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# MANIPULATIVE STRATEGY AND TACTICS OF INVESTIGATORS IN THE PRE-TRIAL INVESTIGATION DISCOURSE

### Abstract

The article deals with the manipulative strategy and tactics of an investigator in the pre-trial investigation discourse that can have psychological effect on suspects and result in both positive and false confessions. The study offers the general outline and characteristic features of the pre-trial investigation discourse, focuses on the analysis of the applied strategy and tactics and their combinations. Communicative strategies and tactics of the participants of the interrogation are identified by applying of the following methods: situational-strategic and contextual-interpretive analysis; elements of discourse analysis for analyzing of the strategic and tactical interaction of participants in the discourse of interrogation with the account of pragmatic, social and personal factors of communication. The choice of the applied manipulative strategy and tactics by investigators depends on the background information about suspects and accused supplied at a pre-interrogation stage of a case. The authors offer the classification for the most typical strategies and tactics of the participants with a special concern to manipulative ones and demonstrate that the choice depends on the relations between participants of an interaction, a procedural status of an interrogated person that can change, as well as the personal features of a suspect and an accused. The paper highlights that the strategies and tactics of a suspect and an accused depend primarily on the manipulative strategies and tactics used by an interrogator as a representative of an institution, and emphasizes that they are directed mainly upon defense due to limitations and restrictions of interrogation. Relevant examples and sources are also provided.

**Keywords:** pre-trial investigation discourse, manipulative strategies and tactics, interrogation, interrogator, suspect, interrogated person.

#### Анотація

У статті йдеться про стратегії та тактики, застосовані слідчим у дискурсі досудового слідства, які можуть мати психологічний вплив на підозрюваних і звинувачених та призвести як до правдивих, так і до неправдивих зізнань. У дослідженні автори запропонували загальну схему та дослідили характерні особливості дискурсу досудового розслідування, особливу увагу зосереджено на аналізі застосованих слідчим та підозрюваним і звинуваченим стратегій і тактик та їхніх можливих комбінацій, які не є постійними і можуть змінюватися. Для визначення комунікативних стратегій і тактик учасників допиту застосовувалися такі комунікативно-прагматичні методи: ситуаційно-стратегічний та контекстуально-інтерпретаційний аналіз; елементи дискурсного аналізу для розгляду стратегічної та тактичної взаємодії учасників дискурсу допиту з урахуванням прагматичних, соціальних та особистісних факторів спілкування. Вибір застосовуваної маніпулятивної стратегії та тактики слідчими залежить від вихідної інформації про підозрюваних та звинувачених, яка була представлена на стадії слідства, що передувала проведенню допиту в ході досудового слідства у справі. Автори статті пропонують класифікацію найбільш типових стратегій і тактик учасників допиту, зокрема, слідчого, підозрюваного, звинуваченого в їх можливих комбінаціях, приділяючи особливу увагу маніпулятивним стратегіям і тактикам, і доводять, що вибір залежить від відносин між учасниками інтеракції, процесуального статусу допитуваної особи, який може змінитися, а також особистих рис підозрюваного та звинуваченого. У статті підкреслюється, що стратегії і тактики підозрюваного та звинуваченого залежать насамперед від маніпулятивних стратегій і тактик, що використовуються слідчим як представником держаної установи, і наголошується, що вони спрямовані в основному на захист через певні обмеження, які накладаються на дії допитуваної особи під час проведення досудового слідства. Також у статті наводено відповідні приклади та джерела матеріалу.

**Ключові слова:** дискурс досудового слідства, маніпулятивні стратегії та тактики, допит, слідчий, підозрюваний, допитувана особа.

#### 1. Introduction

Interrogation as the most important part of an investigative process is a strategic kind of communication that has its purpose. The main purpose of an investigator is to obtain information about the circumstances of the crime and force interrogated suspects to make confession. The strategies and tactics of both participants will be determined by their main aim, behaviour of their interlocutor and effectiveness of communication.

Many researchers studied dialogue communication, its planning and mechanisms of conducting (Arutyunova, 1998; Baranov, 1990, 2007; Belova, 2003; Demyankov, 2001; Dijk, 2008, 2012; Issers, 2009, 2011; Kochetova, 1999; Sacks, 1974, 1987; Yarkho, 2004; Yashenkova, 2010 and others).

