



Termination of investigation through restorative justice: Between Legal Enforcement and Law Enforcement in Indonesian Criminal Law

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Abstract

This paper is intended to describe how the investigation of criminal cases is stopped by investigators who are contrary to the provisions of the Criminal Procedure Code as the basis of formal criminal law in Indonesia. This is important because in the criminal justice system, every case handled by investigators must be forwarded to the public prosecutor who will then proceed to court. It is the judge who determines someone's guilt or innocence. However, with the Chief of Police Regulation Number 8 of 2021 concerning Restorative justice, investigators can stop the judicial process and resolve it through restorative justice. The research method used is normative juridical, by studying legal principles and synchronization between laws and regulations. The main data from this study is secondary data, which is supported by primary data by taking case studies at the Aceh Regional Police. The results show that from the point of view of enforcing the criminal justice law, this is contrary to the principle of legality, but from the point of view of law enforcement, the Police are law enforcement agencies that are at the forefront which in addition to enforcing the law, must maintain peace in society by implementing values that live in society. Settlement through restorative justice is a better solution because it is in accordance with the values that live in society. For harmony, it is recommended to include material on restorative justice in the Criminal Procedure Code as the main basis for the operation of the criminal justice system.

Keywords: Investigation, Restorative Justice, Legal Enforcement, Law Enforcement

Introduction

An investigation is the main gate in the criminal justice system. The legal basis for implementing the criminal justice system in Indonesia is the Criminal Procedure Code, in which the stages of examination have been determined starting from the investigation, the central figure of which is the National Police, to execution, because the Criminal Procedure Code is procedural law for the examination of criminal cases at all levels of examination ^[1]. In its implementation, the examination is often interrupted, meaning that it does not reach the next stage, so the investigator issues SP3, even though this does not meet the requirements to stop it, because the Criminal Procedure Code itself regulates the reasons for issuing SP3, there are three, namely:

1. Not enough evidence
2. This incident is not a crime
3. By-law

¹ Suhaimi, Peran Penasihat Hukum Dalam Pemenuhan Hak Terdakwa Dalam Persidangan Online Di Era Covid-19, *JUSTITIA: Jurnal Ilmu Hukum dan Humaniora*, Vol. 8 No. 3 (2021), p. 255-263, <http://jurnal.um-tapsel.ac.id/index.php/Justitia/article/view/2217/pdf>.

The termination of cases is often restorative for justice, apart from those that are in accordance with the provisions, such as the Nurhayati case due to insufficient evidence ^[2], and the Sadikin Aksa case, a banking crime case, due to insufficient evidence. ^[3] In addition, there is also suspicion of law enforcement officials stopping it so that the public lacks trust, like Nurhayati, the former.

Treasurer of Citemu Village, Cirebon, West Java, who was named a suspect by the Cirebon City Police, at the end of November 2021. ^[4]

This phenomenon shows that the police as law enforcers who are at the forefront are not always smoothly running the criminal justice system, because apart from upholding the Criminal Procedure Code as the basis for the application of the criminal justice system, there are other provisions and conditions or other problems in society, so that action is taken. Which are not in accordance with the Criminal Procedure Code and this sometimes causes distrust of the police. These rules or provisions include customary laws that have been promulgated in Aceh in the form of Qanuns, among others Aceh Provincial Qanun No. 9 of 2008 concerning Fostering Traditional Life and Customs the enforcement of which was followed up with the existence of a Joint Decree of the Governor of Aceh, the Head of the Aceh Regional Police and the Head of the Aceh Traditional Council

No: 198/677/2011/No:1054/MAA/XII/2011/No:B/121/I/2012

concerning the Implementation of Gampong Customary Courts and Mukim or another name in Aceh, and the last is the Chief of Police Regulation Number 8 of 2021 concerning stopping investigations by prioritizing *Restorative justice*. ^[5]

Various comments on the police in running the criminal justice system, although not many, there is still support for the police to use force ^[6]. Reports in the media also often cause distrust of the police, so good communication is needed by the police ^[7].

Based on the description above, the handling of criminal cases that have been stipulated in the Criminal Procedure Code as a formal provision for implementing the criminal justice system is interrupted by the authority of the police in the Regulation of the Indonesian National Police Number 8 of 2021 concerning *Restorative justice*, which is also a mandate from the Police Law, where task the police not only enforce the law formally, but also have to look at the values that live in society. So that it is necessary to study the existence of stopping the investigation through restorative justice by looking at the impact of restorative justice in the community.

