

Conference Paper

Developing Forensic Communication

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Abstract

In any way, criminal doers more likely to avoid the legal punishment. One of the possible ways is making statements or narrations to camouflage their crimes. Here we found a forensic communication: is there any evil intention hidden the words. To develop forensic communication, I would like to explain discourse analysis techniques to find the motive and purpose. For a forensic method, discourse analysis technique has not been yet widely used in the disclosure of the crime.

Keywords: crime, narration, forensic communication, discourse analysis

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1. Introduction

Bringing the legal proof and material evidence to the court is mandatory to ensure justice: vonis is only eligible for the wrongdoers. According to our jurisdiction, legal proof in criminal justice consists of: 1. Witness explanation, 2. Expert explanation, 3. Documents, 4. Clues/signs, and 5. Defendant explanation (article 184 point (1) Kitab Undang-undang Hukum Acara Pidana (KUHAP) or the Criminal Code Procedure.

The material evidence refers to anything that can be confiscated (Article 39 point (1) KUHAP). This includes: a. Suspect or defendant's object or bill all or part of which are obtained by crime or results of crime; b. Object already directly used to commit or prepare a crime; c. Object used to inhibit criminal investigation; d. Object specially made or prepared to commit a crime; e. Other objects with direct association with the committed crime. (www.hukumonline.com)

Although the proof and material evidence have been presented in the court, the judge cannot arbitrarily declare the defendant guilty. The defendant, victim, witness, and expert witness have to be confirmed one by one in advance. Moreover, in many cases, a crime may only have limited the proof and material evidence. (National Geographic Indonesia, Sains Forensik Cara Baru Singkap Kejahatan, (Forensic Science New Ways to Reveal Crimes) Edition of July 2016) Criminal identification is therefore very difficult. For such this case, with the forensic science expert witness of various science

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background are needed. (J. Prahlow, Forensic Pathology for Police, Death Investigators, Attorneys, and Forensic Scientists, DOI 10.1007/978-1-59745-404-9_2, Springer Science+Business Media, LLC 2010, Chapter 2 Introduction to Forensic Science (FDF version))

For the explanation of expert witness, our legal system has acknowledged in Article 1 number 28 and article 186 KUHAP. Expert witness gives explanation during the examination in the court after taking an oath before the judge.

About the role of expert witness, in fact our legal system has clearly explained. For example, Article 132 point (1) KUHAP, stipulates that: *in case a complaint is received that document or writing is fake or falsified or suspected to be false by the investigator, then for investigation purpose, the investigator may ask for explanation about the matter from an expert.* Meanwhile in Article 133 point (1) KUHAP writes: *In case the investigator for justice purpose is treating a victim either injured, toxicated, or dead suspected to result from the incidence of crime, he is authorized to ask for explanation of expert to justice medical expert or doctor and or other experts.* Article 179 point (1) KUHAP confirms: *anybody asked for opinion as a justice medical expert or doctor or other experts are obliged to give expert explanation for justice*

2. Forensic Communication Among Other Forensic Disciplines

In the process of criminal law, forensic medicine is among the oldest forensic disciplines in the world. With *visum et repertum*, forensic medicine attempts to show the evidences of a particular crime.

Besides forensic medicine, currently other forensic sciences are developing. (J. Prahlow, *ibid*) Among others, forensic toxicology studies the work and effect of toxic chemical substances in biological mechanism. Forensic odontology focuses on teeth such as dental restoration and dental protese. Forensic anthropology identifies remnants of bone, skeleton, and mummy. Forensic entomology studies types of insects living in particular phases in a corpse in open space.

Forensic molecular biology and serology utilizes molecular biology (immunology and genetics). Forensic ballistic analyzes guns and explosives. Forensic pharmacy studies products and product services for health.

Principally, each discipline may be applied in forensic field. Forensic psychiatry diagnoses behavior, personality, and psychic to describe the profile of the actor. Forensic Computer identifies criminal process through software. Forensic Digital reads

signs recorded in digital-based tools such as CCTV. Using language principles, Forensic Linguistic analyzes language for justice purpose. The two authors Olsson (Olsson, John, What is Forensic Linguistics? Downloaded via www.thetext.co.uk;) and Kristianto (Kristianto, Yohanes, Linguistik Forensik: Sebuah Tinjauan Bahasa Dalam Ranah Hukum, (Forensic Linguistics: A Review of Language in Legal Sphere). Pdf version) write forensic language in brief. In spite of the different names and focuses, they have similar object of observation and mechanism to identify and interpret physical and non-physical signs related directly or indirectly to the victim, actor, and witness, as well as location and time of crime.

