and text explore the idea that dominant discourses of sexual violence construct a subject position for rape victim/survivors that is marked by “unspeakability”. Unspeakability perpetuates the violation of victim/survivors and the dominion of violent and destructive rape narratives. The film suggests that alternative media narratives can provide ways to combat dominant narratives through the expression of more complex and agentic subjectivities. Ultimately, this study argues for the expansion of cultural studies as a form of artistic praxis which might promote new discourses that center the experience of rape victims, provide a way to “speak back” to dominant rape narratives, and generate creative approaches to combatting sexual violence in contemporary culture.

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TABLE OF CONTENTS

LIST OF FIGURES..iii-iv

PREFACE…………………………………………………………………..........................v-xxviii

INTRODUCTION: Placing the Haidl Case: Rape and Power Behind the Orange Curtain 1

What Does it Mean to Talk About Rape?: Myths and Narratives in Rape Discourse……….6

Reading the Haidl Case: Intersectionality, Cultural Studies and Media Discourse……….14

The Slipperiness of Representation: De/Constructing the Unspeakable Subject..........20

CHAPTER 1: California Dreamin': Spatial Identities in the Orange County Landscape………28

Nothing Like Where You Live: Class and Privilege in Orange County……….38

From Simulacra to Heterotopia: Spatial Identities and the Public/Private Divide……….47

CHAPTER 2: Minstrelsy and the Performance of Rape: Interrogating Racial Constructs……..66

"We just want to have sex!": Racial Identities and Performativity in the Rape Video……….77

Performing 'Whiteness': Resetting the Discourse of Spatialized Racial Identities……….89

CHAPTER 3: "She Knew How to Use Her Body": Gender Roles and Postfeminism………...103

"They're Just Innocent Little Boys": Constructing Naturalized Male Sexual Aggression……….114

"An Out-of-Control Girl": Female Sexuality and Guilty Young Women……….124

"She Wanted to Be a Porn Star": The Postfeminist Subjectivity of Jane Doe……….133

CHAPTER 4: Film Break…………………………………………………………………...148

CHAPTER 5: Realism is Not Real: Mediated Crimes, Reconstituted Narratives, Unspeakable Subjectivities……………………………………………………………………149

Reality/Fiction: Connecting Feminist Documentary and Cultural Studies Praxis……….155

"Haunting Phantoms": Performing the Traumatic and Alternative Narratives……….162

CONCLUSION: "There Were No Winners": The Haidl Verdict, Unspeakability, and the Trap of Post-Identity Politics...182

POSTSCRIPT……………………………………………………………………………..193

CITATIONS...196

LIST OF FIGURES

1. *Orange County* poster……………………………………………………………………29

2. *The OC* premiere poster………………………………………………………………….29

3. Shaun and friends, *Orange County*…………………………………………….............42

4. Shaun and girlfriend, *Orange County*……………………………………………………42

5. Ryan and Marissa, *The OC*………………………………………………………………42

6. The cast of *The OC* a……………………………………………………………………..42

7. Vanessa Obmann and Keith Spann…………………………………………….............46

8. The cast of *Beverly Hills, 90210*………………………………………………………....46

9. The cast of *The OC* b……………………………………………………………………46

10. The cast of *Laguna Beach*…………………………………………………...........46

11. The cast of *Real Housewives of Orange County*………………………………………46

12. Greg Haidl skateboarding, *CBS Morning Edition*……………………………………...59

13. Haidl's home as set for *48 Hours*………………………………………………………61

14. Spann at sentencing, *OC Register*………………………………………………………85

15. Haidl and attorney, *LA Times*…………………………………………………………...92

16. Haidl, *Poe News*…………………………………………………………………………...92

17. Haidl, *LA Times*…………………………………………………………………….......92

18. Nachreiner, Spann and Haidl, *LA Times* and *OC Weekly*……………………………….92

19. Haidl, CBS *Morning Edition*………………………………………………………………93

20. Haidl, *48 Hours*……………………………………………………………………………93

21. Nachreiner, Spann and Haidl, *Fairfax Digital*……………………………………………99

22. Spann and Nachreiner, *KABC*…………………………………………………………100

23. Nachreiner with attorney and baliff, *OC Register*…………………………………….....100

24. Nachreiner, Haidl and Spann, *CBS5 News*……………………………………….........101

25. Spann and Haidl, *KCLA 9 News*…………………………………………………………101

26. "Jane Doe" – Alyssa, cover, *OC* Weekly..193

PREFACE

Choragos:
Dreadful indeed for men to see.
Never have my own eyes
Looked on a sight so full of fear.
Oedipus! What madness came upon you, what daemon
Leaped on your life with heavier
Punishment than a mortal man can bear?
No: I cannot even
Look at you, poor ruined one.
No. You make me shudder.
Oedipus:
God. God. Is there a sorrow greater?
Where shall I find harbor in this world?
My voice is hurled far on a dark wind.
What has God done to me?
Choragos:
Too terrible to think of, or to see.

My childhood is tied
to grains of sand in bathing suit bottoms,
the smell of evaporated salt water
crisp burnt skin.

My Los Angeles parents went Orange County
For the work
For the space
For a little house with a red brick driveway

Summers spent swimming
Pumping chubby legs along paths of broken seashells
Admiring the long lean lines of surfers and bikini-clad teenagers
Pushing out past the break on a small body board

Going under and gasping for breath
Being pulled to shore by a lifeguard
Who checks my breath, pulls me up
Dusts me off
And tells me, in a whisper,
Fat girls don't belong on the beach

*****

I was raised in Anaheim, California, about a mile from the original Disneyland Park. Though initially built around grape and wine production, the now famous orange groves took over Anaheim in the early 1880s, before the official founding of Orange County in 1889 (Sleeper, 2004). Founded by German immigrants in 1857, Anaheim was a racially and culturally diverse community from the beginning. Nearby Spanish settlements referred to the city as Campo Aleman (German Camp), and Mexican immigrants comprised the majority of the farm workers who tended the orange crops (Fusel, 2013).

So, too, has racial conflict long been a part of the town's life. In the 1920's, the Ku Klux Klan decided to make Anaheim a "model Klan city"; after some maneuvering, the Klan managed to get four of its members elected to the five-person Board of Trustees and nine of its members elected to the ten-member police force (Hernandez, 1994). Despite the fact that the Klan was then at the height of its popularity in the U.S., the Klan-controlled board was voted out after just a year by a margin of 95%. Today, about 52% of Anaheim residents identify as Hispanic or Latino, with the remaining percentage composed of White, Asian, Black and mixed race individuals and families (U.S. Census, 2010).

I was born into a family of laborers and Girl Scouts, French-Italian Catholics and Heinz 57 Protestants. Our roots are Andrew Jackson and Aimee Semple McPherson, with the whisper of Buffalo Bill Cody somewhere on my mother's side. My parents divorced when I was three and, if I had any memory of them together, I would know for certain that my preoccupation with violence and trauma stem from their relationship. Following years of problems, my mother finally told my father to leave after he broke her arm; frightened, she says, that he would eventually lay hands on their very mouthy toddler, she ejected him from the house for the final time. Sometimes I think my early memories are a mental wall I've constructed against the pain.

I have no memories of them together, save for a photograph I keep in my wallet. In it, I am perhaps six months old, sitting on my mother's lap as my father looks at the two of us with an expression I can only call adoration. This image stands in stark contrast to a smattering of other memories: my mother crying at night when she thought I was asleep, my parents screaming at each other outside the theater after my fourth grade Christmas pageant, my father visiting to clean our pool and chatting through sometimes tense lunches, trips to the beach on weekend visits with my father and stepmother.

From the first, my awareness of family was one of fracture and trauma.

Growing up in Anaheim itself produced a strangely dysphoric sense of placedness and placelessness. The places around me were concrete, familiar, known; from an early age I was aware that living in "the OC" meant something to people outside of it. Yet I never belonged to the landscape, and rarely felt rooted even in the community of my block. My education was subject to the whims of my mother's profession, so in my early years I changed schools regularly. In my years of primary education, I attended eight different schools and shifted my ideas about who I was and where I fit at least as many times. When I eventually settled at a private elementary school for several years, my social life began to take on a shape that has guided it since. I went to school with wealthy kids, most of them white or Asian American, and went home to my books and my motley collection of neighborhood friends. Most of these kids were Latino, the children of relatively recent immigrants or first generation Americans. The standout exception was Renee, a disabled girl who was five years my senior, the only other white girl on the block and my closest friend. While I spent my days with them, the kids at my school always remained something of a mystery to me. I imagined they were happy, carefree and

generally spoiled, and that they went home to places like Yorba Linda, the birthplace of former president Richard Nixon.

****

Sophomore year of high school, in the quad, at my usual lunch table.
Friend: “Have you ever noticed there are no famous women in history? Like, no women inventors or anything.”
Me: “Marie Curie?”
Friend: “She doesn’t count. I think women just aren’t very inventive.”
Me: “You’re wrong, there are tons. It’s just discrimination, that’s why you haven’t heard of them.”
Scott (Captain of the basketball team): “Of course the dyke would know about famous chicks.”

****

I was the first girl in my grade to get my period. At least, I was the first one to be publicly shamed for having a period. During recess one day, a boy from my class went through my bag, found my maxi pad and stuck it to my desk. By the time we’d all gotten back to the room from our break, everyone had seen it. When I turned bright red and ripped it off, leaving the lining behind, the teacher just stood and watched. This act seemed to wave a red flag; from that day on, my body was an object of discussion in an entirely new way. My journey from girl to woman was marked with many such ritualistic and random acts of shaming. I went from being a fat girl to a voluptuous woman in an eye blink, and spent nearly every day until I finished high school wishing that, one day, I’d wake up and find that my breasts had disappeared. These were the twin pillars of my girlhood: denial and disappointment.

I first became aware that being a fat girl was a problem in the second grade. My class was doing a Hawaiian-themed Christmas show. The first costumes, long dresses with a giant hibiscus print, were changed mid-way through rehearsals. The replacement costumes – coconut bra shells and fake grass skirts - exposed a little too much of my body for my mother’s comfort. When she complained, the school principal told her the costume wasn’t a problem for the other parents –

the ones with thinner daughters. In the years following, at a different school, being The Shy Fat Girl defined my life. During the third grade I put on thirty pounds and stopped trying to make friends. Between third grade and seventh grade, I heard every variety of an insult for a fat girl imaginable. Chubby Checkers. Tubby tubby, two by four, can't get through the kitchen door. Fatso. Lardass. Hey, is that table broken because you sat on it?

In the fourth grade, I finally asked a teacher for help with a bully. A particular girl had picked on me for years. Every time she hurt me, she'd taunt me. "Go ahead and tell, no one will believe you". When I finally told, the teacher told me I had to learn to stick up for myself and gave me in-class suspension for calling the bully names. By the fifth grade, I'd stopped talking much at all.

It is troubling that all my memories of being a girl, and my feelings about becoming a woman, are tied with memories of violence. This truth eats at me.

Truth. Eats. Truth. Eats. Can you eat the truth? When I was young I barely ate, at least when anyone was watching. When I was fifteen I stopped eating meat. Controlling what I ate became so habitual that I still have donut anxiety.

By the time I hit junior high, I had lost a significant amount of weight. The pounds from my stomach had migrated to my chest. Just like that, I became a target for male attention. Walking to the bus stop, car loads of men would stop to look at me and whistle and comment and leer. The first few times it happened, I looked around to see who they were talking to, assuming a woman was walking behind me. I had never reconciled myself with the idea of 'woman'. Eventually I started to watch for them, the comments and the stares. While boys my age passed me by, older men seemed to want my attention all the time. At thirteen, I went to the movies alone, impressed with my own independence and bravery. Toward the end of the movie, a man

sat next to me, put his hand on my leg, unzipped his pants, and masturbated to the final scenes of *Benny and Joon.* I didn't know what to say, so I said nothing. A few days later, when my best friend told me she had a crush on the same boy I liked, I volunteered to put a note in his locker for her. Boys don't like fat girls.

By the time I entered high school, I was so self-conscious I wore baggy plaid shirts and loose jeans every day. Grunge was in style, Nirvana ruled the radio, and I got away with calling it fashion. As I got older, I found more creative ways to draw attention away from my body. I painted my face, I dyed my hair exotic colors, I crossed my arms over my chest all the time, I walked with purpose and talked enough that I could believe my mouth was all anyone ever saw. I pretended that I didn't have a body, except when I was on stage. On the stage, my body became a tool for grotesque exposures in the service of storytelling. I treated it as a canvas, but labored in a strange dissociation from it. My body had become a constant point of personal contention, a cross to bear, a problem to solve.

****

I've lived in four different states. My feelings about my body change with each move. Los Angeles was an invitation to bulimia, New York was hiding everything in black even in the sticky summers, and Seattle was dirty looks from muscular bicyclists. I've felt more comfortable during trips outside the U.S.; in Scotland, I felt rather small. Fatness isn't a state of being. Fatness is a place.

****

Until I was fifteen, I never fully understood how closely my sense of placelessness – in my community and in my family – was linked to race. Growing up in the 1980s, I was fully subjected to the "colorblind racism" (Carr, 1997) that marks much contemporary cultural discourse. Colorblindness, which teaches us that real racism is in the past, that only overt racism is real racism, and that equality is now fully possible because of the gains of the Civil Rights

Movement (Bonilla-Silva, 27), was emphasized in my classes and in most of the media I consumed. Saturday morning cartoons like He-Man and G.I. Joe always had something to say about the fundamental equality of all, the need to refrain from judging based on skin color, and the possibilities and opportunities of living in America. Yet what I saw in my neighborhood and in my family seemed to contradict these messages. Ultimately, the gaps opened up by my wildly divergent experiences widened and widened and widened until they reached the point of irreconcilability.

The only child of 1960s leftists, my parents instilled a sense of the importance of equality in me by passing along books and talking about politics with their friends and relatives while I sat and absorbed. I spent my days doing schoolwork and my nights reading Simone de Beauvoir, Fredrick Douglass, Susan Sontag and Sherman Alexie. My father, a lapsed Catholic and proficient lecturer, once gave me a copy of Marshall Berman's *All That is Solid Melts Into Air* and asked me to write a report on it so that we could have a "real discussion." In my father's world, real discussion meant passionate, loud, hardheaded arguments with an excessive amount of hand waving. I learned early on that being able to defend your opinions mattered, that extreme passion was a benefit, that there were moral absolutes and that all human beings were fundamentally equal.

Armchair equality became a standard theme of my childhood, and sometimes I still wish I believed that was enough.

This message was reinforced by my relationships with my two closest friends, Renee and Ryan. Renee was part of the only other white family in my neighborhood, and I'd known her since before I could crawl. Born with her umbilical cord wrapped around her throat, Renee had the emotional and mental development of a ten year old. By the time I was six, I was in charge

of our relationship; we ran the neighborhood, rode our bicycles to the park and went boy crazy together during the late 1980s New Kids on the Block and Paula Abdul era. The first physical fight of my life happened when I tried to punch an older boy who was making fun of Renee. Ryan, my cousin, had muscular dystrophy and was wheelchair bound from the age of six. Ryan and I crafted puppet shows, built forts, spied on our parents, played at make-believe animal kingdoms and did anything else it was possible to do while crawling on the ground. My time with Ryan and Renee convinced me my parents were right; bodies don't dictate souls or qualities, and fighting for what you believe and whom you care about matters.

What my parents did not prepare me for was recognizing how large the differences between me and the kids in my neighborhood would seem to the outside world. They did not prepare me to go beyond the kumbaya, we're all in it together fiction that dominates colorblind rhetoric. They didn't teach me that there's more than just one world. I always recognized difference, but in the selfish way of most children my perceptions of difference centered around myself; I never fully fit with my Mexican neighbors, yet I wasn't quite like the kids at my school. These differences specifically emerged in moments of violence – physical, emotional and psychological – that centered around or made me recognize the powerful way differences shape perceptions and are shaped by them. As often seems to happen with life-changing coincidences, these events all clustered together and built to a peak.

My freshman year of high school I started attending a public school for the first time. The high school in my neighborhood was a microcosm of the larger community of Anaheim; about 65% Latino, with the remaining population composed of Asian Americans, African Americans and White kids. Situated in a working class neighborhood, the school had yet to manifest the kinds of security and control measures, like bars and metal detectors, which now mark the

majority of working class high schools in California. When I first arrived, I experienced the typical awkwardness of being a newcomer. The kids in my school had known each other their whole lives, having gone to the two middle schools in the district, and it took a few days to find some friends. But before I found friends, I found an enemy. During the second day of my physical education class, a girl named Doreen decided I was open for harassment. While running by me around the school track, she put out her leg and tripped me. And thus began a year of bullying at Doreen's hands. I learned quickly that Doreen was being jumped in as a member of a notorious local Mexican girl gang, the Bitches of Anaheim, and that her motives were simple: she needed to hurt a target to prove she was tough enough. And during her attacks, from the first to the last, Doreen let me know why I was her target. "Stupid white bitches don't belong at this school."

Such individualized experiences with prejudice were common growing up in Anaheim, and for a long time it was possible for me to write them of as just that: individual. I perceived my experiences as similar to others' experiences with prejudice. Over time, however, my understanding of the nature of real racism and its existence in my community changed. When I was 13, I bought my mother a box of blonde hair dye. Inside was flyer with a nasty poem about Mexicans and the phone number of a local white supremacist group. We took it to the cops and were told there were at least 13 active white supremacist groups operating in Anaheim at the time. In my youthful naïvete, I was shocked that these things "still happened in the world." A few years later I was less shocked when, while watching an episode of Jerry Springer with my grandmother, she mentioned how much she hated seeing "our girls with black men." "So Grandma, what would you do if I brought home a black boy?" Her long pause spoke volumes. "Well, I wouldn't like it very much."

Over the years, my grandmother was a source of frequently upsetting comments about race relations in our community. During a trip to the dollar store, as we walked out of the store, we passed by a group of Spanish-speaking men. Clearly about to fight, the men were yelling at each other and circling around the entrance of the store. I grabbed my grandmother's arm and tried to steer us through the crowd. As we approached the car, and the arguing behind us escalated, my grandmother loudly said, "I can't stand it when they sound like that…they talk like monkeys!" The men stopped and turned, staring at us as I shoved my grandmother into the car and blushed. While I was embarrassed by her obliviousness to her own racism, I never saw larger trends at play in our frustrating and fruitless conversations. My grandmother, after all, was born in the 1920s, when lynching was a social commonplace. As with most children of the 1980s and 1990s, I had, for most of my early years, fully embraced the post-racial discourse about big, major, "real" racism being a thing of the past. According to this reasoning, current, overt expressions of racism were isolated, the product of regressive or mean-spirited individuals clinging to a nostalgic past. It was easy to see my grandmother as a relatively isolated case, as both of my parents had told me stories of fighting with their families during the Civil Rights Movement. Likewise, many teachers had explained away the racism in novels like Huckleberry Finn and The Ox-Bow Incident as a product of age; having been written at a time when such sentiments were the norm, these novels had little to say about contemporary race relations and should instead be look at for what they could say about "our shared human existence." Not once did a teacher in my elementary or high school say that literature was about more than a shared human experience or hint that novels could be used to examine contemporary power relations.

Despite the contradictions in my own family and between my experiences and those of the kids on my street, I got to high school without having to think much about race relations in my

community. Pinpointing a “click” moment would be disingenuous and dishonest; I can’t honestly say that any awareness ever hit me in an “a-ha” moment, as if some mental floodgates had burst open. Looking back affords the clarity of distance, but not the ability to rewrite awareness into a singular, clear or flattering narrative. But things did begin to change when I went to high school. At my first school I was in the clear minority; never had I so keenly felt the disadvantage of not speaking fluent Spanish as during my freshmen year at Katella High School. Every class was full of kids speaking Spanish to each other.

The next year, after changing schools, I was taking driver’s education classes when I ran into one of my teachers from Katella. For three days, we sat in a car while I practiced driving, parking, and navigating the California freeways. For three days straight, I listened to this teacher tell me how much he hated “those Mexican brats” from my old high school. When those three days were done, I noticed that my new high school, in a wealthier and whiter community, had better amenities than Katella. I noticed that the career center had more than military recruitment posters. I noticed things I hadn’t noticed before.

Click.

******

I am uncomfortable writing only about my experiences with race. Centering myself feels wrong, even though the point of this narrative is the construction of self. I don’t know how to address this contradiction.

******

Class may be one of the most nebulous concepts when trying to think about one’s own positionality. Between the classic Marxist definition, neo-Marxist reinterpretations, sociological challenges to ideas of capital and the shifting sands of contemporary class structure, how do you situate yourself? bell hooks has noted the discomforts around public discussions of class, as well

as how our shared unwillingness to talk about the specifics of money, property and status, serve to help the wealthy maintain class privilege (2000). In the face of an unwillingness to talk about class – of the idea that class itself is so un-American that acknowledging it threatens to topple some imagined conception of American identity – how do you begin to understand your own class position outside of a crude socio-economic evaluation? What are the issues that matter? Is class a matter of education, finances, properties, manners, bone-deep ways of being that money cannot change for all our pretense to social fluidity? What do we mean when we talk about class?

In my life, class has been about stability, safety and lack. My own class status has followed a curving, looping, broken path through a briar patch. I was born into a family with all the trappings of middle class: a home, cars, advanced degrees, upward mobility. Both of my parents came from solidly working class families whose successes allowed the children to progress through basic, higher and postgraduate education. My parents each attended good state schools with low tuition, and each managed at least one postgraduate degree. As children of the 1960s, both of them were committed to education as a path to personal fulfillment more than social betterment. Even after my parents divorced, my mother and I seemed to occupy a rung on the middle class ladder; throughout elementary school, we took trips around the country and sometimes outside of it. My mother had a Mercedes, we visited relatives in Colorado every summer, I was able to do extracurricular activities and I never worried about food, clothing or transportation. Many of the kids on my block lacked those luxuries, and the obvious disparities were not lost on me. When my mother first bought her Mercedes, I was nine years old. She drove it around the block, and when it came into view, I remember feeling embarrassed. The car was so much nicer than others on the block, so clearly a car that Did Not Belong There.

The feeling of conspicuous wealth began to change when, during the end of elementary school, my mother lost her job. A series of surgeries and injuries lost her not only a steady paycheck but a significant amount of mobility. When I was thirteen, a nasty spill on our front porch left her with a broken leg. Three of our neighbors saw her laying out our porch for hours and did nothing. The cost of flaunting being better off than those in your immediate community, perhaps. At fifteen, an assault by an off-duty police officer left my mother with a life-long case of posttraumatic stress disorder and such strong anxiety she was unable to leave our home to manage her consulting business. After that, our economic situation began to crumble. While I wasn't aware of the specific circumstances of our financial situation, mounting tension in our household and the tightening of purse strings started to take a toll.

The effects of our increasingly precarious financial situation influenced my life in ways that, looking back, were both subtle and obvious. For years, I went to a private school on scholarship. Though we all wore the same clothes, took the same classes and went on the same field trips, subtle cues seemed to let the other kids know that I was not quite one of them. I never knew which bands were "right." My parents were not members of a country club. I was too quiet/fat/studious/serious. No one else had divorced parents. Alone, none of these were capital offenses. But when my mother got sick after a major surgery and I missed two weeks of school to take care of her, I fell behind in math class. When I returned, midterm grades were being released. My math teacher pulled me up in front of the class and told everyone I had an F in the class, and that "this is what happens when you don't come to school."

I had no idea I could ask for a make-up and, worried about setting my mother over the edge in her delicate condition, I didn't tell her. What I did, instead, was learn to hate and fail at math, and nurse a growing anger that has never really gone away. I am angry about my experience with

class descent, and aware that my expression of anger is part of my perceived class status. Losing your temper is seen as cheap, déclassé, womanly, weak. In high school, I began a war with my temper that I still haven't won.

As I got older, I changed schools several times. When I ended up at a high school in the nearby town of Fullerton, I was thrust into yet another socio-economic and cultural group. Wealthier than Anaheim, Fullerton is also whiter. Every high school in Fullerton has Advance Placement and International Baccalaureate programs. There are two colleges. The downtown area is well known for its quaint charm and monthly arts festivals. Teens come from all over the county to attend Troy High School, my alma mater. As of 2011, Troy was considered one of the top five schools in the state. Where Katella aimed to place the majority of its students in the military and community college, most of the kids in my graduating honors group went to Ivy League universities. At Troy, I managed to make friends with several different groups: the other honors students (all middle class), kids in my drama class (mostly working class), goth kids (a mix), band kids (solidly middle class). I discovered a place for myself for perhaps the first time. I was The Loudmouth. Overtly political and pushy, I made up for a childhood of silences by joining as many clubs as possible, becoming the Opinion Editor for the school paper and the Drama Club president, and generally making trouble. I mapped out Orange County using thrift stores as my landmarks and developed a very specific attitude about "brand name clothes." Having never been to the malls that my (middle class) friends frequented, I made a fashion of poverty. None of this is unique, of course.

And I worked. The first person among my friends to have a job, I was also the first to be left out of social occasions, shopping trips and casual get-togethers. During my senior year of high school, I worked three full schedules at work, took eight regular classes, served on the school

paper, performed in three theatrical productions and pursued my high school crush. I was also, not coincidentally, spending as little time at home as possible. I was very busy, doing very important things.

So when my mother told me we'd lost our house to the bank and that we would have to move out over Christmas break, the bottom fell out. Unbeknownst to me, my mother had been struggling for a year to fight the bank, which was illegally trying to repossess our home. Every door seemed to close on her; after begging every family member she could find, she still was unable to raise the small amount of money needed to hire a proper attorney. In the event, I was given about a month to pack up all the items from my life and move in with my father, whom I hadn't lived with consistently in nearly fifteen years. Losing our house sent me into a depression so profound that my life has never been the same since. I gained thirty pounds in the space of two months. I developed a twitch and an ulcer that caused me so much pain I nearly drove off the highway. I became so vulnerable that I cried almost every day.

But most importantly, I never told my friends. They were busy with the stuff of a normal, middle-class existence; prom dates, relationships, final exams, college applications, the dramas of the everyday. One friend had trouble with her parents wanting her to go to "the wrong college." Another was having problems with her best friend, who had recently started dating her older brother. Several had entered relationships for the first time and had formed a "boyfriend clique." Then there were the ones who never really seemed to have the time to deal with my issues at the best of times. At the time, I couldn't pinpoint my reasons for not sharing the truth of my life, but I knew that level of problem could not be shared. It was my first experience with the regimes of silence that cluster around trauma, creating emotional and intellectual barriers that isolate vulnerable people away from potential networks of support.

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I'm just a girl in the world…I'd rather not be. When I think about what it means to grow from girlhood to womanhood, I mainly think of moments of violence. What does it say that my entire conception of womanhood is linked to pain? Menstrual pain, bullying pain, binding clothes, being touched by strangers in public places. Even thinking about this is painful, writing about it more so. If adversity introduces a man to himself (author unknown, assumed to be male), what does it do to a woman?

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My first few experiences with sex were violent.

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Is this true? Memory is treacherous and slippery. I don't remember how I first learned about sex. I feel like I've always known. When I was twelve, I told my mother what a blowjob was, because she didn't know. I don't remember a "birds and bees" talk. I don't remember much of anything from before I was about five or six years old.

****

My first few experiences with sex were violent. There have been many other incidents over the years, some frightening and some just irritating. But these first few, these I don't forget.

I was twelve years old. My mother dropped me at a skating rink for the afternoon. After skating for a few hours, I stopped to get a drink. An older boy skated up to me.

"Hey. My friend wants to skate with you."

He was sweating and sneering and at least seventeen.

"Um, no thanks."

"He wants to skate with you right now. Come on."

He grabbed my arm and pulled me toward the back of the skating rink. We tripped over legs and abandoned pairs of skates in the rush. I dropped my drink and the icy liquid poured down my pants. We stopped at the back of the large auditorium, away from the other skater. It was dark, and the rear exit door next to us was barred with a metal chain.

“Give me a kiss.”

He tightened his hand on my wrist. My wrists have always been small.

“Ummm…”

He pushed me against the wall. This particular rink was designed to look like an old red barn, the kind you might find on an Amish farm. A bit of Pennsylvania in Southern California. A wood sliver jabbed into my arm when he pinned it behind me. He mashed his mouth against mine. He had strong body odor, like most teenage boys. When he stopped, he tried to touch my face. I flinched.

“Stupid. You should be grateful I wanted anything to do with you, you’re so ugly.”

I called my mother and asked her to pick me up early.

*****

When I was eleven, my mother gave me *The Second Sex*. She told me about feminism. I became very outspoken about rape and assault, which didn’t make me more popular with other students or my teachers. You’d think a girl like that would know better than to blame herself.

I hope my mother never reads this. She has enough guilt about the past.

*****

I was seventeen years old and working at my first job, at a Renaissance Faire. I’ve always been extremely theatrical, and I loved the silly pseudo-British accents and flouncy dresses. My mother had made me a peasant outfit, with a red bodice and layered blue and green skirts. When I managed to find a job in a booth that sold South East Asian arts and clothing, I was ecstatic.

For the most part, the guests were nice. Often drunk, frequently loud, occasionally cheap, but pleasant. One day, I was sitting in the back of the shop, behind the table that held the daggers and pocketknives. A group of men approached me, reaching the table slightly after the rancid scent

of beer, sweat, roasted turkey, and dirt the clung to them. I was immediately nervous, but too young and too oblivious to pay attention to my instincts.

"Good morrow, good sirs. How may I help thee this fine day?"

One of the men, a tan and muscular and in his mid-thirties, stepped forward and picked up a small, sheathed dagger.

"And where does this go?"

He flipped the dagger and shoved it into the space between my breasts. For a second, I was frozen. I stared at the dagger's handle, small and white, and thought about the visible vein running through my right breast. I stared as he reached over and put his hand in my bodice to pull the knife out. I kept staring as my co-worker, a 6 foot 5 Viking, grabbed the man by his neck and threw him against a tree trunk. I stared at the security guards who escorted the man and his friends out of the faire.

It took a few minutes to sit down, even longer to realize I was in shock. The feeling that I should have done more, been faster, not been there in the first place? My brain let that go a long time ago. My gut holds on.

******

I'm not a person who likes to dwell on the past. Remembering these experiences is like opening a yearbook full of friends who've died. The pages are bloody, and I hate watching myself bleed.

******

It wasn't rape.

I was eighteen years old, just graduated from high school and looking forward to moving to New York for college in the Fall. I was re-reading *Madame Bovary* that summer, which seems

portentous in hindsight. A woman ruined by a love of literature and a fanciful imagination. How terribly romantic.

I still love that novel, though I'm perhaps less sympathetic toward Emma Bovary's "poor little rich girl" problems. "She sought to find out exactly what was meant in real life by the words 'felicity', 'passion' and 'rapture', which had seemed so fine on the pages of books."

Indeed.

That summer, my friends and I spent most of our social time at a coffee shop not far from our high school. It was a great spot, with a stage for performances and a 1980's-themed arcade attached to the back. That summer, I got the high score on the Ms. Pacman and Q-Bert machines.

One night, a group of us chatted with an odd guy who worked at the shop. Lee [1] was a few years older, blonde, and interesting. We talked about psychic phenomena, music, movies, unsolved mysteries – all the things that thrilled us. Near 2 a.m., Lee offered to hold a group hypnosis session. Along with three of my friends, I agreed to be hypnotized - in my case, to do a past life regression. The next few hours were an adventure, and one friend and I agreed to meet Lee the next night to hang out again.

That night, we met at a park near the local elementary school. My friend and I parked a few blocks away and stowed a bottle of whiskey in my backpack. We found Lee on the playground, and messed about on the swings for an hour or so, talking and laughing and taking sips from the bottle. Lee suggested we sit under the trees. We gathered in a circle, intending to talk more about ESP and aliens and all that jazz. But after we'd finished the whisky, laying on the cool grass was the only real option.

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[1] Writing his name feels wrong. Do I have a compulsion to protect? Or is it that I think saying his name will conjure him out of the past and into my life?

What happened to me next is the subject of at least half of Lifetime's staple of original movies (and thinking of it that way is easier). I woke up and Lee was on top of me. He had one hand over my mouth, one up my shirt, and his knee pressed against my legs. I tried to move my arms or shake my head. He ignored me. So in my mind, I just kept trying.

I remember the ground felt frozen, and a sharp rock dug into my hip the whole time. When he tried to take off my bra, I looked for the stars. There aren't many in Southern California, but I remember seeing a few. When he put his hands up my skirt, I thought about the last movie I'd seen. *Can't Hardly Wait.* My friends said I reminded them of one of the characters, the sassy, cynical, redhead. She ends up with Seth Green at the end. I always liked Seth Green. When he took off my underwear, I tried to plot out different ways to get to my car.

Finally, when I started to cry, he stopped. It wasn't rape.

I cried at least once a week through my first semester at college. Less as time went on. It wasn't rape.

He got my email from a mutual friend and asked me, in December, if I was coming home for Christmas. He wanted to see me. He liked me.

I finally stopped thinking about it every day. I saw Lee once more, the following summer. He tried to talk to me, but I left the coffee shop before he could get to my table. I didn't go back for two years.

It wasn't rape.

******

"Oh my god, Monique, did you know Haidl lives down the street from here?"
"Are you kidding? Fucking Newport Beach. Why did Greg's family buy this place?"
"It was cheap at the time, and they wanted to be in a safe neighborhood."

******

When I first heard about the Greg Haidl gang rape case, I was a recent college graduate working my way through a series of minor film jobs in small and medium-scale Hollywood productions. I was living in Bellflower, in a neighborhood where all the signs had slowly converted to Spanish since my great-aunt built a home there in the 1950s. I had taken a trip down south to visit with my friend, Karin, whose boyfriend, Greg, was staying in his parent's vacation condo in Newport Beach. While sitting on his deck, looking out over the Pacific, my friend asked if I'd heard about the "big case" that had just broken.

I hadn't. By the time she'd finished telling me about the case, I was sick and shaking. It wasn't my first or my last experience with what is known as post-traumatic triggering (Fagan and Freme, 2004), but it fostered a fascination with the particulars of this case that has taken me through years of study, intellectual focus and personal reflection. I couldn't have known at the time that I would spend the better part of the next decade examining this case, or that through looking straight on at the violence of gang rape in my homeland I would develop a new understanding of my home, my past, myself, what it means to confront and witness violence, the privileged illusion of safety and what happens when that illusion crumbles.

*****

Violence exists in words as well as fists. I learned early that a well-placed verbal slap can do as much damage as a physical one. Yet qualifying and quantifying the effects of non-physical forms of violence often proves challenging in contemporary American society. This failing highlights the necessity of improving our cultural notions of violence. According to Sociologist Johan Galtung, violence is "anything avoidable that impedes human self-realization" (1996, 271). Based on this understanding, violence lies not only in the physical but in emotional,

psychological, cultural and intellectual experiences that promote social and self-alienation. Galtung expanded this definition with the development of the "violence triangle," a construct that elucidates the nature of and relationship between the three forms of violence: personal or direct, structural, and cultural. According to Galtung, personal or direct violence, which includes everything from acts of war to assault and other forms of interpersonal violence, is the form most often acknowledged by our legal system. Structural or indirect violence, on the other hand, is a form of violence that exists in a perpetual state, perpetrated within and by large social structures. Forms of mass marginalization and exploitation, such as the exploitation of workers by the owning class and the legalization of practices that maintain mass inequality, is therefore a form of structural violence (1969).

While these forms of violence are understood and visible to varying degrees within our dominant society, it is the third form of violence – cultural violence – that is often overlooked. Cultural violence, according to Galtung, is 'the symbolic sphere of our existence . . . that can be used to justify or legitimize direct or structural violence" (1990, 291). Cultural violence lurks in our ideologies, our narratives, our ways of making meaning about the world and our place in it. And crucially, according to Galtung, cultural violence is how the other two forms are legitimated; cultural violence makes direct and structural violence look and even feel "right" or justifiable through ideologies that dehumanize the victim, justify the violent behavior as either logical or necessary, and in other ways diminish the impacts of direct and structural violence (1990, 291-292). The violence triangle then provides a way to understand the centrality of cultural violence to all ideas about the nature of violence in contemporary society. Sexual violence occupies a unique relationship to this triangle, in that acts of sexual violence bridge all three categories.

Sexual violence is, on a surface level, intensely direct and personal. It is also structural, in that institutionalized sexism perpetuates cultures within which women and others perceived as vulnerable are subjected to high levels of sexual violence that often goes unpunished. Such instances of structural violence are apparent in what has been deemed the "rape culture" present in many fraternities and sports organizations (Boswell and Spade, 1996). The 2012 rape charges brought against Pennsylvania State University coach Jerry Sandusky, and subsequent discovery that his crimes had been covered up by other coaches and the school itself, perfectly highlights the connection between personal and structural violence in the case of sexual violence. Yet it is the cultural violence inherent in our ideas about sex and violence that perpetuates behavior like Sandusky's. In the Sandusky case, the behavior of Penn State's students in response to the arrest of him and colleague Joe Paterno provides a key window into the nature of cultural violence; rather than rallying behind the abused children, hundreds of students rioted in support of the dismissed coaches (Schweber, 2011).

Some journalists and media members spoke out against this student response (Greenberg, 2011), and Penn State's paper *The Daily Collegian* even published an op-ed condemning student reactions and urging protestors to "find a constructive outlet" for their anger rather than encouraging more negative attention for the university (Eds., Nov. 11, 2011). Popular support for abusers instead of those they abuse might be the more familiar response to victims/survivors of sexual assault, however. A dear friend of mine, who comes from a family where every female relative has been abused by a male relative, tells me that none of her male relatives have ever been punished. In fact, when her younger sister confronted an uncle about his abuse, it was she, not he, who was asked to leave the dinner table. Such stories are commonplace. They're posted on websites like The Everyday Sexism Project, Hollaback NY, and Project Unbreakable. "My

family found out and did nothing." "He was still invited to dinner." "He's my sister's husband – what can I do?" "He grabbed my tits in front of my family, and my parents laughed." This is the cultural violence of rape. This is how little girls and boys learn that sexual assault is just "sex gone wrong" or "sex she regrets" or that you "can't rape a man/spouse/slut /sex worker." These stories we tell – collectively known as "rape narratives" (Sielke, 2002) – create the cultural justification for sexual violence. These narratives exist outside of us and within us. These narratives perpetuate sexual violence and institutional denial. The Greg Haidl case is one of these narratives.

Introduction

Placing the Haidl Case: Rape and Power Behind the Orange Curtain

"There is a fine line between differentiating rape while intoxicated, rape with consent [statutory], and rape by force…Because it was such a complex and media-frenzied case, it was very easy for the jury to become confused." - Assistant District Attorney Chuck Middleton (*CNN.com,* Feb. 1, 2005)

In her December 2006 album *The Sweet Escape*, singer Gwen Stefani reflected on her memories of growing up in Orange County, and how different that life was from her current life as a jet-setting pop star. Reminiscing about Disney characters "alice & the tick tock," Stefani sings:

> I'm trippin' on the best dream that I never had
> I guess behind the orange curtain it's not so bad
> From the west side, Anaheim, a small world after all
> (Stefani, 2006)

Stefani's playful use of the phrase "orange curtain" is especially resonant for residents of Southern California. Since at least the early 1980s, the term "orange curtain" has been used to refer to the boundary between Los Angeles County and Orange County. "Orange curtain" is a spin on both the idea that Orange County has traditionally been a place to "which people tired of city life are reputed to retreat—to surround themselves with...as if with a security blanket" (Dale and Taylor, Sept. 4, 1984), and the idea that Orange County's conservative population makes it a stalwart of repression, much as the repression of communism was represented by the Iron Curtain. Though often employed in a derogatory way by other California residents, many county natives play with the image and take pride, either genuine or ironic, in Orange County's reputation as the home of Disneyland and Richard Nixon. It may be just this pride that led Ben

Wener, reporter for Orange County's flagship paper *The Orange County Register,*[2] to critique Gwen Stefani for calling herself an "Orange County girl" when, "at this point, sharing her time between L.A. and London while posting a reported $90 million via her clothing lines and selling 7 million copies of "L.A.M.B.," means she's no more "just an 'Orange County girl' than Best Buy is just a shack that sells Commodore 64s" (Dec. 1, 2006).

Stefani's song, however, is far from the only image of Orange County to have dominated the pop culture landscape over the last decade. Between Fox's drama *The OC,* MTV's reality series *Laguna Beach: The Real Orange County,* Bravo's reality series *The Real Housewives of Orange County*, the ever-present tourist attraction of Disneyland, the ska-punk music scene typified by Stefani's old band No Doubt and the proliferation of extremely popular Orange County –based surf/skater fashion lines like Paul Frank and Stussy, the popular image of Orange County is everywhere and has become nearly synonymous with wealth, privilege, and the feckless, apolitical life of white suburbia. While all of these elements together have worked to create a particular image of Orange County, perhaps the most powerful of these is *The OC,* the Fox Network's 2003-2007 drama about living in the tony Newport Beach neighborhood. *The OC* follows the story of Ryan Atwood, a troubled young man from "the wrong side of town," who is transplanted to Newport Beach after meeting Sandy Cohen, a wealthy and conscientious lawyer from Newport who feels that Ryan deserves a second chance. Gradually Ryan learns to mold his rough personality to fit in, make friends, find love and cause trouble in the overwhelmingly white, privileged, and amoral community of Newport. The popularity of this show was so strong that it inspired several other programs, including the MTV series *Laguna Beach,* and the cancellation of *The OC* in 2007 did not stop the media frenzy over Orange County culture. The

[2] *The Orange County Register* is often referred to as *The OC Register* – here those names will be used interchangeably when discussing that particular paper.

cancellation of *The OC* did, however, inspire a variety of comments within Orange County; reporter and critic Jim Washburn, for instance, complained wistfully that many things happened in Orange County "before *The OC* with barely a nod from the outside world," and that in this pre-*OC era* "we were behind the "Orange Curtain," shunned as a hick bedroom community" (Feb. 22, 2007).