Research Methods

The research was carried out using normative juridical methods, with a study of legal principles and synchronization between laws. The main data from this study is secondary data, which consists of primary legal material in the form of legislation, secondary legal material in the form of literature in the form of books and journals, and tertiary legal material in the form of legal dictionaries. This secondary data is supported by primary data by taking and looking at the description of cases at the Aceh Regional Police.

Literature Review

1. Restorative Justice and Legal Certainty

The restorative justice approach what is commonly understood is an approach that focuses more on conditions for the creation of justice and balance for perpetrators of criminal acts and their victims. The definition of victim here could be broader because it is hoped that this will improve the situation. Restorative justice is also said to be a method that is philosophically designed to be a resolution to the ongoing conflict by improving the situation or losses arising from the conflict ^[8]. Associated with the objectives of criminal law, then in essence if the goals of order and peace have been achieved, then of course there is no need to carry out punishment as the estuary of solving criminal cases.

Restorative Justice is the settlement of criminal acts involving perpetrators, victims, perpetrators' families, victims' families, community leaders, religious leaders, traditional leaders, or stakeholders to jointly seek a fair solution through peace by emphasizing re-election to its original state. (Article 1 Letter 3 of Police Regulation No. 8 of 2021). In this case involving community members in preventing the occurrence of a crime or a criminal act ^[9].

According to Marshall, ^[10] the main purpose of *restorative justice* is to meet the needs of victims and their families and to provide opportunities for perpetrators to be responsible for their actions. *Restorative justice* is defined as a procedure that directs various institutions and groups to solve crime problems by actively involving victims, perpetrators, and society.

Based on the description above, restorative justice is law enforcement that is not only aimed at mere certainty, as is often upheld. As stated by Apeldoorn ^[11]: that legal certainty has two aspects. The first concerns the question of "the ability to form (*bepaalbaarheid*) rules on concrete matters. is that parties seeking justice want to know the rules on a particular matter before starting a case. Second, rule certainty means legal security. Is protection for the parties against the authority of the judge. Legal certainty must always be upheld regardless of the consequences and there is no reason not to

² Police Open Opportunity for SP3 Case of Nurhayati CNN Indonesia Sunday, 27 Feb 2022 09:46 WIB (<https://app.cnnindonesia.com/>)

³ Merdeka News Thursday, 11 November 2021 11:28.

⁴ Police and Prosecutors Don't Play Games Source: https://mediaindonesia.com/editorials/detail_editorials/2586-polisi-dan-jaksa-jangan-main-main_Wednesday_02_March_2022_05:00_WIB.

⁵ *Police Asked to Implement 'Restorative Justice' HUKRIM Editor: Antonius Andhika Reporter: Friday : 19 November 2021 : 20:16:16 Throughout 2021, Polri Resolved 11,811 Cases Through Restorative Justice Wednesday, 12 January 2022 / 22:22 WIB (KONTAN.CO.ID - JAKARTA).*

⁶ Shelley Liu Lening Zhang Shelley Liu, "Police attitudes toward the use of inappropriate force in China " International Journal of Police Science & Management First Published August 4, 2021 ; pp. 358-371

⁷ Jaeyong Choi, Haneul Yim, Randolph D. Hicks. "Direct and indirect effects of crime-related media consumption on public

confidence in the police" International Journal of Police Science & Management (Volume 22 Issue 1, March 2020) First Published October 21, 2019 ; pp. 38-49

⁸ <https://nasional.kompas.com/read/2022/02/15/12443411/restorative-justice-pengertian-dan-penerapannya-dalam-Hukum-di-indonesia>

⁹ Evan Munandar, Suhaimi, M. Adli, Penanggulangan Tindak Pidana Kepemilikan Dan Penggunaan Senjata Api Tanpa Izin Dalam Sistem Peradilan Pidana, *Syiah Kuala Law Journal*, Vol. 2 No. 3 (Desember 2018), pp. 338-353, <https://jurnal.usk.ac.id/SKLJ/article/view/11763/9568>.

¹⁰ Marshall, Tony F, *Restorative Justice: An Overview*, Home Office, Information and Publication Group, London, 1991, p. 6.

¹¹ L. J. Van Apeldoorn in Shidarta, The Morality of the Legal Profession An Offering Framework for Thinking. Bandung: PT Revika Aditama. 2006. p. 82

uphold this because in the paradigm positive rule is the only rule. Legal certainty means that everyone can demand that the law be implemented and that demand must be fulfilled.