In communication science, the signs which are interpreted in the forensics analysis, are messages either visual messages, tactile messages, auditory messages, olfactory messages, gustatory messages, or combination of two or more types of messages. (Ruben, Brent D., and Stewart, Lea P, Communication and Human Behavior, 5th, Boston: Pearson, 2006; p. 54-68)

Why do we interpreted the massages because they have meaning in their verbal and nonverbal signs, (Ruben, Brent D., and Stewart, Lea P, *ibid*, p. 124-182) meanwhile forensic sciences both theoretically and practically focus and interpreted massages verbally and nonverbally. On the basis of similarity to the object perceived and interpreted, as well as forensic analysis, science communication can be developed also be part of forensic science, in the form of forensic communication. The communication forensic pay attention to the trail of messages and meanings contained in an act of crime, whether the message they see, hear, smell, tasted, touched, tasted, or a combination of the message

3. Theory and Method of Forensic Communication

The prevailing procedure states that our justice process undergoes three phases: examination, investigation, and prosecution. In investigation, investigator does a number of activities: receiving report, collecting material evidence, collecting information, seeking for explanation, asking an individual to go or not to go, search, confiscation and arrest.

At investigation phase, investigator investigates the suspect, victim, witness, and/or expert to give verbal explanation concluded by the signing of examination minute (berita acara pemeriksaan or BAP). When the examination is over, and a crime has adequate evidences, the next phase is prosecution.

Among the activities of the legal enforcers in the three legal actions, the most dominant activity is request for explanation through a series of interviews with the person assumed to be related to a particular crime. This is more prevalent in investigation and prosecution.

Howes, Loene M. (2015) describes communication process in the criminal justice system. He used mechanic perspective for his analysis. (Howes, Loene M., The communication of forensic science in the criminal justice system: A review theory and proposed direction research, in *Science and Justice* 55 (2015) 145–154, journal homepage: www.elsevier.com/locate/scijus) Different from Howes, the article sees the communication as a process of construction of reality for making a discourse. (Hamad, Ibnu, (2010) *Komunikasi sebagai Wacana, (Communication as Discourse)* Jakarta: LaTofi Enterprise, 2010) When an interview or communication is taking place, it means a reconstruction of crime reality in the form of Discourse (capital D) (Gee, James Paul, (2005). *An Introduction to Discourse Analysis, Theory and Method*, London and New York: Routledge, p. 26) where the parties interviewed use the

language more than just to be understood linguistically; rather they use language to represent their own interests. It may relieve or exacerbate the suspected person or suspect.

At the same time, investigator's questions (external) and interest of the parties (internal) in constructing the reality of crime attached to him will have effect on Discourse (capital D). Certainly, difference of Discourse (capital D) can be easily observed between victim and suspect; between exacerbating witness and relieving witness; between prosecutor and lawyer. These differences are easy to understand through the theory of communication as a process of construction of reality or communication as discourse (see also Figure 1). Hamad, Ibnu. (2004). *Konstruksi Realitas Politik di Media Massa sebuah Study (Critical Discourse Analysis Discourse. (Construction of Political Reality in Mass Media, a Critical Discourse Analysis Discourse)*. Jakarta: Granit)

With adjustment in reality of crime, construction process starts from the first reality of crime (1) for example, theft, robbery, mistreatment, murder. The first reality is constructed by the construction actor (2), by victim, perpetrator, witness, and expert witness. In constructing the discourse, the construction actor is influenced by a number of factors. In general, communication system or circumstance is the factor influencing the actor in the making of discourse (3). In a communication condition free of any pressure between interviewer and the interviewee, Discourse (capital D) constructed will be different in a communication condition full of pressure.