Given the popularity of the privileged image of Orange County life that has been highlighted by shows such as *The OC,* it is perhaps not surprising that a violent crime occurring in one of the most privileged communities of Orange County would become something of a media phenomenon. Few contemporary rape cases have so fully highlighted the complicated interplay between sexual crimes and media representations as the Newport Beach-based Greg Haidl gang rape case that took place between 2002 and 2006. This case provides a prime example of the way intersections of class, gender, and race inform constructions of criminality and innocence in the rape discourse of contemporary American society. It is also an ideal way to examine the dynamic interplay between media and sexual violence that has emerged in many more recent cases, such as the Steubenville rape case of 2013. The Haidl case began in July 2002, after a party at the home of Orange County Assistant Sheriff Don Haidl resulted in the arrest of Haidl's son, Greg Haidl–16, and Greg's friends Kyle Nachreiner–17 and Keith Spann-17. The three were arrested for allegedly drugging and raping an unconscious 16 year-old girl, known only as Jane Doe. Haidl and his friends also filmed the event with Haidl's handheld camera. While it is difficult to get a completely accurate description of the evening's events, the basic outline discussed in most reports suggests that Doe arrived, the boys offered her drinks, she passed out either from a combination of too much alcohol and marijuana or from drugs placed in her drink, the boys

filmed themselves raping the unconscious Doe and assaulting her with various objects, and the next morning Keith Spann drove her home in her car.[3]

Haidl subsequently edited the video to show to friends, adding a hip-hop heavy soundtrack. He made the mistake of leaving it at a friend's house, where it was discovered by a group of teenagers. Two of these teenagers smuggled the video out of the house and eventually turned it over to the police because they "thought it showed the boys having intercourse with a corpse" (Moxley, May 6, 2004).[4] The videotape became the focal point of the case because of what it showed and because it served as one of the strongest pieces of evidence, affecting the way both sides of the case structured their arguments. Descriptions of the video abound in the media discourse, but perhaps the most detailed comes from R. Scott Moxley, a reporter for the local, independent newspaper, *The OC Weekly.* The following is an excerpt of Moxley's report on District Attorney Dan Hess's narration of the video, which outlines the prosecution's reading of the tape in reasonable detail:

> (According to Dan Hess) "The girl is heard only at the beginning of the tape, after the boys had given her a Bud Lite, a couple of hits of marijuana and a mixed drink they claim was Bombay Gin and 7-Up. Police suspect the drink, made by Nachreiner, was laced with GHB, a fast-acting synthetic drug occasionally used by date rapists. The illegal substance can knock out unsuspecting victims for hours.
>
> Hess had said the opening shot features Haidl on the garage sofa with Jane Doe, who is holding a beer. Haidl tries to lift her shirt.
>
> "You're trying to take my clothes off, huh, Greg?" she says, slurring her words. "I'm so fucked up." …….

[3] This is a basic event outline as described in a variety of news sources, all of them listed in the reference section and discussed through this analysis. As I do not have access to the tape itself, I have to rely on news reports to construct some idea of the event.

[4] One version of the story has it that the tape was accidentally returned to a video rental store, whereupon the clerk viewed it and then turned it over to the police. Clearly, even getting 'just the facts' is complicated in this rape case, as different media outlets consistently reported the 'facts' in slightly different ways.

> The next scene shows a naked Doe on her knees in front of the couch. At first, it looks like she is orally copulating Nachreiner and is moving. But soon the viewer learns that a well-endowed Spann has entered the unconscious Doe doggy-style and Nachreiner is holding her head up, forcing her mouth up and down on his penis. Moans are heard. The boys mug happily for the camera.
>
> Hess had earlier told the jury what comes next: "Haidl slaps Jane Doe hard on the buttock to which she doesn't respond." Nachreiner can be seen looking at the girl's unresponsive face, and says, "All right, she look pretty much good!" (Moxley, May 6, 2004)

The narration continues on to describe how the girl flops "like a ragdoll" as Haidl and the others move her onto the pool table, continue penetrating her and ejaculating on her, take long shots of her face and vagina, laugh and talk to each other and then gesture to each other that Doe is still unconscious. Finally, they take turns penetrating Doe's vaginal and anal orifices with a Snapple bottle, a pool cue and a lit cigarette (Moxley, May 6, 2004).

After their initial arrest, the Haidl gang rape trial dragged on for the better part of four years. Despite what may seem like strong evidence, the first jury deadlocked, with only one juror[5] finding against the defendants. The first trial ended in a hung jury in June 2004. A second trial found the defendants guilty on multiple charges, but these charges were significantly different than those originally brought during the first trial. Instead of being sentenced for the original 24 felony counts, "Haidl had six guilty verdicts, Spann five, Kyle Nachreiner four…(and) all of them were foreign-object charges (Mickadeit, Mar. 30, 2005). Despite a guilty verdict, then, Haidl and his friends were able to avoid the 55 years in prison they could have received for a full conviction on all charges (Srisavasdi and Welborn, June 29) and instead received six year sentences, including time served (Moxley, Mar. 19, 2006) meaning that Haidl had to serve only

[5] June 28, 2004: The jury, consisting of 8 men and 4 women, deadlocked and declared a mistrial. A few hours later, Haidl attended a party celebrating his release, at which he engaged in sexual intercourse with an underage girl. He was brought up for statutory rape a second time for this incident. Source: *OC Register* "Haidl Timeline" Saturday, March 11, 2006

21 months (Moxley, Mar. 11, 2006).[6] Significantly, their ultimate convictions were for sexual assault with foreign objects, not rape, so both the number and type of charges were reduced in order to get a conviction during the second trial (Mickadeit, Mar. 30, 2005). The core of the disagreement between the first jury and the second jury lay in divergent readings of the rape video; while jurors in the first case claimed they "saw movements that were consistent with a level of consciousness that showed (Jane Doe) was actively participating" (*48 Hours*, Nov. 20, 2004), jurors in the second case agreed that Jane Doe was unconscious throughout the filming (Mickadeit, Mar. 30, 2005). The specifics of the Haidl case call into question the way rape is discussed, understood and performed in America today, as well as what impact dominant rape narratives have on constructing survivor experience and legal prosecution. How was the defense able to create ambiguous readings of what may seem like a straightforward representation of the evening's events? How was the case affected by the identities of those involved in the trial? What, ultimately, does it mean to be raped behind the Orange Curtain, and how can a reading of the Haidl case elucidate how the violence of dominant rape narratives may be contested by alternative readings which privilege the victim over the victimizer?

What Does it Mean to Talk About Rape?: Myths and Narratives in Rape Discourse

As part of an ongoing transformation of the American symbolic system, the rhetoric of rape …allows us to reassess the changing function of …texts within this cultural development… (T)he meanings culture assigns to sexual violence evolve from an interplay between constructions of cultural parameters of identity and difference (such as gender, race and class) and their specific forms of representation. – Sabine Sielke, (2002, 7)

Perhaps no act of violence is more entrenched or prevalent in popular American media than sexual violence. From depictions of actual cases to imagined scenarios in television shows and films, rape and the threat of rape are everywhere in the popular imagination of the United States.

[6] At the time of writing, Haidl, Nachriener and Spann had begun serving their sentences. They have since been released.

While rape discourse does not approach the actual first-hand experience of rape, much as "talk about love rarely ever hits its target" (Sielke, 2), these discourses provide the only way for those who do not experience the act itself to understand rape; it is only through watching depictions of rape that the public comes to recognize the settings, actions, and emotional and physical repercussions that mark a rape and establish it as separate from other types of violent crime. Joan Didion claims that crimes are "universally understood to be news to the extent that they offer…a story, a lesson, a high concept" (cited in Sielke, 1), and, however erroneous or truthful those lessons may be, they nonetheless lie at the core of much reporting, representation and discussion of rape as both crime and social phenomena. Television violence is, in fact,

> a dramatic demonstration of power which communicates much about social norms and relationships, about goals and means, about winners and losers, about the risks of life and the price for the transgressions of society's rules. (Gerbner, Gross, Signorelli & Morgan, 1980; 710)

Stories we tell about rape, whether fictional or steeped in journalistic sensibilities about realism, serve not only to inform but to instruct; rape discourse is in fact a type of generative discourse that creates "structures of feeling" (Williams, 1977) which teach people how to act in particular contexts. These "rape narratives" tell us who is involved in rape, what rapes are and are not and when and where rapes do or do not happen. Additionally, and perhaps most importantly, these narratives allow us to see how our responses to rape function on multiple levels that expose social ideologies surrounding crime, sexuality and the relative identities and power relationships of different social actors. As mentioned in this section's epigraph, literary scholar Sabine Sielke argues (2002) that the complex "meanings culture assigns to sexual violence evolve from an interplay between constructions of cultural parameters of identity and difference (such as gender, race and class) and their specific forms of representation" (Sielke, 7). Popular conceptions about gender, sexuality, race, class and place infuse discourse about rape.

Such intersecting identity and spatial constructions can be seen both as guiding forces that structure the dominant discourse strands which appear in all rape narratives and as elements to be interrogated in the media coverage of individual rape cases.

While the Haidl case is but one example of mediated rape discourse, many argue (Projansky 2001; Sielke 2002; Cuknalz, 2000; Matoesian 2001) that all rape discourse functions as a type of concept construction. Repeated portrayals of rape construct a very particular narrative structure for the event and naturalize this structure in a way that makes the telling of rape and the doing of rape nearly inseparable. The complicated interplay between instances of sexual violence as experienced by individuals, as represented in news media, and as interpreted in fictionalized accounts generates intersecting ideas about race, gender and class that, through repeated iteration, keep monitoring "our perception and interpretation of real rape" (Sielke, 7). Rape discourses "have the capacity to inform, indeed embody and make way for, future actions, even physical ones" (Projansky, 3). Media representations of rape, then, have a constitutive and productive quality, both creating conceptions of rape and making instances of actual rape harder to separate from social narratives about rape and sexuality. This is particularly significant given existing research about how people rely on the media as a source of information. In 2005, the Kaiser Family Foundation found that up to 80% of teens acknowledge getting some or all of their information about sex from the media, and simultaneously that images of sex and sexuality on television had nearly doubled between 1998 and 2005 (Kunkel et al., 2005). Additionally, many researchers have found a strong connection between acceptance of dominant rape narratives and an inability to identify actual sexual victimization, as well as a strong tendency to blame the victim of the violence for the incident (Estrich, 1987; Varelas & Foley, 1998; Peterson & Muehlenhard, 2004). It is clear that talk about rape serves to create specific social

commonplaces which inform our expectations about the social world and the nature of sexual violence.

Rape discourse is a very particular form of "generative and performative" discourse (Projansky, 2) that is tied to particular ideologies surrounding identity. Rape discourse not only tells us the 'how' and 'when' of rape, but also the 'who.' Just as the act of a rape is inherently culturally situated, the discourse of rape has implications outside of and beyond the act itself. Rapes always occur within specific social frameworks, and so rape discourse has its own dominant narratives, and "these narratives are inextricably intertwined with constructions of sexuality and gender" (Sielke, 2). Rape discourse, then, not only constructs and reiterates those actions that can be understood as 'rape,' but likewise shows how rape and gendered sexual identities are connected. Through rape narratives, gender becomes inextricably linked to the possession and exchange of power. Exposure to dominant rape narratives impacts how the public is able to read rape as a social phenomenon, so that "readings of rape …limit our understanding of sexual violence…(and) the very discourses that establish gender differences in sexuality also construct female sexuality as victimization" (Sielke, 3). In a society like the United States, gender constructions are intimately tied to the discourse of violence, and talk about rape becomes a way of talking about socially appropriate behaviors and boundaries for sexual and gender expression. But as no individual is merely a gendered body lacking other identity signifiers, rape discourse is not merely a discourse of sexuality and gender. Some have argued (Sielke 2002; Giddens 1992) that talk about rape necessitates talking about other elements of modern 'identity projects,' because it is nearly impossible to separate one element of identity, such as gender, from other elements, such as race and class.

Because of America's history of racial segregation and class struggle, the "who" element of rape discourse in the US is not only highly gendered, but becomes intimately tied to the construction of racial and class identities. Previous analysis of the connection between race, class and rape discourse has shown that rape narratives which specifically feature women or men imperiled by the 'other' in terms of race or class highlight prevalent fears about such social 'mixing' (Ono 1997). This is particularly true in the contemporary US, where rape narratives tend to be "over-determined by a distinct history of racial conflict….that (then) tends to over-determine issues of class" (Sielke, 2). The way multiple layers of identity are constructed within rape discourse links these layers and ties them inextricably to identities within the discourse, and rape discourse becomes a fertile ground for the expression of social unrest and concern over changes in roles. Crucially, the layering of meaning in rape narratives has, over time, produced a specific set of dominant, popular rape myths. While rape myths are generally understood as stereotypes or false beliefs, they nonetheless hold a powerful sway over how people view the identities of rape victims and perpetrators. Some dominant rape myths in America include the following: "Rapes only occur between strangers in public places," "Many women wish to be raped," "Victims who fail to report to the police right away were not really raped," and "Only bad girls get raped" (Schechory and Idisis, 2006). These myths appear again and again in rape discourse, and provide a structure that both allows rape narratives to be readily accepted and limits the number of activities that people understand as being present in a legitimate rape.

While rape myths function to provide a way to approach an understanding of the act itself, they also highlight popular and localized anxiety about shifts in social stratification and provide a direct consequence for actions that push the boundaries of "appropriate" behavior. In *Watching Rape* (2001), Sarah Projansky argues that contemporary rape narratives in television and cinema

programs consistently reflect this anxiety and function to reiterate highly gendered class and racial differences, while also making those differences seem like an insurmountable and concrete fact. Contact with social "others" is then seen as a 'natural' breeding ground for sexual violence. In narratives which explicitly link a rape to economic or racial disparities, the rape functions to "return characters to a gendered and classed status quo in which…gender and class differences are obscured…(or) to articulate an apocalyptic perspective on shifts in these social categories that suggests the worst will happen if one does not remain in one's designated gender and class position" (Projansky, 39). Rape discourse evolves through interweaving conceptions about race, class, sexuality and gender that highlight specific social constructs of appropriate behavior and act as cautionary tales about the danger of mixing these social categories, which are then reified and naturalized through the rape discourse itself.

Another significant, and often overlooked, element of rape discourse is that it tells us "where" interactions between social others will most likely lead to a rape. In *Reading Rape* (2002), Sabine Sielke argues that the proliferation of images of Black and Latino rapists, the most identifiable male "others" in contemporary America, is intimately connected in rape discourse to the myth of *public stranger* rape. This myth, one of the most frequently used in news media, claims that rape is something that happens most commonly in 'dangerous' public spaces, late at night, when a victimizable person, generally a woman, makes the mistake of being alone. By focusing on these elements, the dominant narratives of rape discourse assure us that rape "is an encounter between strangers" (Sielke, 2) that can be avoided if people remain within appropriate social spheres. Critically, this construction also delimits racial and class identities within the discourse. The preponderance of images of social 'others' as rapists, combined with racial ideologies that have developed over the course of American history, means that the identity of

'real' rapists is tied to racist constructions of violence, class and masculinity. "Real" rapists, then, are not only gendered male but specifically raced as non-white. And since the myth of public stranger rape requires understanding rape as an encounter between strangers, the victim is inherently racialized and gendered as white and female in opposition to the male/minority identity of the perpetrator.

It is important to note that this "public stranger" construction contradicts all contemporary statistical research on rape. According to the National Crime Victimization Survey, 78% of rape victims know their assailants and 75% of sexual assaults/rapes occur in either the victim's home, the home of a friend, or a school. Only 2 in 10 sexual assaults occur in 'public' places, which are defined as spaces outside the home (US Dept. of Justice, 2013). The myth of public stranger rape, then, serves a particular ideological function; by implicitly connecting very specific representations of race, gender, class, sexuality, violence and *space* within the dominant narratives of rape discourse, this myth represents a particular and powerful representation of what rape "is" that obscures actual data about when and where rapes occur. Sociologist Greg Matoesian employs a feminist structuralist model to analyze rape discourse, arguing that the power explicitly served by this contradiction is the powerful force of patriarchal oppression (1993/2001). If rape myths and narratives train people to see rapes as extremely violent events that occur in dangerous public spaces, and only occur between strangers, it becomes more difficult to see rape as a crime that can occur within intimate relationships, in homes and without obvious evidence of physical violence.

Considering the issue of space and place when reading rape narratives and examining the myth of public stranger rape is particularly important, as the 'where' of rape myths puts focus on the creation of *spatial identities*. Spatial identities play a crucial role in outlining the nature of

rape by providing both a physical locality for the act and an attendant social meaning to the act. The use of spatial identities to legitimate or dismiss claims of rape often draws from popular meanings associated with the place, which can then also become part of the popular discourse surrounding rape. In other words, the narrative logic of spatial identity in rape myths claims that if rapes occur in public places because these places are 'dangerous,' then they cannot possibly occur in private homes, as these are 'safe' spaces removed from the danger of public life. Here the logic of "public stranger" rape serves an explicitly patriarchal function, as it contradicts the classic feminist trope that "the personal is political," and that private spaces should be seen as spaces of political significance (Lamphere and Rosaldo, 1974). If rape discourse is both reflective and generative, then narratives that create an explicit link between a place and a rape can impact the way both a particular rape case and the place in which it occurs are read and understood. In a study of a gang rape in Australia, Kate Warner argued that reports of a gang rape in the Bankstown suburb of Sydney showed how "a localized story about crime can become "racialized" and linked with debates about asylum-seekers and terrorism" and how localized space, gender, race and class can become connected in a way that impacts the rape trials and create a popular, though not unproblematic, link between the place and the crime (345-46). The multiple ways in which rape discourse constructs intersections between gender, sexuality, race, class and spatial identities can have a formative power that creates "structures of feeling" which then influence how the crime is both figuratively and literally managed in both public and legal settings.

The location of the Haidl case is significant both because Orange County has come to have a particular place in the US public imagination and because examining discourse about Orange County can help expose how ideologies surrounding modern identity projects were highlighted

in the Haidl trial discourse. Understanding a controversial rape that occurs in a place which has become such a prominent part of the American pop culture landscape requires examining how rape discourse, dominant rape myths and media narratives about place, race, gender and sexuality converge to present a picture of the who, what and where of rape. Because of the contradictions in the evidence presented, how that evidence was initially received by the jury and the public, and the conflicting media coverage of the trial, this particular case presents an ideal opportunity to understand how rape discourse can influence both public opinion of rape and the legal outcome of a trial. An analysis of the many elements of this case will not only allow for a better understanding of the case itself, it will also open up a new way of understanding how rape discourse is impacted by contemporary and historical constructions of identity and how that discourse might be affecting representations of rape within the contemporary, heavily mediated, social landscape.

Reading the Haidl Case: Intersectionality, Cultural Studies and Media Discourse

In reading the Haidl case, I am particularly concerned with examining intersections of identity construction and how identity formation itself often acts as a locus of domination. Emerging from the Combahee River Collective and coined by critical race and legal scholar Kimberle Crenshaw, 'intersectionality' evolved out of an examination of the unique position of black women in the context of domestic violence. Marginalized in the legal system because the specificity of black female experience entailed multilayered and routinized forms of domination, and doubly marginalized within the patriarchal Civil Rights movement, black women's lives highlight the need to re-conceptualize simplistic identity politics that positions identity factors as discrete. Rather, Crenshaw argues, black women's lives highlight how the layering of multiple minoritized identities creates specific experiences within the social world (1995).

Intersectionality as a theoretical approach was then developed to examine how women of color exist in a space of interlocking
subordination. My analysis of the Haidl trial as a rape narrative is built on intersectionality and uses this approach as an analytic tool to interpret the connections between multiple identity markers that are evoked through rape discourse. These connections form a type of "representational intersectionality" that elucidates "the way in which…(cultural) images are produced through a confluence of prevalent narratives of race and gender" (Crenshaw, 282). Because rape discourse specifically combines conceptions of space, class, race and gender within its dominant myths and narratives, examining the intersections of these factors can show not only the ideologies that structure rape narratives but how rape narratives function in different locales to reveal, constitute and reconstitute social hierarchies and power structures.

Approaching an examination of the "representational intersectionality" of the Haidl case discourse makes it particularly important to consider the way that media representations influence and structure cultural practices, social interactions, and processes of subjectification. This consideration is most effectively achieved by analyzing the case discourse from a cultural studies perspective, as cultural studies has long been concerned with understanding how "hegemony, as well as the individuals subjected to hegemony, came into being at the intersection of multiple, potentially contradictory ideologies/discourses," and how seemingly natural and static social practices and identity categories "thus could claim only a precarious stability" (Lennox, 2-3) and are therefore potentially subject to radical deconstruction for the purpose of political progress. Cultural studies as a method of inquiry aims to interrogate practices of meaning production, and while the intellectual landscape of cultural studies has taken a variety of turns since its

inception, the mode employed here is largely built upon the foundational work of the British tradition developed by scholars such as Richard Hoggart and Stuart Hall.

In examining the Haidl case I will be explicitly analyzing the negotiation of cultural signification in text. I will argue that these texts are encoded with particular classed, racialized, and gendered meanings that reference historical and cultural ideologies while simultaneously influencing both the way audiences read the case and the outcome of the trial itself. My analysis of the Haidl case discourse as a particular site of ideological negotiation is grounded firmly in Stuart Hall's work on representation as a signifying practice that embeds material culture with meaning. In his discussion of the study of representation and the linguistic turn in modern social theory and structures, Hall argues that meaning-production exists within three different levels, "the material, the conceptual and the signifying," and that these connect and "are governed by our cultural and linguistic codes" (35). We 'make sense' of our material experiences through these meaningful codes, and thus understandings of the material world are negotiated through language. While
material culture exists, it is language, discourse, and text that give that culture meaning. Thus it is discourse itself that provides a lens for understanding cultural practice, and cultural practices reflect shared, historically developed, culturally situated, and highly contextual assumptions that are constantly being contested and renegotiated in texts. This negotiation is possible because language is not static but is constantly being subjected to interpretation, and thus meaning is created within and through interpretations of language (Hall, 1997). It is this issue of the negotiation of meaning that I wish to address in looking at the Haidl case; by examining the ways in which meaning is created, negotiated and managed, as well as historicizing the types of

discourse that frequently appear in rape narratives, I hope to show how the very fluidity of language allows specific cultural ideologies to emerge.

Using this theoretical framework means that my analysis is predominantly concerned with viewing the media discourse of the Haidl case as a site wherein powerful ideologies find expression and have a strong determinative power over how audiences perceive the case. Elucidating the connection between representational texts and social practices is imperative, not only for creating an accurate picture of the Haidl case, but for centering this picture squarely on the relationship between manifestations of ideology in discourse and the perpetuation of inequalities in material culture. As Rosa Linda Fregoso reminds us, though the main object of study for the cultural scholar may be text, to separate text from practice is to engage in an apolitical form of critique that ignores the social processes that perpetuate the inequalities cultural studies was partly developed to address (1989). Interrogating conditions of inequality is what justifies holding on to differential identity categories as meaningful sites of analysis, and so my analysis of the Haidl case is concerned with articulating precisely how material conditions of inequality are manifested and reinforced in the discourse. The mode of inquiry of cultural studies is precisely suited to this interrogation, as it is a "multidisciplinary, cross-cultural and comparative" (Henderson, 47) one that "entails an examination of material and concrete cultural practices in the context of the conditions of their production and reception" (Henderson, 42).

A cultural studies inquiry, then, necessitates examining a variety of material cultural practices using a multidisciplinary approach that allows for different cultural products and ideologies to be connected and examined using multiple theoretical constructs and frameworks. Cultural studies also aims to interrogate identity politics and, here, will help expose the constructions of gender, race and class that lie at the heart of dominant rape myths. Even more importantly, cultural

studies attempts to effect the "dissolution of the boundaries between so-call 'high' and 'low' cultures as valorized objects of study" (Henderson, 42). As we have seen, the Haidl case not only relies on the intersections of identity politics for meaning, but is positioned within the particularly powerful cultural sphere of Orange County. To remove the Haidl case from its cultural context would be to ignore some of the most potent aspects of the discourse, and the only way to really discover "what happened" in the rape discourse and how it may have affected the outcome of the trial is to consider the multiple cultural products that have developed outside and around Orange County culture.

In addition, my analysis will present the Haidl trial as a case study that illustrates the relationship between representational culture, trauma, healing, and subjectification. Subjectification, or the construction of the individual subject (Deleuze and Guttari, 1980) relies on processes of interpellation. According to philosopher Louis Althusser, interpellation, or hailing, 'is the process by which "ideology 'acts' or 'functions' in such a way that it 'recruits' subjects among the individuals…or 'transforms' the individuals into subjects" (1970). Interpellation, in other words, constructs the nature of the individual subject's identity by 'hailing' them into pre-existing categories of being. This action then produces the subject through hegemonic discourses that exist prior to the subject and yet construct the meaning of subjective experience. Representation acts to construct experience in ways that may be slightly or even tremendous different from the way the subject experiences that reality. In this gap lies an immense, powerful, and violent unspeakability.

Scholars from Luce Irigaray to Judith Butler have used the idea of the "unspeakable" to elucidate the way hegemonic ideologies produce identities, emotions, expressions, and ways of being that are illegible in dominant discursive forms. According to Judith Butler, the concept of

the unspeakable serves “to show that those binary oppositions [in this case, of male/female], are formulated through the exclusion of a field of disruptive possibilities” (2002). Both Butler and Michel Foucault have expanded on this concept to examine the way dominant knowledge regimes operate to curtail ambiguity and fix meaning through processes of representation. Building on Foucault’s analysis of social critique as a process that helps us escape our “uncritical habits of mind,” Butler argues that

> “one asks about the limits of ways of knowing because one has already run up against a crisis within the epistemological field in which one lives. The categories by which social life are ordered produce a certain incoherence or entire realms of unspeakability” (2001).

Here, Butler articulates the way dominant social structures prohibit certain forms of knowledge, understanding and experience from being easily expressed or understood within existing representational modes and norms. This is particularly true within the social spheres that generate and enforce dominant social and legal power, such as the court system.

If representation in the media and the legal system acts as a site of cultural meaning production and identity construction, it follows that how we talk about rape has a profound impact on the construction of the victim-subject. This construction is heavily linked to trauma, which operates in two ways, “both of which block normal channels of transmission: as a memory one cannot integrate into one's experience, and as a catastrophic knowledge that one cannot communicate" (Ronell, 287.) The unspeakability of trauma evolves from the power of hegemonic cultural representations. However, scholars like Peggy Phelan have written extensively about the “slipperiness” of representation; according to Phelan, representation produces “excess” meaning that “creates a supplement that makes multiple and resistant readings possible.” Representation, being constructed through ideologies, produces ruptures and gaps that skirt along and underneath the edges of the real. Given this, Phelan argues “that close readings of

the logic of representation can produce psychic resistance and, possibly, political change" (2). In the case of rape, this political change can broadly include new methods for healing, challenging the unspeakability of the victim-subject position, and reconstituting healthy subject identities. As identity does not reside in the subject, but rather "emerges in the failure of the body to expressing being fully and the failure of the signifier to express meaning exactly" (Phelan, 3), examining the Haidl case provides an opportunity to consider not only the violence of dominant representations and how they impact the legal system and rape victims, but how cultural studies can serve as a form of praxis which helps generate new, radical, creative responses to violent cultural norms.

The Slipperiness of Representation: De/Constructing the Unspeakable Subject

"I just don't know how to say it…it's like there's no way for me to explain myself. What they took from me was everything. I keep thinking it'll never happen again. After it happened, I promised myself it would never happen again…but I can't even keep that promise, because it does happen. Over and over again." – Carmen, rape survivor

"The victim who is able to articulate the situation of the victim has ceased to be a victim: he or she has become a threat." – James Baldwin

To affect a multidisciplinary analysis of the Haidl trial, I begin from the critical and feminist standpoint that self-reflexivity and a drive for social change are active and vital components of good scholarly praxis. Shulamit Reinharz notes that feminism is a perspective more than a research method (1994); the same could in fact be said for cultural studies, which supposes a particular viewpoint on the nature and goal of research while allowing for the use of varied methods in the research process. Reinharz further argues that, in feminist research, learning should "occur on three levels: the person, the problem and the method" (McDonald, 2001). To that end, my analysis of the Haidl trial begins with a preface: an autoethnography that examines my stake in the Haidl trial and relationship to

representations of sexual violence and unspeakability. Stuart Hall acknowledges the need to "speak autobiographically" in scholarship "in order not to be authoritative" (1992, 277). Speaking autobiographically allows for my perspective as researcher to be exposed while also avoiding the potential for overgeneralization. Additionally, as Ann Gray argues, "experience can be understood as a discursive "site of articulation" upon and through which subjectivities and identities are shaped and constructed" (Gray, 25). Articulating my experience with the issues involved in this case highlights the performativity of my role as scholar and the construction of my own identity through regimes of unspeakability.

My examination of the Haidl case - the "problem" - then begins with an analysis of identity construction and representation in media and trial discourse. Chapter 1, "California Dreamin': Spatial Identities in the Orange County Landscape," examines how dominant images of Orange County as a privileged, white playground mingled with ideologies of guilt and innocence in trial representations. In Chapter 2, "Minstrelsy and the Performance of Rape: Interrogating Racial Constructs" examines how the case was depicted using tropes from racialized rape narratives. Finally, Chapter 3, "'She Knew How to Use Her Body': Gender Roles and Postfeminism," discusses how contemporary ideologies of "postfeminism" structured trial testimony and media discourse around Jane Doe and other women who testified during the trial. In these chapters, I consider as many articles about the Haidl case from both print and television media as possible, and compare them in order to uncover the most dominant strands within the discourse. I also discuss a representative sample of the cultural products that influence both the case and the ideologies that structure contemporary identity representations, and then relate these throughout to the discourse of the Haidl case itself in an interweaving pattern.

In approaching the substantial body of texts that comprise the Haidl discourse, I

perform a close, comparative reading that situates the disparate strands of the discourse in direct relationship to each other as well the multidisciplinary theories and historical circumstances that invest them with particular, contextual meanings. Uncovering the dominant discursive threads in this way allows me to examine the particular theoretical constructs that most directly shape representations of space, class, race, gender and rape more broadly. This method of critical reading ultimately allows me to create a topography of the Haidl case which positions different constructions in relationship to each other in order to expose how particular repressive ideologies are being expressed within the larger case discourse. Within this topography it becomes easier to see how exactly the case developed in the way that it did as well as opening up new possibilities for contesting the relationship between text, ideology and cultural practice.

This process of collecting pieces of the Haidl case discourse involves trying to consider all pieces as having something significant to say about the case, but at the same time acknowledging that certain texts are more significant, more representative or more easily attained than others. By far the strongest textual evidence I examine here comes from the selection of newspapers and television programs that both covered the trial most extensively and were most accessible to me. I have placed a substantial focus on the writings of R. Scott Moxley, a reporter for *The OC Weekly*, an Orange County-based newspaper. This focus is mainly due to the fact that Moxley seems to have produced the largest quantity of writing on the case as a result of following the case closely and attending Haidl trial days on a regular basis. While other local and national journalists, including Frank Mickadeit from *The Orange County Register* and Dana Parsons from *The LA Times,* also covered the Haidl case, their reports were far less frequent and comprehensive. Though Moxley's coverage of the case presents an impressive depth and provides the most detailed reporting of the progress of the trial of any examined here, it is

marked by a clear bias in favor of Jane Doe. This bias, however, is balanced by most of the other news articles, which almost universally privileged Haidl's point of view and were much more sympathetic to the defendants than to the victim. I consider the tensions between different media representations of the case in my readings of the media discourse, as how the case is presented in different formats has a clear impact on spectators.

While examining the dominant media narratives of the Haidl case, I consider the discourse produced within the legal proceedings and the public discourse that surrounded the trial to be inextricably linked through the inclusion, in both, of the dominant rape myths that influence public perceptions of crime. This consideration is partly due to practical limitations; despite attempts to contact the Orange County court system, I was unable to obtain official court records for the Haidl trial. As a result I have focused my attention on media representations of the trial. This tactic, however, is far from an impediment to understanding the case, as my goal in this analysis is not to truly discover "what happened" in the daily discussions of the trial, but to ask the broader questions of "what happened" in the media discourse surrounding the trial, how this relates to dominant social ideologies, how those ideologies then informed how spectators 'read' the case, and how this relates to the subjectification of sexual assault survivors. This collapse of trial discourse and media discourse is possible largely because previous research has show that juries often draw on the same prejudices and assumptions held by those in their cultural frame, and thus media representations of culture can have an impact on legal proceedings.

It is this organization of trial talk and the subsequent exposure of a victim's history and sexuality to public scrutiny that has led many feminist scholars to label both the feelings a survivor experiences when dealing with prosecuting her rapist and rape trials themselves as a type of "second rape" (Madigan and Gamble, 1991). Given the symbiotic relationship between

rape trials, public discourse and dominant cultural rape narratives, this 'second rape' can be seen as both occurring within the trial and within media discourse about the trial. Viewing rapes through multiple media discourses that build on each other creates a structure in which rape is reconstituted again and again in ways that both allow for the intersection of different power structures and perpetuated trauma within survivors and limit the efficacy of legal approaches to dealing with sexual violence. In other words, seeing how different types of discourse position a particular rape also makes it possible to see how hegemonic power structures (Gramsci, 1971) make any type of text, from fictional work to legal document, a "series of struggles for meaning" (Fiske, 1987). It is in these struggles for meaning that the gaps of ideology – the unspeakable rupture which silence survivors – are most easily seen.

What can be gained by specifically examining how both fictional and legal texts representing the Haidl case converge to represent certain meanings is an understanding of how different cultural products speak to the truth of power exchange and meaning production in this case. One of the most relevant cultural forms that impacts the Haidl case, aside from print news media, is that of television. In his analysis of television, Todd Gitlin argues that media represents a "soft tyranny, operating through stripped-down formulas that the networks selectively abstract, via other media, from mass sentiments," which are likewise informed by "the immense weight of mass culture's formulas as they have accumulated over the years" (203). While discourse about the Haidl case does not exist exclusively in the realm of television, it must nevertheless be considered as an extension of the multiple cultural forms that impact rape narratives, particularly as the spatial identity of Orange County is informed so strongly by television narratives like *The OC.* Indeed, in studying this case I have found that the spatial narrative represented in television productions centering on Orange County is one of the strongest narratives in this case. This

narrative creates a lens that focuses the other pieces of the case discourse. The first aspect of my analysis is an engagement with these spatial narratives. I examine them as a sort of “master narrative” in media representations of the Haidl case; representations of race and gender in the case discourse can only be fully understood when examining the case through the powerful media representations of Southern California life in general and Orange County in particular. This focus on spatial identity points to a particular bias in my interpretation, which is my belief that programs such as *The OC* can tell us something important about how people both inside and outside of Orange County come to understand what life is like there, and that this understanding is part of what structures readings of events that happen therein.

It is also this issue of spatial identity that structures my own interpretation of the Haidl case as well as my interest in the meaning of media representations of spatial, racial and gender identities in Orange County. Having grown up in Orange County, I followed the Haidl case as it unfolded over a nearly five-year period. I found the case frustrating because of its inconsistencies and obviously problematic representations, and enlightening because of what it said about life in the more privileged areas of the county. My own connection to the case structures the greatest bias of this analysis, which is that I fundamentally believe that something important happened in this case and that studying it can help expose both ‘what happened’ in that instance and what may be happening in contemporary rape cases more generally. I also believe that a rape did actually occur in the Haidl home on July 5, 2002. I see the result of the two trials as both a telling miscarriage of justice and an important opportunity to study the complex negotiations of meaning that marked the discourse surrounding the trial in order to understand why this injustice occurred.

My particular analysis attempts to build on previous analyses of rape narratives, identity constructions and legal discourse. The works of Sabine Sielke, Sarah Projanksy and Greg Matoesian are particularly relevant to my examination, as they each have developed nuanced readings of contemporary rape in the media and in legal settings. While Sielke and Projansky focus on the cultural landscapes of rape, reading literary and film representations of rape respectively, Matoesian does a careful analysis of the way rape trials function to constitute victims and perpetrators (c.f. Kulick, 2000). All three of these theorists have focused on rape in a modern context while also drawing on historical constructions of rape, race, gender, sexuality, class and spatiality. My intervention, then, is an attempt to find a way to bridge the gap in these works; by engaging with how a real rape trial is represented within multiple media modalities, I hope to explore how the cultural products studied by Sielke and Projanksy relate to the ethnographic discourse analysis of Matoesian's examination of rape trials and perhaps create a new bridge to identify the relationship between cultural products and the lived experience of modern subjectivities.

Finally, to address the issue of "method," I interrogate the potential for cultural studies to act as not just a scholarly method but also a radical form of cultural practice, or praxis. Chapter 4 is an experimental documentary I created through a reinterpretation of prominent Haidl case media representations. This film attempts to highlight how media narratives of the case privileged the perspective of the perpetrators, supported the silencing of Jane Doe and contributed to the "unspeakability" of her violation. The film allows for an opportunity to interrogate narrative techniques in this case in particular, as well as in the broader realm of rape narratives. My development of the film draws on scholarship in the fields of performance studies, trauma theory, and feminist film studies. What I propose with this film is both that alternative ways of

“speaking the unspeakable” can provide avenues for healing the psychic wounds of trauma and challenging our “trauma culture,” and that presenting the case in a style which highlights the constructedness of narrative can help produce “modes and sites of resistance” (Butler, 2004).

Sites of resistance are vital for survivors, as “(t)raumas that involve the sexualized body and the ‘neutral’ corpus of law contain within them reminiscences of events – imagined or real – that repeat other traumas.” The “law’s inability to heal a sexual wound” highlights that trauma is, in some sense, untouchable by the merely legal, as “the symbolic cannot carry it: trauma makes a tear in the symbolic network itself” (Phelan, 1997, 105). Addressing the unspeakability of the victim-subject position for sexual assault survivors therefore requires a critical intervention into the processes of meaning-making through representational media. Chapter 5, “Realism is Not Real: Mediated Crimes, Reconstituted Narratives, Unspeakable Subjectivities,” presents an analysis of the process of producing this film, an examination of the end result and a discussion of how it lends itself to an understanding of unspeakability. I engage with existing debates about the nature and value of cultural studies as both/either an academic and/or artistic practice. Scholar Peter F. Murphy, for example, argues that engaging more explicitly with cultural studies’ potential as a form of praxis allows students and artists to make more theoretically engaged, rigorous, and critical art. Given its focus on deconstruction of cultural meaning in representational texts, cultural studies then can and should be a way to engage in forms of cultural criticism and protest that work to alter dominant narratives. To this end, my analysis of and artistic work about the Haidl trial intends to generate both an understanding of and challenge to the violence of unspeakability as it manifests in dominant ideologies around rape, identity, and the law.

CHAPTER 1
California Dreamin': Spatial Identities in the Orange County Landscape

And they're gonna fall in love tonight
Underneath the Orange County sky
They sleep on the beach until they see the morning come
Life was over before it begun

We still got our MTV
Jay-Z and Gwen Stefani
Tivo for my sweet sixteen
And pre-paid AT&T
The things we think that we need
For our American dream
We're so perfectly Orange County
-Stefy, "Orange County" from *The Orange Album,* 2006

When the film *Orange County* was released in 2002, the meager buzz and lukewarm reviews it generated were hardly predictive of the massive explosion of Orange County cultural paraphernalia and imagery that currently marks American popular culture. Focusing on the trials of Shaun Brumder, a young man desperate to leave what he saw as a cultural wasteland for the hallowed halls of Stanford, the film showed the county as a place full of surfers, beach parties, bonfires and the privileges of white, middle-class youth. When Shaun's dream goes awry, it is left to him, his girlfriend and his perennially stoned brother, Lance, to storm Stanford and set things right. The ultimate message of the film – that one does not have to leave home to find inspiration – is encapsulated in the film's tagline about Orange County: "It's not just a place… It's a state of mind" (fig. 1). However, it was the introduction of Fox's *The OC* a year later, in 2003, which began to shape the popular image of Orange County as an "angst-ridden, master-planned, uber-affluent, ultra-materialistic, lily-white, Newport-focused suburbia" (Morris, 2007). *The OC* introduced the world to a vision of Orange County that was at once equal parts deliberate myth and American dream wish fulfillment. As the premiere poster for the show proclaimed, Orange County is "nothing like where you live. And nothing like what you imagine"

(fig. 2). *The OC*, then, depicted Orange County as a rarefied space set apart from the mundane lives of the viewing public and reserved for the play of wealth, privilege, and particularly adolescent visions of life and love.