Along with Issers, we see speech tactics as one or several actions contributing to the implementation of the strategy. The researcher emphasizes that the concepts of a communicative strategy and tactics are interconnected as a type and a subtype. The author mentions that for a person who is accustomed to reflect on their own speech strategic and tactical planning of speech actions is a well-understood task (2003, p. 51). The researcher emphasizes the flexibility of speech strategies, their possible implementation through a variety of speech tactics and communicative moves and the complex use of linguistic resources and methods (ibid., pp. 100-101).

Studying strategies of the pre-trial investigation, researchers focused mainly on the contact establishing and pressure, avoiding strategies that can be effective for the results of investigation (Aubry & Caputo, 1980, p. 200; Inbau et al., 1986, p. 78; Meter & Bopp, 1973, p. 79; Yeschke, 1997, p. 84).

So, the **aim** of the article is to identify and describe strategies and tactics of the participants of interrogation (a police officer (an interrogator) and suspects, accused) in the pre-trail interrogation discourse.

Interrogation is a dialogue conversation in an interactive pair of an investigator as a representative of an institution and a "client" (an interrogated person) that may have different procedural status (victim, witness, suspect). An investigator as an official representative of a police institution is entitled to carry out investigation after preliminary collecting of information about a crime and all persons involved. At the preparatory stage an investigator has an opportunity to analyze the information received from different sources, construct their own version of the crime, plan the course of interrogation, draft questions to be asked, as well as a set of strategies and tactics of speech influence.

During interrogation an investigator influences an interrogated person by applying a set of strategies and tactics, which are limited by certain institutional constraints, and at the same time which can be spontaneous and result from the development of interaction, roles of participants, psychological features of an interrogated person and the global goal of interrogation.

#### 2. Methods and material

The research is based on the interrogation transcripts of pre-trial investigation in criminal cases conducted by police officers with suspects and accused of serial murders in the USA in 2006-2015. Communicative strategies and tactics of the participants of the interrogation were identified applying

pragmatic communicative methods: situational-strategic and contextual-interpretive analysis; elements of discourse analysis for analyzing strategic and tactical interaction of participants in the discourse of interrogation with the account of pragmatic, social and personal factors of communication.

## 3. Results and discussion

During the process of interrogation an interactive pair of an interrogator (a police officer and an interrogated person (a suspect in this article)) is formed. The choice of strategies and tactics will be determined by the relations between the participants of the dialogue and institutional goals.

We distinguish (Pavlichenko, 2018) a set of strategies and tactics of an investigator which correlate with strategies and tactics of a suspect (see Table 1).

Table 1

Investigator	Suspect
Contact establishing strategy. Tactics:	Strategy for providing true testimony
Questioning	<ul> <li>Tactics of confession</li> </ul>
Explanation	<b>Strategy of giving false testimony, Tactics:</b>
Advice	• Deception
Requiring	• Denial
Positive confrontation, understanding	Reiteration
• Justifying	Clarification
• Incitement	Strategy of refusing to testify (sabotage).
Strategy for obtaining new information.	Tactics:
Tactics:	• Direct refusal to testify
Perseverance	Objection
• Direct (indirect) question	• Reiteration
Incomplete statement	• Evasion from the topic
Requiring	
Specification, detailing	
Theme development	
Control strategy, Tactics:	
Requiring	
Clarification, concretization, detailing	
Control	
Reiteration	

Correlation between strategies and tactics of an investigator and a suspect (Pavlichenko, 2018)

Taking into account the specific features of the institutional discourse of pre-trial investigation we can ascertain that the manipulative strategy and tactics as the ways of its realization are widely applied in the majority of interrogations irrespective of the procedure status of an interrogated person. Tactics of manipulative influence are most often used by investigators when interrogating a suspect, that is, in the most complex and conflicting types of communication. All manipulative tactics of an investigator are aimed at obtaining information by appealing to the basic human needs and fears: the need for security, freedom, fear of punishment, fear of loss of reputation, etc. We distinguish (Pavlichenko, 2018) the following manipulative tactics of an interrogator that correlate with a suspect's strategies and tactics, though a suspect's strategies and tactics are directed to defense and attack as the form of the defense (see Table 2).