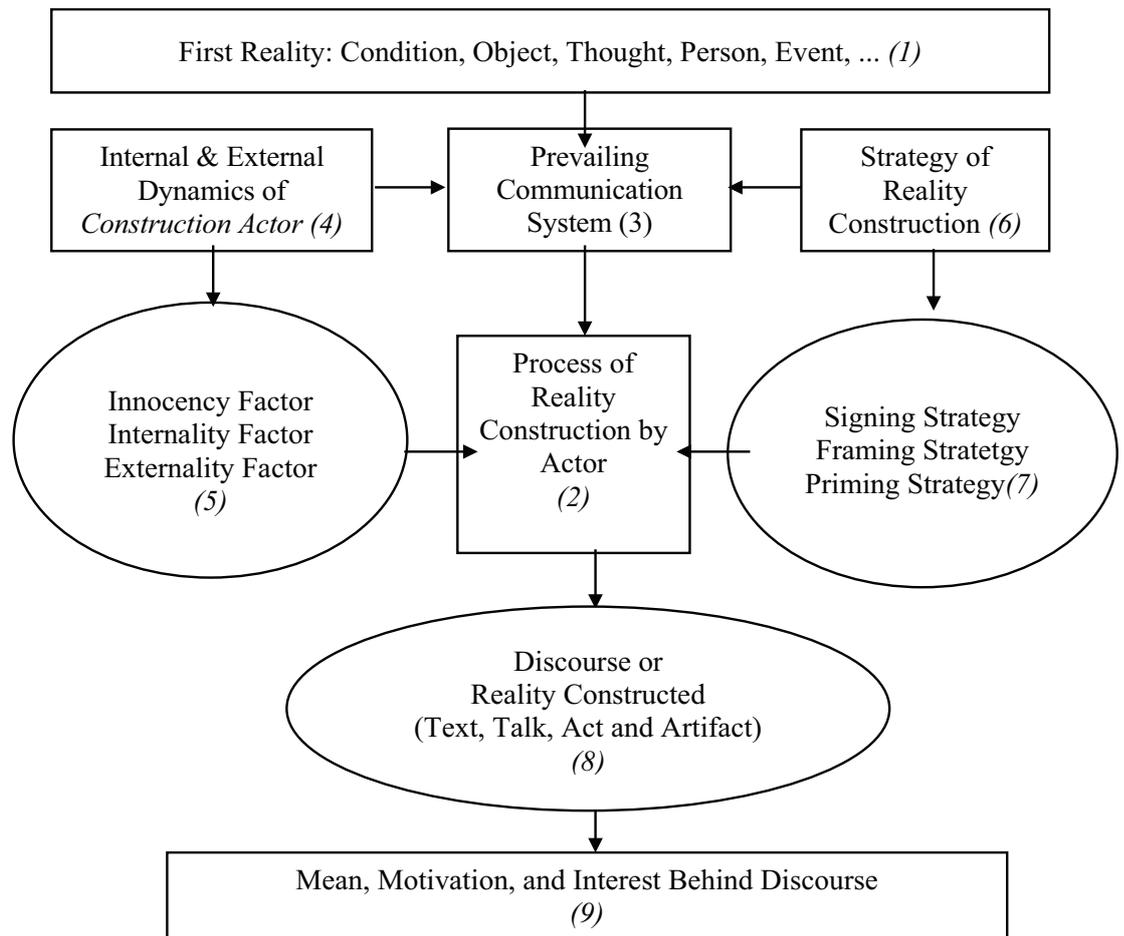


Figure 1: Making Discourse through Process of Reality Construction.

More specifically, internal dynamics and external dynamics of construction actor influence to construct the Discourse (capital D) (4). On the one hand, this shows that construction of Discourse (capital D) is not in vacuum. On the other hand, the construction actor is not fully capable of controlling the reality. At least there are three causes of poor control among construction actor. First, innocently factor includes the incapability and misunderstanding; internality factor derives from interest and motivation; and externality factor derives from oppression, threat, support, and guarantee (5)

Structure and meaning of Discourse (capital D) is also influenced by strategy of reality construction used by a construction actor (6). While considering both internal and external factors influencing him/herself, a construction actor uses three tools to construct a reality. They are signing strategy in using words, idioms, sentences, and paragraphs; framing strategy in choosing facts to be included or excluded from Discourse (capital D); and priming strategy for presenting the Discourse (capital D) to the public based on time, place, and type of audience (7). Therefore, through the selected strategy, victim can have different signing, framing, and priming with suspect.