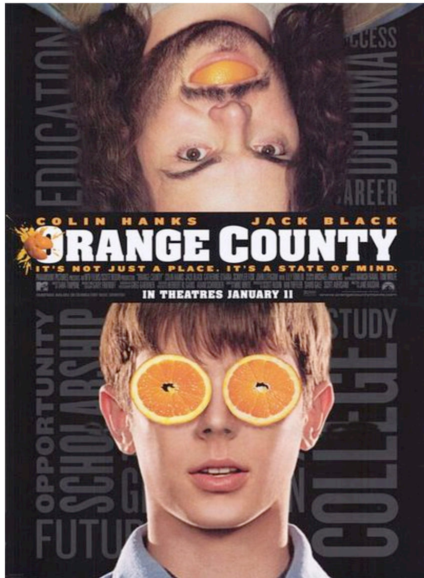

figure 1 (*Orange County* poster, Jan. 2002)

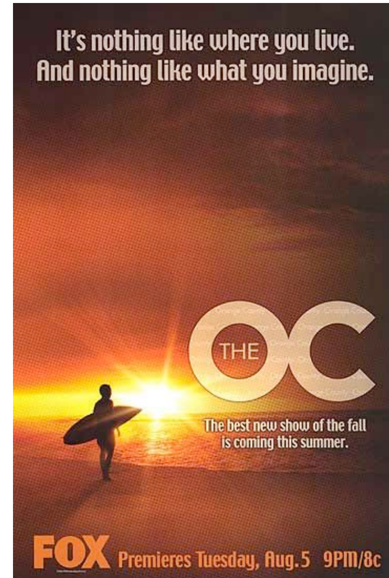

figure 2 (*The OC* premiere poster, Fall 2003)

Crucially, many have argued that the representations of life in *The OC* and its many spin-off programs does not mesh with either statistical or individual accounts of life in Orange County. According to the national census, Orange County is neither as uniform nor as affluent as such programs would have us believe; Latino and Asian-American populations count for 45% of the total population of Orange County, and though median house values and incomes are comparable to some of the more affluent communities in the country, over 10% of the population of Orange County is officially living in poverty (U.S. Census Bureau, 2010). More than one critic has remarked on the lack of representation of the diverse population and complicated history of the county. A 2007 article in London-based newspaper *The Independent* argued that the shifting reputation of the county, from a place of bland, middle-class suburbanites with reactionary politics to a place of greater social unrest plagued by all manner of ills, including poverty and

gang warfare, provided fertile ground for *The OC.* The introduction of *The OC* captured "something essential about the strange, confusing, funny world of suburban teenagers," while simultaneously popularizing the wealth of Orange County's dominant class in a way that obscured the social upheaval of the 1990s and made Orange County "this decade's epitome of desirability, just as the 90210 postcode in Beverly Hills was in the 1990s" (Gumbel, Jan. 2, 2007). Depictions of Orange County as an ideal of 'desirability' have led local critics to debate both the show's ability to capture Orange County life and the value of this representation. Ultimately, as Orange County-based writer Jim Washburn argues, issues Orange County natives might have with *The OC* may have been less about stereotyping the county and more about obscuring the reality of its complicated cultural, ethnic and class makeup. Washburn claims:

> My problem with "The O.C." wasn't that it made a soap opera of my home turf, but that we do a much better job of it on our own. You want embezzlements, corrupt politicians, the largest municipal bankruptcy in U.S. history (prompting OC Weekly writer Matt Coker to declare "We're not just morally bankrupt anymore"), murders where the bodies are dumped off a yacht, scandals that reach into the highest strata of society and civic life? We've got 'em aplenty. (MSN.com, Feb. 2007)

Media coverage of the Haidl case was developing directly alongside and in dialogue with these representations of Orange County. Indeed, Washburn invokes the Haidl rape trial in this same article about *The OC,* claiming that "(j)ust one Newport Beach criminal case alone—with such a high *ick* factor I won't begin relating the details here (search on defendant name Greg Haidl, if you must)—boasted more high-society teens-gone-wild sleaze than four seasons of "The O.C." could hope to contain" (Feb. 2007). Washburn's explicit connection between the 'high-society' of Orange County as depicted in *The OC* and the 'high-society' of the Haidl case not only shows the powerful way these cultural representations became intertwined in popular discourse, but forces the question of how these different issues may or may not actually be

related. Was the Haidl-trial an example of "high-society teens-gone-wild," as Washburn claims? Does the fact that the case happened in a particular space necessarily mean that popular images of that space affected representations of the case? Geographers have long argued that territories have their own identities, that "even the most seemingly arbitrary geographic units have the capacity to accumulate additional meanings," and that the meanings attached to territories can come to represent and form the identities of those who inhabit them (Kaplan and Herb, 1; Suttles, 1972). How, then, are class and space collapsed in representations of Orange County in popular media, and what affect might these particular identity markers have on the discourse of the Haidl case?

One of the main discursive functions of rape narratives is explaining where rapes do and do not occur. Most rape narratives, as Sielke and others argue, portray rapes as happening between strangers and in public or 'dangerous' places. Much has been written about the genesis of dominant American rape narratives and their intimate connection to slavery and the post-bellum shifts in American racial ideologies. And while race is clearly a dominant factor in this discourse, an equally important aspect of post-bellum American identity formation was that white masculinity was reconstructed as consisting of equal parts sexual, physical, political and *economic* dominance over women and black men (Sielke, 30).[7] Thus rape narratives that depict black men attacking white women in public places began as a commentary on class-based identities as much as on gender and racial identities. Historian Diane Sommerville argues that the evolution of this particular rape narrative in the post-bellum period accompanied the incorrect attitude that white women were never raped by black men before the Civil War. Her analysis of case files from pre-Civil War-era rape cases argues that such rapes did exist, and that, if anything, it was rare for slaves to be convicted of raping white women, especially when these

[7] Emphasis mine

women were poor. The differentiation between pre- and post-War rape narratives clearly reflects some of the social anxiety whites experienced due to the end of slavery, as well as how certain identity characteristics were privileged at particular political moments over others. However, Sommerville claims this difference can also be seen as representing the consciousness of upper-class whites of the period who “were speaking what they took to be the truth: *their* women were never raped, and those were the only women who mattered” (Sommerville, 1995). Class structures, then, are implicated in rape discourse as strongly as race and gender issues, and the interaction between all of these factors occurs specifically in spatial relationships.

Thus rape narratives, in constructing the ‘where’ of rape, are also explicitly engaged with generating gender, race and class-based identities that exist in conversation with and are contained within spatial identities. The nature of this conversation is key, as interactions between place, gender and race within a given territory can expose how “territory actively transforms the elements contained within it” (Kaplan and Herb, 2) by structuring both how other identity factors develop in a community and how they are seen outside of that community. Spaces become meaning-laden places through the intersection of other identity factors, and this intersection likewise allows regions to develop specific identities that “cannot be reduced merely to the regional consciousness (of those) living in (them)” (Paasi, 35). The same factors that turn an empty space into a meaning laden place are then likewise implicated in giving that place an identity that exists independent of the lived experience of those within it. How a population is divided based on identity factors can not only influence how that space develops but, in a cyclical and constitutive fashion, can determine how popular representations of that place develop and reinforce those spatial identities. Understanding the dual functions of spatial identities requires using a ‘geographic imagination,’ which

> enables individual[s] to recognize the role of space and place in [their] own biographies, to relate to the spaces [they] see around [them], and to recognize how transactions between individuals and between organizations are affected by the space that separates them . . . to judge the relevance of events in other places . . . , to fashion and use space creatively, and to appreciate the meaning of the spatial forms created by others. (Gregory, 176)

The geographic imagination, much like C. Wright Mill's sociological imagination, provides a way to think not only about individual interactions with space, but about how space and place shape group interactions and identities. It also opens up a way to examine not only the nature of spatial identities but the creative production and reproduction of these identities.

Since David Harvey's early conceptualization of the geographical imagination (1973), geographers and social theorists have been finding new ways to connect geography to cultural and critical theories in order to examine the relationship between space and place and the exercise of power within individual and institutional practices. Benedict Anderson's (1991) conception of imagined communities has proved a foundational avenue for examining the way individuals and groups come to produce, reproduce and consume images of space and place and how 'images' can have a powerful role in constructing ideas about geography and identity. Anderson claims that we publicly 'imagine' both nations, and the individuals and communities within nations, because we cannot possibly know even a fraction of the individuals, communities and lifestyles that make up a given nation. In order to foster a shared group identity and figuratively "make sense" of the many disparate elements that make a nation, mass print and visual media portray a "juxtaposition of stories" that, though depicting seemingly unique, localized events, also encompass the entire citizenship in a rhetorical horizontal bond" (Sharp, 98). Crucially, then, the 'imagined community' of a nation is actually built on the incorporation of multiple other, localized 'imagined communities', making stories about individual places both specific and universal by necessity. In his analysis of the relationship between postmodernism

and different theories of the meta-narrative, Kerwin Klein argues that the modern world presents this curious phenomenon, where "both the victory of the universal and homogenous state and the persistence of peoples" has meant that:

> there is the ever-increasing homogenization of mankind being brought about by modern economics and technology (on the one hand)…On the other hand, there is everywhere a resistance to that homogenization, and a reassertion, largely on a sub-political level, of cultural identities that ultimately reinforce existing barriers between people and nations. (1995)

While Klein's analysis is predominantly focused on the rise of new master narratives within subaltern communities, his proposition can be extended to examine how multiple geographic scales interact in the production of national, local and individual identities. Within geography, 'scale' is an ever-changing and problematic proposition that has faced much criticism in recent years by feminist, critical and subaltern scholars. Originally envisioned as the literal use of cartographic scale, or the relationship between geographic distances and their representation in maps (Silvey, 2006), scale has more recently been broadened to allow for an understanding of how different spatial scales – from national to local to homes to individual bodies – are related and, in fact, interconnected often to the point of interdependence. Scholars examining the creation of national identities and using Anderson's idea of imagined communities have looked at how national and local "spatial identities are roughly nested within one another" while at the same time "each may have some claim on individual loyalties" (Kaplan and Herb, 4). Feminist scholars have similarly begun unpacking the early assumption that the home was a uniform scale that required little analysis. Examining the spatial construction of homes has allowed geographers to explore the "construction of the scale of the household as it hinges on the spatialized interplay between patriarchal structures and the agency of gendered subjects" (Silvey, 2006). And feminist geographers have further developed the Foucauldian (1979) notion that

normalized bodies exist as sites of struggle, in which different discourses battle for authority, by considering the body as an additional scale upon which spatial identities are written and through which spatial identities are performed (Duncan, 1996). Spatial identities, then, exist within different scales, yet different scales are so connected and mutually referential that distance between scales is largely illusory. The national, local and individual as meaningful scales of spatialized identity production only exist in dialogue and therefore must be considered as differently positioned versions of each other.

It is this issue of scale, how identities are manifest within different scales, and how these interconnected scales and identities interact within a media-produced cultural landscape that is most important in considering the Haidl case discourse. The study of landscapes is particularly important here, not only because of the role media discourse has in shaping conceptions of landscape, but because understanding the Haidl case as related to a larger 'cultural landscape' of Orange County allows for a better understanding of the role of spectatorship and the scopophilic gaze in constructing the 'truth' of the case. Historically, "landscapes have been exempted from moral responsibility due to their imagined nature" (Dowler et al., 3). Landscapes were long considered to exist purely in the visual realm, as viewable objects like paintings, photography and film. However contemporary analysis of landscapes considers not only what is 'viewed,' but the complicated nature of visuality in general and the role of social power in determining the nature of visual modalities and viewership. Gillian Rose and other feminist geographers have expanded this idea of visuality as relating to not just what is viewed but how viewership both speaks to and reifies power structures; while vision is what the eye is capable of seeing, visuality refers to how we see, "how we are able, allowed or made to see," and how we process the nature of seeing landscapes and who is seeing and being seen within them (Rose 1988). Landscapes,

then, do not merely show a place, they construct a place through meaningful and deliberately chosen images that speak to things such as group membership, social status and the division of social power among and within different spatialized identities (Dowler et al, 6).

Crucially, media discourse plays a powerful role in crafting the way viewers experience contemporary cultural landscapes. This relationship is experienced through the process of voyeuristic looking which Laura Mulvey characterized as the scopophilic gaze (1975). The meaning of landscapes is created in the viewing process, in which the object is presented for the viewer to consume, and that process always involves elements of detachment, possession and pleasure in the powerful enactment of consumption. Mulvey's critique focused on the gendered and sexual nature of the gaze, arguing that "(i)n a world ordered by sexual imbalance, pleasure in looking has been split between active/male and passive/female" (309). This gaze is particularly relevant in analyses of film and television narratives, as "film has been called an instrument of the male gaze, producing representations of women, the good life, and sexual fantasy from a male point of view' (Schroeder, 208). Spectators of mediated landscapes experience visuality in different ways because visual representations are built to cater to the interests of those in positions of social power and authority, particularly men. These differing experiences of visuality speak to the fact that landscapes carry powerful messages about the relationship between space and identity while simultaneously exposing the underlying structure of those social relationships within the depicted space.

In this way, the "continuous, dialectical struggles of power and resistance among and between the diversity of landscape providers, users and mediators' (Aitchison et al., 2000: 19) shape how landscapes are portrayed and consumed. Landscapes, then, are "simultaneously the medium for and the outcome of social action and relation," and as individual landscapes are both constituted

and constitutive of human action, "landscape formation is also subject formation and the social reproduction of dominant ideological roles" (Potter 2004). Ideological expression through landscapes makes them not just things to be viewed but "ways of seeing" (Berger, 1972) that structure how spectators will view landscapes and influence how spectators will interact with the place being represented. Being a spectator of a media landscape involves not only consuming a complex manifestation of meaning-laden space that draws on and reaffirms inherently privileged visions of the world, but also partaking in a 'way of seeing' that obscures the often contentious power struggles that form places and communities while also catering to the scopophilic pleasure of gazing on media representations of space.

The relationship between different scales of spatial identity, how they become represented through and within media landscapes and the complicated process of spectatorship and consumption of landscapes is particularly important for reading representations of class and privilege in the Haidl case. While the repetition of rapes in public, dangerous places forms a strong core of most dominant cultural rape narratives, the Haidl case discourse ran explicitly counter to this theme. The very fact that the rape of Jane Doe took place between acquaintances and within a home in a very specific, and very privileged, neighborhood meant that aligning the case with dominant rape narratives of public stranger rape was impossible. This impossibility created a rift in Haidl case discourse that both complicated representations of the case and had a strong influence in how the case was read within the media. And as Paasi argues, spaces cannot be reduced to the consciousness of those living within them, and neither can people living within a place truly know it without relying on the process of 'imagining' communities as Anderson's theory of national identity development claims.

Thus, it is my contention that representations of space, from the space of Orange County to Haidl's home to the very bodies of the perpetrators and victim themselves, act in this case as a dominant narrative that influence and structure media representations of the case. This media-created cultural landscape of Orange County actively influenced how everyone, from media spectators to those involved with the actual trial, read the identities of the defendants and victim, and had a determinative power over racial and gender constructions. To better understand how different spatial scales were structured in the media landscape and how the Haidl trial became a part of this landscape, I examine intersections between macro-level representations of Orange County as a place and micro-level representations of both the Haidl home and the defendants.

Nothing Like Where You Live: Class and Privilege in Orange County

When *The OC* premiered in 2003, it almost immediately turned Orange County into the trendy new zip code, and its popularity among teenagers and young adults continued through its four seasons. The fact that the show ignores much of the county it claims to depict, focusing only on particular areas of the county and skipping those "that may not have been as desirable as the show creators would have wanted them to be" may in fact be lost on *The OC'*s legions of fans; in his discussion of the end of the series, media critic Evan Jacobs describes encountering a young girl who, upon hearing that he lived in Orange County, became wide-eyed and refused to listen to his description of the poor, ethnically diverse and non-beach community areas of the county. "I knew that she was a fan of *The O.C.,"* Jacobs says, and no matter how hard he tried to convince her otherwise, "I could tell by her look that she was imagining the magical place depicted in the show." (Feb. 20, 2007). The multiple shows that have followed on the heels of the success of *The OC* have all shown a concurrent vision of a white, affluent, conservative Orange County. In 2004, MTV introduced the reality series *Laguna Beach: The Real Orange*

County, which followed the lives of a group of high school seniors from Laguna Beach, an area attached to Newport Beach in the tony South Orange County beach communities. In 2006, Bravo premiered *The Real Housewives of Orange County,* another reality show, in this case following the lives of women who inhabit Coto de Caza, one of the oldest and wealthiest of the planned and gated communities in Orange County. While these shows ostensibly take place in different parts of the county, they are unified in their portrayal of wealth, privilege and whiteness, and they feature prominently in the current cultural landscape of a mediatized Orange County.

The image of sun-drenched privilege that speaks through most of the television depictions of the area is at odds with the experiences and, in some cases, the cultural products that some feel marked Orange County during the 1980s and 1990s. Tony Cadena, founding member of rock band The Adolescents, summed up the odd double consciousness of living a working class life in Orange County when he said,

> "(t)here's this idyllic vision of what Orange County is. You think orange, you think sun, you think friendly, happy, white picket fences. And the reality for a lot of us was disillusion." (Coddon, Jan. 27, 2006)

For some locals, "(d)efining Orange County by a segment of the Newport Coast is like deciding New York City is "playful, clean and kinetic" based on a visit to FAO Schwarz" (Washburn, Feb. 2007). Yet just as the totality of New York has become encapsulated within specific metonymic images, the current crop of programs that represent the cultural landscape of Orange County present a very particular image of the area that creates what some geographers call a "postcard effect." The postcard effect "affords the viewer the pleasure of a tourist gaze, a disposition that both reflects and legitimizes a fragmented experience of visiting a location without immersing oneself in the intricacies of its politics and geography" (Sadler and Haskins, 196), and so allows for an area and all of its inhabitants to be reduced to a small, manageable and

often illusory set of images. In the case of New York, this 'tourist' gaze has evolved through television depictions of the landscape and effectively reduced the livable space of the city into a set of singular metonymic representations, such as images of the Statue of Liberty. The landscape created thus bears a "narrative that obscures the magnitude and complexity of the livable urban area" (Sadler and Haskins, 196). So Orange County, too, is reduced within contemporary media depictions of the landscape to a particular metonymic image that obscures the reality people such as Tony Cadena say were a fundamental part of their experience of the area. Just as the Statue of Liberty has become a powerful metonym for New York, the beach has become metonymic of Orange County.

The role of the beach in current media landscapes of Orange County life cannot be underestimated, as any cursory glance at the shows being examined here will attest. According to Roland Barthes, representations of landscapes "tend to limit, to concentrate, to condense the center" and the center then becomes the anchor point for all images of a particular place (Barthes, 1988; 200). While creating a 'center' anchor point may be easy in an urban landscape, the process is slightly more complicated in suburban places that lack central business or cultural districts. In some ways, creating that anchor through repetition of beach imagery may seem an innocent choice; Southern California has long been associated with beach culture, and much of the marketing of contemporary surf gear is based in California in companies such as Stussy, Roxy, and Quicksilver. However, according to Barthes, anchoring is difficult to separate from ideology, as anchoring is a "means of control" that confronts both the figures represented and the spectatorship of the images with a particular set of ideas that guide viewers into the proper way to use the message (1991). Anchoring, then, provides an orienting point to being a reading of a landscape, and it both is influenced and influences the exchange of power in the process of

creating and viewing those landscapes. Over time, the repetition of certain landscapes can make people forget that metonyms do not accurately or wholly represent the place with which they become associated. Umberto Eco argues that this "postcard effect" dislodges authenticity as a necessary or even relevant concept in constructing images, as the metonymic representation becomes valued not for its authenticity but for the information it conveys (1977).

It is perhaps not surprising, then, that the beach has become such a powerful metonym for Orange County life. Within many contemporary representations of Orange County, the beach is an identifiable singularity that is linked not only to the place but to particular, and particularly privileged, individuals. Beach and surfing imagery abounds in both *Orange County* and *The OC.* Before his attempt to get into Stanford, Shaun Brumder of *Orange County* is shown living a feckless, happy life of surfing and trips to the beach with his girlfriend (figs. 3 and 4). Similarly, much of the action on *The OC,* and the majority of the advertising posters and promotional photographs, centers on beach scenes. One promotional photograph from the first season shows the central characters, Ryan and Marissa, on a beach together (fig. 5), while another shows the entire cast grouped together with the ocean in the background (fig. 6). In these images, and the programs themselves, the beach becomes symbolic of the Newport-centric life that has become the anchor for all representations of Orange County. This beach imagery also become shorthand for Newport Beach in the CBS Morning Edition video piece on the Haidl trial (Apr. 20, 2004), which shows an interview with Vanessa Obmann, one of the witnesses in the case, and then shows Obmann and defendant Keith Spann walking together near a beach (fig. 7). Placing them by the beach figuratively associates them with Newport in a direct way, yet that association depends upon the audience to understand the cultural landscape of Orange County that has become standardized by shows like *The OC.*

Figure 3 (Shaun and friends surfing, *Orange County,* 2002

Figure 4 (Shaun and girlfriend at the beach, *Orange County,* 2002)

Figure 5 (Ryan and Marissa, *The OC,* 2003)

Figure 6 (The cast of *The OC* a, 2003-2004)

Figure 7 (Vanessa Obmann and Keith Spann walking near the beach, and the camera panning to show the full beach - *CBS Morning edition/The Early Show*, Apr. 22, 2004)

Here we see people involved with the Haidl case being subjected to the postcard effect. This image, by evoking the beach metonymy, figuratively links the case to other media representations of the Orange County cultural landscape. Significantly, the decision to locate this portion of the video near the beach seems to have less to do with Obmann or Spann than it does

with the spatial identity of the case itself; as defense attorneys repeatedly reminded spectators of the case, the witnesses, victim and defendants were all from nearby San Bernardino county, a lower to middle class community many miles inland from the coastal community of Newport (CBS Morning Edition, April 22, 2004). Despite this, all visual discourse surrounding the trial places it firmly within Newport Beach, giving the trial, the rape itself and all of those involved a marked spatial identity that makes it difficult to separate their external lives from the internal logic of the Orange County landscape as it has become crystallized in the beach metonymy.

In both *Orange County* and *The OC*, surfing becomes a symbolic action within the narrative, and its role in crafting spatial identity is also part of what implicitly links the mediated Orange County landscape to wealth, privilege and particularly gendered and raced class identities. In *Orange County,* surfing is part of Shaun's pre-Stanford life; it is only after his friend dies in a surfing accident that he becomes 'deeper' and turns his attention toward fiction writing and a high status education. His rejection of surfing is part of what symbolizes his larger rejection of Orange County life entirely. However, his eventual realization that "Orange County is the perfect place for an aspiring writer" (White, 2002) leads him back home, and the final frame of the film sees him on the beach, with his friends, getting ready to go surfing. It is not only the words but the action, the acknowledgement of surfing with his homosocial peer group as an acceptable activity, which resituates him within Orange County culture. *The OC,* too, uses surfing as both metaphor and character defining principle in more than just the premiere advertisement (fig. 2). The preeminent surfer in *The O.C.* is Sandy Cohen, the lawyer who originally brought Ryan out of the poverty of Chino and into the wealth of Orange County. As both a lawyer who devotes much of his time to pro-bono cases like Ryan's and a father who dispenses good advice and emotional support to all, Sandy serves as the moral center of the show. His affinity for surfing

becomes an ongoing theme of the show, and Sandy himself links surfing to the core of enjoyment of Orange County when he tells Ryan his secret to dealing with Newport life:

> **Ryan**: Guess I don't really fit in, huh?
> **Sandy**: Oh, I got news for you. Nobody does. I guarantee you--every single person at that cotillion feels like a fraud. They've all got secrets and they're all terrified the guy next door is going to find them out.
> **Ryan**: So, what's your secret?
> **Sandy**: Sometimes, when the sun's coming up and the surf is good, and I haven't pissed my wife off quite as much as I have today, I kind of like this place.
> (Schwartz and Heinberg, "The Debut", Aug. 26, 2003)

In this exchange, as in Shaun's transformation in *Orange County,* we see surfing being tied not only to Orange County life but to a particular, and particularly innocent and pure, version of Newport Beach culture. Surfing is what saves Sandy from becoming subsumed in the 'adult' world of Newport, with its potential moral pitfalls, and surfing is how Shaun reaccepts that his identity is inextricably tied to Orange County. In both instances, surfing is used as a symbol of purity and youth. Yet it should not be ignored that, in both cases, this symbol is restricted to privileged, white males; neither program features female or minority lead characters who surf or engage in surf culture in any direct way. Surfing, and its connotations of youth and innocence, becomes an activity that represents an escape for a very particular spatialized masculine identity.

In her discussion of *Beverly Hills 90210*, Crystal Kile describes the prevalence of surf and beach imagery within representations of Southern California as evincing a "deep, yet blank nostalgia for the 'kinder, gentler,' 'California youth-cult mythos' of the late 1950s and early 1960s., nostalgia for the myth of Southern California as paradise for Midwestern WASPs, as Gidget-land, as Disneyland" (1993). Kile argues that this nostalgia factor is one of the largest pleasures of the text. Acknowledging the prevalence of this formulation within *Bevery Hills, 90210* as a nostalgic one, however, points to the prevalence of this beach imagery as having a historical significant role in constructing the media landscape of Southern California. The beach

metonymy in *Orange County* and *The OC* is not original in depicting Southern California as a WASP playground, and an even cursory examination of promotional images of these programs shows how very closely *The OC* and its progeny mirror *Beverly Hills 90210* in its formulation of privilege, whiteness and beach culture. The image from the first season of *Beverly Hills 90210* portrays the cast prepared for a day at the beach and clinging to each other in a show of camaraderie that is particularly interesting given the fact that Beverly Hills does not actually border or even touch any of Southern California's beaches (fig.8). The promotional images from *The O.C.* and *Laguna Beach: The Real Orange County* show the cast of each show in strikingly similar poses, grouped together with the ocean in the background (figs. 9 and 10). And while the image from *The Real Housewives of Orange County* (fig. 11) does not explicitly show a beach as the backdrop, everything from the positions of the women's bodies to the clothing to the light background gives an impression of the beach landscape that predominates in the other three images. The organization of the photography makes it an intertextual reference that relies on those previous images to figuratively place the housewives in the Orange County context. By reading this image in dialogue with all previous images, the ad for *Real Housewives* can be seen as simply a variation on the already symbolic organization in the previous pictures that tie the shows to the beach metonymy. The housewives are understood as belonging in Orange County because the beach metonymy has been so successfully interpreted within the organization of previous images that represent the youth, affluence and privilege that marks these depictions of Southern California life.

Figure 8 (The cast of *Beverly Hills, 90210*, 1990)

Figure 9 (The cast of *The OC* b, *2004*)

Figure 10 (The cast of *Laguna Beach: The Real Orange County,* 2004)

Figure 11 (The cast of *The Real Housewives of Orange County*, 2006)

Kile argues that the popularity of *Beverly Hills 90210* can partly be explained by the nature of American political culture at the time of its conception; in the early 1990s, “the moment of 'Just Say No' and sex=death and MTV” made this “revisioning of the 'traditional' Caliutopian white youth culture fantasy” seem not only appealing but particularly relevant to the “postmodern subjects under construction who consume it weekly” (1993). By providing a re-imagination of what many have seen as ‘traditional’ Southern California values, *Beverly Hills 90210* relied on previous imagery to provide a highly nostalgic way for viewers to imagine themselves and, simultaneously, a very traditional model upon which to fashion their own identities. This reference to 1950s traditional life is completed in *90210* in the existence of The Peach Pit, a

nostalgia-themed diner that featured “a jukebox in the corner, faux-50s decor on the walls, chrome shining” and “is foregrounded as a site of action, sort of like the way that 'Arnold's' was in *Happy Days”* (Kile, 1993). Such deliberate choices make *Beverly Hills 90210* itself a copy of previous cultural products, such as *Gidget* and *Happy Days,* that then continued on to find an additional representation in *The OC.* Indeed, *The OC* had its own version of The Peach Pit. The Bait Shop served as a club and music venue for all Newport locals and had, fittingly enough, checkerboard floors reminiscent of 1950s coffee shops.

While all of these similarities directly reference the thriving nostalgia that is embedded in the cultural landscape that is so typified by the beach as metonym, they also function to effectively obscure other ways of living within Southern California and provide a very specific spatial identity for both locals and the greater global spectatorship to read and model. This process of copying copies to produce new and evermore powerful, yet simultaneously more purely imaginary, meanings perfectly represents an instance of Jean Baudrillard’s theory of the “simulacrum” (1988). Applying the idea of the simulacrum to an analysis of landscape imagery and how it comes to constrain both macro representations of place and micro representations of the individuals and spheres that constitute Orange County, can help develop an even stronger understanding of how the Haidl case discourse is shaped by and through the mediated cultural landscape of Orange County.

From Simulacra to Heterotopia: Spatial Identities and the Public/Private Divide

In his analysis of the America cultural landscape, Jean Baudrillard wrote that to know the essence of California, one must understand its role in shaping the simulacrum that was slowly taking over modern life. For Baudrillard, California

> is the mirror of *our* decadence, but *it* is not decadent at all. It is hyperreal in its vitality, it has all the energy of the simulacrum…that is what gives it its originality and power. The irresistible rise of the simulacrum is something you can simply feel here without the slightest effort. (1988; 104-105)

A simulacrum is often considered to be a copy of a copy whose "relation to the model has become so attenuated that it can no longer properly be said to be a copy" (Massumi, 1987). As such, Baudrillard sees California as the center of the production of simulacrum, with the proliferation of increasingly diverse modes of mediated communication, from television to computer technologies, constituting an entire world of simulacra that copy and recopy some model of life that is ultimately centered in a specifically Californian context. This process of copies of copies can certainly be seen in the previous analysis of the similarities between *Beverly Hills, 90210* and *The OC.* While *Beverly Hills, 90210* is in truth pure nostalgia that copies earlier representations of Southern California life and places them in a pseudo-realistic modern frame, *The OC* is a copy of this copy and as such is even further removed from the original. This, partly, is what allows a traditionally Los Angeles-centered imagery, that of beach culture, to be shifted south and come to stand for Orange County life. While Orange County has long been subsumed within the broader discourse of Southern California life and known predominantly for Disneyland, which is "by its own definition a fantasy environment designed to make visitors forget they were anywhere at all" (Gumbel, Jan. 5, 2007), Los Angeles was the home of Gidget, The Beach Boys, The Byrds and endless surf-culture films of the 1960s. The cultural landscape has shifted enough in the last decade that Orange County is now the home of beach culture, but this shift could not have happened without "copy within a copy" effect of the simulacrum.

However, this conception of the simulacrum does not thoroughly account for how the shows that have followed *The OC* fall into the category of 'reality' television yet in every other way seem to mimic the model of white, privileged beach culture that has been repeated for decades

propagated within representations of Southern California life. Why, after all, should a show called *Laguna Beach: The Real OC,* and claiming to be a look at the lives of actual teenagers from the community, necessarily be about exactly the same type of people who dominate the fictional productions? Gilles Deleuze expands on this particular issue from a slightly different perspective when he argues that "the simulacrum is less a copy twice removed than a phenomenon of a different nature altogether: it undermines the very distinction between copy and model" (52-53). According to Deleuze, simulacra can actually become so far removed from the model that they no longer bare any resemblance to the original aside from the most superficial and illusory. The simulacrum has its own agenda and functions "not to become an equivalent of the "model" but to turn against it and its world in order to open a new space for the simulacrum's own mad proliferation" (Deleuze cited in Massumi, 1987).

The simulacrum, then, can become its own model and continue proliferating a new set of meanings, and a new set of copies, while using a borrowed set of images that have become separated from the original meaning through their appropriation in the new simulacrum. Thus, the cultural motifs used in *Orange County* and *The OC* become divorced from the spatial constraints and references of the original model by being a copy of a copy, and these copies then proceed to create a new simulacrum, Orange County, which then begins its own 'mad proliferation' in the form of new shows that further naturalize the original cultural imagery within this largely new setting. The Orange County of contemporary media is a simulacrum that blurs the distinction between fiction and reality effectively enough as to sever itself from both other versions of Orange County and versions of Los Angeles county to form a new spatial identity that dominates media representations of the area.

This blurring between fiction and reality is particularly important given Eco's argument that images, particularly metonymic images, become valued less for authenticity and more for the ideas they advance (1977). In *The OC,* authenticity cannot be considered relevant for any part of the production; the show is filmed entirely around the beach communities of Los Angeles County to help keep production costs low, with Manhattan Beach standing in for Newport Beach (Gumbel, Jan. 5, 2007). Perhaps it is this blurring of anything resembling "authenticity" that makes it so easy for media discourse about the Haidl trial to use the simulacrum of Orange County to situate stories about the case, particularly for audiences far removed from Southern California. One article from *The Age,* a newspaper based in Melbourne, Australia, begins its coverage of the Haidl trial in much the way each episode of *Laguna Beach* begins, with a montage that sets the scene and a description of how the place and people are related. In the first episode of Laguna Beach, the narrator, Lauren, can be heard saying the following over an establishing shot that includes the Laguna coastline:

> **Lauren (V.O.)**:(Pans in on a coastline with bright beaches filled with young swimmers and surrounded by green hills that are dotted with large, palatial homes) :This is where it all happened. Laguna Beach, California. A small town in the OC where I grew up. I just finished my senior year of high school, a year I'll never forget. I'm really gonna miss my friends. Especially my best friend, Lo. No matter how crazy it got this year, I could always count on Lo..."(and so on through a description of everyone in the cast). (Ep. 1, "A Black and White Affair," Sept. 28, 2004)

The article from *The Age* replicates something very similar to this formula in its introduction to the Haidl case:

> There is something about Orange County that movie and TV scriptwriters have come to love. Something about sunshine and space and gum trees; multimillion-dollar homes perched on steeply rising hills, big white boats with engines and sails, the eternally beckoning Pacific Ocean and the golden sands that girdle it…Rootless, indulged children, caught in the twilight zone between adolescence and adulthood. Laguna Beach, Corona del Mar, and

> Newport Beach, where this story begins on July 4, 2002, with the invitation of a 16-year-old girl - Jane Doe — and three of her soon-to-be former girlfriends to a pool party in the Spyglass Hill residential estate. (Wright, Apr. 9, 2006)

The Age uses the Orange County simulacrum to create a setting for its narrative of the Haidl case, but in so doing it is also creating worlds of meaning through the invocation of very particular images. Some of the images it creates seem to come right out of the set-up for *Laguna Beach*: beach town, sunshine, large homes and, particularly, kids caught between youth and adulthood. Situating the case in this context does not innocently or randomly describe Orange County, but rather privileges ideas that are intimately tied both to class and place as it is represented in the dominant fictional media landscape of *The OC*. Beginning the article this way insures that Orange County becomes a material presence and an orienting viewpoint, and this image becomes an intertexual reference that both relies on the reader's understanding of the contemporary media landscape to insure meaning and limits the ways readers can view the ensuing story.

Not only does this story expose how totally the Orange County simulacrum and its metonymic beach representation have infiltrated multiple forms of media, it shows what many feel to be a trend in the increasing use of simulacra in news reporting. In an analysis of the tabloid journalism and the Private Jessica Lynch story from 2003, Frank Rusciano argues that the Pentagon fabricated parts of the story so that the public would received "the right information," and that indeed the Pentagon "had been influenced by Hollywood producers of reality tv and action movies, notably the man behind Black Hawk Down, Jerry Bruckheimer" in how to created meaningful and "appropriate" stories (2005). Rusciano's argument, that reality television is beginning to dictate representations of what is theoretically actual reality, indicates that the media has nearly attained perfection of the simulacrum. For some, such an advance represents

the ultimate stage of the simulacrum, in which there can no longer be a distinction between ‘reality’ and ‘fiction.’ Deleuze, Baudrillard and others have traced the evolution of simulacra and argued that the growing power of media illusions will lead to a state of ‘hyperreality’ in which all symbols will become totally divorced from that which they symbolize and “simulations of reality replace the real, producing a giant simulacrum completely disconnected from an earlier reality” (Oberly, 2003). The ultimate result of this hyperreality is a state in which all symbols are ‘free-floating,’ and it becomes "impossible to isolate the process of the real, or to prove the real" (Baudrillard 1994; 21).

While seeing how representations of Orange County can be read as a simulacrum is important for understanding how specifically fictional imagery can be meaningfully invoked within theoretically ‘real life’ narratives, this idea of hyperreality is problematic at best and dangerous at worst when it comes to reading the Haidl case. It is dangerous because its imagined nature obscures how the discourse of the simulacrum might actively construct connections between class, identity and place in a way that influences interactions between the subject of the simulacrum and its spectators. And it is problematic because it contradicts one of the fundamental geographical theories about landscapes, which is that they create ‘ways of seeing’ that are constituted by power structures and the influence how we read space for other identity factors. As feminist geographers such as Doreen Massey and Gillian Rose argue, the ‘subject’ that exists within geographical landscapes is “sexed, classed, raced, and embodied” and “in its anonymous, universalized form, the geographical subject in fact resembles a white, heterosexual, Western male” (Nesbitt, 2003). To understand how landscapes privilege this perspective and how that perspective acts as a dominating force in the spatialized rape narrative of the Haidl case, it is necessary to examine the way these identities intersect with the spatial identity

represented in the simulacrum of Orange County. Orange County, then, does not and cannot exist purely in the imaginary, particularly for reading rape narratives; rather, Orange County as seen through the Haidl case and media landscape becomes what Michel Foucault calls a heterotopia (1966, 1967).

Although scholars have argued that Foucault's concept of heterotopia was undertheorized and has been used to many different ends, some of them contradictory (Johnson, 2006), it nevertheless provides a powerful way to examine the complicated interplay between Orange County as simulacrum and Orange County as media landscape. Foucault refers to heterotopias as either 'other places' or 'counter-spaces,' and translations of his work tend to use these terms interchangeably. However, sociologist Peter Johnson argues that "other places" is perhaps the better term, as it includes Foucault's appreciation for the term 'emplacement,' which "has the sense of *placing* in a certain location" (Johnson 2006) and thus makes it clear that heterotopias exist in the concrete and not merely the imaginary. These other places, for Foucault, are places that are in some specific way set apart from the ordinary, and as such they simultaneously reflect and contest normative spaces. While the types of spaces Foucault believed to be heterotopias include everything from cemeteries, prisons and asylums to monasteries and boarding and military schools, they all share a sense of not being fully 'desacrilized'; heterotopias may contain such "persistent if unacknowledged sacrilized oppositions as private/public, family/social, work/leisure, cultural/useful" (Johnson, 2006), and as such they allow for certain structured rites of passage or other 'small' life rituals that are less manageable in the ordinary environment. Some argue that such places are liminal spaces, but Foucault himself claimed that they were like utopias in that they both represent and invert ordinary spaces, yet unlike utopias in that they can be local and real, not merely abstract. In some ways, then, heterotopias "are like utopias that are

practice or enacted" (Johnson, 2006), and the ritual functions enacted in utopias or myths are figuratively or literally created within real places and representations of those places.

Reading the Haidl case makes it almost impossible to not see Orange County as a heterotopic space, a place that has become 'set apart' and 'special' within media landscapes. Indeed, seeing Orange County in this way allows for a more complete understanding of how gender identities within that space are constructed as "sacrilized oppositions" that take on a ritualized quality and reaffirm the social importance of conformity to nostalgic gender roles. These roles take on an archetypal quality and reify spatial rape narratives in a way that favors the defendants over the victim in the Haidl case. As both Crystal Kile (1993) and film scholar Mary Desjardins (2006) argue in their examinations of Southern California beach imagery, this landscape is a sort of nostalgic utopia in which privileged, healthy white people can exist in harmony and enjoy the fruits of Southern California's bounty as represented by the beach, retro hang-outs and opulent homes. In *Beverly Hills 90210*, those outside of this identity construction do have a place in the utopia, but "while the 'Other' may get the occasional guest spot on the series, he or she is summarily excised after he/she has taught the 90210-ers some lesson about life" (Kile, 1993). Within the Orange County landscape, then, utopia is partly defined by the ability to acknowledge difference and make sure that we all 'just get along,' while at the same time either deflecting or subsuming that difference without ever truly disrupting the normative relationships and identities of the core group. Within the O.C. simulacrum, such actions at once acknowledge the postmodern concern with difference and tolerance of diverse identities while also positioning some people firmly within the core of utopia and some firmly on the borders of utopia. In Orange County as heterotopia, acknowledgments of difference and sameness emphasis that, as feminist geographers claim, "spaces and places are designed, constructed, and valued with (the white,

heterosexual, privileged male) subject in mind" (Nesbitt, 2003), and it is therefore the job of some to embody the identity of those places and the job of others to act as gatekeepers of those places.

In the heterotopic landscape of Orange County, the value and identity of place is explicitly gendered and classed in a way that affirms the correctness of privilege and reaffirms the passive/female - active/male dichotomy that marks the relationship between imagery, power and the gaze (Mulvey, 1975). In their passive role within this landscape, women become the living embodiment of the pleasures and value of the land. Kile argues that in *90210,* "it is the young male characters and their styles and activities that focus the nostalgia subtext — the pleasure — of the series" (1993). This nostalgia subtext likewise positions women as inherently secondary characters through the creation of "a studied, regulated, gendered hegemony in which the existence of the female characters is determined by their re-action to the actions of the male characters, be they boyfriends, brothers, fathers, stepfathers, or just friends" (1993). In this context, the appropriate interests and actions for women are reduced to a limited frame including a focus on romance, fashion and maintaining friendships and romantic relationships. Kile claims this gender hierarchy is part of a new 'dual realism' allows *90210* to both address issues of concern to a young adult audience in a way that lets them identify with the characters while also operating in a nostalgic mode that implies "inertia and containment" and freezes the characters into traditional gender roles.

In *The OC* and its reality show copies, this means female characters are predominantly reactive and passive. Rather than being active controllers of the landscape, women in the Orange County heterotopia become objects within the landscape that symbolize the pleasures of Orange County privilege through their behavior, relationships and bodies. Some of these 'pleasures' are

depicted in broad scale in the above images, (figs. 8,9,10) in which the women of *90210, The OC* and *Laguna Beach* become objects for the scopophilic gaze of the camera by being foregrounded in the pictures and wearing either bikinis while the men wear regular clothes (fig. 8) or stretching out and showing their full figures while the men cluster behind (figs. 9 and 10). *The Real Housewives of Orange County* may initially appear to step outside this dichotomy, as the show is purportedly about the women and their lives, and men only play supporting roles in the landscape of Coto de Caza as seen through the women's eyes. In practice, however, this program is actually the apex of the nostalgic representation of women as reactive to men and concerned predominantly with shopping, beauty and relationship maintenance.