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#### Table 2

Correlation between manipulative strategies and tactics of an investigator and a suspect (Pavlichenko, 2018)

Investigator	Suspect
Manipulative strategy. Tactics:	<b>Defense strategy.</b> Tactics:
• Positive confrontation (justification)	• Sabotage
• Understanding	Blocking
Compassion	• Transferring attention
• Referring to positive qualities of an interrogator	Specification
Intimidation	• Iteration
Presentation of evidence	• Imitation of incomplete
Prosecution	participation in conversation
Domination and attack	<u>Attack strategy. Tactics:</u>
Stimulation of openness	Accusation
Provoking refutation of false information	• Inversion of status roles
Implicative accusation	Critics
Demonstration of case awareness	Mocking
• Blocking	
Concession	
Provoking confession	
Pseudo-choice	
Pseudo-conclusion	

As the main purpose of interrogation is to get a suspect to make confession, the manipulative tactics are aimed at the most complicated way of obtaining a person's evidence contradicting his/her main interests. Some psychological methods applied by police can distort the perception of reality and result in false confessions, as we can see it in the examples analyzed below:

**I.** The police are focusing on the unreal evidence or facts they possess or which were supplied by other witnesses, applying tactics of **presentation of evidence** (*we have the evidence to back that up, we already know you are responsible*) **and case awareness, provoking refutation of false information** (*I know that you have seen them before*) which can be combined with tactics of **positive confrontation** (*And I think that's what we're trying to help you with today, in all honesty*).

**1.** Lawrence: <u>I know</u> that you've seen them before and you're trying to find either the way to say you got nothin' to do with it or you're trying to find the way to explain it that doesn't expose to us the other things that <u>we already know you're responsible for</u>. And I think that's what <u>we're trying to help you with today, in all honesty</u>. (BM)

Jackson: Um-hm.

**2.** Lawrence: Is it when we've had the people that we've been able to show caused grief to other families, when they've been able to explain to us why it occurred. Because truly the why is the only thing, <u>only you can answer for us</u>. The what, the when and the who we've already concluded and we have the evidence to back that up. It's, it's the why that we need to understand. (BM)

The main purpose of a suspect in a police interview is to justify himself, to counteract and defend against manipulative strategies of an investigator. His defense against a manipulative effect of an investigator can be either active or passive. Applying passive defense, he may either refuse to give a direct answer or pretend he misunderstood the question (**blocking tactics**):

Jackson: <u>Well I can't tell you the why</u>. I'm sorry, but like I said these, the faces <u>aren't even</u> registering.

*Lawrence:* Well their faces may not register right now' and they may appear different to you on the nights when you encountered them, but as we sit here and talk HOMER. I know in your mind you can recall the incidents. (BM)

In the example above the police officer during the interview with the suspect in the case of several murders tries to reassure him that the police have evidence and know real facts of the case (*I know that you have seen them before, we already know you are responsible*).

**II.** One of the manipulative tactics used by a police officer investigating criminal cases is **intimidation** tactics, informing a suspect about the potential negative consequences for him in the court, personal life, etc. (*they are gonna look at you a lot different, when you say I don't know what you're talking about, I don't remember, other people determine the course of your future for you, we will do everything we can to make sure you spend as much time in prison as we can put you there for, how are you going to live with yourself the rest of your life knowing what you know). Actually, in most cases police need mainly confession when dealing with criminal cases, so to get a confession they can be trying to persuade a suspect of the benefits they can get that overweigh the costs.* 

**1.** Lawrence: ...when you help us get through this is now you get to tell it in your words to your family at some point. You get to explain it and it gets to be the truth and then there's nothing that's contradictory coming from the police. Because at some point when you sit there and you keep saying I didn't, I didn't and then all of <u>the evidence says you did</u> – then <u>your family has a very, very poor opinion of you</u>. They'll still love you, at least I hope they would because you're family, but <u>they're gonna look at you a lot different</u>. They're still gonna look at you different <u>but when you explain it that tells them that you are not this guy anymore</u>. By saying you didn't do it means you're still this guy. And that's part of when I said to you, I want to figure out where the change came with you, I want to figure out when you stopped doing this is extremely important because I, I want to make sure we shouldn't be looking for other people. Do you see what I'm saying? You haven't killed anybody today have you? (BM)

A police officer as a skillful manipulator manages to reshape the reality and represents the whole picture in a very specific way, that can be effective for his purpose to get a quick confession. Applying the tactics of **pseudo-conclusion**, he threatens the suspect with loss of control over the situation which can become dangerous for him. The implication from this context can be established, that if the suspect reveals the information, he'll control the situation:

2. Lawrence: This case includes a lot of dead women.

Jackson: Um-hm.