There will also be difference between relieving witness and exacerbating witness; and between prosecutor and lawyer.

As a result of construction process, in general Discourse (capital D) can be in the form of *text, talk, act* or *artifact* (8). Discourse deriving from the interview between officer and related parties is generally in the form of text and talk. However, when examination is accompanied with case reconstruction then the resulted Discourse (capital D) will appear in the form of act and artifact.

Considering that constructed Discourse (capital D) has been through a process that involves many factors and strategies, we can say that the Discourse (capital D) contains meaning, motivation, and interest endorsed by the constructor (9).

This fact leads us to initial implication that theoretically analysis of forensic communication can be made for the process and result of communication as the making of Discourse (capital D) as appears in Figure 1. It is apparent in process of reality construction that participants of communication leave artifacts in the form of signs either when signing, framing or priming. These signs are the object of analysis of forensic communication to identify the meaning. Moreover, analyzer wants to identify or find out the motivation and interest of the actor of reality construction behind the resulted Discourse (capital D).

Like other forensic sciences, methodologically the main work of forensic communications interpretation of artifact (signs) left by the maker of Discourse (capital D). To have scientifically accountable interpretation, it is necessary to have a theoretical background for interpretation and use of proper discourse analysis method suitable with the type of the analyzed Discourse (capital D).

With regard to the theoretical background for interpretation, communication science views function of signs first of all as a tool to excite meaning because sign is always perceived by sense and reason. Using his reasons, an individual usually associate a sign on reference in attempt to find meaning of the sign. (Noth, Winfried, Handbook of Semiotic, 1990. Bloomington: Indiana University Press, pp. 79-92. Ibid, pp. 79-92) Association between sign, reference, reason that results in meaning is commonly illustrated in Triangle Meaning among others introduced by Charles S. Peirce and Ivor A. Richards. According to Peirce (Figure 2), one form of sign is word(s). Object is something referred by sign while interpretation is sign in one's mind on particular object referred by sign. When the three meaning elements interact in one's mind, there will be a sign represented meaning. (Fiske, John, Introduction to Communication Studies, 2nd Edition, 1990. London: Routledge, p. 42)

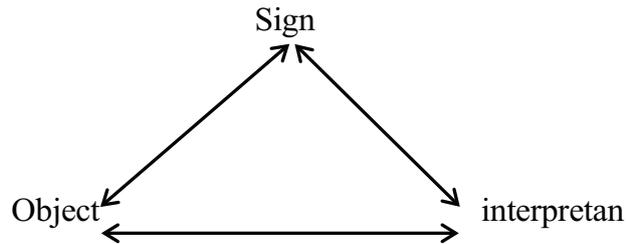


Figure 2: Pierce's Elements of Meaning (This figure derives and modified from the book of Fiske, *ibid*, p.42).

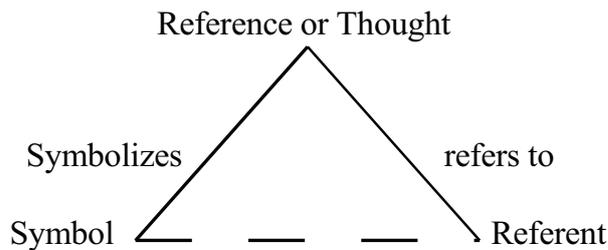


Figure 3: Richard's Semantic Triangle (Ogden, C.K. and I.A Richard, *the Meaning of Meaning*, (San Diego-New York-London: HJB Book, 1989) p, 11).

In I.A. Richard's model, (Figure 3) *reference* refers to a recall of the past reality in current context. The model is the same as what we find in the model introduced by Pierce. Referent is object perceived that results in impression in memory while symbol is words used to mention referent or object. (Richard, I.A. in Foss, Sonja K., et.al, *Contemporary Perspectives on Rhetoric* (Illinois: Waveland, 1985) pp. 24-25) The discontinuous lines represent in direct relation between symbol and referent (object). The object referred by symbol is not necessarily present when the object is discussed. (Ibid)

The meaning resulting from the triangle relation may vary among persons. The factors that influence it include (1) context in which the sign works. This context creates either connotative or denotative meaning of sign; (2) how the created sign results in metaphor and metonym; and (3) how to understand sign consisting of syntagmatic and paradigmatic as well as synchronic and diachronic (For detailed description, please refer Berger, Arthur Asa, *Media Analysis Techniques*, Beverly Hills: Sage Publication, 1982. pp. 19-34).