According to Jan Michiel Otto, "legal certainty actually has a more juridical dimension. Jan M. Otto provides further limitations on legal certainty in defining legal certainty as the possibility that in certain situations,

3. There are clear, consistent, and accessible rules.
4. Authorities (government) agencies apply these legal rules consistently and also submit and obey them.
5. Citizens in principle adapt their behavior to these rules.
6. Independent and impartial judicial judges apply these legal rules consistently when they resolve legal disputes and;
7. The court's decision is concretely carried out.^[12]

Laws that are upheld by law enforcement agencies must guarantee certainty for the sake of upholding order and justice in society. Uncertainty "the law will result in chaos in people's lives and will do as they please and take the law into their own hands. This situation causes life to be in an atmosphere full of "uncertainty".^[13]

This view of legal certainty is a positivism view that prioritizes written law. This view becomes true when the incorporation of values that live in society into legal principles, then embodied in written legal norms is carried out properly. So that statutory regulation can fulfill the applicable basis, namely the philosophical, juridical, and sociological basis. Many writings and expert opinions about the requirements of statutory regulation.

Lon Fuller in his book *The Morality of Law* as stated by *Satjipto Rahadjo*^[14], proposes 8 (eight) principles that must be fulfilled in statutory regulations. If this is not fulfilled, then the legislation will fail in achieving its objectives. The eight principles are as follows:

1. A legal system consisting of regulations, not based on misguided decisions for certain matters;
2. The regulations are announced to the public;
3. Do not apply retroactively, because it will damage the integrity of the system;
4. Made in a formula that is understood by the public;
5. There should be no conflicting rules;
6. May not demand an action that exceeds what can be done;
7. Should not be changed frequently;
8. There must be conformity between regulations and daily implementation.

Based on this opinion, the birth of legal norms in statutory regulations must be carefully considered by looking at all aspects. Furthermore, as explained by Satjipto Raharjo to establish a rule state requires a long process, not only legal regulations must be properly managed but a strong and sturdy institution with extraordinary and independent authorities is needed. free from intimidation or executive interference carried out by "good moral and commendable" people.

Legal certainty based on written law will be in accordance with the will of the community if the rules are made in accordance with the conditions above. The law will be

obeyed by the community because it comes from the values that live in the community concerned. However, if it is related to restorative justice, where Indonesian society consists of various ethnic groups, of course, integrating it into written law is a separate problem.

2. The Duties of the Police and the Criminal Justice System

The police are part of a state institution, the position of the police is regulated in Law Number 2 of 2002 concerning the Police, hereinafter referred to as (Law Number 2 of 2002). Article 1 number 1 of Law Number 2 of 2002 states that "Police are all matters relating to the functions and institutions of the police in accordance with statutory regulations".

The term has "two meanings, namely the police institution and the function of the police." The police institution as an organ of government is organized and structured which is designated as a forum and is given the authority to carry out its functions in accordance with laws and regulations. The function of the police in Article 2 of the Police Law states that one of its functions is as one of the powers of the state government in the areas of "security, as well as public order, law enforcement, protection, protection, and service to the people."

Often becomes a discussion about the position of the institution "National Police of the Republic of Indonesia. Is it an executive, legislative or judicial body? The position of the police institution is in the executive. This is regulated in Article 8 paragraph (1) of Law Number 2 of 2002 concerning the Police which states that the Indonesian National Police are under the President. Article 8 paragraph (2) of Law Number 2 of 2002 states that Polri is led by the Head of the Indonesian National Police who, in carrying out his duties, is responsible to the President in accordance with statutory regulations. As part of the executive branch, the police are responsible enforcing rules and order among the people.

The Indonesian National Police (Polri) is the " most important" part of the state government system (executive) which has the authority and function of realizing people's security and order, who must be ready to protect and guarantee people's security and order. careful introspection of their position, function, role, and authority so that the police can truly and permanently place themselves as professional, effective, efficient, modern, and reliable" guides, protectors, and law enforcers.

From the point of view of authority, the authority of the police is obtained in an attributive manner, because the duties and powers of administering the police are rooted in the constitution, MPR Decrees, and laws, as formulated in Article 30 paragraph (4) of the 1945 Constitution which reads "The Indonesian National Police as an instrument of the state Maintaining security and order in society is tasked with protecting, nurturing, serving the community, and upholding the law.

There is a very broad police function in Law Number 2 of 2002. Article 2 of Law Number 2 of 2002 determines the functions of the police institution, namely as follows: "The function of the police is one of the functions of the state

¹² Jan Micheil Otto, *The Morality of the Legal Profession An Offering Framework for Thinking*. Bandung: PT Revika Aditama. 2006. p. 85.