*Lawrence:* And I would rather see you as a passenger than get run over by it because as a passenger you <u>still have some control over your future</u>.

Jackson: Um-hm.

*Lawrence:* <u>But when you say I don't know what</u> you're talking about, I don't remember, <u>other</u> people determine the course of your future for you.

Jackson: I know. But like I said I don't – none of this I, nothin'. (BM)

Intimidating the suspect and appealing to his good feeling and asking for help to other people, the police office coerces him to make false confession:

*3. Hopper:* And we will do everything we can to make sure you spend as much time in prison as we can put you there for. Because that's what's comin'. You have the power to help these people. You've taken their lives already, help them HOMER. (BM)

4. <u>How are you going to live with yourself the rest of your life knowing what you know</u>. (BM)

**III.** Application of the tactics **of implicative accusation**, **exaggeration** (*I don't care if you killed three women*, *I don't care if you killed 30 women*, *it's the same thing. We know you did it..., this case includes a lot of dead women*) **and overdramatization** (*you are doing it to them again, do not* 

victimize them again, you've already taken them away from their loved ones, you robbed them of a chance of having a good life, you robbed them of a chance of getting married and having children, making something out of their life, now you won't even give them the dignity of giving some closure to their families. You've already taken their life and, in some respects, you've taken their family's life as well.) combined with **threatening** (it will be bad for you in the future) by an interrogator is considered to be one of the coercive methods. It is likely to force psychologically a suspect to feel remorse and make a distressed person believe his fault:

**1.** Hopper: But by you sitting there just looking at these pictures saying, no I didn't uh, I just, I just don't remember. <u>You're doing it to them again</u>. And that, right there, <u>that will be bad for you in the future</u>. And I want you to think out to the future, <u>this will be bad for you</u>. So, <u>don't victimize them again</u>, <u>you've already taken them away from their loved ones</u>, you robbed them of a chance of having a good life, you robbed them of a chance of getting married and having children, making something out <u>of their life</u>. They already kind of went wayward in their life and having bad times, <u>you took the chance from them to live a good life</u>, you took it from them, and <u>now you won't even give them the dignity of giving some closure to their families</u>. You've already taken their life and, in some respects, you've taken their family's life as well. I sat with her mother yesterday and she told me, can you just find out why, why did he take my little girl, why did he do that? I still love her, it's been 33 years. I still miss her every day</u>. Can you just find out why? (BM)

**2.** *Hopper:* I don't care if you killed three women, <u>I don't care if you killed 30 women, it's the same thing</u>. (BM)

**IV.** Tactics of **understanding and compassion, stimulation of openness** are applied as psychological methods to influence people who are isolated and feel fear and anxiety in difficult situations. An investigator in this situation influences suspects' behaviour by overcoming their fears, demonstrating protection and support he can give them in this difficult situation if they give answers to the questions (*I know something is bothering you, we are just to bring justice, tell us what has been bothering you*).

**1.** Fassbender: ... Um and I, <u>I would really appreciate if you would kinda relax and open up</u> with us. We're not here to jump in your face or get into you or anything like that. We are here more to may be <u>let you talk</u> or <u>talk to you</u> a little about how <u>you have been feeling</u> lately and stuff. I <u>have</u> <u>a feeling</u> there are <u>some things on your mind</u> and I just want to <u>give you this opportunity</u> to talk about um. I <u>want you to talk to us. talk about what you are thinking about, feeling may be</u>. I know something <u>is bothering ya</u>, and <u>you know that</u>, and it's gotta be laying <u>real real</u> heavy on ya. (CCSD)

2. Fassbender: We are not here to hurt anyone, we just, you know if you, you got a chance to meet Teresa's mother and stuff, you've got to know them a little and you would know that they were decent people too, and just like I think your brothers are and you mom is and people don't realize that because all the bad press and stuff. And that is all we are, we are thinking about, just to bring justice, no matter how hard or how much it hurts. This feels pretty awkward, but go ahead and tell us what's been bothering ya. (CCSD)

**V.** Tactics of **domination and attack** combined with **accusation** and **evaluation** (*but you can't tell me you don't remember this, you are a monster, everybody has acceptance and love in their heart, everybody does, but you're showing me that you don't)* can cause negative reaction and feelings of a suspect, establishing his guilt, provoking his justifications and proving his innocence.