Another function of sign is achieving an objective. For the shake of communicator, sign serves the functions of (1) revoking the sense of the audience concerning the revealed sign to be thought, (2) expressing the feeling or one's attitude to a particular object, (3) conveying speaker's attitude to the audience, and (4) showing the objective or result expected by the speaker or writer, either consciously or unconsciously. (Ibid, p. 29)

For listener (communicant), sign serves the functions of (1) indicating center of attention, (2) characterizing, (3) realizing the problem, (4) positive or negative valuing, (5) influencing audience to reserve or change status-quo, (6) controlling an activity or function, and (7) purposing the expected target in words. (Ibid, p 30)

For analyst or researcher, as clearly stated by Manning and Cullum-Swan, observing sign in text (: Discourse capital D) is useful for identification of emotional and cognitive expression of the messenger, either in denotative, connotative, or mythological meaning. (Cullum-Swan in Denzin, Norman K. and Ivona S. Lincoln (eds.), Handbook of Qualitative Research, Thousand Oaks-London-New Delhi: Sage Publication, 1994, pp. 466-467) A number of theories have shown that use of sign by a communicator always refers to an object and has a purpose. One of them is Kenneth Burke's *pentad analysis*.

This analysis has the elements of *act* (symbol), *scene* (background), *agent* (user), *agency* (tool, media), and *purpose* (objective) (Burke, Kenneth in Foss and Foss, ibid, pp. 168-171). The five elements appear in Figure 4.

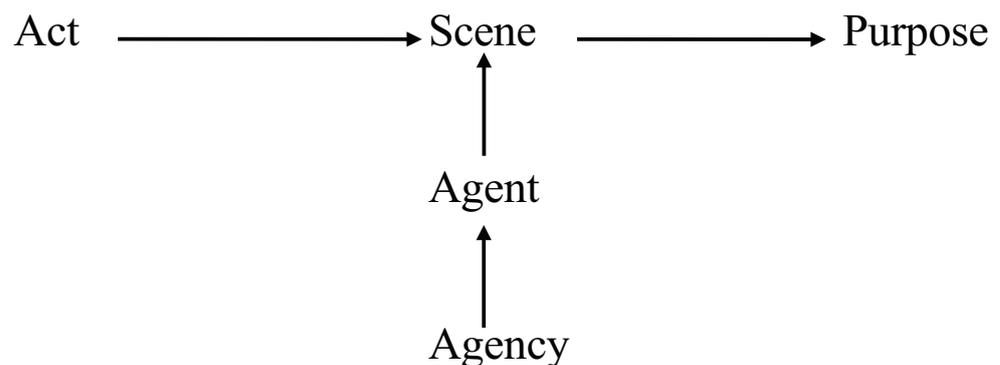


Figure 4: Pentad Analysis.

Stephen Toulmin's layout argument has clearly shown the relation between sign use and purpose (Figure 5). The figure shows that use of symbol (warrant) always has a background with a purpose (claim). Use of symbol (warrant) always has background of particular ground to achieve the purpose or claim. In other words, there is particular purpose when an individual uses a particular sign system.

Using pentad analysis and Lay-out argument, it is clear that use of symbol by an individual or a group of people always has a back ground and always has a purpose. For easy of understanding, linked to this problem, I create a formula LARUTAN (Lambang, Rujukan, and Tujuan). In anyhow That someone using Lambang (Signs) definitely have Rujukan (referral) and Tujuan (purpose). With this formula, as seen in Figure 6,

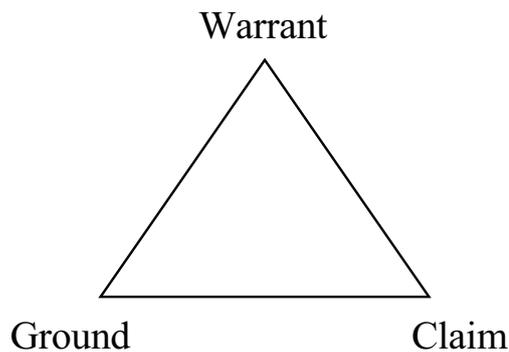


Figure 5: Toulmin's Lay-out Argument (Toulmin's Logics) (Modified from Foss, at al, ibid, p 88).

