

DECEPTION AND THE INTERACTIONAL DYNAMICS OF SUSPECT-VICTIM MEDIATION: A BUSINESS FRAUD CASE

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ABSTRACT

One of the most challenging tasks of police investigators is to seek the truth from the information gained during the interrogation (or interview), while on the other hand, the conflicting parties often have 'their own version of truth'. In some cases, such as business fraud, mediation can be conducted before conflicting parties proceed the lawsuit. In this kind of situation, during which deception and contradicting information may be given, police investigators should act as neutral interrogator and mediator. While processing the flow of information, they should listen carefully to the stories presented by the parties involved. This research explores the language used by a police investigator and two parties involved in a business fraud during the mediation process. The data were taken from an audio recorded mediation conducted by the head of criminal investigation unit in Central Java. They were then transcribed and analyzed qualitatively. The business fraud with the total loss of 3.5 billion rupiah had been reported by the victim on Monday, 16 October 2017. Instead of immediately processing the police report, the head of criminal investigation unit decided to conduct a mediation for both parties. He listened carefully to the stories presented by both parties, made some evaluations based on their stories, and gave some suggestions regarding the case during this mediation process. The victim, who seems to have limited knowledge on law and its system, was suggested to seek help from a lawyer. He introduced a lawyer to the victim and suggested them to discuss and decide whether they want to proceed the case as a criminal or civil case. Since neutrality is the key point in this process, he refrained from using the word such as 'fraud' or 'lie'. He repeatedly emphasized that the police are in neutral position and required that the following mediation involving discussions among the victim, the suspect, and the lawyer should be conducted outside of his office. While the suspects were interrogated, some hints of deception were found in their answers such as short answers, pronoun changes, giving related external associations, repetition, and unexplained lapses of time (MacDonald & Michaud, 1992; Shuy, 1998; Bachenko, et al., 2008).

Keywords: *deception, fraud, interactional dynamic, mediation, suspect, victim*

INTRODUCTION

The interview process in a police investigation gives the police an opportunity to obtain information from suspect and victim. Police officers have certain ways to reveal whether one is guilty. According to Hill, et al (2008:357), an important tool used by an investigator in a criminal investigation is investigative interview. The investigative interview is a 'central and significant aspect of the investigative and criminal justice process' (Walsh, 1994) and interviews with witnesses and suspects have the potential to provide as much information as possible to the investigator.

The aims of a police interview can be explained in terms of institutional requirements. For instance, a voluntary confession from the suspect being interviewed will give strong support to the prosecution or police case in court. Hence, one of the aims of a police interview is to elicit a voluntary confession from the suspect (Heydon, 2005:47).

Police investigators seeks the truth from the information gained during the interrogation. On the other hand, the conflicting parties often have 'their own version of truth'. As an illustration, in a business fraud case, mediation can be conducted before conflicting parties proceed the lawsuit. This kind of situation opens an opportunity of both parties to give deception and contradicting information. Therefore, police investigators should act as neutral interrogator and mediator. They should also listen carefully to the stories presented by the parties involved while processing the flow of information.

Bachenko, et al (2008) have listed the following linguistic elements that indicate deceptive statements:

1. The speaker shows lack of commitment to a statement or declaration by avoiding a direct statement of fact. This strategy can be seen through the several indicators such as: (i) Linguistic hedges, (ii) Qualified assertions, (iii) Unexplained lapses of time, (iv) Overzealous expressions, and (v) Rationalization of an action
2. The preference for negative expression which can be indicated through: (i) Negative form of words or morpheme, (ii) Negative emotion, (iii) Memory loss

3. Inconsistencies of verb and noun forms indicated by: (i) Verb tense changes, (ii) Thematic role changes from agent in one sentence to patient in another, (iii) noun phrase changes, where different NP forms are used for the same referent or to change the focus of a narrative (iv) pronoun changes which are similar to noun phrase changes.