¹³ M. Yahya Harahap, *Liberation of Problems and Application of the Criminal Code Investigation and Prosecution*, Jakarta: Sinar Graphics. 2002. page 76

¹⁴ Satjipto Raharjo, *Law in Order*. Jakarta: UKI Press. 2006 p. 135

government in the field of maintaining security and public order, law enforcement, protector, protector, and public servant". Furthermore, it is explained again in Article 3 of Law Number 2 of 2002 which states:

1. "The bearer of the police function is the state police of the Republic of Indonesia who are assisted by: a). Police, b) civil servant investigators, c) forms of self-defense.
2. Those carrying out police functions as referred to in paragraph (1) letters a, b, c carry out police functions in accordance with the statutory regulations which form their respective legal basis."

The police are security guards whose scope is not limited to the problem of crime which is often referred to as a judicial authority, but is broader than that, including societal stability. The judicial authority possessed by the National Police is a central position in the criminal justice system because investigators are the front guard of the criminal justice system.

The criminal justice system or *criminal justice system* is a term used as a mechanism for settling criminal cases through a systems approach. If there is the term system, then of course it consists of several sub-systems that are related to one another so as to form a criminal justice system that is in the process of achieving its goals.

In studies of the criminal justice system, the authors usually often quote the opinions of Remington and Ohlin, La Patra, Hagan, Mardjono Reksodiputro, Romli Atmasasmita. Remington and Ohlin argued *the criminal justice system* can be interpreted as the use of a systems approach to the mechanism of criminal justice administration and criminal justice as a system is the result of interaction between laws and regulations, administrative practices, and social attitudes or behavior. Understanding this system implies an interaction process that is prepared rationally in an efficient manner to provide certain results with all limitations ^[15].

Furthermore, Hagan distinguishes the notion between *the criminal justice process* and the criminal justice system. The Criminal Justice process in every stage of a decision confronts a suspect in a process that leads to a criminal determination for him. Meanwhile, the Criminal Justice system is the interconnection between the decisions of each agency involved in the Criminal Justice process ^[16].

Mardjono Reksodiputro provides a limitation that what is meant by the criminal justice system is a crime control system consisting of police institutions, prosecutors, courts, and correctional institutions for convicts ^[17]. On another occasion, Mardjono interpreted that the criminal justice system *is* a system in society to deal with crime problems. Here tackling is defined as controlling crime so that it is within the limits of social tolerance. ^[18]

The term "controlling crime so that it is within the limits of tolerance" put forward by Mardjono Reksodiputro implies that it is impossible to completely eliminate this crime. However, there must still be efforts to overcome it, which in this case is through the criminal justice system, so that these crimes can be minimized.

Crime prevention through the criminal justice system is

carried out through several stages consisting of institutions that are administratively independent and have their respective authorities but have the same goal, namely law enforcement. These institutions consist of the Police (Investigation Stage), Prosecution (Attorney), and Courts (Trial), whose institutions are acting as restorative justice based on their respective duties and authorities based on statutory provisions.

In its development, the criminal justice system can be carried out using 3 (three) forms of approach, namely the normative approach, the administrative (management) approach, and the social (sociological) approach. ^[19] These three approaches can be explained as follows: the normative approach means that each component in the criminal justice system works together in law enforcement or law enforcement. The administrative approach means that all components of the justice system work in one management which has a working mechanism as a unit. Meanwhile, the social approach means that all components in the criminal justice system work in the midst of society, which cannot ignore the development of society. From all these approaches it can be concluded that the criminal justice system which is a system, in fact, is also a sub-system of the wider social system.

The criminal justice system operates on the basis of criminal law, both material criminal law and formal criminal law. Therefore, these legal rules are very decisive in the functioning of the criminal justice system, besides other supporting matters, such as support and awareness from the community. The criminal justice system is one way of overcoming crime with generally known goals, namely to:

1. Prevent people from becoming victims of crime;
2. Resolving justice-adjusted restorative crime cases so that people are satisfied that justice has been upheld and found guilty;
3. Ensure that those who commit crimes do not repeat those crimes again.

In the following, a brief description of the sub-systems in the criminal justice system will be explained, starting from investigation to execution.