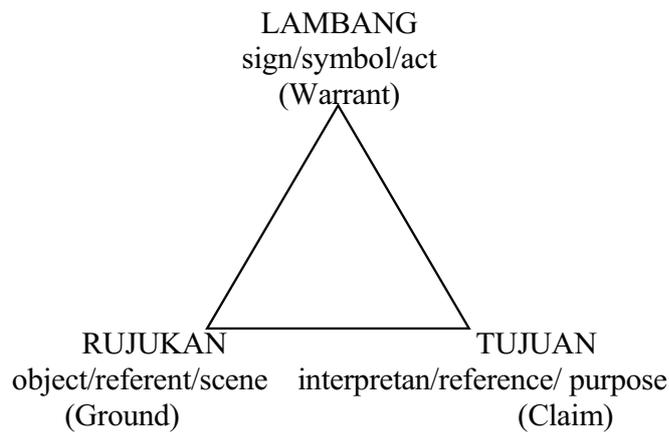


Figure 6: Formula of LARUTAN.

the theoretical background for forensic communication with the main activity of sign interpretation is strong.

With regard to discourse analysis method used to have forensic communication, functionalist thought in the context of discourse analysis method is suitable to interpret the content of Discourse (capital D). This is so because functionalist thought sees that use of signs in a context has linguistically formal function and can deliver particular messages. (Beaugrande, Robert de, *The Story Discourse Analysis*, in van Dijk Teun A (editor) *Discourse As Structural and Process*, London: Sage Publication, 1997. pp 35-62).

There are many discourse analysis methods in functionalist thought. (Titscher, Stefan, et.al. 2000. *Methods of Text and Discourse Analysis*. London-Thousand Oaks-New Delhi: Sage Publication.) Using the methods, discourse analysis can be classified into two: (a) syntagmatic discourse analysis; there are five methods of discourse analysis using *syntaxis approach* where the researcher explores sentence by sentence to make conclusion; and (b) paradigmatic discourse analysis; there are more than nine methods of discourse analysis that observe particular signs in a discourse to find whole meaning.

(Hamad, Ibnu, "Lebih Dekat dengan Discourse analysis," (Closer to Discourse Analysis) in Mediator Journal of Communication, Volume 8, No. 2, December 2007)

By form of analysis, analysis may be: (a) linguistic discourse analysis that reads a text using either discourse analysis methods (syntax or paradigmatic); and (b) social discourse analysis that analyzes a discourse using one or more discourse analysis methods (syntactic or paradigmatic), using particular theoretical perspectives, and applying particular research paradigms (positivist, post positivist, critical, constructivist and participatory).

By level of analysis, analysis may be: (a) text-level analysis, either in the form of *text*, *talks*, *act* or *artifact*; syntactically or paradigmatically; and (b) multilevel analysis popularly known as *critical discourse analysis*. There are four methods of analysis of discourse at text level along with the context and history.

Now, how to practice discourse analysis for forensic communication? First, use scientific discourse analysis (see Figure 7). Discourse analysis for forensic communication has to refer to theories and forensic ethics manual to keep subjectively biased results of forensic communication analysis.

Second, get Discourse (capital D) related to a crime under investigation in one or various shapes of discourse. Third, apply one or more discourse analysis method to interpret the Discourse (capital D). When linguistic discourse analysis with syntactic approach is used, examines the Discourse related to the crime by one or combination of syntactic discourse analysis method(s). As mentioned, there are at least five methods.

When we use paradigmatic discourse analysis, examine the Discourse related to the crime using one or combined paradigmatic discourse analysis method(s). More than nine methods are ready for used. When we would like to use critical discourse analysis (there are approximately four methods of critical discourse analysis/CDA) then not only text analysis is needed (either using syntactic or paradigmatic analysis method) but we have to explore the context or history of the Discourse (capital D).