All of the women in *Real Housewives* practice excessive amount of consumption, and spend the majority of their time involved in the lives of their friends, their kids and their husbands. The *Housewives* are the type of "have it all" women who punctuate their time away from their families with tennis lessons, diamond shopping, Botox appointments and high-powered careers. However, they also challenge the very idea of what it means to be a 'housewives'; as 'housewife' is often constructed as the opposite of a 'career woman,' these women represent a permutation on the classic housewife model. Calling them the 'real housewives' of Orange County, despite the fact that they all have jobs and one of them is not actually married, ties these women's identities inextricably to their function within the home setting, which figuratively re-establishes that their separate experiences as career women and consumers are ultimately contained within their roles as homemakers. They are not merely the 'women' or the 'wives' of Orange County, but the housewives who represent and enact the model home and family environment and become symbolic of privileged Southern California life. In this dream, women are meant to think of tennis lessons as equal to both careers and families, and performing this

delicate balance maintains the illusion of easy opulence and glamour that marks the mediated Orange County landscape. The illusion of opulence, far more important than lived reality, also becomes centered within the home, and the home becomes an additional metonymic representation of Orange County privilege.

In *The OC,* the "sacrilized oppositions" (Johnson, 2006) of male and female gender roles are thrown into sharp focus from the very first episode. When Ryan, the poor, misunderstood rebel from the wrong side of town, first meets Marissa, who represents nothing if not the female opulence and glamour of Orange County, the result is an interaction that "summons up the contradictory paths of California's mythic identity politics" (Desjardin, 2006):

> **Marissa:** "Who are you?"
> **Ryan:** "Whoever you want me to be."
> (Schwartz, Aug. 5, 2003)

Ryan's response indicates that he is willing to alter his persona, if only to get the attention of an attractive girl. Desjardins argues that the idea of instantly changing one's persona and 'remaking the self' is "one of the most prevalent myths of California…that it is a place for starting over, creating oneself anew" (Desjardin, 2006). In order to make a place in his new environment, Ryan must find favor with the women who embody its privileges, and that requires personal re-creation. His displacement is further emphasized later in the episode, when the other main female character, Summer, openly disapproves of Ryan because he comes from Chino and is therefore clearly marked as an 'other' in the Newport landscape. This disapproval leads to an altercation with other male residents of Newport during the second episode. The active role of men as gatekeepers of the community is evident when Ryan punches one of the most obnoxious guys while saying "You know what I like about rich kids? Nothing" (Schwartz, Aug. 12, 2003).

By taking action Ryan is able to reject the negative part of Newport while also working his way through the gatekeepers. During this process, he finds acceptance with Marissa, and it is her feelings for him that truly, yet passively, allow him to 'belong' in Newport. However, it is Ryan's identity as male that fully allows him to conform to the social world of Newport without losing himself entirely; while Ryan forces Newport to take him, he also challenges the power structure to the degree that Seth jokingly mimics the fight and says "Hey, Ryan, you wouldn't consider me rich, would you? I'd be more upper middle class?" (Schwartz, Aug. 12, 2003). Though Marissa's affection helps him find a place, he creates that place on his own terms, and it is his "active" masculinity that truly makes this possible. Class becomes a fluid concept here, and Ryan is able to become a class hybrid who exists within Newport, enjoying its privileges, while still maintaining the 'purity' of his poor roots so that he is not entirely subsumed within Newport's ethically questionable society.

Ryan's struggle to "place" himself is truly indicative of the central role the active/male-passive/female dichotomy plays in forming the Orange County media landscape, and this dichotomy is just as clearly represented in the Haidl case discourse. While surfing is the activity that partly constitutes male identity in *Orange County* and *The OC*, skateboarding provides an equivalent stand-in for Greg Haidl in edutainment coverage of the case. Haidl is also shown enacting 'male sport' in the *CBS Morning Edition* video discussed above. The video, part of a "new-lite" program aimed at housewives, opens on an image of Haidl skateboarding (fig. 12), while the narrator's voice describes the now 18-year-old Haidl winning a sponsorship for his skateboarding before "his interest in film changed all that" (Apr. 22, 2004).

Figure 12 – Greg Haidl skateboarding (*CBS Morning Edition*, April 22, 2004)

The fact that this image was chosen to begin a video purporting to investigate a rape trial not only privileges the perpetrator's point of view, but falls perfectly in line with the dominant media landscape of Orange County that focuses on young men and their 'youthful' activities as the privileged, innocent and natural way of existing in the Orange County landscape. This heterotopia of Orange County is not Gidget-land, but instead the providence of Moondoggie, and as such is explicitly constructed and valued for its young, privileged white men. Here activity and class become combined, and Greg's skateboarding is an enactment of his relationship to the Orange County landscape.

The appropriate behavior of Orange County women is also explored in this video, as both descriptions of both Jane Doe and Vanessa's support of Haidl and his friends places women in the reactive role and show that they are valued mainly because of their connection with the men in their lives. District Attorney Tony Rauckaukas describes the crime and says that what happened to Jane Doe is wrong partly because "this girl is someone's daughter, someone's niece, someone's friend" (CBS Morning Edition, April 22, 2004). Similarly, Vanessa is originally introduced as the friend of both Jane Doe and the boys. Her comments about the rape, however, belie this identity. Vanessa claims that

"You can't point fingers and say who's at fault. Like it was a 50/50 type

> of deal. Like she contributed to it, and so did they." (CBS Morning Edition, Apr. 22, 2004)

Her appearance with Spann later in the video, however, cements her support of the boys' behavior. And given that men in this space act as the active, gate-keeping principle, women in the heterotopia of Orange County then act as the embodiment of the place. Thus Vanessa's actions symbolize that these boys belong in Orange County and that they are, perhaps, merely misunderstood. Through her approval, the boys are rendered less guilty and their actions are opened up to a greater level of ambiguity.

Both the male/female dichotomy and the idea of heterotopia are crystallized in the way the Haidl discourse positions one of the other major "sacrilized oppositions" (Johnson, 2006) the divide between public and private space. Traditionally, the private/public divide has been gendered a male/female divide, with women associated with the ultimate of private spaces, the home, and men occupying all other spaces as the most important members of the "public." Feminists have challenged this opposition by examining ways in which the public and private intertwine and interact, and have argued that "those who have the greatest power of access and greatest exclusion" can form dominant ideologies about who belongs where in certain spaces (Kilian cited in Dowler et al., 5). The myth of 'public stranger' rape fits neatly in this paradigm, as the male gendering of public space has also resulted in those spaces experiencing the greatest control through the enforcement of power in the form of civic laws. Nancy Duncan argues that public space "is regulated by keeping it relatively free of passion or expressions of sexuality that are not naturalized, normalized or condoned" (1996; 141), and rape falls within this category. The result of this configuration is that rape narratives focus on those rapes that are more easily prosecutable, those that occur in public places, and this results in an exclusion of rapes that occur in homes and other private spaces and makes it more difficult to see these instances as rape. On

the surface, the fact that the Haidl rape occurred in the privacy of a home is enough to create ambiguity in the case by challenging dominant rape narratives.

However, the degree to which Haidl's home and class become connected in the case discourse points to the fact that the distinction between public and private space is actually being collapsed, rather than further dichotomized, in the Haidl case. The appeal of Haidl's home is mentioned multiple times, usually as a part of the narrative of the night of the rape. A typical example comes from the *48 Hours* episode from Nov. 20, 2004, which features the testimony of Vanessa and two other girls who are said to know that they're too young for bars or fancy clubs "but the "in" place is to be at a good house party, especially at the big, glamorous house Don Haidl owns - where the parents don't monitor every move the kids make." Haidl's house comes to play center stage in the trial. This role was taken to the ultimate degree when *48 Hours* decided to reenact parts of the night of the rape by filming a segment from the home, using a substitute pool table and other props, to simulate the 'feel' of the evening. The caption attached to the photo from the *Orange County Register* article discussing this event (fig. 13) was "Greg Haidl gets '48 Hours' for his behavior" (Mickadeit, Nov. 8, 2004):

Figure 13 (Haidl's home as set for *48 Hours,* featuring prop pool table – Mickadeit, *OC Register,* Nov. 8, 2004)

Turning Haidl's home into a television set for a simulation of the night's events is an action that truly crystallizes Orange County as a heterotopic space. The Haidl home becomes a place of ritual that will expose the truth, both of that night and of the nature of Orange County life in its entirety, for the scopophilic gaze of the camera. Though Mickadeit's caption for the photo of the *48 Hours* recreation may be intended as a playful pun, it expresses how the simulacrum, landscape and heterotopia of Orange County begin to converge in the Haidl case in a way that privileges one specific version of the evening and makes it more difficult to see the event as a rape. This recreation signals the complete collapse of the public/private divide in Haidl case discourse, and the scene of the crime itself becomes part of the mediated Orange County landscape.

It may seem that this collapse of the public/private divide would make the case align more with dominant rape myths, that rapes generally occur in public places, but the reverse is true in this case. Mikadeit's description of the use of the Haidl home as a set piece expresses this fact perfectly when he claims that it is "(a) re-creation of that hot July night when four randy teens and a bottle of daddy's Bombay forever altered the way O.C. residents would react to the phrase: *Snapple bottle*[8]" (Nov. 8, 2004). Here a rape is turned into an issue of '*four* randy teens'[9] behaving badly, which clearly favors the position that this event was "just sex" and trivializes the entire event. The use of terms like "randy" and "daddy's" further lessens the situation by evoking the imagery of spoiled, suburban teenage indulgence; who else but spoiled children, after all, would think to steal "daddy's" alcohol to get drunk and have illicit sex? If this is the behavior of spoiled children, then saying Haidl is being punished with a "48 hour" slap on the wrist can be

[8] Emphasis in the original.
[9] Emphasis mine

seen as an appropriate punishment, not just as a pun. Partially, this transference of the house as a scene of rape to a scene of "bad teenage behavior" is possible because, as some geographers argue, the boundaries between public and private space are actually far more tenuous and ideologically significant than the dichotomy would traditionally imply. Geographer Rosalyn Deutsche claims that our definitions of public space are intimately connected to what type of society we want to have and what type of people we want to be; in a "worldview that prizes harmony and surface unity, conflict and dissention are likely to be swept out of view, necessitating what is allowed in the public view and what must be hidden out of view" (Deutsche cited in Dowler et al, 6). Because this case happened in Orange County, the media recreation of real events becomes the subject of a media that is so steeped in particular images of Orange County that criminal events must be reinterpreted through the haze of the simulacrum.

Once the private space of the Haidl home is engulfed within the simulacrum, it becomes public space. In a public space that is defined through its connections to wealth and privilege, the dissention presented by a rape conflicts so deeply with the surface harmony that it has to be explained away. Discussing this event as a rape not only undermines the Haidl camp's argument, it undermines the very nature of the nostalgic, and very American, dreams that are encoded in the Orange County landscape. If a rape can happen in a place like Orange County, how can Orange County still symbolize the dreamed of pleasures of excess, wealth and privilege? Deutsche argues that conflict structures social space, and that morality is forged in these interactions, so that the mirroring of the public sphere in the private "conveys along with it a particular set of habits and beliefs that would be called morality" (cited in Dowler et al., 6). Fittingly, the discussion of the Haidl rape case is shifted in the simulacrum to become more about the dubious 'morality' of having 'dirty' sex with objects than the morality of rape. During her interview with

Haidl and his attorney, CBS correspondent Julie Chen says to Greg, "you and your friends come from privileged homes, where a lot of people think this shouldn't happen there" (CBS Morning Edition, Apr. 22, 2004). Chen's statement mirrors the ultimate source of the disconnect between what happened in the case and what happened in the media discourse surrounding the case. It is so difficult to think of a rape happening within the media created landscape of Orange County privilege that in order to understand the case it must be made more about the morality of 'teen sex' than the violence of teen rape. All of the allusions to Orange County life within the discourse drawn on the complicated dance between landscape, simulacrum and heterotopia in order to 'make sense' of the rape, and the excessive focus on the privilege of Haidl's life ultimately renders him and his friends less guilty and creates an ambiguity in the case that may not have existed if the rape had happened in another part of the state or the country.

Many of the people involved in the Haidl case went to great lengths to downplay the idea that this case was about privileged boys' taking advantage of a less privileged girl. Several articles made references to the kids being "San Bernardino natives" (Murphy, Feb. 1, 2005) and talked particularly about Greg living with his mother who herself said "that middle-class America is where her son learned good old-fashioned values" (*48 Hours*, Nov. 20, 2004). I can only speculate about the motives for this attempt at placing the boys in a less privileged environment. But whether the motives were to more objectively portray the 'facts' of the case or to make the boys' seem more innocent by undercutting popular attitudes about money buying freedom in legal situations, this discourse was ultimately unnecessary and the boys' were simply subsumed within the greater cultural landscape of Orange County. Rather than displacing them, references to their humble origins merely fit within the model for Orange County class identity established so thoroughly in *The OC*. When Ryan fought his way past the gatekeepers of Newport life to

challenge and become part of the landscape, he reaffirmed both the mythology of California, that one can remake one's identity, and the idea that the space of Orange County can become an all-encompassing one in which the rough edges of different classes become neutralized through a sustained contact with privilege. While Ryan fights to get there, Greg's skateboarding shows his role as active male who enacts his true spatial identity through his innocent and wholesome choice of hobbies. The construction of spatial identity in Orange County is so powerful that it filters through every piece of the trial discourse and affects the construction of gender and race identities as well as impacting concepts of 'guilt' and 'innocence.' To fully understand how this happens, and to see how Greg Haidl figuratively becomes *The OC's* Ryan while Jane Doe becomes seen as a dangerous, 'inappropriate' girl in a way that has significant affects on the outcome of the trial, it is necessary to turn first to an examinations of how race and racialized spatial identities were constructed in the case discourse.

CHAPTER 2
Minstrelsy and the Performance of Rape: Interrogating Racial Constructs

"[E]very time you hear an expansive white man drop into his version of black English, you are in the presence of blackface's unconscious return." – Eric Lott

"[A]in't no rape crisis center on the plantation." – from *Sally's Rape*, by Robbie McCauley

The 'public stranger' element of dominant rape narratives, as we have seen, clearly relies on conceptions of classed spatial identities for salience. However, this element does not operate on class alone; the idea of 'public stranger' rape is so heavily racialized that any discussion of the operation of spatial identities within rape discourse must include a consideration of how intersections of race and class operate to create a dominating narrative that influences constructions of guilt and innocence in the legal context. Racial components of rape narratives form part of the mythic structure of rape discourse that is invoked when rape is subjected to the mediated simulacrum, and this is perhaps even more true within the heterotopic space of the Orange County landscape. The performances on the Haidl rape tape not only draw on cultural narratives about race, rape, and masculinity, they also work to make the rape itself seem to fit more neatly into dominant rape narratives than the bodies and act of rape, by themselves, necessarily would because they reference certain racial myths and acts as a type of blackface minstrel performance. Rape myths in the specifically American context have strong roots in slavery, minstrelsy and various types of physical and cultural rape that continue to mark contemporary racial politics. Common narratives of black sexuality and deviance took shape during the late eighteenth and nineteenth century, when Victorian attitudes toward marriage and procreative sex began to clash with Enlightenment philosophies of personhood and the idea that "sexuality ceased to be conceived as a by-product of procreation and became an end in itself" (Sielke, 15). The development of a new medical interest in sexuality led to a system of codifying

diverse sexual practices. This process resulted in a heavily raced and classed system wherein the sexuality of blacks was "transformed into the very icon of deviant sexuality" (Sielke, 16), and this ideology of black sexual deviance persists today in the myth of the black rapist.

The myth of the black rapist began evolving in the post-slavery period in America, when the contiguous development of early novels and slave narratives both produced and challenged ideas about the link between race, sexuality and deviance. These forms also created new ways of inscribing meaning on the female body (Sielke, 16). Comparative Literature scholar Peter Brooks argues that the American novel evolved along with the idea that privacy was a mark of personhood and physical integrity, which was then tied to the idea of the body's violation as symbolic of non-personhood (37). Such bodily violations, and their attendant connections to both race and literal and figurative rape, can be seen in works as diverse as Susanna Rowson's *Charlotte Temple* (1791) and Elizabeth Keckley's *Behind the Scenes: Or, Thirty Years a Slave and Four Years in the White House* (1868). These particular cultural texts highlighted the actual physical violence occurring against black men and women (Higginbotham cited in Sielke, 6-7), and the development of intersecting ideas about subjective bodies, privacy and personhood. Black and female bodies, as subjects, became defined by this lack of personhood; the fact that modern notions of personhood and subjectivity largely originated from this period, and that they "applied to neither women nor blacks," shows that the contemporary idea of the subject "partly depends upon the subjection of female and black bodies" (Sielke, 16). The myth of the black rapist, then, developed as both cultural phenomenon and politically potent identity category that explicitly linked certain types of bodies to non-personhood and subjugation.

Valerie Smith argues that myths of the black sexual appetite were constructed to enable wealthy white men, particularly during slavery, to exert control over the bodies of black men as

well as white and black women (1997). Ideas about the sexually inexhaustible and insatiable black man developed alongside slavery; in the 1840s, proponents of slavery claimed that, as historian George F. Fredrickson writes, "the descendants of Ham had overdeveloped sexual organs and were the original Sodomites of the Old Testament" (276). Post-slavery rape narratives similarly were often used to call for a return to slavery, and at the "turn of the twentieth century some racist discourse romanticized slavery by arguing that African American men did not start to rape white women until *after* slavery, once they were ostensibly 'free' to become a sexual threat to white women[10]" (Projansky, 6). Such arguments explicitly linked ideas about oversexed black maleness, a dynamic of homophobia and homoeroticism that Lott argues underlies all minstrel performance and biblical narratives that informed the development of ideologies about race and civilization throughout American history. These prominent myths made it possible for white men to justifiably police relations between black men and white women, and also legitimated the scapegoating and violent abuse of black men. Simultaneously, this ideology allowed for white men to abuse black women without fear of retribution.[11] Thus black female bodies became sites of highly sexualized non-personhood, while black male bodies became equally sexualized sites that were also symbolized the historical development of black sexuality as deviance and contested the implicit connection between masculinity, violence and autonomous subjectivity.

The effect of the wide dissemination of this myth of black sexual deviance has been the creation of a cultural narrative "in which the rape of a frail white victim by a savage black man" has such dominance that it is difficult, if not impossible, to read rape performance without

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[10] Emphasis in the original

[11] Catherine MacKinnon, Angela Davis, Susan Brownmiller and Sharon Marcus have all written extensively on the affects of this myth for black and white feminists interested in talking about the myth without reifying its iconic power.

reference to this narrative. This narrative simultaneously produces race-gender identity categories that are so readily available that we do not always notice them in operation (Smith, 1990). In *Sally's Rape,* Robbie McCauley attempts to perform a cultural inquisition into these race-gender categories produced in rape narratives and expose them as thoroughly constructed attempts to "structure our lives (through) imposing cultural scripts" (Marcus, 389-90). *Sally's Rape*, a performance piece/play originally shown in Houston, Texas in the mid-1990s, exposes the myth of the black rapist and black sexual deviance through an exploration of the twin tropes blackface minstrelsy and interracial rape. The piece features two women, one white and one black, working through the historical legacy of trauma, racism and rape that is specifically marked in blackface performance. They alternately play both modern and historic women who, through overlapping monologues, interracial dialog and give and take dominance of the stage, try to find a way to reclaim both the legacy of bodily oppression and the symbolic oppression represented in minstrelsy. According to performance scholar Deborah Thompson,

> this dialog is a new approach to race relations, transcending the theater's history of minstrel shows and blackface. At times the white performer engages in blackface routines, to emphasize race differences. It also is a new approach to interracial rape, which is viewed in the persona of a plantation slave ancestor who was raped by a white man. (1996)

McCauley's performance is then an attempt to deconstruct the historical development of rape mythology in slave narratives, minstrelsy and American novels. The use of rape and blackface as prevalent and contiguous manifestations of the figurative 'place' of African Americans in society is a common one in the work of many contemporary African American[12] artists, authors and playwrights. Toni Morrison's *The Bluest Eye*, Alice Walker's *The Color Purple,* Amiri Baraka's *The Slave* and *Dutchman,* Adrienne Kennedy's *Funnyhouse of a Negro* and Spike Lee's *Jungle*

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[12] While African American artists make particular use of this trope, it is also apparent in the works of other playwrights and artists. One of the most commonly cited instance of this trope is in Jean Genet's *Les Negres* (1958).

Fever all make use of a shared understanding of interracial rape myths to, as Thompson argues, "explode foundational mythologies of sexual fear and delight underlying the representation of Africans in the West and then attempt to reverse or destroy this representational iconography" (Thomspon, 1996).

Despite the sometimes problematic efforts of these artists to challenge interracial rape myths, statistical data implies that the myth of the black rapist continues to have powerful cultural solvency. Black men accused of rape have received disproportionately severe punishment, and black women are particularly vulnerable to rape by white men (Wriggens, 1995). Additionally, "white women who report being raped by black men are believed more often than those with white assailants and black women reporting being raped are less likely to be believed than white women" (Wyatt, 1992), regardless of the perpetrator's race. A recent study of rape myth acceptance has shown that people more likely to accept dominant rape narratives are less likely to see an instance as rape than those with a low acceptance of this narrative (Peterson and Muehlenhard, 2004). And one recent study has shown that, while the race of the victim has become less significant in determining whether a particular encounter 'qualifies' as rape, the myth of the black perpetrator is perhaps as strong as ever (Varelas and Foley, 2007).

What is particularly significant about such studies is that interracial rape is, according to most statistics, quite rare. Interracial rape involving a black perpetrator and white victim is actually one of the least common racial parings in rapes – 93% of rapes occur between members of the same race (Hirsh, 1981). Other studies have shown that interracial rapes are more likely to happen with white male perpetrators than black male perpetrators; according to Cuklanz, "white men are more likely to rape both white women and African American women than African American men are likely to rape white women" (2000; 10). The persistence of the power of rape

myths shows how the complex relationship between cultural response to rape scenarios and America's history of racialized sexual performance and minstrelsy all come to bear on rape cases in general, and the Haidl case in particular. The Haidl tape, trial and media representations perfectly illustrate how race becomes problematic and overly deterministic in rape cases, and how greatly the issue of identity performance within both a rape itself and rape narratives more generally impacts the reading of a rape case.

Feminist scholars have argued that rape is perhaps the most performative of crimes (Smith, 212) and that rape can only be understood through explicitly performative moments that provide structure and meaning within an instance of rape. Sharon Marcus claims that rape narratives structure modalities that allow rapes to occur; as "rape is one of culture's many ways of feminizing women," rape does not have pre-constituted perpetrators and victims, but rather constitutes those identities through performative moments" (385-386). Rape, then, is "inherently theatrical …(it) is one of the most physically present and thoroughly symbolic of acts" (Thompson, 129). To see a physical act as one of rape, readers and those involved in constructing rape discourse both reference and rely on prevalent myths about rape and perpetrator/victim identity. Marcus further argues that:

> The rapist does not simply *have* the power to rape; the social script and the extent to which that script succeeds in soliciting its target's participation help to create the rapist's power. The rape script pre-exists instances of rape but neither the script nor the rape act results from or creates immutable identities of rapist and raped. (392)

This social rape script is performative inasmuch as the practice of rape is part of what constitutes different subjects and provides a specific outlet for both the creation and highlighting of difference. An understanding of how this performance constitutes identity relies on Judith Butler's conception of the role of 'performativity' in the creation of subjects. According to

Butler, identities are constituted through “the repeated stylization of the body, a set of repeated acts within a highly rigid regulatory frame that congeal overtime to produce the appearance of sub-stance, of a natural sort of being” (25). Though Butler has discussed this formulation largely in regards to gender, performativity also applies to racial constructs, as it is repeated performances of particular identity-linked behaviors that come to naturalize the relationship between the performer and the identity. It is especially important to consider the concept of performativity in reading the appearance of racial constructs in rape narratives as they travel through different media modalities; considering “images and their travels in this way conceives of this *representational field* as a complex unit of analysis that makes possible critical examinations of *competing claims* on blackness” (Gray, xv.). [13]

Indeed, it is vital to consider the performativity of race, and particularly of “blackness,” when examining racial discourse in Haidl trial coverage. In *Appropriating Blackness,* E. Patrick Johnson argues that “blackness” has no true essence or core; rather than consisting of inherent or unchanging qualities, “blackness” as a marker of identity is given the appearance of essence through endless reiterations of performances of blackness. These reiterations, developed and performed over centuries, create a false appearance of “black authenticity.” Behaviors and discourses of “blackness” in everyday interaction and cultural representations constitute racial meaning and identity; through the “mutual constructing/ deconstructing, avowing/disavowing, and expanding/delimiting dynamic that occur(s) in the production of blackness” constructions of “black culture” become naturalized (2). Johnson then questions the connection between these performances and the lived experience of race, and in particular how performances take on a quality of embodiment that supersedes and structures embodied racial experience. Such

[13] Emphasis in the original

questions are vital to understanding the racial constructs that are embedded in dominant mediated rape narratives.

One of the competing claims in racial identity construction within media modalities comes from the spatial identities that constitute an intrinsic and vital element of the 'public stranger' rape narrative. Herman Gray claims that "television representations of blackness operate squarely within the boundaries of middle-class patriarchal discourses about "whiteness" as well as the historic racialization of the social order" (9). Representations of blackness, then, are "situated within the existing material and institutional hierarchies of privilege and power" (10) based on class, race, gender, sexuality and, in the context of the Haidl trial, spatial differences. The codifying of these differences in media discourse is part of a "racial formation" that draws on ideologies of race and forms of racial consciousness that are an integral part of American culture. Michael Omi and Howard Winant's racial formation theory proclaims that race exists as a socially constructed identity wherein the qualities and importance of racial categories are determined by socio-historical and political forces (Omi and Winant, 1994). As such, media discourse involving rape draws on particular, historically constructed racial ideologies, and these narratives become a part of what determines spatial identities. "Racial geographies" may encompass the relationship between race and space, but "the ways in which racial formation is given spatial expression remain…variable," and "race-centered ideologies combine with other ideological elements – such as those centered on public-private,… sexuality…or crime, to produce the richly textured, highly variegated and power laden spatialities of everyday life" (Delaney, 2002).

Considering the question of spatiality means situating the Haidl case in the broader heterotopic space of Orange County, where nostalgic representations of privilege have

constructed a specifically white image as a model for spatial identity formation. But understanding the influences of racial ideologies on this identity also means looking at the history of racial formation in California. For while there are specific American racial ideologies that operate throughout the nation, these ideologies are always reinterpreted across different scales and through different modalities. And as Tomas Almaguer argues in his work on racial formation in California, the combination of Manifest Destiny, historical colonization patterns and unique class ideologies has led to a very particular racial geography that is marked by a sense of "white supremacy." The development of California was marked by "an 'elective affinity' between the material interests of whites at different class levels and the racial ideologies that simultaneously structured the new Anglo-dominant society in California." This development meant that neither ideology nor materiality took precedence in organization of the state, but rather that "it was the simultaneous interaction of both structural and ideological factors that ultimately shaped the trajectory of the historical experience" of California racial identity. The racial history of California is one in which class divisions, as present as they always have been, "were not the primary stratification dividing California's diverse population" (Almaguer, 3). Racial geography in California, then, is not only tied closely to class but is one in which race can act as a determining principle, structuring class associations and forming a signifier that ultimately has power to structure class identities rather than vice versa.

Racial geographies, however, show us not only how race influences space, but how spatial narratives can influence both the performance and reading of racial identities. If race is not an objective, natural category but relies on constructive performance to become 'naturalized,' then race as both ideology and identity can only occur within the spaces and places inhabited by performers. Whether these spaces are literal, figurative, or a combination of both as in the

heterotopia formed by mediated representations of the Orange County landscape, race "in all of its complexity and ambiguity…is what it is and does what it does precisely because of how it is given spatial expression" (Delaney, 2002). Race and space thus intersect to such a degree that they condition each other, each feeding off the other, within performative moments of racial identity. The symbiosis between race and space infuses "public stranger" rape narratives with a sense of racialized place that exists in concert with, and often overlapping, spatialized class identities. Understanding these intersections is vital for understanding legal discourse, for "if justice is embodied, it is…always spatial, which is to say, part of a process of making a place" (Gilmore, 2002). Just as intersecting spatial and racial identities help shape the nature and meaning of places, spatial identities can greatly influence the pursuit of justice or punishment in daily life or within a trial.

Rape narratives, then, draw on multiple identity categories, and the performative moments of rape narratives have a structural power that influences how intersections of race, gender and spatial identities overlap to the degree that they are often impossible to separate. To understand rape, its perpetrators and its victims, readers must have an understanding of these dominant rape narratives. Rape narratives have been shown to have a determinative power in actual rape trials. Andrew Taslitz uses "storytelling theory" to explore what occurs during rape trials; according to Taslitz, "the story of a case must be told in a way as to satisfy a jury's needs for narrative coherence and fidelity" (15). Narrative coherence can only be found when a trial most closely follows the 'rape script' that Sharon Marcus claims is so dominant in constructing subjective identities within an instance of rape. At its core, a criminal rape trial taps into the the linguistic and cultural beliefs of the jury in order to reach the desired solution (Rayburn 2006), and navigating these beliefs becomes unavoidable for lawyers, defendants, victims and those

following and reporting the case. Given the fact that rape is so heavily tied to performance, the performances of both rapists and victims can weigh heavily in how juries read identities, how those identities are tied to rape myths and how those myths then structure 'guilt' and 'innocence.'

America's complicated racial history, along with the rape ideologies that have been propagated through the myth of the black rapist, make performances of "innocence" and "guilt" in rape narratives extremely racialized and complex. In her analysis of *Sally's Rape,* Deborah Thompson argues that "both rape and blackface minstrelsy are overdetermined and highly slippery signifiers--signifiers violent in their experienced realness, (a)nd both embody, in differing ways, central paradoxes and problematics of current body-identity politics based on race, as well as on gender and sexuality, in the United States" (1996). The appearance of references to blackness, either through appropriation of symbolic markings or 'black English,' constitutes a form of minstrel performance that continues to hold powerful significance in the performance of rape. When found in a physical instance of rape, such performance clearly marks the complicated discursive nature of rape. Reading the Haidl case makes it necessary for me to look at how 'blackness' and 'whiteness' are configured in the case. However, given the location of the case, it is also important to consider how the heterotopic space of Orange County positions these signifiers and what impact that has on the racial discourse within the case. The oppositional signifiers of "black" and "white" function to construct the identities of the accused and the victim in ways that are powerful, overwhelming and ultimately strongly influence how those involved in the rape can be judged as innocent or guilty. In this case, the myth of the black rapist colludes with racial and spatial identity performance to highlight how 'blackness' and

‘whiteness’ form one of the “sacrilized oppositions” of the heterotopia, and the way specific steps were taken to downplay racial performance in the case speaks to both the power of racial performance and the all-encompassing nature of rape narratives.

“We just want to have sex!”: Racial Identities and Performativity in the Rape Video

Looking at the use of rape narratives in the discourse of the Haidl case as avenues for performative identity construction necessitates examining how that discourse is created within various media modalities. As we have seen, the complicated interplay between Orange County as simulacrum and Orange County as mediated cultural landscape creates a ‘separate space,’ a heterotopia, wherein different media modalities influence each other and ‘fact’ and ‘fiction’ become interwoven in news representations. Intersections of fact and fiction in the expression of racial identities, however, are in some ways even more problematic than expressions of class identity alone, particularly within the media discourse of something as meaning-laden as a rape trial. Although “the problem of performance is not one unique to modernity, it….has been exacerbated in the hyperrealist environment with the proliferation of identities and recognizable performative actions” (Oberly, 2003). This proliferation produces new and different versions of racial identity that could, potentially, form an ever-expanding pool of behaviors from which to pull in the quest for identity formation.

Perhaps it is the fact of this proliferation of racial identity formulations that leads Herman Gray to invoke Stuart Hall and argue that television must be examined as a “contested terrain.” Looking at media this way “makes struggles over the meanings and uses of representations of blacks productive points of engagement” (xiv). Looking at the media as a contested terrain certainly does allow for an understanding of competing identity constructs, and in the Haidl case this is a particularly important element to examine. However, taken to the ultimate degree, the

idea that “all social performance is (a type of) media simulacrum” (Oberly, 2003) implies that there is no grounding or “truths” that these performances draw from for salience. Taken to that degree, the interplay between fact and fiction within the heterotopic space of Orange County has the potential to erase not only the false ‘objective identity’ constructs that “refer back to a fabricated biological essence, a ‘truth’ of the body” (Oberly, 2003), but also the historical development of social relations of power and privilege that continue to shape the myth of the black rapist.

When reading racial performances in the Haidl case, it is necessary to look at how they are constituted within the trial and media discourse, how these performances relate to rape narratives and the myth of the black rapist, how the American historical tradition of minstrelsy impacts these performances and ultimately how these racial performances interact with spatialized class performances in the media simulacrum. Keeping all of these elements in the discussion allows for a true understanding of how heterotopic space not only increases the normalizing power of racial performances but also trains audiences “to take on, improve, and master those…identities, thus replicating the simulacra” (Oberly, 2003). It also allows for an understanding of how the fantasy of the fictional narratives, such as those that create the Orange County landscape, can persuade populations that their own “social performances are real…providing the most foundational ‘other’ to stabilize all identities” (Oberly, 2003). This last is vital, for the Haidl case is marked by multiple strands of discourse that make it difficult to separate the ‘real’ from the ‘fictional.’ How the trial engaged with the myth of the black rapist and its relationship to racial performance are best seen in the most controversial piece of evidence from the trial, the rape video.

One of the biggest reasons the Haidl case became a national phenomenon is the controversy surrounding the tape the boys made of their assault on the unconscious Jane Doe. The details of the tape became a focal point of media efforts to construct the identities of both the boys' and Doe. However the rape video was not the only piece of evidence that was submitted as evidence of the boys' character. During the early days of the first jury trial, a tape of Haidl and his friends was introduced that showed them behaving in ways that, for the defense, were very problematic. Moxley reports that one particular video, shot by Haidl himself, was introduced as evidence. This video featured the boys playing and talking in a heavily racialized, gendered, and sexualized way:

> Nachreiner says, "You think I'm some black-ass nigger?" He drinks more and says with disgust, "Fucking drink!"
>
> "Hey, Kyle, don't be gay," (Haidl) says.
>
> "Bitch!" says Nachreiner, who says he'll jump only if he can jump with the camera.
>
> Haidl says no. "I'm going to fuck you up," he adds. "Don't be gay, Kyle. . . . Don't be weak, Kyle." (Moxley, May 12, 2004)

The use of the terms "gay", "weak", "bitch" and "fuck you up" conjure a particularly aggressive image of heteronormative masculinity. Here we see clearly that masculinity is a form of homosocial enactment that is "fraught with danger, with the risk of failure, and with intense relentless competition" (Kimmel, 214). As Haidl and Nachreiner push each other into greater expressions of "deviant" behavior (drinking, reckless physical behavior), they verbally police the boundaries of masculinity. Crucially, they do this by referencing aspects of identity that, for them, are "lesser"; femininity and homosexuality are equated with weakness and, thus, with the threat of violent physical reprisals, with being "fucked up" by a more powerful and appropriately masculine other.

Nachreiner's use of the term "black-ass nigger" while talking to Haidl takes this exchange in an even more problematic direction with a clear example of racialized slang. In this context, the exchange between the boys references "gangsta rap" culture with its usage of aggressive, and aggressively heteronormative, terminology. This video was problematic for the defense team as it echoed aspects of the boys' heavily racialized performances on the rape video and evoked stereotypes of black, heterosexual, male sexual aggression. Examining both the specific ways in which the boys' performance on the rape video racialized them, and how these racialized identities were then crafted and challenged within the discourse, shows that connections between racial identity and sexual aggression so common in dominant rape myths were creating a constant tension throughout the Haidl trial.

Indeed, both the production and editing of the rape video turns the Haidl rape into a damning type of racial performance. According to Ryan Weedall, one of the kids who found the rape video and gave it to the police, the tape clearly showed that the girl was unconscious and there was "no way that she's (Doe's) pretending" ("The John and Ken Show," May 3, 2004).[14] When the case was re-tried in 2004, the second jury's foremen, Robbie Ruiz, made a similar claim in an interview with *OC Weekly* journalist R. Scott Moxley. Ruiz claimed that

> "(t)he tape proved they were guilty. If you show that video on the news, everybody's view would be that these guys should hang. People would go crazy. You know what I mean? It was primal. It looked like savages having their way with a piece of meat" (Moxley, Mar. 6, 2006).

Ruiz's invocation of savagery as a trope to understand the behavior of the boys is telling, not for whether or not it speaks truth about the events, but for the way it imagines the boys' behavior in such explicit terms. How and where did Ruiz and Weedall read 'savage', 'primal' and 'guilty'

[14] According to the interview, Ryan Weedall and his girlfriend found the tape, thought it was important, snuck it away from the other people in the house, and turned it over to the police.

behavior in the tape? How does such language imagine the boys' physical performance of rape? Most importantly, how and why was the jury able to watch the tape, look at the boys and the victim, and decide that the tape did not show rape, especially given the strong power of rape myths in structuring how juries read rape?

While the answer is complicated, it is possible to understand the role of racial performance in the tape through a simple examination of the boys' actions. One of the most significant details in the tape is the boys' self-representation and later editing of the tape into a video to be shared with others. It is clear that the boys' themselves thought of this moment as a performance of sex and masculinity, and their performance is partly realized through the use of racially loaded language. In conversations they had during the rape, the boys call themselves a 'gang' and shout "nigger" at each other (Moxley, May 7, 2004). And one point, as Spann enters the unconscious Doe, Haidl can be heard saying "(p)ut it down for the militia, bitch" (Moxley, July 1, 2004). And after the filming, Haidl created a soundtrack for the video that was comprised of "bass heavy hip-hop, with lyrics such as 'We like pussy…Fuck an asshole too…we just want to have sex!'"(Moxley, May 7, 2004). Hip-hop music is generally associated with black, working class culture. In "Sexism and the Art of Feminist Hip-Hop Maintenance," Elisa Davis argues that being associated in this way with hip-hop, and thereby being socially located as 'black,' brings with it a host of racist connotations about criminality. Davis writes:

> The fantastical crime setting of gangsta and horrorcore rap, starring protagonists who drip with testosterone, features a masculinity that defines itself by an ability to annihilate any challenger, either male or female. When this protagonist commits sexual and violent crimes, he satisfies specifically black male, yet generic, desire for total power. (Davis, 42)

As Davis argues, certain types of hip-hop and rap deliberately play with power, violence and sexuality in order to create a highly specific icon of masculinity. Davis claims that this imagery

in hip-hop is an attempt to challenge the racial hegemony of American culture; to symbolically reclaiming their masculinity, black hip-hop artists and those who identify with them must dominate and 'annihilate' that which is within their range and power to control. To be a man in this particular way is, in some sense, to strive for total domination of the environment and everything in it, including women. Music with this evocative power was a perfect backdrop for Haidl and his friends during the rape, as it allowed them to more fully show their domination of Doe through appropriation of the strong cultural solvency of rap music. Performing these particular cultural signifiers served as a way to create group identity while maintaining individual masculinity; while the boys' performances unite them under the banner of this particular, violent ideal of masculinity, their focus on 'demolishing' the body of Jane Doe proves their individuated masculinity while also diffusing the 'challenge' that might be presented in a straightforward group sex scenario. Indeed, the violence of gang rape and the violence of slavery share dehumanization of the victim as a core feature. According to Darlene Clark Hine and Kathleen Thompson, the greatest brutality in instances of rape often occurs in gang rapes, rather than single perpetrator scenarios; though "overpowering the woman is hardly an issue" in a gang rape, the brutality "is part of the process of dehumanizing the woman." This is necessary so that "no one of the men should stop, see the woman suddenly as someone's sister or daughter or wife, look at the other members of the group and cry out, 'What are you doing to this person? What kind of monsters are you?'" (68). So, too, was dehumanization of slaves – and by extension their progeny – a way to deflect attention from the barbarism of the slave owners' behavior.

This reclamation of group identity and masculinity at the expense of Jane Doe is also prefaced on the violent and complicated history of minstrelsy. It is this history that over-determines the relationship in such performances between minstrelsy and rape - Eric Lott has argued that the use

of black language or slang by white men signals the "unconscious return" of blackface. What is appropriated in such exchanges is not just cultural product or variety of performative styles, but a certain type of masculinity. Engaging in such a deliberate display by appropriating the "cultural forms of "blackness,'" is to engage in a "complex affair of manly mimicry" (Lott, 52-53). This mimicry fetishizes the black male body, and such fetishization specifically plays into the performative aspect of rape by making this particular performance, like all such blackface performances, an expression of both the figurative and literal connection between rape and race and the "myths and fantasies of black male bodies (that form) the basis for white male constructions of whiteness and masculinity" (Thompson, 128). When Haidl and his friends created this hip-hop soundtrack, it served to figuratively re-perform the rape through a minstrel-like show of highly specific masculinity that is prefaced on cultural ideologies surrounding the deviant sexuality of 'blackness'.