1. Investigation sub-system

In the event that an investigation can be carried out by the police and certain PPNS (civil servant investigators) in accordance with Article 7 paragraph (2), Article 107, and Article 109 paragraph (3) of the Criminal Procedure Code, this investigation is certainly in every crime, including special crimes. such as narcotics crimes the National Narcotics Agency (BNN) as a government agency established in the framework of carrying out the prevention and eradication of the abuse and illicit trade of narcotics and narcotics precursors, has its own investigators, namely BNN investigators whose authorities are regulated in Article 71, Article 72 and Article 75 of the Law Number 25 of 2009 concerning Narcotics.

2. Prosecution sub-system

In this sub-system, the person who has the authority to prosecute is the prosecutor, as emphasized in Article 1

¹⁵Romli Atmasasmita, *The Criminal Justice System: The Perspective of Eczema and Abolitionism*, Bina Cipta, Bandung, 1996. p. 14

¹⁶*Ibid*

¹⁷Mardjono Reksodiputro, *The Criminal Justice System: Looking at Crime and Law Enforcement within the Limits of Tolerance*, Speech Inaugural

Acceptance of a Permanent Professorship in Law at the Faculty of Law, University of Indonesia, 1993, p. 1. In Romli Atmasasmita, *Ibid*.

¹⁸Romli Atmasasmita, *Op. Cit*, p. 15.

¹⁹Yesmil Anwar and Adang, *Op. cit*, p. 17. in Yoyok Uruk Suyono and Dadang Firdiyanto, *Mediation of Alternative Penal Settlements in Criminal Law (ebook)*, LaksBang Justiti, Yogyakarta, 2020, p. 34-35.

number 6 of the Criminal Procedure Code. b. Public prosecutor is a prosecutor who is authorized by this law to prosecute and carry out the determination of the public prosecutor judge,

The prosecutor's authority can be seen in Article 14 of the Criminal Procedure Code which includes receiving files from investigators up to delegation to court and execution.

3. Sub-court system

Article 1 of Law Number 48 of 2009 concerning Judicial Power, is the power of an independent state to administer justice in order to uphold law and justice based on Pancasila for the implementation of the Republic of Indonesia's legal state.

4. Correctional sub-system

The Criminal Procedure Code only determines procedures that are under the authority of investigators, public prosecutors, legal aid, and dismissal in court proceedings, while the process of carrying out criminal proceedings in prisons and the process of releasing convicts to the community is not regulated and there is no integration with the Criminal Code and Criminal Procedure Code so that it seems does not depend on the integration of the Criminal Code in the criminal justice system. Correctional institutions are the last part of the system in the criminal justice system or the system as a place of guidance and a process of raising awareness of the perpetrators of crimes. Considering that correctional institutions are the last bastion of a series of law enforcement and justice processes in the field of criminal law,

which is also the main pillars and pillar of the development of the criminal justice system whose products are sentenced after being returned to society to be good, acceptable and not rejected by society, has skills necessary for life, restoration of mental and physical balance like other human beings who are respected by all their obligations according to their dignity.

Results and Discussion

Several cases within the Aceh Regional Police can be seen in the following table.

Table 1: Data on Settlement of Cases through Restorative Justice in the Legal Territory of the Aceh Regional Police for 2017-2021

2017		2018		2019		2020		2021	
CT	CC	CT	CC	CT	CC	CT	CC	CT	CC
10,798	5,201	9,259	4,619	7,966	4,827	6,878	4,056	6,123	4,073
	49 %		50 %		61 %		59 %		66 %

Data source: Ditkrimum Polda Aceh

Based on these data it is known that the percentage of settlement of restorative justice cases in the Aceh Regional Police jurisdiction from 2017-2021 experienced the highest increase, namely in 2021 with a presentation of 66% and the lowest in 2017 with a percentage of 49%. The background to the increase in settlement of cases was the issuance of Perpol No. 8 of 2021 concerning the Termination of Investigations Based on Restorative Justice. which was originally in the form of a circular letter, namely SE/8/VII/2018.

Table 2: Data CT, CC Conventional Cases In Police Headquarter Of Aceh 2017-2019

NO	Case	Year 2019			Year 2020			Tahun 2021		
		CT	CC	%	CT	CC	%	CT	CC	%
1	2	3	4	5	6	7	8	9	10	11
1	Motorcycle thief	684	261	38%	513	223	43%	306	118	39%
2	Groos thief	507	227	48%	371	176	47%	250	105	42%
3	Thief with Violence	129	81	63%	103	56	54%	79	36	46%
Crime	Crime against humanity	115	86	75%	113	99	88%	122	80	66%
5	Torture	19	16	84%	17	21	123%	7	3	43%
6	Sexual abuse	36	35	97%	34	23	68%	30	21	70%
7	Killing	20	20	100%	15	13	87%	16	12	54%
8	Cheating	484	309	64%	470	334	71%	239	135	56%
9	Robbery	432	261	60%	380	313	82%	238	144	60%
10	Forgery	42	30	71%	32	26	81%	11	7	64%
11	Extortion	7	5	71%	16	14	87%	19	10	53%
12	Burning	24	9	37%	16	10	62%	16	7	44%
	Total	2499	1340	54%	2080	1308	63%	1333	678	51%