Nearly in the same sense, in addition to linguistic clues, previous researchers such as MacDonald and Michaud (1992:36-38) and Shuy (1998) offer verbal clues of deception as listed in the following following Table:

Table 1. Verbal clues of deceit

No	MacDonald & Michaud (1992)	Shuy (2008)
1	Brief answers	Providing overly detailed statements
2	Excessively delayed answers	Repeating oneself spontaneously
3	Repeating the question	Complicating unusual details
4	Rephrasing the question	Providing marginally relevant details
5	Hesitation in answering	Giving related external associations
6	Memory problems	Displaying subjectivity
7	Qualified answers	Correcting spontaneously
8	References to honesty	Admitting memory loss
9	References to religion	Hedging
10	Softening terms of violence and theft	Self-referencing excessively
11	Speaking in the third person	Manifesting verbosity
12	Overpoliteness or irritability	Pausing excessively
13	Short-lived anger	Using unnecessary connectors
14		Using pronoun deviations such as <i>you</i> for <i>I</i>
15		Producing disproportionate amounts of language in the prologue, central action, or epilogue portions of the narrative
16		Producing low lexical diversity by means of type-token ratio
17		Developers

There are several strategies for cases in which the suspect's guilt is reasonably certain and for cases in which the suspect's guilt is uncertain. The general suggestion to a police interrogator is to be patient, to make no promises, and to avoid letting the suspect make repeated denials of guilt. This is because the more a suspect tells a lie, the harder it is to get to the truth. Police are also urged to flatter lower-status suspects by addressing them as Mr. or Mrs. and to keep higher-status suspects subjugated by using their first names. (Shuy, 1998:14)

In certain cases police may also need to be a mediating party. A mediator must avoid perceived favoritism in arranging mediation schedules, location, and payment. The following methods may be applied:

1. to approach such early decision points in the form of an inquiry that is generated by the mediator rather than a proposal by another party.
2. to ask an open-ended question about availability, confirming the mediation if the parties' available dates coincide.
3. to discuss availability in terms of his or her own calendar, thereby removing any association between the suggested date and either party.

A technique that is useful is to extract elements of the dispute that have neutral tone and do not indicate partiality. For instance, when describing a personal injury automobile lawsuit, a mediator may use words to the effect of, "I understand we're here to talk about an automobile collision." When asking the parties to discuss the matter, setting a neutral tone can be accomplished by avoiding such phrases as "your side of the story" and "your position." In their place, a mediator can ask about the "factual background," "events bringing us here today," and "circumstances leading to (for example, insert a neutral word such as 'transaction' to describe the operative events in a dispute where fraud is alleged in the sale of a business)."

METHODOLOGY

The data were taken from an audio recorded mediation conducted by the head of criminal investigation unit (*Kanit Serse*) in Central Java. They were then transcribed by using broad transcription method without using any transcription convention symbols since the aim of this research is to analyse the content without regarding the prosodic features of the data. Content analysis was employed to analyse the deceptions found in the data. The main framework for this deception analysis are the linguistic indicators of deception suggested by Bachenko, *et al.* (2008) and other verbal clues as listed by Shuy (1998) and MacDonald & Michaud (1992:36-38). To analyse the interactional dynamics of the mediation, we are focusing our research only on turn taking and topic management (Sacks, *et al.*, 1973).

The languages used in the data are Bahasa Indonesia and Javanese. Therefore, the researcher should translate them into English. Qualitative descriptive method of analyzing the data was employed after codifying the linguistics and verbal clues of deception.

ANALYSIS

There are three parties involved in this mediation process, i.e. the suspects (a spouse), the victims, and the police officer as the mediator. The first part of the data shows the interaction between the police officer and the victim when they reported the business fraud case to the police. The police, however, did not establish police report immediately. He explained briefly about the differences between civil and criminal case. Eventhough in this case, the alleged suspects can be charged by both criminal and civil charges, it is relatively difficult to proceed both charges at the same time. Therefore, the police asked the victim to decide themselves which legal action to take. If the victims wish to proceed the case by filing a police report, then the case will be immediately proceed as criminal case. Consequently, the alleged suspects can be put in jail if the accusation is proven. However, the victims may not easily get their money back. In the end of the first discussion, the victims decided to proceed with civil case instead of criminal case.