Myths and fantasies surrounding the black male body and its cultural ties to rape and the 'deviance' of black sexuality are given voice in one particular discussion of the body of Keith Spann. While both Spann and Nachreiner feature far less in the majority of media representations than Greg Haidl, R. Scott Moxley's coverage of the case, and description of the video in particular, at least attempts to make up for this gap. His description of the rape tape is the most often repeated of any available of those found in news articles, so this account turns up in the *OC Weekly* and *LA Weekly* as well as throughout numerous internet blog and message board discussions about the trial. As Moxley describes the events on the tape, we see that the first copulation scene:

> …shows a naked Doe on her knees in front of the couch. At first, it looks like she is orally copulating Nachreiner and is moving. But soon the viewer learns that a *well-endowed Spann has entered the unconscious Doe*

> *doggy-style*[15] and Nachreiner is holding her head up, forcing her mouth up and down on his penis. Moans are heard. The boys mug happily for the camera. (Moxely, May 6, 2004)

Here the mention that Spann is "well-endowed" may seem either to be merely descriptive or to have little to do with the issue at hand; why would it be necessary to describe Spann's penis with a detailed modifier when no such equivalently specific descriptions of Haidl or Nachreiner are given? However, it is in fact historical racial ideologies surrounding black sexual deviance that make this description seem not only "innocent" but also natural, for they specifically expose the way that black sexual power is represented by the penis. In *Black Skin, White Masks,* Frantz Fanon argues that white lore suggests that blacks have "tremendous sexual power" (157), and that "for the majority of white men the Negro …is the incarnation of genital potency beyond all moralities and prohibitions" (158). The all-consuming power of black sexuality is then located in the penis, and thus black sexual potency, as well as the danger of black sexual violence, finds metonymic presence in the image of the phallus. Spann exists as the literal embodiment of a black sexual identity that is enacted within the rape performance, and as such proves a presence that further enhances the boys' culpability in the rape video.

The representations of Spann are complicated, however, by the fact that he can be read as racially ambiguous. By virtue of several facets of his identity and presence – his youth, his light skin, and his friendship with the wealthy and white Haidl – Spann treads specific racial boundaries. These racial boundaries have been discussed in scholarship about mixed or multiracial identity in America. While the "boundary of color is itself a social construct," it is nevertheless a construct "that has been accompanied in the United States by great anxiety and attempts at social and legal definition" (Burack, 74). These anxieties emerge from the violent history of rape and forced miscegenation that mark America's racial history; as "powerful white

[15] Emphasis mine

forces consolidated their rule through the use of mixed-race black bodies" the "U.S. institution of slavery depended on interracial sex for the reproduction of slave bodies" (Joseph, 11-12), while simultaneously delegitimizing those bodies. The presence of multiracial bodies exposes the lie of race as inherent biological trait, and thus American citizenship has long been predicated on "legal and political criteria of membership in white society [which] were effects of white anxieties about group purity and the maintenance of group boundaries" (Burack, 74).

Figure 14 (Keith Spann at sentencing– Welborn, *OC Register,* March 9, 2006)

These complex dynamics continue in contemporary American culture, where representations of the multiracial body/identity have taken new turns. In contemporary America, "images of multiracial blackness largely do not illuminate the benefits of identifying as black" but instead argue, "blackness must be risen above, surpassed, or truly transcended." At the same time, however, contemporary ideologies about multiracial identity also show that it is to be "*desired*[16] for its imagined transcendent quality, where it is ahistorically divorced from racism and sexism in the United States with its troubling history of chattel slavery, Jim Crow racism, and entrenched misogyny" (Joseph, 4). This contradictory imagery has become stronger over the last decade, as shifting ideas about race, and the election of the first multiracial president, heighten white anxieties about racial mixing, replacement, and erasure. In this context, Spann's identity

[16] Emphasis in the original

cannot simply be seen as sealed. The use of racially-coded terms such as “well-endowed” works to settle his identity – to solidify his blackness.

The issue of embodiment, and the contradiction between the boys’ physical bodies and their embodied performance of race and rape, is particularly important in this case. Reading the bodies and the way bodies are repositioned through identity performance in the tape emphasizes that it was absolutely vital for the defense team to overcome this particular performance in order to cast the boys as ‘innocent’. Lott has argued that blackface signifies not only the ‘theft’ of blackness, but also “an anxious desire for black bodies and the unfettered sexuality that they signify in this (US) economy” (49). The questionable role of desire as it relates to both racial and rape performance is both invoked and mediated through the boys’ actions in the videos and the displacement of desire and violence onto the body of Jane Doe. Traditional minstrel performances, Lott argues, would have occurred in a largely homosocial environment. This environment manifested a homoerotic charge that was doubly enforced through the fetishization of black bodies. In this way, minstrel performances turned black bodies into a mutable sign, into a figure that could be “looked at, shaped to the demands of desire, and…(through being ‘gazed at’ by a white audience could) secure the position of white spectators as superior, controlling figures”(5). Unquestionably the environment of the rape was a homosocial one, and through their performance the boys, perhaps unwittingly, manifested this highly sexual, particularly masculine and heavily racialized group identity.

While this group identity is at odds with the physical bodies of the boys themselves, in the context of performance all three become figuratively “blackened” through performing “blackness.” By engaging in a type of minstrel performance, the boys invoke the specter of minstrelsy and place it at the forefront of most contested piece of the trial; given the narrative

structures that operate in rape cases, the boys' figuratively align themselves as 'black rapists,' as having a sort of untrammeled and oversexed identity that is tied implicitly to the myth of the black rapist. This performance is ultimately highlighted through the creation of the hip-hop soundtrack. The tape, then, becomes a performance that relies on performance, both of blackface and the heavily deterministic narratives of rape, to create its own narrative logic and 'meaning.' The video performance functions as a type of simulacrum, and through reinterpretation in the media discourse one simulacrum is positioned inside of the other. By making themselves "black" while performing their assault, the boys create a fantastical show of their own masculinity through a minstrel performance that draws on cultural tropes about black sexuality. Thus, their performance cannot be separated from the rape that figured so heavily in the economic and social realities that marked the development of blackface performance. Being subsumed within the media simulacrum both highlights the 'performative' nature of the video and positions this video within "the fantastical crime setting of gangsta and horrorcore rap" (Davis, 42) that currently predominates in the popular media. Because so many levels of performances are called upon within the video and representations of the video, it becomes easier to see the boys' as 'black,' and therefore 'guilty,' based on their performance, and performance in some ways overwhelms embodiment.

Embodiment, however, does not end with the boys, and to fully see the threat this video imposed for the defense team and the media it is necessary to imagine how this minstrel performance also positioned the racial identity of Jane Doe. The presence of women in blackface performance is, in itself, anomalous. While black women were sometimes featured in heavily prescripted roles, white women have been erased from blackface performance almost entirely.[17]

[17] It is curious that Lott so strongly dismisses the presence of white women at minstrel performances – especially as illustrations from minstrel shows in the 1800s often feature white female spectators. (Thompson, notes)

In discussing the role of the "black wench" in blackface, Lott has argued that the presence of the female was not about black women but rather that the "misogyny served as a convenient cover story for or defense against the homoerotic desires aired in the process of achieving it" (164). Positioning black women in subservient, degraded or reviled situations thus allowed for a deflection of the homoerotic charge of such performance. This erasure has effectively distanced black women from historical representation within the blackface milieu, despite the fact that black women do suffer heavily from this form of appropriative performance. In her analysis of *Sally's Rape*, Deborah Thompson argues that the piece does not attempt to collapse the experiences of black and white female rape survivors, but rather to expose the "social structures by which both white and black women have been rendered visible (and invisible)" (130). As a young white woman, Doe cannot be simply seen as a stand-in for the 'black wench.' Doe's limp body is not just a part of the show that allows the performance of blackface to be complete; rather, Doe's presence highlights explicitly how embodiment, blackface and cultural myths about interracial rape function to further incriminate the boys. Because we cannot easily exchange a white female body for a black one, the boys' racial performance does not merely substitute a degrade black for a degraded white one. Rather, Doe's embodiment of white femininity forces the spectator to engage with the racial ideologies encoded in dominant rape mythology specifically because she is white; seeing an obviously white woman subjected to a racialized performance of rape forces racist rape myths to be foregrounded in the spectatorial gaze.

Indeed, though we cannot collapse black and white women's violated bodies into a singular category, the two nevertheless exist in dialog, and this dialogue is determined by the power of racilized rape mythologies. Much as the construction of racial difference is prefaced on a binary opposition between black and white, "(b)lack women's sexuality has been constructed in a

binary opposition to that of white women: it is rendered simultaneously invisible, visible (exposed), hypervisible, and pathologized in dominant discourses" (Hammond, 12). When racialized bodies encounter each other in a performative moment, they create what Joseph Roach calls “reciprocal reflections.” These reflections highlight that which exists within, and in the absence of, the other (Roach, 25-26). The racialized rape performance on the tape, then, creates a moment of reciprocal reflection that, rather than merely rendering Doe the object of a misogynistic deflection of homoeroticism, actually *increases* her whiteness. Her limp, white body is overly emphasized in the video performance in the same way that the boys’ bodies are repositioned through their blackface performance. Doe becomes more ‘white’ as the boys become more ‘black,’ and her violation through the rape itself, and then through the representation of the rape, reinforces the brutality of the event. This moment of reflection turns the tape into a form of ‘double rape,’ making it more possible to read the boys’ actions as ‘primal’ and ‘savage,’ and ultimately increasing their appearance of criminal guilt. Crucially, this ‘double rape’ occurs not just through the boys’ behavior, but through the way their behavior repositions both them and Doe to fit into the culturally dominant myth of the black rapist.

Performing ‘Whiteness’: Resetting the Discourse of Spatialized Racial Identities

How did the defense team deal with this problem of racialized “criminal” identity? By seizing on the contradiction between the boys’ embodiment and their bodies to carefully enhance visions of ‘whiteness’ in order to counteract the ‘blackness’ of their rape performance. This process is a tricky one, both because of the way it relies on and references spatial identities, and because whiteness itself is a slippery concept. “Whiteness” as an identity signifier is far more culturally obscured than “blackness,” but the very ‘naturalness’ of white bodies is what makes

how whiteness operates as a signifier so important to understand when reading the Haidl trial. Though difficult to point to what exactly "whiteness" is,

> most observers agree that it is intimately involved with issues of power and power differences between white and non-white people. Whiteness cannot be separated from hegemony and is profoundly influenced by demographic changes, political realignments, and economic cycles. Situationally specific, whiteness is always shifting, always reinscribing itself around changing meanings of race in the larger society. (Kincheloe, 1999)

Whiteness then becomes naturalized through social power structures, and whiteness as an identity signifier can shift with and around social changes that reposition other racial identities. This ability to shift, to forever appear to remain stable or non-existent in the face of the destabilization of other racial categories, is what both naturalizes whiteness and makes whiteness such a powerful signifier.

Signifiers of whiteness and blackness are particularly highlighted in interracial encounters. Frantz Fanon argues that "public encounters between black and white bodies evoke racism's complex history" (111), so that interracial rape creates Roach's moments of "reciprocal reflection." Historical encounters of slavery and colonialism "fostered the notion of a marked, visible, and racialized "other" as it simultaneously gave whiteness both its salience and invisibility--its unmarkedness" (Bosse, 2007). "Whiteness" is therefore a far more open and malleable signifier than blackness, and lends itself to being constituted and injected with meaning in context and through specific modes of performance. Fanon's experience with this complex reciprocal reflection, with being outed as black, highlighted to him how whiteness is able to remain separate from history's terrors, and "remains new, untainted, and free from history's consequences by always projecting the horror away from itself" (Griffiths, 23). Appealing to whiteness, then, cannot only help removed the negative racial connotations of rape but can function to consume other identity signifiers through its all-encompassing reach. The

historical development of racial relations in California makes this doubly true, as the constant presence of racial awareness structures all other interactions within California's social geography.

Resetting the racial discourse in this case began at the most fundamental level, with a very particular construction of the boys' physical bodies when they went to court. In the *OC Weekly*, R. Scott Moxley reports that during the trial "the teens wore slacks and a white or blue button-down with a tie each day; apparently the defense is trying to strike a prep-school look" (Moxley, May 7). Grooming the boys to fit a clean-cut, 'preppy' image shows that the defense team was conscious both of class and race stereotypes that might operate in the trial and that these images may infiltrate media representations and become an even more damning representation of their clients. It was not grooming alone that gave this 'preppy' impression, however; Robbie Ruiz, foreman of the second trial, said it looked like the boys had been coached to perform specific behaviors (Moxley, Mar. 6, 2006), such as clasping their hands or contorting their faces into expressions of "sad, silent pleading" (Moxley, Feb. 17, 2005), that gave the impression of youth and innocence. Defense Attorney Peter Morreale called on these very expressions as symbolic of how patient the boys were being during the jury deliberations when he said that "(t)hese kids have been sitting here for two months with their hands folded and putting their faith in you" (Moxley, June 24, 2004). The pictures of Haidl and his friends that appeared during and directly after the first trial overwhelmingly represented this "patient" image by showing the boys in a narrow set of postures that called on these 'innocent' looks. Pictures featuring more than just the boys' heads show them attired in this 'prep-school' gear of neat buttoned-down shirts and slacks (fig. 15), and their posture is generally shown as standing or sitting with clasped hands (figs. 16, 17 and 18):

Figure 15 (Haidl and attorney, *LA Times*, April 2004)

Figure 16 (Haidl, *Poe News*, Dec. 17, 2004)

Figure 17 (Haidl, *LA Times*, April 2004)

Figure 18 (Nachreiner, Spann and Haidl, *LA Times* and *OC Weekly*, April 2004)

It is significant that Moxley calls this style a "prep-school" look. Why, for instance, is this a 'prep school' look and not merely a "yuppie" look or a "clean-cut" look or an "adult" look? The idea of a "prep-school boy" immediately conjures an ideal of gentrified, privileged living that is particularly resonant within the heterotopic space of Orange County, where privilege has come to form one of the dominant signifiers of the cultural landscape. The combination of clothing, posture and facial expression image recalls certain class-based assumptions about manners and respect, and the repetition of this image shows a clear framing of their identity as "preppy." The

racial geography of California places a particularly strong emphasis on the relationship between race and class, and so the continual repetition of these particular images helps to reset the discourse and de-emphasize the negative racial performances within the rape video. The fact that something so seemingly simple as changing clothing and physical expression can signify ‘whiteness’ illustrates the way that ‘whiteness’ and ‘blackness’ exist as such different, and differently determined, signifiers and how connections between “whiteness” and privilege can be evoked to create a heterogeneous group identity (fig. 18).

Ultimately, however, the framing of the boys as a heterogeneous group is accomplished most thoroughly through the extreme focus placed on Greg Haidl himself. In all of the media representations of the first trial, Haidl serves as a focal point and icon. In pre-second trial articles surveyed here, only one out of eight images show Kyle Nachreiner and Keith Spann (fig. 18), and they are only shown with Haidl. Three pictures involve the lawyers, and the other three focus entirely on Haidl alone. In the *48 Hours* pieces[18] that accompany the videos produced for *48 Hours* and CBS Morning Edition, the focus is also quite explicitly on Haidl. Neither piece features an interview with either Nachreiner or Spann, and though Spann appears in one video and Haidl’s house is part of the other, each accompanying piece features only pictures of Haidl (figs. 19 and 20):

Figure 19 (Haidl, CBS Morning Edition, April 22, 2004)

Figure 20 (Haidl, *48 Hours*, Nov. 20, 2004)

[18] These transcripts are available o the CBS/48 Hours website

Additionally, the substance of each article places a substantial focus on Haidl and his experience of the case. Descriptions of key moments during the proceedings tend to focus on Haidl's emotional reactions; in an article from the *OC Weekly,* the events following the announcement of the mistrial decision are described in terms of Haidl's actions, how he embraces his father and weeps into his shoulder, while nothing is said about the other two boys (Moxley, July 1, 2004). All of this discourse explicitly positions Haidl as the central figure of the story. Placing Haidl in this position allows for the 'open signifier' of whiteness to overtake the heavily racialized performances present in the video, as well as overshadow the physical presence of Keith Spann's blackness. It is not only the rape, or only the performance of race, that the defense had to overcome. The contradictions presented within the group, their interracial composition and the identity of Haidl's family, presented serious challenges to being able to categorize the case.

While the focus on Haidl and the proliferation of signifiers that connote 'preppyness' might explain what happened to change the discourse of the case, it does not thoroughly explain how it happened or why media representations so closely followed the image the defense team wanted to project. In fact, given California's complex racial history and the way racial consciousness so sharply cuts across other identity factors and social class structures (Almageur, 3-5), it may seem that simply readjusting the imagery of the trial would not be enough to figuratively erase the negative racial performances within the video. The fact that these particular racial representations were even partially successful in realigning Haidl and his friends, and that the media focused so heavily on images of a "preppy" Haidl, can largely be explained by the way that racial categories are popularly understood in contemporary America. Changes in racial identity politics over the last several decades, "when coupled with a panoply of socio-economic and political forces" have challenged an earlier, theoretically stable and unified, construction of

whiteness (Kincheloe, 1999). Legal and critical race scholar Ian Haney-Lopez is one of many studying racial formation after the Civil Rights period, and he argues that America today is marked by an ideology of "colorblindness" that proclaims the success of the Civil Rights movement while simultaneous ignoring "the continuing power of race as a society-altering category" (2006). This colorblindness relies on idea that America is now "post-race," that the goals of the Civil Rights movement have been met, and therefore that political acknowledgement of difference is no longer necessary or desirable. Sociologist Amy Ansell claims that this post-race ideology experienced an initial surge in the early 1980s and gained ground by co-opting "classical civil-rights ideals such as color-blindness, individualism, and equality of opportunity" in a way that stalled the "movement toward racial equality and justice" by proclaiming that those things had already been sufficiently achieved (Ansell, 2006).

The ideology of colorblindness, and its accompanying construction of a post-race society, has experienced a "normative embrace… by segments of the white community" which has resulted in a new concept of race that "combines denial of racial hierarchy with opposition to key items on the black agenda without, importantly, requiring departure from democratic or egalitarian principles" (Ansell, 2006). So though dominant white culture is now aware that "(whites) may not constitute a majority of the population" (Kincheloe, 1999) and that overt expressions of racism are no longer acceptable, this awareness has simultaneously limited the racial consciousness of most white Americans. Awareness of structural inequalities that necessitate a continuing social discourse about race has been replaced by an anxiety about what it means to be white that is tied to hostility toward minorities who continue to focus on inequalities that, according to colorblind ideology, no longer exist. While this white identity crisis is in part "the angst of the privileged," it is also "a manifestation of the complexity of identity as class and

gender intersect with race/ethnicity, an expression of the emptiness of the postmodern condition, and an exhibition of the failure of modernist humanism to respond to the globalism engulfing it" (Kincheloe, 1999). The complex identities evolving within this postmodern condition provide insufficient models for new forms of whiteness that manifest positive, anti-racist white racial identities largely because post-race colorblind ideology mandates that creating a "positive" white identity means ignoring racial difference, not focusing on it. It is the intersection of racial anxiety, racist hostility and structural ignorance that has produced a sense in racial discourse that "there exists no good reason to be white" (Kincheloe, 1999; Winant, 1994) and which has, ironically, served to further obscure the structural inequalities that allow for continual white dominance.

Rather than striving to create the anti-racist white identities that are so needed, too often the media instead capitalizes on the anxiety of shifting racial identity boundaries to depict a sort of "white nihilism" that is largely expressed through violence. Joe L. Kincheloe argues that one of the best examples of this nihilism can be seen in the 1993 film, *Falling Down*. The film features an "overburdened" white man, played by Michael Douglas, who "is victimized by women and minorities who blame him for all that is wrong and want compensation from him" (1993). His anger finally reaches a boiling point and he "opens fire and leaves a trail of corpses behind him" Kincheloe, 1999). Kincheloe argues that the pleasure this film induces for white audiences is really a pleasure at embracing white nihilism, which proclaims that white people are now powerless victims who are racially marginalized and "there is no alternative for postmodern white people save taking people with them when they inevitably go down (fall down)" (1999). The only response to the angst of displaced whiteness, then, is a forceful, and even violent, marshalling of whiteness that is not far from the professed goals of white supremacist

organizations. And while representations of the Haidl case were not so openly violent in their use or function, they nevertheless point to how tricky a signifier race has become; the emphasis on whiteness here is predicated on the idea that invoking white signifiers can restabilize shaky identities in order to "make sense" of a heavily racialized criminal performance that does not seem to fit within either the white, privileged heterotopia of Orange County or the colorblind society that renders the extreme whiteness of Newport an irrelevant issue.

Indeed, it is the spatial identity of Orange County that encourages the use of specific racial signifiers to mediate the case discourse, and this is implicitly tied to the nostalgia element that marks the contemporary Orange County media landscape. This nostalgia elements has its roots, as we have seen, in media narratives of the late 1980s and early 1990s, which themselves were nostalgic appeals to the 'kinder, gentler' California of the 1950s and 1960s. This 'kinder, gentler' period, of course, was California in its pre-Civil Rights state, when the naturalized power of white masculinity was largely uncontested. Contemporary nostalgic representations of Orange County are then partly a product of the deep, conservative racial backlash of the 1980s that crystallized the colorblind ideology of the present. In this cultural nostalgia, "(Ronald) Regan functioned as a sort of grand and trusted anchor, reassuring whites that the menaces of the modern world – both foreign and domestic – were effectively held in check and that such sacred values as whiteness, individualism, private property, and family were protected" (Gray, 16). Regan's rhetorical appeals to "the good old days" turned "on the complex post-civil rights discourse of race in general and blacks in particular" and the complexities of contemporary ethnic and racial identities were elided in favor of "popular notions of whiteness in opposition to blackness" (Gray, 17). In this environment, *The Cosby Show* evolved as the opposite end of depictions of poor black criminality. And while *Cosby* invited people to see blackness as existing

in a more positive, upper-middle class respectability, it also ignored the economic realities that limited many blacks and underwrote "the racial politics of "unity," which comes at the cost of subordinating key differences within that unity" (Gray, 82). This subordinating discourse explicitly linked blackness with middle-class sensibilities in a way that allowed racial identity to become subsumed within class discourse.

Nostalgia, then, is the key that makes resetting the racial discourse in the Haidl case not only possible but necessary. Representations of white, privileged Southern California life have been built on the same nostalgia that infused 1980s racial discourse, and the swift "othering" of non-white identities that marked *Beverly Hills 90210* has been inherited by *The OC,* where the only difference that is ever truly engaged in any sustained fashion is the class difference represented by Ryan. In *The OC,* it seems, class has become shorthand for multiple types of difference, and class is neatly handled when Ryan chooses Newport instead of his previous life over and over again throughout the series. The racial performances in the Haidl case are managed by shifting the discourse so that "blackness" becomes subsumed within the cultural landscape of Orange County life. In the first trial, it is clear that this shift in discourse had an impact and represented the struggles of the jury; while the boys were not acquitted, enough confusion was created that a singular, coherent reading of the tape became nearly impossible. Focusing on Haidl figuratively allowed for a collapsing of racial and class ideologies that favored the defendants; through this racialized discourse, Haidl easily fits into the mold created by Ryan from *The OC,* and becomes a boy who is perhaps rough, but ultimately only misunderstood and able to be saved by the embrace of Orange County privilege. The only way for the racial elements of this case to "make sense" in the space of Orange County was to focus on Haidl, and focusing on Haidl decreased the negative racial associations, thus rendering the boys less guilty.

Fittingly, representations of the defendants during and especially after the second trial depicted the boys quite differently than those surrounding the first trial. After the March 23, 2005 conviction, images of the boys expanded to include both more equal representation and more 'criminal' representation. Images after the second trial were far more likely to feature Kyle Nachreiner and Keith Spann along with Greg Haidl, or to ignore Greg Haidl entirely and focus on just the other two. The content of these pictures was not the only change, however; the composition of the images and the way the boys' faces and bodies were depicted changed markedly. Some images focused on depicting looks of attrition or culpability (fig. 20), where before extremely similar pictures had featured looks of innocence or pleading (fig. 17, above). Others focused on Spann and Nachreiner yet contained misleading captions (fig. 21) that referenced Haidl but focused the image of 'guilt' on the other two boys. And some had misleading headlines and captions that did not match photos, creating an almost entirely different image from that emphasized during the first trial (fig. 22).

Figure 21 (Nachreiner, Spann and Haidl, April 2006, *Fairfax Digital)*

Figure 22 (Spann and Nachreiner, March 10, 2006, *KABC*) - Original photo caption: *Greg Haidl, Kyle Nachreiner and Keith Spann were each 17 years old at the time of the July 6, 2002, videotaped assault on the now-19-year-old woman referred to in court as Jane Doe. Now, a hearing will determine if the three will be sentenced as juveniles or adults.)*

Figure 23 (Nachreiner with attorney and baliff, Jan. 2, 2006, *Orange County Register)* - Original photo caption: *from left, Keith Spann, Kyle Nachreiner, and Gregory Haidl appear in court today.*

Other images from this period played with composition to highlight the presence of Spann and Nachreiner and place them as supporting figures for the dominant presence of Haidl. The softening and blurring of focus and arrangement of the bodies of the three boys in one image (fig. 23) makes Nachreiner and Spann seem like they are somehow hovering over Haidl, as if they are presences that haunt him and force him into the foreground to take the brunt of the blame for their crimes. By blurring the edges of the picture the image becomes less than fully real and representative, and seeing the boys through this frame, with none of them directly facing the camera, creates an unreality that allows for greater spectatorial distance. Here the composition of the image gives the photo the characteristics of an omniscient narrator, making it a lens which refocuses the 'facts' and tells the audience how to properly look at the case. And significantly, the construction of the images encourages the audience to see the boys, not as people, but as players in the heterotopia that have a valuable lesson to teach about the characteristics of criminals. The use of Spann as a literally 'differently colored' background

figure in another image (fig. 24)[19] invokes race in perhaps the most direct way of any of the images from the Haidl media discourse; here is Roach's 'reciprocal reflection,' and here is an image that literally 'colors' Haidl with the taint of criminalized black bodies and the spectre, embodied here by Spann, of the myth of the black rapist.

Figure 24 (Nachreiner, Haidl and Spann, March 10, 2005, *CBS5 News*)

Figure 25 (Spann and Haidl, Jan. 20, 2006, *KCAL 9 News*)

These new representations create quite a different image of the boys and the case, and make it much harder to see them as 'innocents' or 'sweet boys,' particularly given the collusion between their racialized rape performance, the myth of the black rapist and the complex racial history of California. In order to understand the boys as truly guilty, it seems it is necessary for media representations to 'recreate' the face of the trial. This alteration performs the black rape myth as surely as the boys performed it in their video; by refocusing the information to more clearly feature the one black defendant, the media forced the case to once again 'fit' into dominant racialized rape myths. However this switch is particularly significant given the case's existence in the media landscape of Orange County, where, as more than one commentator has claimed, something as horrible as a violent rape just shouldn't happen (Chen in *CBS Morning Edition*, Apr. 22, 2004). Media representations in the first trial reconfigured the case by drawing on the popularity of certain myths, including both the myth of public stranger rape and the mythic

[19] Though difficult to see, the original photo has Haidl in 'natural' colors and Spann, in the background, tinged with a soft purple light that blends him into the background.

representations of spatial identities in Southern California, to tap into the connections between white nihilism and colorblind ideology that mark the racial landscape of twenty-first century America. However representations in the second trial fall back on a more obvious appeal to the myth of the black rapist in order to "make sense" of how something like a rape *could*, in fact, have happened here. And while examining how racial identities were manipulated in this case can explain part of the deadlock within the first jury, it is necessary to turn to an exploration of how the trial discourse positioned gender identities, in concert with representations of racial and spatial identities, to understand how enough ambiguity was created in the case to make Jane Doe seem like less than a "real" rape victim.

CHAPTER 3
"She Knew How to Use Her Body": Gender Roles and Postfeminism

Before deliberations, Judge Briseno explained to the jury that if the defendants should have reasonably known Doe was incapacitated, they were compelled to vote guilty, but 22-year-old juror Michael (he declined to give his last name) of Garden Grove ignored that instruction. The girl's sexual history "weighed heavily" in his decision to support the defendants, he said. "[The videotape] was compelling, but not, in my opinion, sufficiently convincing." – Moxley, July 1, 2004

"But defense attorneys said the girl was a willing participant in the encounter and had faked unconsciousness. Defense lawyers came into court and said, "let me tell you about this horrible, slutty girl named Jane Doe, and about these normal 17-year-old (boys) who didn't have a choice," Hess said Tuesday." - OC Register, June 22, 2004

Throughout the Haidl trial, the defense team went to great lengths to brand Jane Doe a "horrible, slutty" girl who forced the boys into a situation in which they "didn't have a choice" in the events captured by Haidl's video camera. Doe's sexual history, and particularly her previous sexual experiences with the defendants, took center stage in the trial discourse and became the most contentiously debated issue in media coverage of the case. When Doe admitted having previous sexual relations with some of the boys at the July 4 party that preceded the evening of the rape, articles blared out the news that Doe "told jurors Tuesday that she willingly had sex with two teen boys and kissed a third the night before the three allegedly sexually assaulted her" (Fox, May 18, 2004). The question of Doe's "willingness" to engage in sex became one of the key issues of the case, and defense attorneys claimed that her testimony about her past made it seem like "this young girl's entire life was wrapped around parties, sex and drinking and drugs" (Fox, May 18, 2004). Ultimately, consent served as one of the major issues of the case, despite D.A. Tony Rackauckas's claim that the tape was the center of the case and that, because the tape showed Doe unconscious, her consent was not really an issue (*CBS* Morning Edition, April 22, 2004). Moxley argues that the defense was successful enough in making consent the focus of the trial that "(b)y the time the evidence portion of the Haidl gang-rape trial ended June 17, the case had been whittled down to a single question: Was Jane Doe, the alleged victim, so intoxicated

from beer, marijuana and eight ounces of Bombay Gin that she couldn't resist, or did she fake unconsciousness for a necrophilia-themed porno shot by the son of an Orange County assistant sheriff" (Moxley, June 24, 2004)?

Arguing about whether or not Jane Doe's previous behavior meant that she had consented the night of the rape was partly a way for the defense to convince the jury that the rape accusation was a false one. The idea that many rape accusations are false is, in fact, one of the strongest components of modern rape mythology. Calling on popular myth of violent, public, stranger rape creates ambiguity in reports of rape that do not fit that myth as much as it culturally positions the identities of rapists and rape victims. We have seen that manifestations of racial and spatial identities in the discourse of a rape case can be used to reposition the perpetrators and victim within dominant rape myths; cultural constructions of gender and sexuality are likewise used in these myths in a way that renders certain types of women figuratively 'less rapeable' by virtue of who they are and how they represent themselves as women and as sexual beings (Kassing and Prieto, 2003). If some women are 'less rapeable' than others because they do not fit in the 'victim' role cemented in rape myths, then it becomes easier to see some rape accusations as false. The charge of 'false' rape accusations is frequently flung out to discredit rape victims, and high profile stories, such as the allegedly false accusations made against three Duke University lacrosse team players in 2007, perpetuate the debate about rape reporting statistics and the prevalence of false accusations.

While it is difficult to get solid statistical support for the prevalence of false rape accusations because rape is generally underreported, and rapes committed by acquaintances are especially unlikely to be reported (National Victim Center and Crime Victims Research and Treatment Center, 2005; Bureau of Justice Statistics, 2011), numbers for false rape reports vary wildly

depending on the source. When reported in news media, false rape statistics can and have diverged as much as 2% to 50%. Many of the higher numbers are based on smaller, regional surveys or come from politically motivated organizations and thus reflect either particular methodological biases or political motivations. For example, in a landmark study from sociologist Eugene J. Kanin, 50% of the rape reports from an unnamed Midwestern university were later determined to be false; Kanin, however, claimed that his findings should not necessarily "be extrapolated to other populations, particularly in light of our ignorance regarding the structural variables" (Kanin cited in Haws, 1997). Understanding rape statistics is therefore a difficult task particularly because the nature of the crime is nested within so many structural variables; truly amassing a reliable body of work which examines larger scales of rape reporting is complicated by the social and structural factors that influence whether women will report rape, problems within legal institutions that either inaccurately or insufficiently investigate rape claims and larger social forces that limit the likelihood that victims will be believed when they do report rape.

FBI crime reports provide one of the few pieces of evidence that support an analysis of rape reporting on a broader scale, and the most recent statistics indicate that between 8-15% of rape allegations are later found to be *unfounded*. "Unfounded" is not the same as false, as unfounded merely means that there is a lack of evidence or that the charges have not been found provable (Bureau of Justice Statistics, 1997). These statistics imply that the rate for false rape reporting is actually closer to the 2%-3% of false allegations that mark all other violent crimes (Men Against Sexual Assault, 2003; Haws, 1997). However FBI statistics have been criticized on the grounds that police standards do not consistently follow FBI criteria for determining whether or not a rape allegation is unfounded (Haws, 1997). The difficulty in gathering reliable rape reporting

statistics, and the fact that there is significant reason to believe not only that a high percentage of rapes go unreported but that some rapes are more likely to be prosecuted than others (Men Against Sexual Assault, 2003), has led feminists and social theorists to explore the very institutional and structural formations that influence everything from the practice to the prosecution of rape, as well as the victimization of rape victims both within the crime itself and through the legal and social processes meant to protect them.

When Susan Brownmiller published *Against Our Will* in 1975, she made it possible for scholars, feminists and legislators to begin seeing rape within the historical, cultural and political contexts that have made it a part of modern social structures. Brownmiller argues that the history of rape shows it to be an act that "is nothing more or less than a conscious process of intimidation by which *all men* keep *all women* in a state of fear" (15).[20] This formulation opens up a variety of ways to situate and analyze rape beyond the legal tendency to imagine it as a crime committed by a "small lunatic fringe" of the male population (A. G. Johnson 1997, Scully1990). The work of Brownmiller and other theorists has focused on rape as social phenomena that both manifests and expresses patriarchal power. Within this explanatory framework, "male violence constitutes a socially structured mode of domination in which rape and the fear of rape produce and reproduce patriarchal social organization – sustaining female subordination to males" (Matoesian 1993, 10; Walby 1990). This structural feminist model of understanding rape examines how rape functions to 'keep women in their place' as socially submissive subjects and legitimizes ideologies that privilege male dominance of women (Brownmiller, 1975). Significantly, societies that are marked by higher rape numbers are also more likely to have high levels of gender inequality; a strongly organized 'rape culture' that legitimizes and regulates male standards and beliefs about men's right of access to women's

[20] Italics in the original

bodies (MacKinnon 1989) is more frequently found in direct relationship to strict stratification of gender roles and acceptable gendered behavior.

Thus, feminist critiques of rape have focused not only on the institutional nature of the crime but on its power to both determine and reinforce popular conceptions about the relationship between gender performance, sexuality and violence. As Catherine MacKinnon argues, sexuality "is a form of power...(g)ender, as socially constructed, embodies it, not the reverse." Thus men and women are constituted as subjects by the "social requirements of (its) dominant form, heterosexuality" (113, 1987), and the project of establishing these gender categories likewise institutionalizes male dominance and female submission in both sexuality and gender. This implicit connection between gender roles, sexuality and embodiment is frequently explicitly invoked in dominant rape myths. The contention that these dominant rape myths frequently cast victims as either 'virgins' or 'whores' persists in most dominant media representations of rape. Such myths likewise "minimize the damage caused by victimization and remove blame from typical offenders, while rejecting the idea that rape is a learned behavior in patriarchal societies (Brownmiller 1975). If women are always either 'virgins' or 'whores,' then, the social meaning of rape is truncated, and becomes inextricably tied to the female victim's gendered sexuality, not the male perpetrator's masculinity.

The continued repetition of these myths in media representations and rape trials structures expectations about gender-appropriate sexuality and behavior for both women and men, and the archetypal virgin/whore duality is accompanied by numerous other 'gendered' myths that discursively position male and female actors within rape performance. Repetitive tellings of rape narratives turn rape from merely an abject reality to a "part of our fantasies, fears, desires and consumptive practices" (Projansky, 3). It is therefore imperative to examine not only how rape

narratives function on a discursive level but also how these practices are "legitimated through cultural, mediated interpretative devices" which glorify male violence and make such violence both more likely to occur and more difficult to combat (Matoesian 1993, 13). Media representations of gender, sexuality and their relationship to rape cannot be taken lightly, as they create pathways for expression of "gender-appropriate" sexuality while also policing or legitimating actions that fall within and without the lines of that propriety. As shown in the epigraph from "Michael," one of the members of the first Haidl jury, Jane Doe's sexuality was as much a part of the jury's considerations as any analysis of the structural power of rape myths would foretell, and was in fact more significant for some than the seemingly strong evidence presented by the tape. In the Haidl case, 'gender-appropriate sexual expression' served as a strong baseline by which the various actors in the case were judged by both jurors and media representatives. The question, then, must be how this sexual and gender expression was discussed and understood for both victim and perpetrators within the trial and the media, how this might have operated in connection with spatial and racial identities invoked within trial discourse and if rape narratives were used or manipulated in a way that produced a 'hung jury' at the end of the first trial.

While rape myths position female sexuality as submissive and inherently tied to victimization, they also position male sexuality as "more natural and more explosive than female sexuality …(and) the women who satisfy these urges are included as passive actors in…a sexual discourse where the male, but not the female, sexual instinct is characterized as an insatiable biological instinct and psychological need" (Sanday, 12). Such myths perpetuate the notion that rape is first and foremost about sex, and that differing interpretations of sexually appropriate behavior and particular sexual acts are really the cause of rape accusations, not issues of violence and bodily

domination. Myths of ‘natural’ male sexual appetite were naturalized within Freudian psychoanalysis, wherein sexual violence became seen as not only normal but biologically necessary (Silverman 187, 271). Such naturalization has become the basis of the two most dominant rape myth scenarios which appear in the majority of rape representations: that of the “crazed” offender who attacks an innocent victim who fails to defend herself, and that of the “whore” victim who teased the ‘naturally sexually aggressive” offender and thus “got what she deserved” (Benedict 1992; Griffin 1971; Madriz 1997). Though these two particular scenarios are not nearly inclusive of the many explanations for rape put forth in the dominant media, any surface reading of the Haidl case shows that a ‘boys will be boys’ mentality permeated the discourse. In a typical invocation of this myth of natural male sexual drive and the victim as “whore,” Peter Morreale, Keith Spann’s lawyer from the first trial, “claimed that Doe rarely wore panties and flirted, and that his client "was [then] 17 years old and tripping over himself" to have "consensual sex" with her” (Moxley, May 6, 2004).

Such characterizations of ‘natural’ male sexual aggressiveness draw on popular conceptions of the binary opposition between masculine and feminine gender roles and serve here to excuse the rapists’ actions as normal, or in this case ‘youthful,’ indiscretions. There is a long history of dividing male and female bodies along rigid lines and fitting them into oppositional gender roles within Western philosophical and cultural tradition. These oppositions have led to “an unexpected division into masculine and feminine people – where masculinity is a set of psychological and behavioral traits which are considered particularly appropriate to bodies classed as male, and femininity traits considered appropriate to those classified female” (Alsop et al, 14). This division of bodies into ‘naturalized’ gender roles affirms biological studies of bodily difference and can be seen as an appeal to a certain type of “givenness,” to a world “which has a

structure and order independent of our interactions with it, a structure which we cannot modify and which conditions our lives and agency" (Alsop et al., 14). The normalization of this gender role binary was predicated on an implicit understanding of the nature of the world as itself being determined and defined by a variety of oppositional dichotomies, such as nature/culture and the previously discussed public/private dichotomy that dominates popular conceptions of the ordering of social space. Thus strict gender roles are seen as merely a natural extension of a binarized world order.

This philosophical construct of a given natural order was also used to justify inequalities within social hierarchies as being merely an expression and manifestation of naturally differing sexual characteristics of male and female bodies. The development of science, and specifically biology and medicine as scientific studies of the body, helped structure the development of gender ideologies during the eighteenth and nineteenth centuries; a new concentration on genital sexual difference and secondary sex characteristics, as well as dubious scientific inquiry into male and female differences at the cellular level, led to a belief that males were biologically predetermined to be more active, energetic and passionate while females were more passive, sluggish and stable (Alsop et al, 18; Martin, 1987). The dawn of the twentieth century shifted the figurative seat of feminine and masculine behavior away from body parts and onto sex hormones, and the argument that women are subject to the whims of their unbalanced hormones and are therefore less stable than men continues to this day (Alsop et al, 20). Formulations of gender-appropriate behavior accompanied this medicalization of the sexual body and, much as with the rise of medical interest in black bodies during Reconstruction-era America, these roles focused on validating women's status as social subordinates. Constructing maleness as tied implicitly to activity and femaleness as tied to passivity created a socially-determinative gender

dichotomy in which seeing the “male as ration and capable of universally valid thought and female as emotional and tethered to the particularity of her body and situation” (Alsop et al, 17) allowed for patriarchal structures to coalesce in a way that guaranteed male supremacy and female dependency. Thus, as discussed in relation to media representations of the Orange County landscape, the male/active-female/passive dichotomy continues to have power over how we structure our social and spatial relations to this very day.

The dominion of these ‘natural’ gender roles and their strong connection to the ordering of social structures up through and into the modern sphere has also allowed for the development of what sociologist Greg Matoesian calls “the patriarchal logic of sexual rationality” (2001; 40). This logic provides an interpretive framework that dictates what does and does not count as rape, as well as how a ‘true victim’ would and would not act after being raped, according to male standards of acceptable sexual behavior. Patriarchal logic is able to “control and define acceptable and unacceptable female sexual behavior through the agency of fear” (Sanday, 13) while also influencing how moments of female sexual expression are reinterpreted within discourse. The idea that women make ‘false rape accusations’ is one of the strongest cultural rape myths found in media narratives employing this logic, along with the idea that some women really want to be raped and that women are not actually hurt by rapes that are not explicitly violent (Burt and Albin 1981; Estrich 1987). While these “projections of rape prime the viewing public to confuse all but the most brutal rapes with consensual sex” (Bufkin and Eschholz 2000), rape narratives also provide “both rapists and ‘normal’ males with accounts and situated vocabularies of motives with which to rationalize, excuse and justify their sexual aggression against females” as well as insuring that “males and females learn a cultural language and an interpretative framework for understanding their sexual interactions” (Matoesian, 1993; 13-14).