**1.** *Hopper:* <u>We know you did it</u> so if you're hung up on the details about exactly when and where and how, maybe you don't remember maybe because there's been so many, <u>but you can't tell me you don't remember this</u>, this room right here.

# Jackson: No.

**Hopper:** Well then <u>you are a monster</u> my friend. <u>You deserve what's comin' to ya and I hope you</u> <u>get every bit of it</u>. Because I think you're a nice guy to talk to, very pleasant, but I'm telling you right now, <u>you are a monster</u>. (BM) 2. Hopper: Everybody has acceptance and love in their heart, everybody does, but you're showing me that you don't because you will not give us the dignity and give them the dignity and their family the closure to explain this. (BM)

**VI.** Manipulative tactics of **positive confrontation and justification** are intended to establish friendly relationship with a suspect and make him feel obliged to behave accordingly, presenting police officers as "friends", the ones, who are going to support, justify and help him in further investigation by the condition they get confession or some details on the case. These psychological methods should facilitate accepting responsibility and admitting guilt by a suspect as an investigator suggests some reasonable causes for committing the crime accidentally or by influence of other people or circumstances (*I wanna be here for you, we will deal with this, the best we can for your good, I will stand behind you, we are here to treat you with respect, everything turns out the best for everybody, he is a kid, he has nothing to do with this, he's a kid, he had nothing to do with this, and whether Steven got him out there to help build a fire and he inadvertently saw...):* 

**1.** Fassbender: ... We have got a lot of information and you know some people do not care, some people back there say no we will just charge him. We said no, let us talk to him, give him the opportunity to come forward with the information that he has, and get it off his chest. ... I am a father that has a kid your age too. I wanna be here for you... We'll deal with this, the best we can for your good. OK? I promise I will not let you high and dry. I will stand behind you. (CCSD)

**2.** Lawrence: And, and that's why it's, it's no accident that we're here talking to you today. It's also no accident that we asked you to come down. Because want you to know we're here to treat you with respect.

#### Jackson: Um-hm.

*Lawrence:* But we have a job to do. And <u>our job is to get the answers for these families</u> and in all of the cases that we have worked, the ones where they, <u>everything turns out for the best for everybody</u>. *Jackson:* Um-hm. (BM)

**3.** Fassbender: ...we have got people back at the sheriff's department, district attorney's office, they are looking at this now saying there is no way that Brendan Dassey was out there and did not see something. They are talking trying to link Brendan Dassey with this event. They are not saying that Brendan had something to do with it or the cover up of it which would mean Brendan Dassey could potentially be facing charges for that. And Mark and I are both going well ah he's a kid, he had nothing to do with this, and whether Steven got him out there to help build a fire and he inadvertently saw some things that is what it would be, it would not be that Brendan actually helped him dispose of this body. And I'm looking at you Brendan and I know you saw something and that is what is killing you more than anything else. Knowing that Steven did this, it hurts. Whether it was an accident that Steven did it by, however it happened, he's gotta deal with that. Truthfully, I do not believe Steven intended to kill her. I do not know how it happened, only Steven knows how

*it happened, and potentially you.* Do you know how it happened? What did you see in that fire? (CCSD) **4. Conclusions** 

In the offered communicative situations of police interrogation police officers as interrogators use various manipulative tactics that help them achieve the main purpose of interaction – to get information on a case and get a suspect to make a confession. The application of manipulative tactics is predetermined by the strategies and tactics of an interrogated person. Manipulative tactics being used in the situations of a suspect's resistance to provide the information an investigator needs, some context can prove they can be coercive forcing suspects to make false confession, admitting guilt and bearing responsibility for the crime. An investigator, applying the tactics of developing the topic or clarifying the reasons, allows a suspect to maintain his or her self-esteem while confessing guilt. The manipulative strategy of an investigator is realized through manipulative tactics of positive confrontation and justification, domination and attack, accusation, evaluation, understanding and

compassion, stimulation of openness, implicative accusation, exaggeration, overdramatization, threatening, intimidation, presentation of evidence and case awareness, provoking refutation of false information.

The use of any kind of manipulative tactics is based on the background information about a suspect and is predetermined by the planned interview and the institutional goals.

## LIST OF ABBREVIATIONS

BM – Bernstein, M. Read excerpts of police interrogation that concerned judge in accused serial killer case.

CCSD - Calumet county sheriff's department. Interview transcript [March 1, 2006].

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