The second part of the data contains the police officer interviews with the alleged suspects, and the third part is when both parties were gathered in the police's office to discuss the case. Thus, the police officer has interviewed both parties separately to double check the fact.

During the separate police interview, contradictive information often found. The victim explained that the alleged suspects gave her false gold to pay for their debt. This statement was denied by the suspects in separate interview as seen in the following excerpt:

Excerpt 1. Police interview with the alleged suspects about the false gold:

- Polisi :Sekarang pertanyaan terakhir yang bikin telak. Njenengan menyerahkan besi batangan nyengal emas-
- Police :now the last and most unequivocal questions. You gave her iron bar saying it was gold-
- Tersangka 1 :oh bukan. Saya ndak, ndak ngomong emas lho. Engak lho. Demi Allah
- Suspect (man) : oh no. I didn't, I didn't say it was gold. Really, no. I swear God.
[*negavite form*] [*overzealous expressions*] [*repeating spontaneously*]
- Polisi :lha trus sekarang itu buat apa njenengan serahkan itu kepada bu Rodiyah?
- Police :then why did you give it to Ms. Rodiyah?
- Tersangka 1 :nggak ada nyerahkan lho. Nggak da nyerahkan
- Suspect (man) : no one give it. No one give it. [*repeating oneself*] [*pronoun changes/deviation*]
- Polisi :lha piye?
- Police : so what was really happening?
- Tersangka 1:jadi tidak menyerahkan itu.. mak e kalau-kalau ini emas, bukan mak itu sudah diperiksakan katanya kuning, nggak usah, nggak usah dibawa mak. Sudah. Jadi tidak ada-
- Suspect (man) : so no one gave it.. (she said) maybe it's gold, no it has been checked (by someone) and it was said that it is just brass, no, just don't bring it ma'am. That's it. So there's no one-
[*pronoun changes/deviation*] [*giving related external associations*] [*passive voice*] [*hedges*]
- Polisi :itu, itu kan alasane njenengan sekarang
- Police : that's, that's just your excuses
- Tersangka 1 :ndak, waktu itu juga-
- Suspect (man) : no, that time it was also- [*unexplained lapses of time*]
- Polisi :siapa?
- Police : who?

Suspect man : ya waktu, waktu disitu, dirumah
 Suspect (man) : well, that time, when we were there, at home [*unexplained lapses of time*]
 Kanit : nyerahkan disaksikan siapa?
 Police : are there anyone whitnensing you when you gave it?
 Suspect man : saya tidak menyerahkan kok
 Suspect (man) : I didn't give it
 Kanit : Lha gimana?
 Police : then what really happened?
 Suspect man : Jadi- mama yang ngomong lah
 Suspect (man) : So- honey (to his wife) you tell them [*inverting responsibility*]
 Suspect women : (silent)

The underlined statements in the first excerpt indicate some linguistic and verbal hints of deception as proposed by Shuy (1998) and Bachenko, *et al.* (2008). For examples, instead of saying "I didn't give it", the suspect says repeatedly "no one gave it" which indicates pronoun changes and self-repetition. It implicitly suggests that the speaker intentionally shifting the agent or disappearing the doer. He also gives related external associations "it has been checked (by others).." and uses passive voice "it was said that.." to minimize his involvement in the stated event by appointing other 'doer'.

It is also interesting that we found another hints of deception which is not listed by the previous researcher. It happens when he inverts his responsibility of answering the question to his wife. His wife, however, could not give any answer to the question. This may happened in the case where the police interview more than one suspects at a time.