Crucially, as Matoesian argues, this logic is also represented in the structure and organization of the legal system. The legal system performs patriarchal logic both through its inability, and occasional unwillingness, to prosecute rape trials as well as in the discursive organization of trials themselves and the degree to which jurors and attorneys rely on culturally constituted gender myths to structure argumentation and case narratives (1993, 2001). Collected statistics of legal rulings imply that the state, through its legal bodies, simply fails to prosecute sexual violence crimes; according to recent statistics from the U.S. Department of Justice, of the 46% of rapes that are actually reported to the police, less than 7% of perpetrators will spend even one day in jail (2013). Examining how the patriarchal logic of sexual rationality operates within rape trials can help provide an explanation for this large gulf in the successful prosecution of different types of felonies. As Matoesian argues in his analysis of the prosecution of the William Kennedy Smith rape trial from 1991, rape "functions not as a violation but as an enforcement of the social order…(and) the rape trial is, *for the defense,*[21] an attempt to align and realign the (victim's) actions to fit patriarchal standards of sexuality and sexual access…through a mode of domination" (226, 1993). If rape trials do indeed operate on this logic, the Haidl case provides an opportunity to examine how dominant rape myths which draw on the ideology of 'naturalized' oppositional gender roles can be enacted within rape discourse and function in a very specific way to limit readings of an actual instance of rape.

Reading the Haidl case to see if and how the patriarchal logic of sexual rationality operates through discussions of gender-appropriate sexuality can help expose the underlying structures that influence representations of both Jane Doe and the boys. However the Haidl trial, as we have seen, does not simply exist in a cultural vacuum, and many of the cultural connotations of the Orange County landscape are reflected in the spatial and racial identities created within the

[21] Emphasis mine

discourse. Fully understanding the use of dominant myths about rape, gender and sexuality in the Haidl case therefore also requires examining the relationship between landscapes and gender. While the study of landscapes from a critical standpoint has allowed geographers to see how "the more obvious expression of class, race or ethnicity" (Monk quoted in Dowler et al, 2) is materialized in landscapes through, for example, the quality of homes and businesses, gender has only recently been acknowledged as something that can be encoded within and constituted through landscapes and the process of gazing upon them. Feminist geographers "now argue that the landscape not only reflects certain moral codes but performs as a medium to perpetuate socially constructed gender stereotyping" (Dowler et al., 1). It is this particular relationship between morality and the landscape that is most important for understanding the Haidl case; the relationship between space and gender is structured through conceptions of morality, which itself can be seen as a set of "practices of responsibility that implement commonly shared understandings about who gets to do what to whom and who is supposed to do what for whom" (Walker quoted in Dowler et al, 6).

Examining how morality features in ideologies of gender and gender-appropriate sexual behavior, and how this influenced the Haidl trial, means specifically looking at both how the discourse configured the individual actors in the case as well as the relationship between this configuration and representations of the gendered and racialized Orange County landscape. Narratives of 'gender-appropriate' behavior evolved in the case in ways that relied on both spatial and racial identities, and these divergent elements must all be examined together in order to see how dominant ideologies about the 'natural' active/passive gender dichotomy colluded with popular rape mythologies and representations of subjectivity within the case discourse. Looking at gender separate of racial and spatial identities, as well as in connection with them,

can open up a way to not only more fully understand 'what happened' in the Haidl case, but to see how contemporary gender roles in the media are evolving in dialogue with ideas about gendered sexuality, morality and the burgeoning ideology of postfeminism.

"They're Just Innocent Little Boys": Constructing Naturalized Male Sexual Aggression

In her analysis of group violence and structures of masculinity in *Fraternity Gang Rape* (1990), feminist anthropologist Peggy Reeves Sanday argues that it is "social ideologies, not human nature" that prepare men to rape, and that groups of men who participate in fraternities are likely to experience an "alteration of consciousness that shapes…masculine subjectivity and attitude toward women" (192). The tendency of groups to engage in behavior that structures particular social attitudes and occludes individual attitudes is, according to Freud (1921/1951), prevalent in all groups. To that degree, the discourse of the Haidl case is as much about *group* masculinity as individual masculinities. While Jane Doe is singled out in the discourse as the object of the action, and is thus separated and subjected to individual critique, Haidl, Nachreiner and Spann are generally subsumed within the discourse into a unified whole. As we have seen, part of the logic of this move lies in the way racial ideologies were invoked in the video and needed to be figuratively 'managed' to realign the case away from narratives that imagined them within the frame of the myth of the black rapist. However, in the context of the Haidl case, the specific ways the boys as a group, the boys as individuals and Jane Doe as an individual were represented also served to interpret their behaviors through the lens of cultural narratives of male sexual rights and female sexual passivity. Some Freudian scholars argue that heterosexual rape can be seen as reifying "the status of man as absolute subject, foregrounding the agency of the man on one hand and the passive objectification of the woman on the other" (Stockton, 5). The organization of gender discourse in the trial and media coverage reveals that this dialogue of

"natural" male aggression and female passivity was highlighted in order to position Haidl and his friends as innocent "boys" unable to understand the consequences of their actions and Doe as a sexually permissive "woman" who, according to defense attorney John Barrett, got "exactly what she wanted" (Moxley, May 6, 2004).

As previously discussed, the video positioned Haidl and his friends as a 'gang' in a way that was problematic for the defense and for media sources. This focus was partially diffused by reframing the group as a unit with Greg Haidl as the figurehead. The shift from multiple identities within a group to monolithic persona, however, was not only accomplished through images; much of the discourse of the case in the early period (before the re-trial) also imagined the boys as a group in a way that focused on their youth and vulnerability while also denying individual agency and placing Haidl's version of events as the dominant one for the defense. The two pieces from CBS (Apr. 22, 2004; Nov. 20, 2004) display particularly good examples of how news reporting represented the boys as acting with a singular group will. In the "Does Teen Sex Tape Show Rape?" piece (Nov.20, 2004), CBS correspondent Julie Chen claims that:

> Before the infamous videotape was made, Greg had made other *typical*[22] teenage films with Kyle Nachreiner and Keith Spann, his friends in San Bernardino. All three boys had parents who split up, and all three shared at least one teenage interest: an obsession about sex.

Here group identity is crafted through the repetition of different interests and experiences that bound the boys together as a unit. This simple sequence accomplishes a number of significant ideological functions. While it provides a background context for the boys' relationship, it also naturalizes their 'obsession about sex' through the use of 'teenage' as a modifier. In this declaration, an interest in sex is equated to the boys' interest in making movies, and each is

[22] Emphasis mine

positioned as being a perfectly ‘normal’ occupation for teenage boys. Using “teenage” here focuses attention more on the age and youth of the boys than on their masculinity.

The normalization of male sexual aggression can be seen in the majority of media references to the boys as a group, their intentions during the evening of the rape and their motivations for filming the evening’s proceedings. Coverage of the trial frequently mentions that there was an expectation of sexual relations that evening because two of the defendants had had sex with Jane Doe the previous evening and Jane was dating Keith Spann at the time (Fox, May 18, 2004; *KNBC*, May 26, 2004). R. Scott Moxley reports that “(o)n the night of the alleged crime, Doe first rejected their invitation to come to their party,” to which Peter Morreale, attorney for the defense, responds that the boys "were bummed that they’re not going to get any!" (Moxley, May 6, 2004) Morreale’s casual use of terms like “bummed” and “get any” plays with the theme of “youth” and innocence that the defense team so strongly pushed in representing the boys, and deliberately engages the “boys will be boys” mentality of dominant rape myths. Using colloquialisms so strongly associated with youth in the case discourse is meant to mimic the juvenile speech of boys like Haidl, and it encourages the jury to equate the boys’ sexual behavior with their attitude toward other “youthful pastimes,” such as Haidl’s skateboarding career. In this context highlighting the boys’ immaturity, instead of rendering them less sympathetic defendants, actually functions to further align them with the signifiers of white youthfulness present in their dress and manner, which then makes them seem less capable of willfully raping Jane Doe.

Crucially, Morreale’s statement also assumes that the boys were *all equally* disappointed by the refusal of sex. It is likewise assumed here that the boys’ had equal right to ‘expect’ that the girl would be performing sexual activities with them. Such assumptions both further cement the

group as a unit while also reifying the idea that teenage boys are 'naturally' sexually curious, aggressive and entitled. In describing their feelings about the evening, *48 Hours* constructs a similar group identity built around a "boys will be boys" model of masculine sexuality, which is voiced during the program by Haidl:

> Did Greg and his friends think that they would have sex with her again? "I think that thought crossed my mind," says Greg. "We're teenage guys, we're 17. Of course, it's typical of a male to think that." (48 Hours, Nov. 20, 2004)

Haidl's assurance that "as teenage guys" it is "typical" of them to think they're entitled to sexual relations with Jane Doe unquestioningly reproduces the attitude of "natural" male sexual aggression. It also clearly plays into Matoesian's concept of the patriarchal logical of sexual rationality; previous access to Doe's body guarantees future access because "arbitrary male standards – the all-or-nothing, impersonal, and penetration-oriented normative preferences of sexuality – governing the interpretation of sexual desire, sexual access and sexual interaction" (1995), are what legitimate the boys' actions in a way that even Jane Doe's consent to the evening's events would not.

Invoking this idea of natural masculinity as an explanation for their interest in sexual activity and expectation of sex aligns the case with dominant rape mythologies. It also creates a fantastical representation of gender-appropriate sexuality – appropriately 'masculine' sexual behavior- and uniquely formulates individual subjectivity for the boys within the collective subjectivity of their groups' status as 'young men'. The social order that produces institutionalized forms of patriarchal domination likewise produces social ideology that "expresses a will"(Althusser, 234) in relation to different forms of perceived lack in the sociosymbolic order. In this instance, lack is perceived as the missing piece of a naturalized sexual relation that positions men in dominance over women. That piece in this instance is the

“tableau of violent heterosexuality” (Stockton, 6) that creates social fantasies about sexual relations and the exercise of authority and domination in those relations. Thus expressions of ‘natural’ male sexual aggression form a type of sociosymbolic fantasy, and “fantasy is never individual: it is a *group fantasy* (Deleuze and Guattari cited in Stockton, 6). Expressing that fantasy as a rationalization for their actions taps into socially constructed fantasies that all, from the defendants to the jury to spectators of the Orange County simulacrum, share about both male sexual power and female sexual availability. On a symbolic level this further cements the boys into a group, and ties that group to the larger social fantasy in which *all men* are collectively positioned as sexually entitled to the bodies of *all women*, particularly when that access has been previously granted.

The dynamics of representing gang rape are not unique or specific to the Haidl case, however, and to truly see how the specific discourse surrounding the Haidl group also functioned to enhance their subjectivity as individual young men it is helpful to examine how the media coverage of 1983’s Big Dan’s gang rape was transformed into the 1988 film *The Accused.* Arguably the most important rape film of the last few decades, *The Accused* is a loose interpretation of the events of a night in 1983, when a young woman entered Big Dan’s tavern in New Bedford, Massachussettes and was brutally raped by a group of men who both participated and egged each other on as spectators to the event (Clendinen, A16). When interpreted for the film, the focus was shifted from those men who were most active in the rape to the spectators of the rape. Feminist media scholar Lisa Cuklanz argues that the focus on men standing trial for their spectatorship shifts the responsibility for rape away from the dangers of violent group dynamics and socially determined relations that permit and encourage men to exercise violent sexual aggression against women. Instead, through the heavy emphasis on one individual

spectator who is shown as “practically incapable of seeing women as human beings,” *The Accused* places responsibility for the rape on an individualized “macho” attitude, similar to the news media’s incrimination of an individual ethnic community” (Cuklanz, 104). Thus one individual acts as a ‘stand-in’ for the group, and through him the audience is primed to understand that a particularly violent type of “macho” is to blame for leading men into such actions. While this film was in many ways influenced by a feminist critique of rape laws and was meant to act as an indictment of the way women are ‘re-raped’ through the legal system, it also, perhaps ironically, repeated traditional rape myths in some significant ways: it validated the idea that “the responsibility for rape convictions rests on victims” (Cuklanz, 105) and that victims must be prepared to have every aspect of their lives dissected in a painful rape trial, it concurred with the concept that only ‘disturbed’ or excessively and wrongly ‘macho’ individuals commit rape, and most importantly it reinforced media representation standards that place a singular individual as the figurative ‘spokesperson’ for a group and locates that person’s subjectivity as the entry point for reading the event in its entirety.

Ultimately, the echoes of the dubious feminism in *The Accused* are particularly evident in the Haidl case in the way that Greg Haidl came to stand as the symbol for the case within the media discourse. The focus on Haidl had the opposite effect of the focus on the individual spectator in *The Accused,* in that Haidl came to stand not for dangerous hypermasculinity but, as we have seen, for a white, privileged subjectivity marked by youth, foolishness and innocence. In his coverage of the Haidl case, R.Scott Moxley repeated the frequent assertions that the lawyers painted Haidl and his friends as "sweet," "caring," and "kind kids” (July 1, 2004; “Feb. 10, 2005; May 26, 2004). Haidl’s father Don was quoted multiple times saying some variation of a similar sentiment:

> "(Greg's) just an average teenage kid, very sensitive, very emotional,' says Don. "Just a good, sensitive kid" (*48 Hours*, Nov. 20, 2004).

The repetition of "good" "sensitive" "sweet" "caring" and similar terms forms a thematic tone that predominates throughout much of the trial discourse. And while this in itself may not be significant enough to overcome the equally prevalent and repetitious descriptions of the rape video, it accomplishes something far more important in that it draws on narratives of masculinity created in the Orange County simulacrum through the nostalgia of *The OC.* Calling Haidl and his friends "good" and "sweet" is an attempt to make them seem simply "misunderstood," much as James Dean and his progeny, Dylan McKay from *Beverly Hills 90210* and Ryan Atwood from *The OC,* fulfill the archetypal "bad boy with a heart of gold" role that has become a standard part of American media narratives. This language highlights not their 'goodness' but rather their youth and their connection to a particular type of modern masculinity that is crafted through the veil of nostalgia. Youth becomes the ultimate signifier, and through this constant repetition of 'youth' the masculine subjectivity that is pictured as the source of all trouble, the source of 'inappropriate macho' in *The Accused,* is revealed here as an attribute that cannot fully be attributed to the boys' or their actions during the rape as they are simply "misunderstood" boys and not violent adult men.

Indeed, the signifiers of youth and masculine subjectivity come together again and again in the Haidl case discourse and always center around the idea of "poor decision-making." The result of this conflation of multiple signifiers with divergent meanings is that the strategy represented by *The Accused* is turned in order to legitimate the boys' actions as 'normal,' 'youthful,' and ultimately forgivable, indiscretions. In describing the events of the evening, CBS quotes Haidl on two different occasions invoking poor decision-making and bad judgment to explain his actions on the night in question:

> '"We had been drinking pretty heavily. And she showed up and she started drinking. And then pretty much one thing led to another, and we just started making stupid decisions.'" (CBS Morning Edition, April 22, 2004)

> Looking back, what does he think about what he did? "Ridiculously bad judgment," he says. "We messed up badly." (*48 Hours*, Nov. 20, 2004)

The "one thing led to another" explanation clearly draws on the idea that hetereonormative gender standards mean that "male sexuality and compulsory heterosexuality operate contemporaneously" (Hird and Jackson, May 2001), and it is therefore natural that drunk boys, when confronted with a drunk girl from whom they expected sex, would assume it was acceptable to engage in sexual relations. However, the results of the evening clearly disengage their actions from what is 'normally' considered appropriate sexual behavior. The appeal to 'poor decision-making' mitigates this factor by locating these boys in a liminal position in which it is their decision making that can be blamed, not them as people or their questionable appropriation of hypermasculine behaviors.

Such a conflation of different signifiers easily meshes with popular attitudes toward adolescence "as a key psycho-social developmental stage for developing intimate non-familial relations" which means not only that the subject is in a liminal stage but "that sexual relations are often brought to the fore" (Hind and Jackson, May 2001). The connection between masculinity and youth has been discussed by Jackson Katz and Sut Jhally, who argue that the mass media uses the term *youth* when it really wants to refer to *boys* and their struggle for masculinity (Katz and Jhally cited in Ono, 166). Girls, it seems, exist in a separate sphere from boys, and 'youth' becomes particularly attached to male youth in media narratives. These separate age categories can again be linked to the idea of 'naturalized' gender roles and how they structure gender-appropriate behavior, particularly in the realm of sexual expression; if men are the active social principle, then they are allowed a time to experiment and discover their sexual selves, and such

experimentation is therefore a 'natural' part of youth, while young women should rightfully remain sexually innocent as an expression of their "naturally" passive and dependent subjectivities. If a boy is engaging in questionable sexual activity, then, his actions are an understandable result of his natural gender role formation, while a girl engaging in similar activities violates her "innocent" nature and can therefore no longer be seen as a gender-appropriate girl.

If the boys are seen as children working through a natural stage of their gender identity development, their actions on the night in question become less 'criminal' because they cannot possibly be expected to operate in the way adults would operate. Haidl himself handily emphasizes this point when he claims that:

> "You open a newspaper, or a magazine. A girl standing there, half-naked, if more than half-naked," says Greg. "You turn on the TV, it's the same thing. Everything portrays a sexual message, because sex sells."
>
> What kind of message did he think that sent to kids his age? "That it's alright to have sex," says Greg. "Even kinky sex." (*48 Hours*, Nov. 20, 2004)

Here the problematic discussion of the evening's events as merely 'kinky sex' is subsumed within the greater discussion of media representations of sexuality. At no point in this interview is there a challenge to the idea that what the boys did to Jane Doe might be more than 'kinky sex,' and journalist Dana Parsons of the Los Angeles Times said that the foreign objects the boys forced into Doe's vaginal and anal orifices "amount to kinky dildos" (Nov. 17, 2004) if Jane consented to sex. In fact, the defense team deliberately exploited the idea that the boys had been lured by the media into kinky sexual experimentation by hinting that the jury should think of the objects as types of sex toys; Moxley reports that "(o)n an earlier day of testimony, (Cavallo) asked a female prosecution witness to consider whether a pool stick—like the one the defendants used repeatedly to penetrate Doe's vagina and rectum—has a smaller circumference than "the

average male penis" (May 27, 2004). In fact, it is the connection between sexuality and Haidl's actions that shifts the blame to the media in a very handy way and makes a particular critique of mass culture's influence in structuring ideas about sex. This critique displaces blame in a way that matches popular discourse about mass media's negative influence on 'impressionable youth' and once again enforces the idea that Haidl and his friends are just kids and, as such, unable to be held fully accountable for their actions and misinterpretation of appropriate sexual activity.

The connection between youth, "poor-decision making" and inappropriately 'kinky' sex is highlighted over and over again in the media discourse surrounding the case. The logic employed in making these connections seems to say that here, in Orange County and in the Haidl trial, everything from the media to alcohol is to blame for leading young men astray. The focus is put off of hypermasculine gender roles and the degree to which Haidl and his friends attempt to embody them. According to this strand of the discourse, what happened that night is not really rape and cannot possibly be rape because Haidl and his friends are just sweet, misunderstood kids who are still developing their sexuality and simply took a wrong turn that was fuelled by a diet of negative media messages. This use of the 'boys will be boys' mentality obfuscates the possibility of seeing the boys as any more or any less than "good, sensitive" kids, and subtly reinforces the nostalgic representations of "bad boys" that predominate within the Orange County media landscape. In *The OC,* Ryan fills this particular "bad boy" role to the ultimate degree, and provides a template for how "bad boys" can be forgiven for their errors; despite his multiple infractions against the social order, he is consistently accepted back into the Newport fold. In the third episode, "The Gamble," Ryan flees Newport after damaging the Cohen's property, and when Sandy tries to convince him to return he says

> **Ryan:** My mom ditched me. I burned down your wife's house. How is this going to be okay? (Schwartz and Espenson, Aug. 19, 2003).

But of course it is okay, as Ryan's return to Newport and acceptance by the Cohen family proves every time Ryan makes a mistake. This nostalgic manifestation of "bad boy" imagery has provided a tamed version of truly "bad" behavior that utilizes the idea of normative, natural gender roles to justify the "youthful" indiscretions of young men and allow for them to be cleansed through their connection to the privileged life of Orange County.

"An Out-of-Control Girl": Female Sexuality and Guilty Young Women

Although youth and privilege allow Haidl and his friends to be forgiven for their actions, it is in this extreme focus on 'youth' as a signifier of innocence that a substantial difference can be seen in representations of the boys versus those of Jane Doe. While the boys were consistently referred to in terms that emphasized youth, innocence and the problems of adult subjectivity, Jane Doe was constructed in ways that rendered her as either an adult who lacked control and was sexually permissive or as less than a full person, as an objectified presence, and therefore not able to determine the nature of her own sexual experiences or desires. On the most surface level, Jane was constructed as an adult through the complicated and inconsistent labels she received in the media discourse. While the boys were consistently called "boys" or "young men" in articles written before the retrial, and then always called "men" after the retrial, representations of Jane Doe's status waivered throughout all of the discourse regardless of the trial status. Though often referred to as a 'girl', Jane was equally spoken of in ways that belied this idea:

> The *woman* sexually assaulted by *three teenagers* on videotape is now suing the defendants, plus six others. (ABC 7 News, Dec. 30, 2005)[23]

In this excerpt, Doe is represented as a woman while Haidl and his friends are kept at the lesser "teenage" level. Such seemingly simple discursive differentiation highlights the complex way

[23] Emphasis mine

sexual experience is interpreted in terms of "gender-appropriate" behavior when identities are constructed within the rape trial. The gender discourse of rape trials generally positions 'gender-appropriate' female behavior as regulated by culturally-defined standards that link appropriate femininity with chastity; to be feminine, 'real' women must "be expressive, emotional and vulnerable yet simultaneously instrumental, cautious and calculating" (Matoesian 1993; 226). Appropriate sexuality for a young woman, then, is defined by being both coy enough to be appealing and canny enough to avoid the unwanted attentions of naturally sexually rapacious young men. Female adolescent "engagement in sexual activity effectively subverts the discursive association of femininity with immaturity" (Hird and Jackson, 2001) to the degree that "sexual activity might challenge the (popular) definition of young women as `children'" while also exposing young women to sexual behaviors that are regulated by young men as the dominant social subjectivity.

Discussing the rape of a teenage girl, then, complicates thinking of her as a 'girl' because the logic of heteronormatively defined sexual activity dictates that popular myths about sexual intercourse and rape are so strong connected as to be nearly inseparable. As Catherine MacKinnon argues, commonly held beliefs about male sexual dominance and aggression mean that "rape and other forms of sexual aggression represent sex – and doubtless preferred sex – for many males" (MacKinnon 1987). The same logic that claims that male aggression is a facet of 'natural' male sexual drive makes it difficult to separate consensual sex from rape, as the lines between consensual and non-consensual sex seem much fuzzier than those between consensual sex and sexual abuse as understood from the position of the victim. And since "the injury of rape lies in the meaning of the act to its victim, but the standard for its criminality lies in the meaning of the act to the assailant," rape can only "be seen as a crime from a male point of view"

(MacKinnon 1989; 180). Jane Doe's status as a teenager becomes partly subverted simply because of the fact that she was raped, and her rape removes her from the 'chastity' that is so consistently envisioned as a requirement of female youth and innocence. Her rape, then, displaces her identity as surely as her previous sexual experience ever could, and perhaps even more so. This action places her in a liminal identity space where she is objectified as part of the process of rape trial discourse to the point that her subjectivity, her separate identity as a person, is displaced.

Doe's displacement is particularly highlighted given the spatial identity of this case; as the media landscape of Orange County creates a heterotopic space, Doe's liminality is double significant since images of her become representative of the categorization of "normalized" female gender roles. Realignments of Doe's age category are in fact more about the problem of liminal female gender performance than they are about Doe as an individual subjectivity. Varying expressions of her age category in different discursive moments uncover the power of the dominant gender ideologies, as Doe's age becomes representative of her status as a victim. While much of the pre-trial and trial discourse refers to Doe as a "woman," her post-trial status shows a marked alteration, such as can be seen in comments like the following from Judge Briseno, the presiding judge in the case:

> "We find ourselves in a very sad situation for three young *people* and a young *girl* who have stood in a very public trial," Briseno said. "As tragic, as sad as this matter is, it would be inappropriate to set aside the verdicts that have been found." (*OC Register*, Friday, July 22, 2005)[24]

The conviction of Haidl and his friends then turns them into "people," and Doe reverts back to be labeled a "girl." Her vindication in the form of a guilty ruling for the boys metaphorically 'cleanses' her, and she is realigned to fit into the model of "innocence" that is associated with

[24] Emphasis mine

female youth and sexual passivity. This is particularly significant given the fact that at the time of Briseno's statement Doe was nineteen years old, and no longer legally a "girl."

Given this double bind of female sexual and gender identity, it is unsurprising that Jane Doe's sexual history became one of the central focuses of discourse surrounding the trial. In this case the bulk of discussions about Jane Doe's sexual past focused, as they often do in rape trials, around the sticky, complicated and highly contested concept of consent. Understanding consent is complicated due to the multiple ways consent is conceived by both the law and dominant rape narratives. The attitudinal account of consent "identifies consent with the agent's mental states," and allows consent to be read from actions that are thought to be the "objective evidence or tokens" of "any one of a range of mental states, from desire to grudging acquiescence" (Kazan, 28). In other words, one consents when he or she thinks they consent. Feminist scholars have critiqued this form as relying on patriarchal standards of autonomy and power, and claimed that "women have been taught not to fight back when being attacked, to rely instead on placating or pleading with one's assailant" which are strategies that "researchers have found to be least effective in resisting rape" (Brison, 21). Because of this, feminists have pressed for a behavior-oriented model of consent in which a positive affirmation of consent, or alternatively a specific refusal (generally in the form of a 'no'), provides a more neutral or objective standard for gauging consent (Kazan, 28-29). As in other areas of rape trial discourse, the problem with both forms of consent is that each is held as true, in differing ways, within popular and legal discourse. Though the "no means no" model of consent popularized by feminists theoretically forms a legal standard, studies have shown that "when issues of a victim's prior sexual history, moral character and credibility are raised as relevant issues in courtroom cross-examination, distinguishing consent from non-consent is judged according to patriarchal standards"

(Matoesian, 1993; 16), and actual performance of consent becomes only part of the way juries interpret consent or lack of consent during a rape trial.

This contention over consent became one of the dominant themes of the trial, and representations of Doe's previous sexual history in general, and sex with two of the three defendants in particular, fell perfectly in line with the patriarchal standard that women who agree to any intimacy are in effect consenting to sexual intercourse more broadly (Matoesian, 1993; 17). Defense Attorney Joseph Cavallo repeatedly attacked Doe's sexuality by referring to her, throughout the trial, as a "slut" and "a fucking whore" and claimed that "everyone, including the girl's parents, knows what she is" (Moxley, May 6, 2004). Cavallo's assertion that Doe was proud of her promiscuity was echoed by others involved in the trial and repeated in the majority of articles about the case. Such assaults on a victim's sexual history constitute a character attack that fits in with the popular rape narrative that some women are not really raped because their previously 'positive' attitude toward sex has indicated that they would consent to sex again, and thus consent is implied.

Indeed, trials have often taken an 'attitudinal' approach to interpreting consent that meant that courts "delved into complainant's sexual history" and "(e)vidence that the woman was promiscuous or wore revealing clothing" (Kazan, 28-29) allowed for reasonable doubt about the woman's claims that she had not consented to the activities. Despite the fact that California rape shield laws make delving into the sexual history of rape victims infeasible[25], defense attorneys invoked this very idea in their statements to the jury about interpreting the evidence of the case:

[25] California rape shield law (Evid Code 782; 1103) states that the following types of evidence are inadmissible in a rape case: opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct to prove consent. There is, however, a stipulation that evidence that is specifically relevant to the case is admissible. This makes the law amorphous enough for multiple interpretations, as seen here. (Compiled by the National Center for the Prosecution of Violence Against Women at APRI, updated 5/16/2005)

> "At the end of the day, the real issue here is whether these three boys had a reasonable belief that Jane Doe would have said no," Cavallo told jurors. "That's it. That's the case. Forget about the smoke screens thrown at you by this prosecutor. You have to search into Jane Doe and her history. How did they [the defendants] come up with their thoughts that evening?" (Moxley, Feb. 10, 2005)

Cavallo's attempt to influence the jury into seeing 'consent' as the boys would have seen it relied on an understanding that the audience would find this relevant due to Doe's previous consensual sex with Nachreiner and Spann on the evening before the rape. Various sources reported that, on July 4, Jane Doe attended a party at Haidl's home. During this time she engaged in sex with the two boys, according to some reports, or all three boys, according to others (Moxley, May 15, 2005; *48 Hours,* Nov. 20, 2004). This one fact, that Doe had previously consented to sexual activity with some of the boys, would in most cases be enough to discredit her because "the relationship between victim and offender and the circumstances of their initial encounter appear key to determining the outcome of rape cases in virtually every study" (Estrich, 18).

However, the videotape proved once again to be a sticking point in that it rendered the issue of consent even more complicated than it would normally be in a rape trial. Under California rape law, it is illegal to have sexual relations with a person who is too intoxicated to actively give consent. California consent laws state that rape occurs "(w)here a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused" (Penal Code Section 261-269). According to Moxley, knowledge of this law was the main thing prosecuting attorney Chuck Middleton came armed with to court (July 21, 2005), and Middleton echoed D.A. Tony Rackauckus's argument that whether Jane had consented was less important than if she was even physically able to consent (*48 Hours,* April 22, 2004; Moxley, Feb. 10, 2005). And the videotape, according to many who saw it, provided indisputable evidence that Jane Doe was

unconscious (Moxley, Mar. 6, 2006). The lone juror who refused to vote ‘not guilty’ during the first trial stuck to a similar argument, that the tape told her that "(Jane Doe) was not participating…Her level of consciousness was not that of what I have ever seen, of any normal sexual act, ever” (48 Hours, Nov. 20, 2004). However eleven other jurors felt that they saw signs of consciousness, and for them the tape seemed to actually work in the boys’ defense. To understand this mixed response it is necessary to break apart the multiple ways the defense team created a situation of ambiguity that was transferred to readings of the tape itself.

In the face of what may seem to be strong evidence, the defense team had to find ways to discredit the victim enough to convince people that she had consented to these activities. One of the ways they attempted this was by having doctors testify that Doe appeared to be at a lower level of consciousness than she really was, and that she could not have been drunk enough to pass out given her behavior during the early part of the tape (AP, June 10, 2004). However, the prosecutors also employed doctors to testify that Doe was unconscious (June 24, 2004), and it appears that the medical testimony did little to sway the jury in either direction. The true effort to create an ambiguous reading of the video can be seen in two particular ploys that dominant rape narratives make readily available for lawyers in such cases: questioning Doe’s reliability and impugning her character. Attempts to question Doe’s reliability generally centered around both direct insults and questions about the veracity of her testimony. Moxley reports that

> in just his opening statement, a pacing, finger-pointing Cavallo told the jury that the girl—next to the tape itself, the prosecution’s star witness--is "a nut," "a pathological liar," "a cheater," an "out-of-control girl," "the aggressor," a wanna-be "porn star," "a troubled young lady," "a tease--that’s what she is!" "a mess," a "master manipulator," a "little opportunist," "a compulsive liar," "a cheat--that’s what she is" and a "callous" drug addict and alcoholic who trimmed her pubic hair, bragged about liking group sex and once drank a beer in a car. (May 6, 2004)

This attempt to degrade Jane's reliability was, in truth, meant to highlight the fact that Doe could not remember the attack after it happened. The police contacted Doe's parents after receiving the videotape, and the majority of reports of the case mention in some way that Doe "concedes that without the tape, she might never have claimed she was raped - if the activities of that night hadn't been captured on videotape" (48 Hours, Nov. 20, 2004). The focus on Doe's memory of the attack validates what Susan Estrich calls, in her review of appellate decisions, a "schoolboy fight" model for understanding prohibitive force in rape cases. This model means that 'force' is only recognized as the attacker assaulting the victim with arms flailing and legs kicking, and so lack of consent can only be seen when objective physical evidence implies this type of struggle (1987).

While this "school-boy" model elides perfectly with dominant rape narratives that claim that some women are not really hurt by rape (Burt and Albin, 1981, Estrich, 1987), it also functions to disqualify the victim's intangible, emotional and psychological experience of violation (Matoesian, 1993). In this case, the tactic was so effective that the actual physical evidence of Doe's assault, including the fact that Doe's tongue and head were sore and that her genitals had "'so many tears" that (inspecting nurse Patricia Young) could see many without the aid of a scope (including) 10 "jagged" tears in the rectum alone" (Moxley, May 6, 2004) was only discussed in a handful of the articles examined here, and all of those were written by Moxley (June 24, 2004). This focus on her memories rather than on the evidence allowed the defense team to align the jury's understanding of consent away from the theoretically legal definition, that lack of consciousness means no consent, and toward the attitudinal model that predominates in much popular discourse. A report from the *Los Angeles Times* displays, Al Stokke, one of Haidl's attorneys, attempting to evade discussing the impact of the rape on Doe by utilizing this

attitudinal model. When ask whether Doe's troubles during the trial stemmed from the rape or from previous "emotional troubles", Stokke

> switched gears from the defense claim that she was feigning unconsciousness… (h)e compared the crime committed on the passed-out Jane Doe to someone plunging a knife into a corpse. "She couldn't have felt it happen," he said. "She only knows it happened because of the videotape." (Goffard, Lobdell and Lin, March 11, 2006)

In other words, Doe's lack of ability to remember is not, in this understanding, positive proof that she was unconscious, because her unconsciousness was not relevant to the discussion. What was relevant was whether or not she suffered any damages and since the "school-boy" model does not recognize psychological damages as stemming from anything but awareness of physical assault, Doe was not really a rape victim.

In the end, these discursive ploys meant to reconstitute what counted as consent and non-consent in the trial were successful enough to cast doubt on whether rape occurred, but not successful enough to prevent an eventual sexual assault conviction entirely. Cavallo, the defense team and many media representations were able to impugn Doe's character and believability to the degree that even sympathetic representations of her have referred to her as "a messed up little girl who put herself in harm's way" (Mickadeit, March 28, 2005). Interestingly, this reference to Doe being "messed up" implies that even those who ultimately found against the defendants seem to have bought into dominant rape myths sufficiently to consider Doe at least partly culpable in the evening's events. But how can we make sense of the fact that representations of Doe verged so wildly from 'horrible slut' to 'messed up little girl'? And how is it that readings of the tape varied so significantly between the first trial and the second trial that jurors actually believed they were seeing such different events? To understand both this switch from the first to the second trial and the shift in media representations of Jane Doe from "slut" to "messed up

girl," it is imperative to engage with one of the most significant elements of the case discourse, the idea that Jane Doe "wanted to be a porn star," and examine how this is connected to both spatialized and racialized identities in Orange County as well as one of the most controversial, media-created cultural movements of the last twenty years: postfeminism.

"She Wanted to Be a Porn Star": The Postfeminist Subjectivity of Jane Doe

Jane Doe's sexual history was clearly one of the most highly contentious aspects of the Haidl case, and throughout the first trial in particular "defense attorneys portrayed the girl as a pathological liar who consented to sex and feigned unconsciousness" during the alleged rape (Wilson, June 23, 2004). Defense tactics extended to harassing Doe and her family, posting notes in her neighborhood that asked for information about her and stalking her after she had changed schools, all with the goal of both getting information to use against Doe and intimidating her into making mistakes (Moxley, March 24, 2005; *OC Register*, March 10, 2006). Despite all of these efforts, however, the defense succeed in neither convincing Doe to give up or getting her to admit that she was culpable in the night's events. Doe's unwillingness to admit that she deserved what happened was perhaps one of the most frustrating things for the defense team; Doe never denied or apologized for having sexual relations with two of the three boys before the night of the rape. Moxley argues

> Cavallo worked aggressively to blur the line between an active sex life and gang rape; Doe refused to express shame or guilt about her sexual appetite. When he asked her if she'd had sex with two of the defendants before the night of the gang rape, she said without shame that she had. At its best, it was a graphic illustration of a generational difference: the *post-feminist* Doe asserting her right to enjoy sex without agreeing to rape; the puritanical defense team confusing—deliberately, perhaps—all female desire with prostitution. The defense strategy is simple: convince at least one member

> of the jury the girl is a "slut" who tricked the "innocent boys" into sex acts at Haidl's Newport Beach house on July 5, 2002. [26] (Moxley, May 27, 2004)

Moxley's claim implies that a generational difference in attitudes toward sex and desire was at the root of this conflict, and that Doe's unwillingness to capitulate was what spurred the defense team to apply excessive pressure in portraying her as little better than a prostitute in order to convince the jury that the boys were not guilty. However, in the context of a rape trial, what does it really mean to say that Doe is 'postfeminist'? How is the ideology of postfeminism implicated in representations of Doe and what affect might this have had on the trial? Exploring Moxley's explicit connection between Jane Doe's behavior and postfeminism means looking at anti-feminist media backlash and contemporary cultural trends to understand what exactly postfeminism is, as well as how postfeminist discourse might have affected both Doe's behavior and readings of that behavior by the jury and within the media simulacrum.

Much has been written about the anti-feminist backlash that, beginning in the 1980s, "has been evident everywhere throughout popular culture--in film and other media, in advertising, in popular psychology, and in any number of political platforms" (Braithwaite, 2004). This cultural trend, which Susan Faludi captures in *Backlash,* her seminal work on the anti-feminist rhetoric of the post-Women's Rights era, is particularly "evident in the renewed emphasis on images of women that replay and celebrate more traditional definitions of femininity…presenting an image of woman in which she was engrossed either with her appearance and being attractive… or with motherhood, children, and a desire to retreat from the workplace in favor of the 'mommy track'--in short, with being 'a woman again" (Faludi referenced in Braithwaite, 2004). The anti-feminist backlash, then, exists in and has been almost entirely propagated by the media. While backlash has served to reposition women within traditional gender norms, it has also explicitly and

[26] Emphasis mine

implicitly critiqued both the affects of feminism and the necessity of continuing feminist cultural and political struggles. The logic of this anti-feminist backlash centers around the idea that feminism has produced as much ill as good for women, that women now struggle under the burden of trying to 'have it all,' and that a focus on continued feminist interventions into the political sphere are no longer necessary and may in fact be dangerous.

A rejection of feminist politics is even more prevalent in the 'new,' or evolving, media backlash that continued throughout the 1990s. Developments in representations of women implied that feminism had actually been damaging for women as a whole because "women are innately more content with traditionally feminine roles" (Rockler, 2006) and the feminist focus on getting women into the working world had therefore disrupted "natural" feminine desire to be socially passive homemakers. This sentiment can be "seen in news and popular culture representations of women in the workplace--such as Murphy Brown and Ally McBeal- that show women who are successful in the workplace but neurotic failures in the domestic sphere, and long for the domesticity of a man and a family" (Rockler, 2006). In other words, women are unhappy in the modern age specifically because of feminism's success in helping women advance in the world outside of the home. Faludi summarizes this position when she says, sarcastically, that it is women's equality that causes their pain, that "(w)omen are unhappy precisely because they are free…(they) are enslaved by their own liberation" (Faludi cited in Braithwaite, 2004). Feminist liberation, rather than patriarchal oppression, has become the enemy within this media landscape, and returning to hearth and home to live the appropriate life of "real women" has become a goal that is reflected again and again in television programs, films and news media. Two particularly strong contemporary examples of this trend are the "new momism" which focuses on reifying the beauty of motherhood and creating guilt in women for

not being ‘good enough’ as mothers (Douglas & Michaels, 2004), and the frequent, and frequently debunked, media screed that professional women are “opting out” of the workplace because they would rather be home with their children (Boushey, 2005).

Popular representations of women have tied this idea of backlash with both the ideologies of Third Wave feminism and a type of therapeutic rhetoric that “discourages citizens from contextualizing their personal problems within structural power dynamics”(Rockler, 2006) to create a new media phenomenon that many have termed “postfeminism.” Third Wave feminism can broadly be defined as a contemporary manifestation of the feminist movement, which has been “popularized by younger women, the media, and feminist literature of the 1990s” (Rockler, 2006). This type of feminism focuses more on “women's postmodern negotiation of individual subjectivities than on collective political action,” and Third Wave feminists are therefore known for celebrating “the freedom to select from (the postmodern cultural) pastiche and define femininity on an individual level” (Rockler, 2006). The relationship between Third Wave and “therapeutic rhetoric” is that both focus on individual, autonomous struggles with choice as opposed to group struggles with systemic oppression. Some have argued (Cloud, 1998; Rockler, 2003) that the dark side of this rhetoric is that it “demands that individuals cope with their money, work, and relationship problems as individual "dis-ease" that can only be "cured" through personal initiative” and thus systemic power structures go unchallenged and ignored (Rockler 2006). The focus on personal choices and individual navigation of the postmodern world means that women’s struggles become seen as lifestyle issues rather than political ones.

Postfeminism has evolved out of this cultural environment as a new media movement that takes on “the individualism of both the Third Wave and therapeutic rhetoric a step further by rejecting the existence of significant gender inequalities” (Rockler, 2006). Postfeminist rhetoric,

then, posits a world in which women and men have already reached equality, and so it is no longer necessary to fight oppression because women's failures are not due to any political factors but rather to individuals' inability to navigate the many different ways of 'being women' in an effective and positive way. It is this outright rejection of the idea that feminism is still necessary that has led some feminists to say that "(t)he only thing postfeminism has to do with authentic feminism…is to contradict it at every turn while disguising this agenda, to perpetuate the falsehood that the need for feminist change is outdated" (Kinser, 2004).