Fourth, interpret with theories of meaning. Refer theories and concepts applicable in discourse analysis methods. Understand technical terms commonly referred in the crime under investigation.

Finally, think critically to consistently recheck the process and results of analysis. Refer previous process and result of forensic related to forensic communication under study. Therefore, it is necessary to have reliability of the process discourse analysis and validity of the result of the discourse analysis (finding the motivation and interest) in forensic communication analysis.

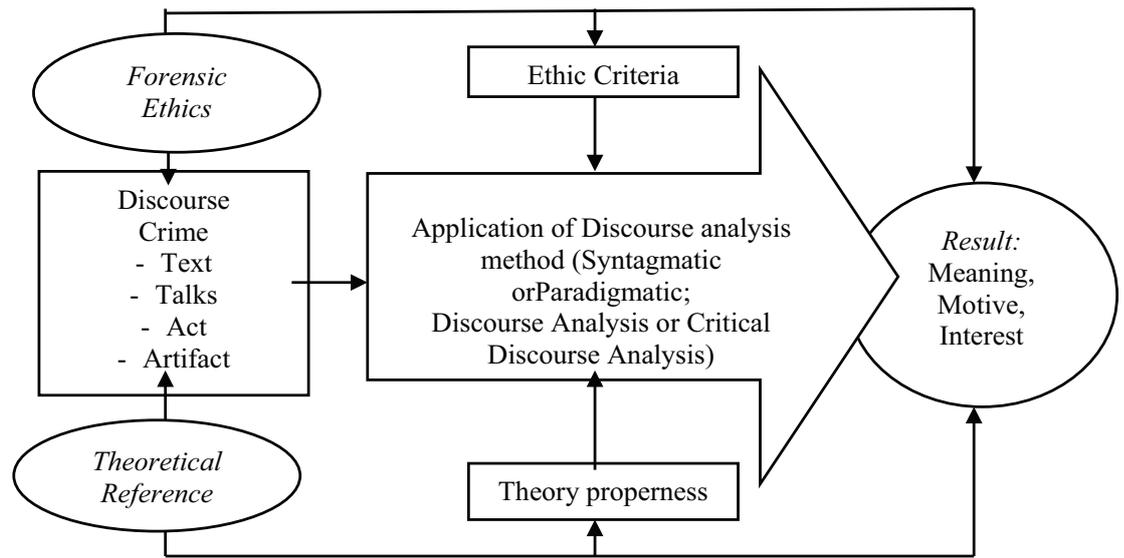


Figure 7: Scientific Framework of Discourse Analysis for Forensic Communication.

4. Conclusion

In case the artifacts directly or indirectly related to a crime, which is either in the form of visual, tactile, auditory, olfactory, gustatory message, we can have forensic communication in artifacts of crime since the beginning of the crime. In the phase of examination, forensic communication analysis can be applied to interpret the signs left by the criminal and victim either in the form of visual messages, tactile messages, auditory messages, olfactory messages, gustatory messages or combined forms of messages.

Entering investigation phase, especially when the officer asks for verbal explanation from the persons thought to have knowledge of the case (victim, actor, witness, and expert witness); forensic communication analysis can be applied on the Discourse (capital D). Likewise, is in the phase of prosecution in the court.

If a crime has audio and/or audiovisual record, then to the second type of communication product we can have forensic communication. Forensic communications also applied in letters or documents such as email, post, or narration left by victim or actor.

In addition to Discourse (capital D) made by actor and victim, forensic communication analysis is also applicable in Discourse (capital D) resulted by the examiner, investigator, lawyer, prosecutor, and judge. Mindset, attitude, motive, and interest of the respective parties are identifiable through forensic communication.

If forensic communication aims to identify either visual, auditory, olfactory, gustatory, or kinesthetic message, not only crime leaves signs; other communication activities of ranging from intrapersonal, interpersonal, group, organization levels to community, society, and global levels leave messages; therefore, forensic communication analysis is advisable. Forensic communication analysis is principally applicable in all messages especially when they contain particular interests of the creator in Discourse (capital D).#1

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