Other examples of linguistic and verbal deception clues can be found in excerpt 2:

Excerpt 2. Police interview with the alleged suspects about the royal inheritance

Polisi : Panjenengan, nggih minta duit transferan kepada bu Rodiyah. Katane kanggo ngurus warisan njenengan katane keluarga raja. Bener ora?
 Police : You asked Ms. Rodiyah to transfer some money. You said it was for processing your inheritance, you said you are from royal family. Is that correct?
 Tersangka 1 : bukan itu bukan-
 Suspect (man) : no that's not- [*pausing*]
 Polisi : Ora? Ora. Tetapi minta duit kiriman bener ra?
 Police : no? that's not correct. Bu you really did ask her to transfer the money, is that correct?
 Tersangka 1 : itu memang untuk ngurus-
 Suspect man : that was for processing the- [*pausing*]
 Polisi : nah ngurus apa?
 Police : to process what?
 Tersangka 1 : ngurus itu, uang, uang juga, uang yang eh.. dari-
 Suspect man : to process that, money, also money, the money that eh.. from- [*pausing excessively*]
 [*repeating*]
 Polisi : uang e siapa? Ngurus uang e siapa?
 Police : whose money? To process whose money?
 Tersangka 1 : uangnya pak- uang nya pak Jasman
 Suspect man : Mr., Mr. Jasman's money [*brief answer*]
 Polisi : Pak Jasman itu siapa?
 Police : who is Mr. Jasman?
 Tersangka 1 : itu dulu-
 Suspect man : that was- [*pronoun changes/deviation*]

In this excerpt, the alleged suspect often give unfinished answer and repetition. This suggests that he might have thinking of the appropriate answer while talking with the police officer. In addition, he also gives short answer and fails to explain who Mr. Jasman is and whether he is related to the victim. Another salient clue is the pronoun deviation as shown in the last line of the excerpt. Instead of using 'dia/he' to refer to Mr. Jasman, he uses 'itu/that'.

Another aspect examined in this research is the interactional dynamics of the interview and mediation. It can be concluded from the data that the police has the power to control the turn-taking and the topic management of the interaction. In addition, he also has the power to evaluate the interlocutors' answer by saying "that's just your excuses" as seen in excerpt 1. Other than giving evaluation, he also conclude the mediation session as seen in excerpt 3:

Excerpt 3. The police closes the mediation session and ensures his neutral position

Polisi : Saya hanya sebatas, ada orang minta dijembatani ya tak jembatani. Gitu saja, nggih. Kalau saya terus yang suruh menjembatani suruh nyelesaiin saya nggak mau, karena bukan kapasitas saya. ya wes gitu?. Gitu nggih pak pengacara. Monggo silahkan nanti dari pada kemalaman dan lain sebagainya. Monggo silahkan.

Police : what I did was just becoming the mediator for those who asked. That's all, okay? But I don't want to settle it (the civil case) down myself because it's not my authority to do so. That's all, okay?. Okay Mr. lawyer? So please (leave and settle it down) because it's getting late. Please (leave).

In the third excerpt above, the police officer conclude the mediation session while ensuring his neutral position. He emphasizes that the settlement of a the civil case should not include the police officer but only the victims, the suspects, and the lawyer. The police officer should only proceed the criminal case.

CONCLUSION

It can be concluded from the data analysis that deception can be tracked from linguistic and verbal clues and that the police officer has the highest power in controlling the interactional dynamics of a mediation process through turn-taking and topic management. Although analysis on linguistic and verbal clues may not always guarantee the truthfulness or falseness of a statement, this preliminary research has shown that linguistics has significant contribution in the study of law. The data of this study is limited, as it only analyses one mediation process. Future researchers may consider to use different or more than one types of data. It is also advisable to incorporate forensic linguistic approach and prosodic features such as pauses, silence, intonation, and others in the analysis for better and indepth examination of the similar data.

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