Postfeminism, then, has evolved within the media as a combination of multiple strands of both feminist and anti-feminist discourse and has taken on its own life, complete with ideologies about women's sexuality and gender-appropriate behavior. These ideologies borrow from the different strands of media discourse about women in ways that sometimes collapse specific feminist ideas with anti-feminist ones to create an entirely new, and often very problematic, ideology about female sexuality. One strand of feminist thought that has been especially subjected to this treatment is sex positivity. Sex positive feminism, which argues that sexual freedom and autonomy is an essential aspect of women's liberation, has become a core part of Third Wave feminist rhetoric. Emerging during the 1980s, "sex positivity" is often considered a response to the strong focus on pornography as a central aspect of women's oppression that marked much feminist activism and scholarship of the late 1970s. While for some sex positivity was a way to continue the work on reproductive rights begun by early sex reformers and sex workers, for others it was a response to a trend toward sexual prescriptivism that argued there was a "properly feminist" way to engage in sex (McElroy, 1995; Willis, 1992).

While still somewhat contentious within the feminist community, sex positivity in popular culture has been strongly elided with other, less political notions to create what is often called

“babe feminism,” or “do-me” feminism. Lacking the critique of how power and patriarchal norms limit women’s sexual autonomy, “babe feminism” represents a “reductive emphasis on female sexual aggressiveness and women’s individual sense of power and control” that obscures the politicization of sexuality and posits that “what happens between adults in bed is never political” (Maglin & Perry, xviii). Sexual aggression then becomes the appropriate solution for women’s sexual oppression, and the idea that women can be young, fun and do what they want in bed (Quindlen cited in Maglin & Perry 1996) becomes more of a feminist statement than a focusing on social structures that limit women’s ability to change the underlying causes of the sexual oppression they are rebelling against in the first place. Popular use of postfeminist rhetoric can then have very real political and material consequences for women, as it creates new narratives of gender-appropriate sexual expression while at the same time failing to challenge the rigid ideology of appropriate and “natural” female passivity and sexual repression. The use of these narratives is often especially obvious in representations of working women; for instance, “Ally McBeal reflects an intersection between Third Wave and postfeminism that provides a version of female professionalism that is all too readily re-incorporated into current professional and social discourses that associate women with negatively coded aspects of their bodies" (Hammer cited in Rockler, 2006).

Postfeminist rhetoric creates new narratives of female sexuality that combine “babe feminism,” therapeutic rhetoric and ideas popularized by the anti-feminist backlash of the 1980s to create a “new-old” narrative of feminine sexuality. One of the strongest functions of this narrative is that women are encouraged to express their freedom through sexual aggression and to see sexual autonomy and power as equivalent to gender liberation. Feminist Katha Pollitt argues that this new order positions feminism as good and the women’s movement as bad (Pollitt

cited in Maglin and Perry, 8), which limits larger critiques of power structures, conflates sexual freedom with feminism and allows anti-feminist nostalgia to continue influencing media representations of women. The complex ideologies that result influence representations of gender equality issues in the media, and this is particularly true of rape mythology. Many studying contemporary rape discourse argue that rape narratives have been influenced by feminism, and often that representations of rape specifically draw on some strand of popular feminist discourse in order to show the 'wrongness' of rape or express some sentiment about rape being a crime of violence instead of sex (Cuklanz, 1996; Projansky, 2001). However the use of feminism in rape discourse is complicated and contradictory, often simultaneously blaming women for using an improper understanding of feminism to guide their actions and arguing that feminism has "confused people about what rape is" (Projansky, 2001; 93-94). This contradiction is most apparent in the places that postfeminism allows for nostalgic representations of female sexuality to mix with the new ideal of female liberation as expressed through sexual aggression.

One significant example of how postfeminist rhetoric utilizes nostalgic ideas of natural female passivity to create this "new-old" model for female sexuality is in the "good girl/bad girl" dichotomy that is deployed in much popular media discourse, and is particularly evident in the Haidl case. Some postfeminist scholars and cultural icons, such as Naomi Wolf, Katie Roiphe, Rebecca Walker and Susie Bright, have been referred to as "in your face bad girls" (Pollitt, 7; in Maglin & Perry, 1996) because they embrace the postfeminist ideal of liberation through sexual aggression. But the "good girl/bad girl" dichotomy is more complex, and covers a far wider range of female behavior, than just sexual expressions and has the idea of a natural gender binary at its core. This dichotomy forces women, particularly young women, to police the boundaries of their sexual behavior in order to be "good girls"; accordingly, "good girls are not sexual" and

girls who are sexual are either “bad girls” when they themselves have been the active sexual agent or good girls if they have been the victim of boys ‘naturally’ raging hormones and aggressive sexual power (Tolman and Higgins, 206). Sexual agency and aggression, then, is what marks a girl as “bad” in this more traditional representation of female sexuality. And while dominant media rape myths allow “good girls” to be seen as victims, “bad girls” are made less “rapeable” through their own willful sexuality.

It is evident from even the most shallow glance at the Haidl case discourse that the defense team was attempting to brand Jane Doe a traditional “bad girl” based on her sexuality and previous experience with the defendants. What is not as obvious, however, is the many subtle ways in which the case discourse accomplished this through drawing on specifically postfeminist representations of sexuality that mix the contemporary with the nostalgic. As previously discussed, the defense team went to great lengths to brand Jane Doe a slut and a liar. Moxley argues that the words of the defense were not enough to fully convince the jury that the tape did not show a rape, so in order to “destroy juror sympathy for Doe” (May 27, 2004), the defense brought in witnesses. Jenna Stroh, Melissa Matsumoto and Vanessa Obmann had all attended the party at Haidl’s home, with Jane Doe, on the night before the rape. And while the girls initially reported to the police that Doe had a “prodigious sexual appetite” but “could not remember” the events of the evening of the rape, their later testimony in court fell firmly on the side of the defendants:

> "(Doe said) I don’t remember what I did, but I know I had sex with all three boys." Obmann now claims Doe told her, "If they did drug me, that’s whack—meaning ‘stupid’—because they didn’t need to do that." Matsumoto now claims Doe told her, "I don’t know why they drugged me because I would have done it anyway.”
>
> Defense attorney Scalisi asked each girl what she thought of Doe. "I believe she’s dishonest," Obmann said." (Moxley, May 27, 2004)

Speculation ran rampant as to the reasons the girls changed their statements, and Moxley reported that Vanessa Obmann, particularly, was asked whether there had been some incentive from either Haidl's family or the defense team to amend her testimony (Moxley, May 27, 2004). While Obmann denied this charge, her reasons for changing her testimony are far less relevant than the impact this change had on representations of Jane Doe. The girls' claims that Doe said she "would have done it anyway" with all three boys effectively positioned Doe as a lying "bad girl" whose sexual desires made her inappropriately aggressive thus less of a victim.

The girls' testimonies, however, not only negatively represented Doe, but represented their own behavior as reflecting a particular and complex postfeminist ideology of sexual liberation. When Obmann was asked why she felt Doe was dishonest, she articulated a position about dishonesty that creates a clear hierarchy in female behavior that owes as much to postfeminism as to traditional notions of the "good girl/bad girl" dichotomy:

> Under cross-examination, Hess asked Obmann why she claimed Doe was dishonest. Obmann claimed that it was because Doe lied to her parents so she could attend parties. Noting that Obmann admitted that she and her friends also lied to parents in order to attend parties, the deputy DA asked, "So you have the same opinion about your other friends?"
>
> "No," said Obmann, reasoning that her current friends didn't lie as much as Doe. (Moxley, May 27, 2004)

Honesty, it seems, is relative and depends as much on who is doing the lying, as well as the result of those lies, as on the lies themselves. This hierarchy makes sense in the context of how the girls represented their sexual activities when talking to CBS about the rape for the *48 Hours* segment. In the November 20, 2004 episode, Jenna and Vanessa both discuss the idea that a "culture of sex" permeates the lives of Orange County youth, and their comments about sex both

reaffirm their own status as “sexually liberated” postfeminists and creates a differentiation between their own behavior and that of Jane Doe:

> "We go to parties. Girls are getting drunk, hooking up with whomever," says Jenna. "And then, in the morning, it’s like, 'Oh my gosh.'"
>
> "Hooking up could be from kissing to having sex," adds Vanessa. "Parents don't exactly know what is going on when their kids leave the house."
>
> It had nothing to do with Melissa and Jenna, but a new girl who had come along with them. She was someone who Keith had gone out with a couple of times, but she was a girl the other boys hardly knew.
>
> "She was like one of our first friends, where we were like, 'Wow, she's different than us,'" says Vanessa. "She kind of crossed the line at certain points with certain people."
>
> "She was flirtatious," says Jenna. "Very flirtatious." (*48 Hours*, Nov. 20, 2004)

This construction places Jane Doe and all of the female witnesses in a decidedly postfeminist sphere, where young women are clearly proud of their sexuality and see their behavior as a perfectly appropriate part of being young, sexually adventurous women. However, saying that Jane Doe “crossed the line’ and that she was “different than us” eludes to a very specific hierarchy for behavior that seems to rely heavily on the traditional “good girl/bad girl” dichotomy. Truly, this is a perfect example of how postfeminist rhetoric, with its simultaneous focus on sexual liberation and appropriation of anti-feminist backlash, creates its own unique “new-old” ideology about gender-appropriate sexuality. While here it is “natural” for teenagers to get drunk and spend time “hooking up with whomever,” being “too flirtatious” means crossing the line from being a postfeminist “good girl” to being a postfeminist “bad girl.” And as the media discourse of postfeminism claims that women are fully in control of their female sexuality, it is of course other women who are most in a position to determine when and where that line is drawn and what the repercussions are for crossing it.

The girls' testimony served as a huge mark against Jane Doe, and also opened up a new space for the defense to turn the case discourse around to favor the defendants. Projansky argues that one of the strongest tenets of postfeminist representations of rape in film and television is the idea that feminism has both put women in inappropriate situations that facilitate rape and that, in fact, rape is now more difficult to understand specifically because of feminism (119). Postfeminism, then, influences how people read rape, and the idea that women are now more sexually liberated can be used to legitimate increasingly more questionable sexual actions as falling within the purview of appropriate sexual expression. The defense team invoked the postfeminist "bad girl" concept established by the witnesses when they attempted to portray Jane, not as a victim or even as a participant in the events, but as the mastermind of the entire evening. Indeed, the defense team argued that Jane Doe wanted to be a porn star, that she fantasized about being in a necrophilia themed porn film, and introduced a previous tape that Spann had made of him and Doe having sex as evidence that she was not adverse to being filmed. This film proved another opportunity for Cavallo to convince the jury that Doe was an "inappropriate" girl, and he took it; while Doe was on the witness stand, Cavallo "asked the girl if she is familiar with "doggy-style" sex, if she knew what "road head" meant, if she liked to use the term "blowjob" and if "In the Butt" is her favorite rap song" (Moxley, May 27, 2004). This continued probing into her sexual life supported the development of the idea that sexually Doe had somehow forced the less experienced boys into a bad situation. If Doe is indeed seen as a postfeminist "bad girl," then the repeated assertions that Doe "knew how to use her body" (Moxley, May 15, 2004) positioned her as a slut who was also the aggressor in a complicated sexual game.

To fully "prove" that Doe wanted to be a porn star, the defense went so far as to get Sharon Mitchell, a veteran porn star, to testify that the tape looked like an attempt to make an amateur necrophilia-fetish porn film (Moxley, June 10, 2004). And while Judge Briseno ruled that Mitchell's testimony was ineligible and the defense would have to rely on medical testimony to determine Doe's state of consciousness (Moxley, June 10, 2004), the tactic was successful enough that the idea that Jane Doe wanted to be a porn star was repeated over and over again throughout the media discourse, and appeared in the majority of the articles examined here. Moxley argued that "it's a measure of *Orange County's ethical flexibility*[27] that Haidl, a Republican assistant sheriff and self-described conservative businessman, would think it helpful to pay a porn star to testify that his drunk, drugged, teenage son created an illegal, semi-professional, necrophilia-themed porno with an underage girl" (Moxley, June 10, 2004). Moxley's reference to "Orange County's ethical flexibility" draws together narratives of space and morality in a highly telling way. Critical geographers argue that landscapes are "not innocent…they are the palette of a specific moral agenda" (Dowler et al., 7). Feminist geographers have intervened in that assessment to look at the connection between gender and morality in landscape, and particularly at how "morality has been defined as an act of transgression of or obedience to moral codes which render individuals as ethical or deviant subjects" (Dowler et al., 7). To this end, it becomes clear that landscapes can dictate morality rather than the other way around; studies of instances in which "certain transgressions, which at first glance one might think were deemed immoral, actually were considered appropriate in certain landscapes" (Dowler et al., 7).

In his use of the idea that Don Haidl's sense of propriety reflected a particular *spatial identity,* Moxley was also both referencing and conjuring a localized *spatial morality.* And clearly the

[27] Emphasis mine

spatial morality of Orange County is one that allows for certain types of negatively sexualized persons, such as professional porn stars, to testify against other negatively sexualized persons, such as rape victims, in the name of protecting the privileges of wealth, white young men. Ultimately, then, it is once again the media landscape and heterotopic space of Orange County that has a determinative presence in Haidl case discourse. Nostalgic representations of Southern California life that are encoded in the media simulacrum draw together all of the disparate representations of identity - spatial, racial and gender - and link them to a specific moral ideology that allows for sexualized criminal behavior to be repositioned and reconstituted in order to 'make sense' of a case that otherwise violates dominant rape mythologies in a multiple significant ways. This is particularly true with gender roles, as a landscape is not only "an expression of dominant values but also tends to reproduce them as part of the natural order" (Dowler et al., 7; Ley 1993). The power of the landscape to reshape identities is therefore linked to its power to shape dominant values, and simultaneously reproduces those dominant values in representations of events within its purview.

While the nostalgia-steeped media landscape of Orange County is particularly marked by images of upper class whiteness, it is also marked by a strong postfeminist/anti-feminist ideology that draws on traditional, repressive representations of the "good girl/bad girl" dichotomy to turn morality into an active principle that constitutes who is valued in the landscape and what kind of "gender inappropriate" behavior makes it impossible to belong. Crystal Kile argues that, in the context of *Beverly Hills 90210*, "contemporary female adolescent ambition has been easily clawed back into a reactionary space focused on 'nice girls''…(and) the girl who cannot exist…is a character like Brandon's 'fatal attraction' Emily Valentine, the 'dark side' of postmodern teendom incarnate (1993). In *90210,* bad girl Emily is forced to leave Beverly Hills after

creating an impressive amount of havoc. In *The OC,* the role of "bad girl" is filled by the privileged, beautiful, and terribly damaged Marissa Cooper.

Marissa and her best friend, Summer, are in fact archetypes of the "natural" Orange County girl who is "sassy and well dressed and confident in that "post-feminist" way, but (also) miserably incompetent" (Smallwood, Sept. 14, 2005). Marissa is *The OC's* resident "bad girl"; beautiful and troubled, Marissa enjoys sex and alcohol in equal measure, and her relationship with Ryan is marked by sacrifice and the sort of angsty behavior that has become synonymous with the modern teenage condition. When Marissa tries to protect Ryan from being beaten to death by his brother Trey, who had previously attempted to rape her, "(d)eep, dark, non-communicative Ryan couldn't find the words to say thank you...(and) instead of feeling like a hero, she was made to feel like a criminal" (Smallwood, Sept. 14, 2005). Ryan's pride is hurt by the event to the degree that Marissa suffers further, and the fact that she is also avenging her own sexual assault does not justify her actions enough to initially create even a small measure of acceptance and gratitude. The message for viewers is clear: "good" girls are not heroic but passive and dependent, especially if their actions will hurt the "natural" masculine pride of the men in their lives. And of course, girls who truly practice gender appropriate behavior as defined by the complicated tenets of postfeminism will never be in the position to be raped. Summer, Marissa's best friend, provides the postfeminist "good girl" counterpoint to Marissa, for while she also goes to parties and engages in sex, she is too busy being "the good girl who keeps everybody's spirits up" (Smallwood, Sept. 14, 2005) to engage in the behavior that pushes Marissa over the line into bad girl territory.

Female-gendered spatial morality in both *The OC* and Orange County is marked, then, by implicit rules about toeing the line between "good" and "bad" behavior. Knowing how not to

cross the line that is determined by a combination of postfeminist rhetoric, anti-feminist backlash that proclaims that women will be happier adhering to traditional gender roles and a type of spatial identity that limits appropriate sexuality to monogamous pairings with the dominant power force, is what keeps a good girl from going bad. Indeed, one of the things that allows Summer to remain a postfeminist "good girl" and marks Marissa as the "bad girl" of *The OC* is that Marissa experiments with her sexuality in ways that violate spatial morality; during season three, Marissa dated both her Hispanic gardener, DJ, and a girl, Alex. In her forays into non-normative relationships, Marissa disrupts the nostalgic ideal of the Orange County landscape in that she both recognizes and engages in activities that challenge the power of white, privileged heterosexual life. The penalty for this indiscretion is swift for Marissa, who is killed at the end of season three by yet another male who has fallen into her seductive trap. For Jane Doe, the penalty for being a postfeminist "bad girl" is equally harsh. Jane oversteps spatial morality by being "too flirtatious," having sex with multiple boys and, particularly, dating Keith Spann, who is black. Her violation of moral codes means that Jane is marked, not as a victim or even a willing participant, but as an overly aggressive, hypersexual slut who led Haidl and his friends astray. It is in fact the spatial morality of Orange County that provides the necessary switch that enhances the "immorality" of Doe's sexual behavior enough to allow for the possibility of seeing the boys' actions as merely "poor judgment" and not criminal behavior.

CHAPTER 4
Film Break

"Chapter 4" is a short, experimental film which uses dance and sound collage to re-tell key elements of Haidl trial discourse in an attempt to privilege Jane Doe and experiences of violation over the position and experiences of Haidl, Nachreiner, and Spann.

CHAPTER 5
Realism is Not Real: Mediated Crimes, Reconstituted Narratives, Unspeakable Subjectivities

The popularity of the home video camera (as of the still and moving film camera) lies less in its products (most of which are once viewed and soon forgotten) than in its access to the power of the visible, with its ability to give presence to the temporally and spatially absent. (John Fiske, 1996)

Perhaps realism is fraudulent. Even realism is not real, declares Ionesco. The point is: reality is not an image that can be circumscribed neatly on film. (John Murphy and Jung Min Choi, 1992)

In 1992, Los Angeles erupted. The 1991 beating and arrest of Rodney King had resulted in a high-profile trial that brought police misconduct, and the Los Angeles Police Department's history of racial profiling, under intense public scrutiny. When the majority of the officers charged with brutalizing King were acquitted a year later, public anger transformed from mass outrage into one of the most intense riots in the city's history. At the heart of the trial lay an infamous, and heavily analyzed, videotape. According to the *Report of the Independent Commission on the Los Angeles Police Department,* the tape begins with King on the ground. As King rises and moves, taser wires can be seen coming from his body. One of the officers begins to hit King with a baton, until stopped by another officer. The beating continues in this fashion – short bursts with the baton, kicking, and punching each time King attempts to move or shield himself – until, in the end, King had been hit 56 times. The tape was eventually shown on KTLA before making the rounds of all major news outlets. Portions of the film were ultimately played all over the world, turning the case from what would have been a violent, though commonplace, incident of police brutality into one of the most analyzed and culturally significant cases of the last several decades. When the acquittal was handed down, then-current President George Bush were stunned that the verdict did not seem to match the "clear evidence of guilt" on the tape (Fiske, 11).

As in the King case, the Haidl rape case centered on a videotape. And like the King case, the way the video was constructed, interpreted and discussed in the Haidl case raises substantial questions about the relationship between representation, violence, subjectivity, and trauma. Indeed, analyses of the way the videotape figured into the King case provide an ideal entry point for understanding how jurors "read" video as a form of testimony, how the messiness of representation makes media texts a battleground of meaning negotiation, and how mediated narratives are created and read through often competing ideological lenses. Differing interpretations of the events on the Haidl videotape became a focal point in the two trials; while jurors in the first trial saw "movements of acceptance" (*48 Hours)*, for jurors in the second trial it was seemingly a much more clear example of an unconscious person being violated. No matter what the readings generated, everyone involved with the case, from the legal teams to the two different judges, agreed that the tape was the centerpiece of the trial (Moxley, 2009). Given the importance of the videotapes in both the King and Haidl trials, the question must be asked: how do jurors receive and interpret mediated texts as forms of evidence? In both cases, dominant ideologies about identity and criminality affected how jurors interpreted both the events and the actual physical experiences of the people involved.

Understanding the way readings of the video determined the outcome of the trial requires an examination of the slippery relationship between violence, representation, and power. According to Charles Goodwin (1994, cited in Fiske, 2006), the legal teams in the King trial constructed two divergent interpretations of the tape; the prosecution argued that the video shows uniformed LAPD officers beating a helpless man, while the defense claimed it captured a legitimate response to a dangerous assailant who defied policy authority. Apparently feeling that the video "spoke for itself," the prosecution offered no analysis of the tape beyond an argument in support

of the film's evidentiary value. The defense, on the other hand, understood "that video requires a *reading"* (Fiske, 1996, 27). In a blow-by-blow account, the defense presented a sequence of photographs, culled from the video and frozen, and saturated them with words. Similarly, the legal teams in the Haidl case battled over the meaning of the tape, pulling on specific elements of the footage to support differing interpretations of the event. Writing about the King trial, media scholar John Fiske argued that these differing readings illustrate the way legal discourse, or the "logorational discourse of high power" (Fiske, 1996, 132), functions to articulate a particular story that fixes meaning in the video, erasing ambiguity and producing a final reading that operates to support specific forms of power. While the original video was wordless, its "truth authenticated only by its movement between the material event and the video," the story as it unfolded in the courtroom used video analysis techniques and logorational discourse to freeze particular meanings. This, according to Fiske, highlights a fundamental reality, that "(n)o truth can speak for itself in a court of law, it always has to be spoken: legal truth is always a product of discourse" (Fiske, 1996, 132).

The case of the Rodney King videotape illustrates how juror prejudices come into play as well as the problem with imagocentrism and the complexity of representation. Imagocentrism, or the "belief that photos, videos, and other mechanical representations embody a pure vision" (Murphy and Choi, 21) or represent an objective "reality," may dominate popular understandings of documentary film and photography, but legal cases that involve video evidence show that the central facet of representation is, in fact, contestation. Stuart Hall (1997) builds on the precepts of post-structuralism to claim that there is no "fixed meaning," and that representation therefore serves as an avenue through which cultural tensions are channeled, identities are shored up or generated, and power relationships are made (in)visible. Feminist performance scholar Peggy

Phelan argues (1993) that "(r)epresentation follows two laws: it always conveys more than it intends; and it is never totalizing" (2). According to Phelan, representation produces excess meaning because it conveys more than it intends; the "'excess' meaning creates a supplement that makes multiple and resistant readings possible" while also producing ruptures and gaps (2). The rupture produced by representation – between the "real" and its referent, the image and its original – creates an ambiguity of meaning that is then filled through the invocation, whether in the individual subject or through the authoritative discourses of the court, of particular, pre-existing, power-laden ideologies. In both the King and Haidl cases, the videotapes were read and understood through the evocation of powerful ideologies that surround identity and violence.

Yet it is the slippery nature of representation that allows for a more full exploration of the relationship between representation and "the real." For the King trial, this messiness created a situation within which the defense team was able to contest King's claims by exploiting the gap between King's experience and the representation of the experience (Fiske, 1996, 133). The prosecution's unwillingness to generate an explicit reading of the events on the tape – their reliance on the logocentrism of legal discourse and the imagocentrism of popular readings of representational texts – unwittingly highlighted the constructed and contentious dialectic between the development of media discourses and the reading of them. Representations of the Haidl case similarly drew upon existing ideologies to develop a narrative that foregrounded the "boys" as youthful innocents and the "woman" as the real perpetrator. Like all rape trials, the Haidl case also hinged on the gap between the victim's experience and external narratives of that experience. In the Haidl case, it is clear that those external narratives were successful in constructing a lens through which jurors read the tape as "not a rape." Given the strength of dominant narratives, the question must be asked: why, then, did the jurors, legal experts and

media analysts involved in the second trial see a different story in the video? As Deputy Attorney General Lise S. Jacobson said during the re-trial, "the video camera was the peoples' star witness…(and) 'the video in this case is graphically compelling' and 'shows that Doe was a person that was completely out while she was on the pool table" (Moxley, Sept. 17, 2009). How did readings of the trial go from conflicting and irreconcilable during the first trial to clear and shared during the second trial?

Part of the answer lies in the fact that the prosecution sought a lesser sentence during the second trial, thereby reframing the crime as one less "severe" (Welborn and Srisavasdi, 2006) and playing into the idea that the "boys" had been punished enough. But another part of the answer – and one that presents far more compelling opportunities for thinking about the relationship between rape discourse, victim experiences in the legal system and feminist practices around sexual violence - lies in the complexity of representation. As Phelan argues, representation produces excesses, ruptures and gaps; it fails to reproduce the real exactly. Yet we also know that representation, as one of the chief meaning-making practices, has a profound affect on how we understand and experience the "real" (Hall, 1997). Perhaps nowhere is this truer than in rape trials, where not just the events but the victim's very body becomes a text to be read and evaluated. And if representation has such constitutive power, it can be used in a multiplicity of ways; Phelan points out that it is precisely representation's "supplemental excess and its failure to be totalizing" that makes it possible to see representation as an arena of liberation as well as domination. Indeed, "close readings of the logic of representation can produce psychic resistance and, possibly, political change," (Phelan, 1993, 2) and therefore the process of reading representation lends itself to the creation of alternative forms of representation which seek to produce change by playing with the construction of meaning.

It is from this perspective, and with an acknowledgement of the work previously done on the role of video as testimony in the legal system, that I decided to produce a film about the Haidl trial. Examining the case from this perspective allows for a consideration of how the construction of meaning in this case was produced through very particular post-identity discourses. Marlon B. Ross claims that the idea of being "post-identity" is a backlash against the very identity politics that have forced the public to take rape and hate-based crimes seriously. Ross argues that one of the main problems with claiming an end to identity politics is that it tries to proclaim this period as being a momentary one, and imagines a previous, stable, binary world in which identity was never a factor in the first place. This, however, is far from the case. Instead, "it is absolutely necessary to distinguish between this longer human history of the *politics of identity* and the current episode of "identity politics,'" as it is "a monstrous mistake to think that the politics of identity is something that happened only recently and is on the decline just because we have a name, "identity politics," for a local, putatively short-lived phenomenon--a phenomenon that in actuality arises out of a long, uncharted human history in which "identity" has always been the heart of "politics" (834).

The role of post-identity politics in contemporary culture, so vital in understanding how Haidl case discourse positioned the victim and perpetrators, likewise informs my argument about the value of alternative media narratives as venues for the production of oppositional meanings. In producing this film, I intended to examine specific connections between rape discourse, media representation, and the "patriarchal logic of sexual rationality" (Matoesian, 2001) that pervades legal procedures. The actual process of producing the film likewise opened up other areas of consideration, including how feminist theories of film and visuality inform the construction of imagery and narrative. Ultimately, through this process and the resulting product, I hope to

explore how the post-identity discourses employed in the Haidl trial connect with larger issues of representation, justice, performance, processes of subjectification, and the possibility of using Cultural Studies methodology as a form of praxis. By interrogating the construction of Haidl trial discourse and producing my own counter-narrative, I likewise hope to show how feminist interventions in the process of image-making can serve to promote an "oppositional consciousness" (Sandoval, 2000) by troubling the falsely naturalized discourses of power that mark dominant rape narratives.

Reality/Fiction: Connecting Feminist Documentary and Cultural Studies Praxis

The choice to produce a documentary about the media coverage of a high-profile rape case may seem questionable, given the history of documentary film. The first famous commercial documentary, *Nanook of the North* (1922), set a tone for documentary that some filmmakers and scholars have fought ever since; this pseudo-anthropological text created a genre of cinema which has, at its core, "a patriarchal fantasy of origins, birthrights, terriotrialization, disciplinary procedures of beautiful aesthetics to control unruly natives and racialized narratives" (Waldman and Walker, 2). Given this origin, it should not be surprising that there is a complex and frequently contentious relationship between documentary traditions, feminist theory and film scholarship. Many feminist scholars have eschewed documentary to focus on the power and dominance of narrative cinema as a "factory of dreams" wherein social power dynamics are often naturalized and performed for the voyeuristic pleasure of the audience (Walker and Waldman, 8). Laura Mulvey's groundbreaking work on the scopophilic gaze and the pleasure/power of viewership (1975) set the tone for much feminist critique of film over the last several decades.

While a focus on the scopophilic gaze has allowed feminist film scholars great leverage for critiquing narrative film as a form of perpetuating sexual imbalance and structures of identification in both narrative and non-fiction cinema, and oft-overlooked aspect of Mulvey's critique is its polemic nature. Not satisfied with stopping at the point of deconstruction and critique, Mulvey argued "for an alliance between a feminist project and the strategies of the experimental avant-garde" (Walker and Waldman, 9). In the introduction, Mulvey argued:

> "…alternative cinema provides a space for the birth of a cinema which is radical in both a political and an aesthetic sense and challenges the basic assumptions of mainstream film…(this highlights) the ways in which its formal preoccupations reflect the psychical obsessions of the society which produced it and, further, (stresses) that the alternative cinema must start specifically by reacting against these obsessions and assumptions" (15-16).

Here Mulvey specifically calls for a feminist filmmaking practice and posits the techniques of experimental cinema as a method for cultural critique and meaning de/reconstruction that can, simultaneously, construct a new and oppositional cultural perspective.

"Avant-garde" cinema is itself a concept with its roots in the deconstructionist practices of post-structuralism and the critiques of realism offered by artists and scholars such as Bertolt Brecht and Walter Benjamin (Johnston, 1973). Claire Johnston made the case that cinema, as a form of mediation, fundamentally involves the production of signs; as such "the idea of non-intervention is pure mystification…(and) the danger of developing a cinema of non-intervention is that it promotes a passive subjectivity at the expense of analysis" (214-215). Thus ignoring the constructedness of cinema – of image production – allows for a dangerous naturalization of power. As a result, "alternative" or "avant-garde" cinema often acts as a direct response to the critique of formalized narrative, cultural, economic and political conventions (Ghosh, 2010). The avant-garde is designed to provoke a break in the easy production of conventionalized meaning by playing with form and structure, and complicating the very idea of cleanly

demarcated separations between the "real" and the "unreal." Avant-garde techniques, in other words, are designed to create ruptures in the signification process by exploiting the gaps and excesses that are always produced in representation.

Crucially, feminist documentary filmmakers have long made use of alternative techniques to trouble easy narratives and critique the idea that lived experience can be easily "captured" or portrayed within existing narrative norms. Rather than existing outside the avant-garde critique, documentarians have battled over the values, meanings, and techniques of "realism" as a core tenet of documentary production. Many of the debates have centered around what has been termed the "modalities of the visible" (Cohen, 61), the idea that representations can employ various avenues to getting at "truth." Many early "women's films" used cinema verite' techniques, placing the camera in situations and merely absorbing with the goal of presenting women's lives "as they happened." However the avant-garde and feminist critiques of the 1970s challenged "the truth claims of documentaries themselves and (stressed) the form's necessarily constructed or mediated nature and its dependence on narrative patterning". These critiques centered the need to consider "the political stakes in representing the images of voices of women who are not professional actors and whose documentary representation seeks to build consensus with actual women for the audiences of these films" (Walker and Waldman, 11-12). This critique resulted in a shift toward using styles that acknowledged the "transparent ideologies of the aesthetics of realism" (McGarry, 51). Some self-identified feminist documentarians of the 1970s and later turned to avant-garde techniques, including more "propagandistic styles…such as intellectual montage, expressionistic sequences, music, voice-over, and dramatization" (Walker and Waldman, 8) as an avenue to explore expressions of truth and come closer to capturing an aesthetic of "lived experience."

Other feminist film scholars and creators, many of whom felt that a complete turn away from "realism" had the potential to obscure the "authenticating trace" that connects documentary film to its referent, later met this turn away from the aesthetics of realism with critique. While moves toward acknowledging the constructedness of narratives and strong critiques about the truth claims of documentary film have been valuable in disrupting normative narrative structures, the question for many has then become: what of the subject? In the rush to disrupt narratives, do these new techniques in fact capture subjects in a way that does justice to the political stakes in the representation of others' stories and the exploitative dynamic that often, and perhaps always, exists between filmmaker and film subject? One of the major critiques of ignoring the power of realism is that realism "is often the first recourse of oppressed groups wishing to counter vicious stereotypes of lies" (Walker and Waldman, 12). Often the ability to make "visible that which is invisible" requires a clarity and directness of aesthetics that has been rejected through the move toward an avant-garde deconstruction of narratives.

Centering the politics of visibility in film makes it clear that there is an as-yet unresolved tension at the heart of feminist documentary production. Jane Gaines goes so far as to argue that "(l)eftist media workers cannot afford to undertake an abstract analysis or make an educational statement *about* representation if it is politically imperative that they make a representational reference to a 'brutal actuality' in order to counteract its ideological version"(Gaines, 82). The concern here is that alternative styles may serve to discourage or dismiss the affective power of spectatorship, generating a theory-driven text that "ignores the need for emotional identification with people suffering oppression" (Kaplan, 217). Still others have dismissed this critique as an assumption that "textual strategies alone can determine reception," and have argued instead for the need to work with audiences to either identify or "to create a public for more difficult or

complicated works" (Walker and Waldman, 12). Clearly, then, the question about the value and nature of feminist documentary work is not just, "what of the subjects?," but more specifically, "what of the dialectic between subjects – those on the screen and those in the audiences?"

This question cannot be seen as a small one, particularly when the issues at hand are legal discourses, rape discourses, and the treatment of subjects – and their bodies – under the law. In writing about the Clarence Hill/Anita Thomas hearings, Peggy Phelan elucidated how the "legal category of sexual offences, which includes crimes of rape, sexual assault, sexual harassment, incest, and sodomy, continues to bedevil the law because it lends itself so promiscuously to the phantasmic" (Phelan, 1993, 112). The logic of the law and the logic of sexual injury have a difficult relationship, partly because the "logic of the law seeks to draw a line between the truth of the empirical and the fiction of the lie" yet "the force of sexual injury often makes it impossible to make this distinction." In other words, the law's empiricist bent, with its strong focus on things that are verifiable and provable leads it to accept that, "while people may lie, the body tells the truth" (Phelan, 1997, 95). This emphasis on the body makes rape trials particularly difficult and painful, as the body, being the site of violence in such trials, becomes subjected to heavy analysis, debate, and boundary violation.

While this complicated process of empirically "proving" a sexual violation has occurred generally effects a re-traumatization (Matoesian, 2001), it also elides a central truth of sexual violence, which is that "when the injury is sexual, it is virtually impossible to separate the empirically verifiable from the phantasm of the trauma" (Phelan, 1997, 95). A victim's experience of pain in cases of sexual trauma is often not just (or at all) physical so much as it is psychological and emotional, and while the victim may experience no distinction between these elements of trauma on an affective level, the law demands that such distinctions be made.

According to Phelan, the “Hill-Thomas hearings dramatized a crisis about the law’s inability to heal a sexual would” (1997, 105). The law in fact provides a “sorry forum for the redress of sexual injury,” as it “transfers the injury between the victim and the criminal, but (can) do little to heal the psychic injury of sexual trauma” (Phelan, 1993, 112). Clearly, then, the process of challenging legal and media discourses of sexual violence through film is complicated, as it centers multiple experiences of violation that are physical, emotional and intellectual. Given questions about the power of film narratives, the viability of using avant-garde forms to express a “truth” that also deconstructs conventional narratives, the need to consider the affective power of viewership, and the desire to develop a political intervention that exploits the gaps in representation while also resisting exploitation of the subjects of the text, how does one proceed?

I propose that connecting the critiques and practices of feminist documentary filmmaking with the theoretical and methodological tenets of Cultural Studies is one way to maintain the right political edge in such a venture. An overview of the development of Cultural Studies as an academic practice shows that many of the theoretical underpinnings of the discipline have the same root as the critiques offered by members of the cinema avant-garde. Early cultural studies practitioners “understood the political nature of art, literature, music, theater and all cultural representations,” just as early practitioners of avant-garde cinema sought to disrupt the conventional narratives that dominated their craft out of an explicit desire to deconstruct and intervene in the production of meaning. These scholars “saw the complicity between ideology and culture and they knew the power culture has to change the way people think about their lives and their future,” (Murphy, 1992, 33) thereby understanding cultural production as the major avenue for affecting political change. The understanding of the possibility for using creative works as interventions into dominant narratives comes, for practitioners and scholars in both

traditions, from the serious critique of classical Marxism offered by Antonio Gramsci. As Stuart Hall argues, the concept of hegemony shows us "(h)ow cultural questions can be linked, in a non-reductionist manner, to other levels: it tells us to think of societies as complex formations, necessarily contradictory, always historically specific" (1980, 23).

This intervention in classical Marxist approaches to cultural production helps build upon Marx's conception of the relationship between practice and theory in powerful and important ways. For Marx, there was a clear relationship between criticism of "the real" and political purpose; criticism "has the power not of delineating some utopian ideal…but of revealing…a critical understanding of…suffering." Criticism that does not engage in thoroughly exploring the social dynamics that generate pain, and in bringing "genuinely human problems…to a self-conscious human form," becomes less radical and more a form of "idle speculation" (Murphy, 1992, 33). Scholars such as Peter Murphy have taken up this critique to propose a rethinking of Cultural Studies as a purely academic practice. Murphy argues, "Cultural Studies must…focus on the creation of culture, not just the criticism of culture" (33). This approach can lead to a form of Cultural Studies praxis that exists as a "dialectical relationship between theory and practice" which "understands that knowledge emerges from critical engagement not just intellectual reflection" (Murphy, 1992, 32).

The unique cultural studies praxis that emerges from this relationship could be more engaged in the process of social justice than just the criticism alone in part because it acknowledges that "the *specificity* of... experience...is not opposed to theory; i*t enacts* and *embodies* theory" (Narayan, 681). As "embodied theory," cultural studies praxis can lead to a new way of artistic engagement in cultural production, helping young scholars and artists re-think how they engage in the processes of image-making and storytelling. The idea of praxis as embodied theory

resonates strongly with contemporary critiques of the need to keep the avant-garde "alive" through a "praxis of leaving oneself open to outside influences (other techniques, other cinemas, other arts and media, and other cultures) rather than one that stands on principles, insists on oppositions or follows fashion" (Konrad Steiner quoted in Artists Venues Images, 2010). Just as they share a common beginning, that of critiquing the means, modes, and structures of cultural production, these forms share a common goal of remaining vital by grounding themselves in the "lived," the experiential realities of power, meaning, and suffering.

Cultural Studies as praxis also blends elegantly with the way some feminist film theorists have emphasized the need to retain "the paradox of "reality fiction" as a *paradox,* and moreover, as a paradox in which there is much at stake" (Walker and Waldman, 12). What is at stake for feminist film theorists is similar to what is at stake for cultural studies practitioners; namely, how do we connect cultural critique to cultural practice in ways that destabilize oppressive discursive norms, complicate the "uncritical habits of mind" (Butler, 2001) that mark how we engage with culture, and provide new ways to think through and develop liberatory social practices? And more specifically, how can we as scholars, artists, and activists, create engaged cultural interventions that may help combat the deep pain often experienced by individual victim/survivors of sexual violence, as well as the cultural violence promoted by dominant rape myths?

"Haunting Phantoms": Performing the Traumatic and Alternative Narratives

In theorizing and planning my film about the Haidl trial, I pulled from John Fiske's work on the relationship between debates over the videotape and the construction of subjectivity in the Rodney King trial (1996). Fiske's work is valuable for understanding the processes by which juries read film as testimony, and how these readings play into processes of subjectification and

assessments of innocence. According to Fiske, a dominant focus of the King trial was the idea of "escalating force." Through their reading of the videotape, the defense team promoted the idea that it was King, not the police, who was in charge of the beating; by reading his movements in the tape through the lens of an "instruction manual for the technological application of power to the body," the defense team constructed an ideological portrait of King as a violent offender responsible for his own beating. This reading "enabled the police to 'write' their own meanings on Rodney King's physical body in the same way as the defense lawyers wrote theirs upon his electronic one" through their careful, deliberate reading of the video.

Most importantly, this move also translated King's behavior during his arrest in a way most favorable to the police. In this dynamic, King was unable to successfully argue that he had been defending himself; the defense team established the police narrative as legitimate by convincing "the jury that the categoric system of the LAPD tool kit was not part of the grammar of police discourse, but was a part of reality itself" (Fiske, 1996, 134). Defense lawyers thus played upon numerous hegemonic ideologies – primarily that of the "dangerous black man" - to argue that the police interpretation of events and subsequent actions were justified. Crucially, this telling of the events on the video perfectly conforms to the logorational nature of legal discourse, wherein rule, order, structure, provability, and innocence are heavily connected. The mandate that King "prove" his subjective experience of physical harm, and his inability to do so in the face of the video "testimony" as interpreted through a hegemonic cultural lens, highlights the tremendous gap between experiential reality and representation of that reality. Rather than proving his innocence, then, the King videotape helped the prosecution construct King's position as perpetrator. Even more significantly, the substitution of King's physical body with his digital body rendered his "felt" experience unspeakable and unintelligible.

In a very similar manner, defense team arguments and media readings of the videotape in the Haidl trial served to position Jane Doe as the true perpetrator. As previously discussed, the weight of testimony against Doe by her "friends" turned her into a "bad girl," a hypersexual "slut" who orchestrated the whole event. The defense team likewise worked to present this angle, and was successful enough to convince many jurors that they saw "movements of acceptance" on the videotape (*48 Hours*). These discourses were perpetuated in dominant media narratives. Clearly, then, how the videotape was read by jurors and media professionals, and the way these readings were used to position Doe as a subject, needs to be addressed in any cultural interventions into the case. When developing the idea of my film, I focused on a desire to create an alternative version of trial coverage that centered Jane Doe, used the paradox of "reality fiction" as a productive space to explore the construction of narrative, and helped express how dominant narratives of the trial silenced Jane Doe in a way that highlighted the "unspeakable" nature of her position.

Through this process I also hoped to open a representational space within which the "tears in the fabric of knowledge" created through sexual trauma might be addressed and understood. As Peggy Phelan argues, sexual trauma, in creating "a wound in the system of meaning through which the subject knows the world," escapes the possibility of full interpretation. One can never fully know how another experiences this trauma, as sexual trauma wounds the very self/subject/world dialectic. However, the tear in meaning might be "mended as it is rehearsed, rewritten, revised," (Phelan, 1997, 95). Making this film, then, is a way to exploit gaps and excesses in the representation process in order to "revise and rewrite" the narrative to provide a form of mending, if not for Jane Doe herself, then for potential viewers who might be able to experience affective investment in a different narrative.

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The difference between where I began my film and where it ended up tells an important story about the complexities of producing cultural texts within a feminist, cultural studies praxis framework. I began my design for the film by contacting prominent members of the trial proceedings, including lawyers, journalists, and some jurors who had previously spoken with the press. My original plan included developing a relatively straightforward narrative that would counter the narratives presented by the majority of major media organizations. I also wanted to contrast this narrative with the stories of survivors; I put out advertisements and was able to interview a half a dozen women who had experienced some form of sexual violence and wanted to speak about it on camera. The process of securing interviews took several months, and each time I captured an interview my thoughts about the project changed. As I sat down to review the footage, some areas of concern became immediately clear to me. For one, it seemed that adding other narratives to the trial would confuse my initial intentions, which were to focus on the specificity of this particular trial. Though there are certainly valuable things to discuss across rape trials and the dominant rape myths that play out in similar ways throughout different situations, the need for a recognition of the specificity of this trial, in this time, in that place, could not be ignored.

More importantly, however, I began to feel deeply uncomfortable about my position as the producer of this piece, the relationship between the women I interviewed and myself, and the exploitative self/other relationship inherent to the dynamic of interviewer/ interviewee. Indeed, the filmmaker-subject relationship has long been of interest for feminist documentary filmmakers; for example, despite her resistance to being classed as a "women's filmmaker" (Rosenberg, 55), Shirley Clarke's *Portrait of Jason* (1967) was an early attempt to directly

confront and examine the exploitative dynamic between interviewer and subject, particularly in the context of hegemonic cultural narratives about identity and storytelling modalities. Despite arguments throughout the 1970s that documentary practitioners be particularly conscious of the ethics of their work as they can "pick up and go home" while their subjects live with the consequences of the work, the field of documentary has long been criticized for being "overinvolved in 'issues of transparency and narratology'…and underinvolved with 'the people whose cooperation is crucial to documentarists" (Wintson cited in Walker and Waldman, 14). This dynamic must be considered especially suspect in cases, long debated within the confines of ethnographic anthropology, where the documentarian chooses to "study down" in order to capture groups disadvantaged by oppressive systems.

Given these concerns, I began to look back to the cultural studies notion of identity as well as contemporary anthropological and feminist critiques of the self-other dichotomy. Many have critiqued the assumptions of the ethics discourse for reifying the very power dynamics it seeks to manage; in "concentrating on what the filmmaker can do to protect the rights of the subject," some feel this discourse "reiterates the very power imbalance it seeks to redress" by denying or ignoring the complexities of agency in subjects, as well as the dynamics of mutual exploitation that often exist in the documentary process (Walker and Waldman, 14). This argument also ignores the existence of texts that start from a desire to explore the self-as-other. Additionally, the cultural studies critique of identity formation has shown that identity exists as "a projection that is never complete, always in process, and always constituted within, not outside, representation" (Hall, 1993, 222). The weight of these arguments pointed me toward an approach which foregrounded the tensions between identity, power-sharing and narrative construction as a way to more fully explore the construction/destruction of meaning in media discourses of the

trial. In this spirit, it became clear that a "reciprocal text" (Walker and Waldman, 17) constituted through a collaborative effort with a community who wished to explore their own investment in and response to the tensions in the media coverage of the trial, would allow me to more fully engage with the complexities of cultural studies praxis for cultural production.

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Where else to look for help than my community?

Dinner party, November, 2011-
Miles: How's the film coming?
Monique: I think I've stalled. I don't know what I'm doing anymore.
Miles: Maybe we could help?

I'm lucky to have such creative and passionate friends.

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In the summer of 2012, four dancers – Miles Tokunow, Aine McCarthy, Rachel Miller-Howard, and Paolo Speirn – designed and recorded an improvisation-based dance piece based on their reactions to coverage of the Haidl trial. The dancers have backgrounds in anthropology, religion and history, and all have previously worked in the area of experimental dance performance. I gave them no formal instructions or suggestions beyond showing them several clips of media coverage of the trial, including footage from *48 Hours, NBC,* and *ABC* broadcasts. Through conversations and writing, they came together to respond to the media discourse with a performance discourse of their own.

After they gave me the footage, I began working with it and with audio tracks from media coverage of the trial. I began by laying out a narrative in audio that worked to construct "waves" of sounds with particular themes, building toward dispersed peaks and valleys. However, merely adding the dance footage to the sound to make a statement was neither effective nor particularly interesting. Instead of forcing the structure, therefore, I chose to allow the images to influence

the audio and vice-versa, pulling them together to create points of meaning through a confluence of image and sound. In addition, I interviewed the dancers during the editing process, getting their feedback and giving them a voice in how I used their work. The final product, therefore, represents a collaborative effort.

Given all these considerations, it is important to note that my process was therefore less structured than it was intuitive. In the editing process I made use of montage techniques to pull out significant themes, concepts, and moments from media discourse. Waves became a significant organizational motif, and the piece is designed to echo the "waves" of oppressive language and behavior that frequently re-traumatize rape survivors both inside and outside of the courtroom. This technique also reflects a desire to theorize about the body, performance, trauma, and subjectification. My editing technique in particular drew from Gilles Deleuze's conception of "singularities." According to Deleuze, singularities present a way to conceive of bodies and being that stands in opposition to the idea of "essentials"; conceptualizing matter, being, and embodiment as a process rather than a product involves recognizing that bodies emerge out of processes. Working within singularities, as many artisans do, therefore means teasing "a form out of an active material, collaborating with it in the production of a final product rather than commanding it to obey and passively receive a previously defined form" (Deleuze and Guattari, 1987, 408). Singularities exist as a series of potentialities that work upon each other to produce forms. Both my editing of the piece and the construction of the dance itself seemed to occupy this space of "productive tension," wherein meanings were allowed to emerge through process instead of conforming to pre-determine structures.

Reading the final film, then, affords an opportunity to reflect on more than just the construction of the alternative narrative. The following is a consideration of how the film

illustrates theories of embodiment, trauma, performance, and subjectification. I offer the analysis and discussion as a series of openings, not closures, and hope that it opens up ways to think about how we can use cultural studies as praxis to expose the gaps and use the excesses of representation.

As a final note, I must acknowledge that these are the things I see in the piece, and this is the way I would like it to contribute to a larger understanding of Jane Doe's experiences as "unspeakable" within dominant Haidl trial discourse.

Your mileage may vary.

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"Knowledge is not a systemic tracking down of truth that is hidden but may be found. It is rather the field of 'free play,' that is to say, a field of infinite substitutions in the closure of a finite ensemble'" (Spivak, 1998, xxi).

"I think that really speaks to our process and why we chose improvisation, so it could be more visceral and more authentic response, especially because I didn't feel like I could intellectually come up with a set choreography to respond to this…" (Paolo)

Theories of trauma attempt to explore the injuries to both body and psyche that develop in response to violent events. As a record of a rape trial – wherein the very concept of "violence" is itself the field of contestation and negotiation – media representations of the Haidl trial can surely be seen as a social record of trauma.

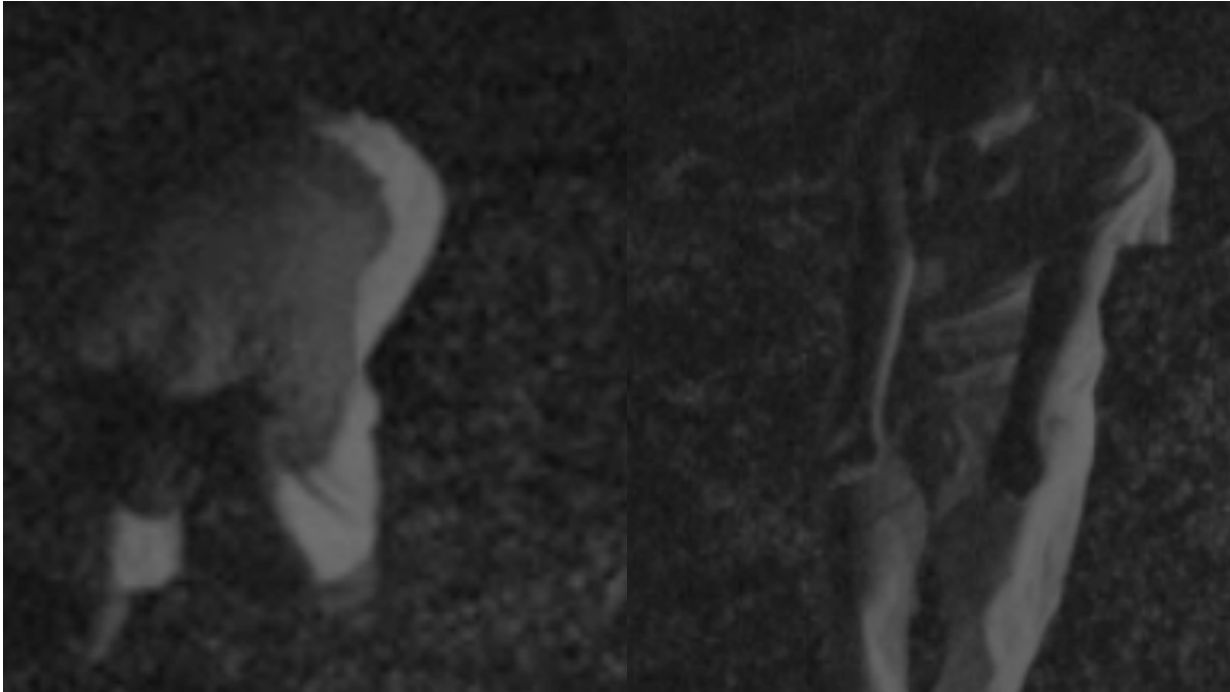
But not the trauma itself. Psychoanalysts from Freud to the present contend that

“trauma is simultaneously untouchable and remarkably unattached to, untouching of, what surrounds it. Often trauma is not recognized until well after it has happened, in part because it is a complete, contained event. Trauma’s potency comes in part from how well it is contained” (Phelan, 1997, 5).

“We each had movements that we shared with each other, and we would respond to one another doing them.” (Aine)

In *Regarding the Pain of Others* (2003), Susan Sontag argues that representations of suffering ensure that traumas are not forgotten. Performance generates social spaces wherein painful subjects can be tackled within a fictional space (99). This can be particularly important for addressing the trauma of rape, which, unlike the trauma of cultural genocides such as World War II, is often perceived as purely individual rather than social.

Sontag insists that representations of suffering must not rely too greatly on spectacle. Portraying suffering as spectacle depersonalizes suffering and trivializes trauma, “perversely” showing that “there is no real suffering in the world” (99).



"I remember a lot of the feeling of wanting to hide…or just in thinking about the shame that she felt from being so public….I remember I was thinking about this inner forearm as being vulnerability and feeling it be very exposed…" (Aine)

"I do remember in thinking about the process…thinking about pace and speed and sort of how two camps of emotions that are elicited while watching the footage are sadness and rage and how that sadness to me is represented in slower movement and rage is much quicker…" (Rachel)

Sontag maintains that we should '"let the atrocious images haunt us'" so we never forget "what human beings are capable of doing'"(102).

Freudian interpretations of trauma centered on the idea that trauma was a "breach of the organisms protective shield," thereby centering trauma in the body (Cvetkovich, 54). Over time, theorists and therapists turned to a heavier focus on "talk-therapy," believing the site of trauma, and the place of its healing, was the mind. Much contemporary trauma research has "come full circle to its mid-nineteenth-century origins in the diagnosis of railway shock; the body has returned as the site where trauma can be both manifested and cured." New approaches to healing trauma include somatic therapies, including dance and performance, as these "stress the body's sensations in contrast to the act of telling a story promoted in talk therapy...(which encourages)

the grounding of experience in one's own desires rather than external messages" (Cvetkovich, 114). These approaches make it clear that, rather "than owing its signification to the distinction between the psychic and the physical, trauma…has…been the locus of a debate about the uncertain distinction between them" (Cvetkovich, 55). Performance has the potential to be a liberatory form of therapy as, according to Peggy Phelan:

> "Performance and theatre make manifest something both more than and less than "the body." And yet the acts made visible in theater and performance are acts that we attribute over and over again to bodies, often immaterial and phantasmic ones." (1997, 104)

Performance relies on bodies while also troubling the idea of 'the body' as an inherently meaningful and confined object, providing an outlet for the exploration and creation of differential meaning.

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> Michel Foucault: "(T)he body is understood to be an active process of embodying certain cultural and historical possibilities," (1978, 521).
>
> Judith Butler: "Is 'the body' ontologically distinct from the process of construction it undergoes?" (1990, 602)
>
> Aine McCarthy: "I felt the frustration of (Jane Doe's) absence and silence… like 'stop stop stop let her say something'…" (2013)

"It's haunting how you made us look like phantoms…" (Rachel)

Deleuze further theorizes the construction of the body/bodies as meaningful objects with the concept of singularities. In *The Logic of Sense,* he argues that "[s]ingularities are turning points and points of inflection; bottlenecks, knots, foyers, and centers; points of fusion and condensation, and boiling; points of tears and joy, sickness and health… 'sensitive' points" (1990, 63). Singularities are points of tension and potential wherein things take on a "thingness." Rather than bearing essential meaning, things take on meaning through singularities, through points of friction. Things – bodies, identities, subjectivities – emerge through encounters with an other. Entire categories of culture, for instance, emerge as one potentiality from a plan that could produce a multiplicity of potentialities. It is only in engagements, in context, in rubbing up against something, that meaning takes form.

"We were sort of inescapably linked but also…I mean I guess that's what tension is right, it's like the friction but also the connection…"(Rachel)

"And that was Rachel's idea that inspired that cord, right? That inextricability..." (Aine)

"And getting to be in that during the filming, I just remember feeling the two sides of inextricability and solidarity, both of those were really powerful to work with..."(Paolo)

Dance theory makes use of the concept of singularities to explore how dance configures bodies, subjectivities, and representational meanings through a presence/absence dialectic. Classical choreography announces and enforces a "project of regimentation and inscription of bodily movements," thus structuring a "presence" without a body and suggesting that "the presence of the body is always preceded, always prefaced by, always grounded on, an open field of absence" (Lepecki, 3). Dance practices configure "relations between body, self, and society through 'choreographic decisions'" (Lepicki, 3), implying that it is through movements that meaning is generated, and through the generation of that meaning that the body gains a presence. Dance relies on "a complex integration of sense-memories, associations, displacements, (and) kinesthetic memories" (Lepicki, 4) for the production of meaning. In this sense, dance is the art of the past, the art of recreating/ reconfiguring histories of meaning represented in bodies.

Yet as singularities, the "presence" of the body in dance represents only potentiality, not essence. The "question of the dancing body becomes a matter of delicate excavation," as inscribed meanings meet with the challenges of "knots" in meaning production through "bumping up" against other potentialities. Dancing bodies therefore constitute "a crisis of the visible, of how to approach the visible body as its dancing presence plunges it into the past, into history, into a representational field that is perhaps too excessive to be regimented, contained, tamed" (Lepicki, 5). That dance exists in the excesses of representation is vital; as an "open potentiality, a force-field constantly negotiating its position in the powerful struggle for its appropriation and control" (Lepicki, 6), dancing bodies have the potential to resist subjection, to trouble the easy recreation of historicized "traces" of meaning. Through dance, it is possible to exploit the gaps in representation through the deliberate invocation and reconstruction of historically constructed narratives. Dancers' bodies become sites within which meanings are

evoked, traumas can be recreated and transformed, and new ways to resist can be imagined. This is the essence of the singularity; through plunging into layers of meaning and rubbing against the ever-present *absence* of the body, the body in motion becomes a political agent. Such agency can manifest as movements that disturb and disrupt narratives that configure bodies as vulnerable, subjugated, unspeaking – as traumatized.

> *"The visual residue, the echo (in overlapping images), helped me reflect on the intro and memory and the way waves erase memory. And the way the water of the news and the water of all these terrible voices helps to erase those footsteps. And I remember how important walking was in our process to me, that there was never a walk that wasn't different…" (Miles)*

To understand how dance and other forms of performance can both connect and disturb the connections between bodies, subjectivities, and representation, it is important to consider the relationship between performance, performativity and subjectification. In their conceptualization of the development of the subject, Butler and Foucault "have been concerned with subject formation through acknowledgement of social values by the repetition of socially mandate

discourses" (Burt, 34). Butler's focus on performative speech acts has centered the way repetition of language, itself developed through sociohistorical processes, cements particular identity formations. Identity formation then occurs through this repetition. Dance performance, on the other hand, "involves the circulation, within a particularly privileged context, of speech acts that are generally nonverbal…. (where) meanings are produced through a collective and reflexive awareness, shared between performers and an audience, of nuances of interpretation within intersections of a number of overdetermined discourses" (Burt, 34). Dance relies on a shared nonverbal language, wherein movements evoke predetermined and shared cultural meanings. Yet as that meaning is constructed between audiences and dancers, with a focus on interpretation and use of discourses to produce new meanings, dance also has the potential to open space for the formation of new discourses. When these discourses become mediatized, that space becomes a place of potential disruption of hegemonic discursive norms.

> *"The kind of choking, choking mask hand can't speak looking behind going around in a circle was this kind of broken trust, broken always having to impossible spiral…." (Miles)*

"It's interesting in terms of our process, because we watched the clips of Greg Haidl before we did this movement, and I was thinking I was particularly struck by him complaining about wearing the ankle tracker, and that was the inspiration for this ankle movement…" (Aine)

"That was such a powerful move that I repeated often, was the holding of the ankle…" (Miles)

"What psychoanalysis makes clear is that the experience of loss is one of the central repetitions of subjectivity. In may well be that just as linguists have argued that syntax is "hard-wired" in the brain which allows infants to discern that specific sounds are language bits, perhaps the syntax of loss is hard-wired into the psyche which structures our encounters with the world."
(Peggy Phelan, 1997, 5)

If the experience of loss is one of the key repetitions at the center of subjectivity, then subjectification must be seen as a complex process of negotiations between being and not being, between presence and absence. Peggy Phelan argues that identity does not "reside in the name you can say or the body you can see," but instead emerges "in the failure of the body to express being fully and the failure of the signifier to express meaning exactly" (1997, 13). Identity develops through perpetual bumping up against an "other," and that tension produces both loss – of not-being the other – and need of the other for recognition. Poststructuralist theorists have explored this tension by discussing the way subjects are interpellated by ideological discourses that pre-exist individual subjectivities and "call them into being" within existing discourses of identification. Louis Althusser "employed the term *interpellation* to denote the mechanism by which subjects recognize their place in dominant ideology" (Hawkins, 2001). In this schema, individuals are always-already interpellated as subjects.

A crucial arena within which this happens is the production and disciplining of "the body." Picking up from Foucault, it is then clear that bodies are "totally impregnated by history and the

process of history's deconstruction of the body" (Burt, 38). As a practice which explicitly invokes the body as a producer of meaning, dance highlights the way these discourses limit, and are limited by, representational practices. Butler argues that it is "only possible to take up a critical position through recognizing the extent to which one is always already implicated within the very power one might wish to oppose." Moves to use the limitations and gaps of representation as a locus for the critical deconstruction of dominant narratives then require a recognition of how these narratives interpellate subjects, how subjects can resist or challenge that process, and how that resistance can be used as a move toward generating new discourses that encourage political change. Political possibilities emerge "when the limits to representation and representability are exposed" (Burt, 38). In the Haidl case, the limits of representability in media narratives extend toward the limits and structures of contemporary rape narratives, which locate the victim in a position that is unspeakable. Untangling Jane Doe from the unspeakable subjectivity of victimhood may then occur through a clear exploration of the way mediated rape narratives interpellate *everyone,* including viewers, into positions of power and/or oppression.

****

Paolo: "I think my gesture was either standing and looking at the camera or standing and looking at each other, and I think it was something about witnessing or ownership. I mean I definitely know as a privileged white male I was definitely like in that very in that…"

Rachel: "And I think you also said that it was not only being the white male in that place of privilege but also like watching all of this unfold and sort of being helpless in that..."

Paolo: "Yeah right because that was a very poignant thing for me…"

Miles: "Yeah I remember there was a time where you were standing and watching and then a time when you just looked right at the camera while we moved…"

Aine: "It's hard to tell the boundaries in the dark…"

CONCLUSION
“There Were No Winners”: The Haidl Verdict, Unspeakability and the Trap of Post-Identity Politics

Paolo’s discussion of the conflict he experience while producing the dance because of his position as a privileged white male highlights both the way media narratives operate as forces of interpellation and the power of alternative narratives to exploit gaps in representation to produce new meanings. Original Haidl case discourse largely maintained rape myths that foreground the experiences of the rapists, position the victim as complicit in the violence, and limit the ability to represent or “see” the experience from the position of the victim. This is the heart of Irigaray’s concept of the “unspeakable”; her use of the term serves “to show that…. binary oppositions….are formulated through the exclusion of a field of disruptive possibilities” (2002, 23). In the Haidl case, that binary opposition of “victim/perpetrator” is imagined in a way that fundamentally excludes the embodied experience of violation. This exclusion profoundly affects the reading of the videotape and, ultimately, the verdicts in both the first and second Haidl trials. John Fiske’s work on the Rodney King trial has shown how the logorationality of legal ideology works to obscure the physical experience of violation in favor of discursive explorations of that violation. According to Fiske, “the video was the verdict – for the jury, for the media and the nation, and for Rodney King’s fellow inhabitants of South Central L.A..” In the actual trial, King himself “never appeared; his presence, which pervaded the trial in the courtroom and around the nation, was a video presence, a body of electronic dots” (1996, 128).

In a similar fashion, the media and legal discourse of the Haidl trial functioned to nearly annihilate Jane Doe’s embodied being from representations of the case. The limits of dominant ideology here produced a fierce and violent unspeakability. More than just having an unspeakable experience, Doe’s experiences as a victim – of both her attackers and

representations of the case - interpellated her into a subjectivity that occupies an unspeakable location. Yet this position of unspeakability, built through narratives that are themselves unstable, can potentially be challenged by exploiting the gaps in dominant representations. Paolo's discussion of the pain of being positioned as "owner/viewer" of the crime, and re-enacting that position within the context of a dance he performed with three others – two white women and one multiracial, black-identified man – shows how the processes of interpellation can be disrupted to offer a multiplicity of new readings by exploiting the gaps in representation and destabilizing the easy, performative repetition of violent norms. Through readings of media representations of the Haidl trial and the production of an alternative narrative that attempts to foreground Jane Doe's words and the pain/tension produced within audiences, I hope to show how critical deconstruction *and* production practices can challenge processes of interpellation. The Haidl trial also presents a unique opportunity to discuss the way contemporary, "post-identity" discourses work to reify dominant, oppressive narratives, and how viewing cultural studies *as praxis* can provide new ways to combat and disrupt these narratives.

My reading of the discourses surrounding the Haidl case particularly highlights the construction of Jane Doe's postfeminist "bad girl" status through the use of intersecting spatial, racial and identity constructs. This discourse makes it equally difficult to see the boys as other than just "misunderstood kids" who made a mistake, and helps it become more obvious why and how the initial Haidl trial ended in a mistrial. As the heterotopic space of Orange County takes on a ritual function, the "active/passive" duality is also emphasized in this exchange. By transgressing spatially defined morality and becoming an "inappropriate" girl, Doe is likewise transgressing the passive identity that the nostalgia of Orange County demands of its female members. Doe's behavior figuratively positions her as "not belonging" in Orange County in a

way no actual, physical home address ever could. It is then up to Haidl, his friends and the female witnesses – or more specifically, to their media representations - to reestablish the appropriate spatial morality of Orange County by reaffirming the power of whiteness, privilege and active masculine power.

The female witnesses accomplish this through supporting Haidl and his friends in a way that affirms both the proper nature of the landscape and gender-appropriate female passivity, while the boys' actions then become read as a "natural" and contextually appropriate use of masculine sexual power to actively reinforce the spatial morality of Orange County life. When this is all reinterpreted in the trial discourse, and then again through the simulacrum of Orange County's mediated landscape, the result is a case in which spectators are presented with a contradictory and highly questionable version of the case in most media outlets and jurors see hugely different things happening in the same artifacts. The only way to get a conviction in this situation is to drastically scale back on the charges, turning a charge of rape into a conviction for sexual assault. And despite the fact that Haidl and his friends eventually admitted that they had assaulted Doe (Moxley, May 14, 2006), public opinion on the sentences was mixed, with some feeling that 6 years was far too little and others saying they felt that the entire event had been a tragedy for all involved.

Indeed, once the verdict was given in the second trial, even *The OC Register's* Frank Mickadeit, who generally supported the prosecution and was known to refer to Haidl as a "punk" in his coverage of the case (Mickadeit, Nov. 8, 2004), claimed at the end that he felt sorry for everyone involved and that " it was one of those days in court it seemed there were no winners" (Mickadeit, March 24, 2005). And while Mickadeit claims he is trying to be sensitive to the feelings of the families of the three boys, it is telling that he and many others following the

case still felt confusion from the trial rather than either satisfaction or anger at the outcome. This particular sense of emotional ambiguity is well expressed by one of the juror's from the second trial, who spoke with Mickadeit about how the jury came to their decisions about the case. The juror claims that he felt that Jane Doe was a "messed up little girl,"; of the defense team's constant focus on her lying to her parents about her partying, he says "I thought she was a typical teenage girl, turning loose with as little information as she had to, to get herself out of a jam" (Mickadeit, March 28, 2005). Though he and the other jurors ultimately found that the tape was incriminating and voted against the defendants, their reasons for the verdict also seem to have as much to do with the kind of spatial morality that the trial invokes as with the evidence:

> One thing that did leave a strong impression (with the juror) was testimony that defendant Keith Spann had simply left (Doe) in her car in his driveway the next morning and went off to work.
>
> "My thinking at that time was, 'That's a really bad thing to do.' I was kind of surprised the prosecution didn't jump on that." (Mickadeit, March 28, 2005)

According to this juror's argument, it was in fact Spann's negligence of Doe after the events of July 5, as much as anything that happened that night or Jane's subsequent physical wounds, that signaled that a form of abuse had occurred. In Orange County, this argument makes sense in ways that it may not in other rape trials in other parts of the country or world; if it was truly believed that an assault did occur that night, then it seems that anything the defendants did would seem like "a really bad thing to do," and leaving her in her car may not have provoked such commentary. However, if the night's events had merely been "bad sex," in which the girl was left feeling abused and taken advantage of, then Spann's actions signal simply an "ungentlemanly" lack of consideration for a willing partner. In the nostalgic, traditional sphere of the Orange County landscape, Spann's ungentlemanly behavior is what is most telling about the

boys and their attitude toward women in general and Doe in particular, and in fact may just work to more effectively brand them as 'guilty' than their use of a pool cue on their victim.

The spatial morality of Orange County combines so many representations of identity that are steeped in different types of backlash politics that the only way for those involved to read behavior of Doe and the boys is to reframe the identities of everyone involved over and over again, and ultimately at the end to come out with a representation of the case that reaffirms every nostalgic ideal of what life 'should' be like in a privileged, white, safe and happy environment like Orange County. Thus Jane Doe becomes a "messed up little girl," who got herself in some trouble rather than a deviant slut, and simultaneously Haidl and his friends become, though not fully 'criminal,' at least 'inappropriately macho' when they forsake Doe's feelings after a night of questionable sex. The nostalgia of Orange County's heterotopic space has so totally filtered the reading of the place that it is possible for people like Mickadeit to say that there are "no winners," as indeed all are punished through the black mark such a case leaves on those involved and the county as a whole.

What all of the pieces of the Haidl case representation have in common is this 'nostalgia' element, a longing for a simpler time before identity, that has become the hallmark of "post-identity" politics. Spatial nostalgia, racial backlash and postfeminist representations all collude here to place the simulacrum of Orange County in a "post-identity" space that has clear and damaging implications for the outcome of the Haidl trial itself. The backlash against identity that is present at the heart of "post-identity" formulations is not really a longing for a true or accurate historical past, but a political ploy meant to consolidate the hegemonic power of socially dominant actors. Imagining that we are in a post-identity period, or longing to be in one, is part of what drives the nostalgic representations of space and identity present in the Haidl case; in

such a space, overt expressions of racial, gender, and class privilege become normalized and accepted. It is this factor that produced a trial with such mixed results, and so many contradictory arguments, that it is difficult for many to see it as a "real rape."

In reading how representations of the Haidl case developed and worked both against and for the victim, I hope to have made some connections between the many different elements, both material and concrete, that mark our understanding of identity, rape and criminality in modern American society. I hope to have also highlighted how simultaneously powerful and tricky representation is; while the videotape was the ultimate "authority" that influenced the jurors' decisions, the way readings of the tape differed from trial to trial exposes how readings of representations always include a negotiation of meaning. These negotiations often occur in the gaps and excesses of representation, where people draw upon knowledge of overdetermined discourses to construct meanings that "makes sense" within their own subjective understandings. Examining the Haidl case shows the many complex ways in which individual subjects, and group subjectivities, can become sites of meaning negotiation that are marked by a variety of social and cultural ideologies. My examination of the discourse and production of new representations also open up new questions about and ways to articulate the relationship between trauma, performance, representation and subjectification, and the potential to imagine Cultural Studies as a form of praxis with both political and pedagogical implications.

Through my film about the Haidl trial, I engaged with theories of performance and trauma in order to open a dialogue about the power of alternative narratives to challenge the unspeakability of rape on a number of levels. As a form of serious trauma, the experience of rape operates in two ways, "both of which block normal channels of transmission: as a memory one cannot integrate into one's experience, and as a catastrophic knowledge that one cannot communicate"

(Ronell, 287). While unspeakability marks the available discursive avenues within which victims can articulate their experience, it also often marks the way victims of sexual violence experience their own trauma. In 2012, Jane Doe gave an interview to *The O.C. Weekly's* Scott Moxley where she expressed an experience common to many victim/survivors:

> "After the assault, I wanted to escape. I didn't know who I was anymore. My innocence was gone. It was completely taken away from me. In one night, I had lost everything I knew. I was shunned and scorned. People treated me like I was the perpetrator. I wanted to numb myself. I didn't want to feel the pain anymore." (Moxley, Apr. 26, 2012)

Here, Doe's words perfectly demonstrate how sexual violence creates a "hole in the symbolic network that cries out to be mended, rehearsed, revised" (Phelan, 1997, 105).

These holes in the symbolic network are, most certainly, individualized to the trauma-sufferer. At the same time, it cannot be ignored that these traumas tread the boundary between public/private in significant ways. As Judith Herman and other theorists of sexual trauma have argued, sexual trauma is often rendered invisible (again) because of the divide between public and private spheres, which remains gendered despite feminist efforts to destabilize the dichotomy. Given that it was not until the 1970s that it was "recognized that the most common post-traumatic stress disorders are those not of men in war but of women in civilian life" (Cvetkovich, 30), mass understandings of trauma still focus on the exceptional experiences rather than the extremely common experiences of trauma. Thus the epidemic of rape and sexual violence plays into an overall culture of violence that perpetuates trauma yet is ignored as anything out of the ordinary. Lauren Berlant developed the notion of the "intimate public sphere" to challenge this dismissal, arguing that it emerges as a process "whereby 'a citizen is defined as a person traumatized by some aspect of life in the United States." In all these works, the transformation of U.S. culture into a "trauma culture" is shown to be a problem that is

perpetuated through political failures as well as our "voyeuristic culture of spectacle" (Cvetkovich, 15).

Understanding the trauma of rape as a cultural as well as individual trauma makes it even more important to examine how performance has the potential to generate narratives that challenge unspeakability. One of the key "assertions of theatrical performances is that the affective experience of the body can be authentically conveyed regardless of whether or not such experience is the consequence of a "real" event or a well-rehearsed repetition of an imagined one" (Phelan, 1997, 105). Because dance performance, in particular, calls upon embedded meanings while also providing space to challenge those meanings, it exists as a space of productive tension. Peggy Phelan argues that performances grounded in the concept of the "psychoanalytic 'reminiscence' undertaken within the contemporary event," wherein the reminiscence does not consciously inform the event but rather acts "as a way to interpret the contemporary event" (1997, 105) may provide a way to address the traumatizing effect of oppressive narratives. What Phelan suggests is a "performative psychoanalysis" of public trauma," a way of performing the contemporary event that draws upon traumatic histories, memories, and oppressed subjectivities to contextualize the contemporary moment.

By making these connections, performances of traumatic events have the opportunity to produce new meanings and stimulate affective investments in audiences. The desire to produce an affective investment in the injustice of the Haidl trial while also highlighting the constructedness of dominant narratives motivated many elements of the film, from the movement choices of the dancers to my editorial decisions. In discussing their process, the dancers frequently mentioned ideas of inextricability, pain, exposure, erasure, rage and solidarity. I then explored these themes in the construction of the piece, grouping together

audio clips that expressed certain repetitive themes in trial coverage. My goal was to specifically illustrate how common themes from these clips reflected the hegemonic ideologies that cluster around rape. By grouping them together to expose the power of these ideologies through creating "echoes" and "waves," I hope to stimulate both intellectual consideration of these constructions and emotional response. As Miles said after watching the opening sequence:

> "The visual residue, the echo (in overlapping images), helped me reflect on the intro and memory and the way waves erase memory. And the way the water of the news and the water of all these terrible voices helps to erase those footsteps. And I remember how important walking was in our process to me, that there was never a walk that wasn't different…" (Miles)

The repetition of concepts, sounds, and images – the "echo" – is intended to evoke how trauma is produced/reproduced through the performative repetitions that construct the identities of victim/perpetrator in rape discourse. In this way, the dance performance, and all such performances, the potential to generate new repetitions that could fill the holes in the symbolic order with alternative, and more liberatory, meanings. In her work on trauma and archives, Ann Cvetkovich shows that "the affects associated with trauma (can serve) as the foundation for the formation of public cultures" (10). Alternative cultural formations that seek to explore issues of trauma and violence can be particularly important precisely because "trauma can be unspeakable and unrepresentable, and because it is marked by forgetting and dissociation, it often seems to leave behind no records at all." This makes trauma challenging to classical understandings of what constitutes an archive. Because of this, new ways of recording and addressing trauma, "such as testimony, and new forms of monuments, rituals and performances that can call into being collective witnesses and publics" (Cvetkovich, 7) are needed. An archive composed of alternative narratives that explore the affective experience of sexual violence from a victim/survivor-centered position is vital to the process of unpacking and challenging

unspeakability, as the ability to draw from such narratives goes to the heart of the subjectification process.

In her work on the relationship between subjectivity, witnessing and testimony, Kelly Oliver argues that "subjectivity is the ability to address oneself to others combined with the ability to respond to others." Oliver's argument, that "subjectivity is relational and formed and sustained by addressability...and response-ability," goes to the very heart of how sexual violence disrupts the very subjectivity of its victims.

> "It is the possibility of address that sustains psychic life and the sense of subjective agency. If the possibility of address is undermined or annihilated, then subjectivity is also undermined or annihilated. To conceive of oneself as a subject is to have the ability to address oneself to another, real or imaginary, actual or potential. This address and response structure develops in infancy from birth and sustains psychic and social life" (84).

Oliver refers to this address-response structure as witnessing, and shows that oppression, domination and torture serve to undermine this process by damaging how victims engage in this process. This break is the exact effect of the unspeakability of Jane Doe and other survivors of sexual violence; through socio-historically overdetermined narratives which position survivors as unable to articulate their experience, their very subjectivity is likewise altered. Developing a trauma archive focused on sexual violation, new narratives may act as a way to reconstruct "the addressability that makes witnessing subjectivity possible" (Oliver, 84).

It is in this, the construction of an archive full of theoretically grounded narratives that seek to challenge violent, hegemonic norms, that the value of Cultural Studies as a form of praxis can be seen. With its emphasis on culture as a space of meaning negotiation, its emphasis on historicizing contemporary discourses, and its traditional focus on interrogating dynamics of power and oppression, Cultural Studies has the potential to provide the kind of grounding cultural producers need to produce texts which can heal the ruptures produced by trauma. Peter

Murphy argues that this is in line with the theoretical underpinnings of the discipline; the "praxis of Cultural Studies assumes the necessity for critical engagement and change, not the cynicism of hopelessness and impossibility dominating much contemporary social and political theory" (40). While deconstruction and criticism of cultural texts is vital to an understanding of how culture acts as a force of domination, only alternative creative texts can fully take advantage of the liberatory possibilities of radical cultural production. If it were to take this direction, Cultural Studies, "as an academic program, would not just study culture, it would study how to create culture" (Murphy, 32), and that study would lead to new pedagogical practices that combined the critical edge of anti-oppression theorizing with the practical and theoretical advancements of feminist film theory, theater, dance, and other forms of performance and art. Going in this direction would also open up new avenues to question the relationship between knowledge production and creativity and to further Cultural Studies as a truly multidisciplinary practice.

POSTSCRIPT

Fig. 26: “Jane Doe” – Alyssa (cover of the OC Weekly, April, 2012)

Like many controversial cases, the Haidl trial created ripples in the surrounding community – and the legal community – that continue to grow to this day. In 2009, Don Haidl was a key witness in the corruption case of former Orange County Sheriff Mike Carona. Carona, once a rising star in the GOP, friend of Arnold Schwarzenegger, and would-be California senator, was indicted on numerous charges, including accepting illegal campaign contributions, fraternizing with high-ranking organized crime associates, and telling a local businessman to pay Carona's mistress hush money to cover up illegal business dealings (Moxley, Jan 13, 2011). Don Haidl was implicated for colluding with Carona to cover up information in his son's trial, and ultimately took the stand to testify against his former boss. Carona went to prison in 2011, and is still appealing his conviction. Don Haidl, in the meantime, passed away from "natural causes" in December of 2012. He was 61 years old (Santa Cruz, Dec. 20, 2012).

Jane Doe's story since the trials is surprising in a different way. In 2012, after years of avoiding the press and ten years after the night that changed her life, Jane Doe decided to speak to the press. Alyssa, who is now 26, works as a victim's rights advocate and has a degree in criminal justice. After once sitting through a college class in which her case was discussed but she was unable to speak about it, Alyssa has now spoken to journalists all over Orange County. On April 27, 2012, she gave the keynote speech at a Victims' Rights March and Rally in Santa Ana, revealing her first name and talking about her experiences on the 10th anniversary of the crime. In an interview with R. Scott Moxley, a writer for The O.C. Weekly and one of the few local journalists to take her side in the press, Alyssa explained her reasons for coming forward:

> "In 2002, my world collapsed, and I lost everything I knew," she says. "But now I've turned a horrible situation into a positive. I've taken my life back….I want to send hope and to inspire other sexual assault victims," she says. "I want women to know that they can go to the depths of hell and still make it out."(Apr 26, 2012)

Alyssa's strength in the face of the intense, life-shattering pressure she experienced for the better part of a decade is admirable. Perhaps more impressive is her willingness to come forward, to be a face for victims, to continue to put herself on the line. Her story, sadly, is not uncommon, but neither is her strength; from spending over a decade working on rape crisis lines and communicating with rape survivors, interviewing survivors for this project, and researching the Haidl trial for nearly eight years, I know there are many male and female survivors in America who work in small and large ways to address rape culture. Some of them share their stories with the world, some run organizations, and some simply lend a shoulder or an ear to the hundreds of new survivors who emerge each day.

Yet these stories are all but absent from dominant cultural representations. Scanning the television will show you women in body bags, women who have been assaulted, rape victims who are being torn apart in every corner of the world. We see men and women getting "justice" on episodes of Law & Order: Special Victims Unit and, rarely, on the nightly news. Such stories fail to do one, seemingly simple, thing – they fail to express the realities of victims and survivors. They fail to put those who know about sexual violence on an intimate, experiential level in the narrative driver's seat. They fail to challenge the violent, oppressive, and patriarchal norms that tell us sexual violence is the victim's fault. And they fail to provide the kind of emotionally and intellectually liberatory narratives that can help survivors move forward with their lives. Deconstructing and attacking these narratives is not enough; to truly address our astounding rates of sexual violence in America, we need new, more creative, and more engaging ways to think about, see, and handle these crimes. We need to find new ways to talk about the things that make us uncomfortable, to interrogate the power dynamics that perpetuate violence. We need to find ways to speak the unspeakable.

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