Data obtained from 2017 shows that the settlement of criminal cases is through *restorative justice* in the Aceh regional police will increase in 2021, where the basis for implementation will be increased from circular to regulation. From these several cases, it turns out that there are cases that usually cannot be stopped, which can be resolved at the police level. The data above shows that almost all types of crimes can be solved at the police level. In 2021 for example, out of 1333 cases, 678 of them can be resolved at the police level, meaning more than 50%.

Settlement through restorative justice certainly involves figures in society, so of course the settlement is in accordance with the values that live in society. Indigenous peoples are usually thick with wisdom and have settlement patterns that are truly acceptable to all parties.

Implementation of criminal justice has been neatly arranged in the Criminal Procedure Code as the main legal basis, in which there is the principle of legality, where the police's task is an investigation, if there is sufficient evidence, the investigator will submit the results of his investigation to the public prosecutor, who will then submit it to the trial court to declare the accused guilty or not. The police's job as an investigator is only to clarify a crime by completing evidence, which is then submitted to the public prosecutor. It is the judge who has the authority to decide on a case and determine the guilt of a person suspected of having committed a crime. With the existence of restorative justice, several principles in the Criminal Procedure Code have been violated, namely the principle of legality and the presumption of innocence. Article 3 of the Criminal Procedure Code regarding the basis

of justice states that "trials are carried out according to the manner stipulated in this law.", this provision is the principle of legality in the Criminal Procedure Code, where the trial must be carried out through the stages specified in the Criminal Procedure Code, namely starting investigations and investigations may only be stopped if there are certain reasons, as well as prosecutions at the prosecutor's office can only be stopped if there are certain reasons. However, with the existence of restorative justice, investigators and public prosecutors cannot continue cases to the next level.

The next principle that is violated is the presumption of innocence, in which a judge can declare someone guilty with sufficient evidence plus their conviction. However, with the existence of restorative justice, it is as if investigators and public prosecutors can resolve a criminal case at the level of investigation or prosecution.

If this continues to happen, meaning that the criminal justice system is interrupted in the middle of the road, then of course there will be irregularities in the criminal justice system. Although this from the perspective of police authority is included in the authority to enforce the law, Restorative Justice is a law that lives in society. However, from the point of view of legal principles, the one who has the authority to determine someone's guilt is a judge with valid evidence. So to overcome this, it is necessary to organize in terms of legal matters, namely the determination in the Criminal Procedure Code that there is an expansion of authority at the investigative level. The police are authorized and in the material criminal law rules, there are additional things that remove crimes through the justice system.

Expansion of authority at the investigative level can actually also be carried out by synchronizing Law Number 2 of 2002 with the Criminal Procedure Code, where in Law Number 2 of 2002 it has been stated that the functions of the police are very broad, which include the maintenance of security and public order, law enforcement, protector, protector and public servant. To create security in society, of course, not only through law enforcement as written law alone but also must pay attention to the values that live in a society in the form of an unwritten law.

The provisions of the Criminal Procedure Code itself implicitly acknowledge the enforceability of the unwritten law, as reflected in the investigator's task of "taking other responsible actions according to the law". As a formal law that requires more certainty, of course, an arrangement like this will lead to many interpretations. Although it is explained that what is meant by "another legally responsible action" is not contrary to the rule of law, in line with legal obligations, such action is appropriate, respects human rights, and makes sense within the scope of his position. So in this case it needs firmness, for example, the addition of provisions regarding termination of the investigation, which consists of "insufficient evidence, is not a crime and is stopped by law, supplemented by being resolved through restorative justice.

The material criminal law provisions that need to be synchronized are related to the reasons for abolishing crimes, as stipulated in articles 44 to 51 of the Criminal Code, where if it has been resolved through restorative justice it may no longer be continued through formal justice. In the concept of a criminal justice system, where the ultimate goal is crime prevention, and there is integration in the work between the sub-systems (one of which is the police), each of them has its own law. however, to work within the Criminal Justice System there must be a legal umbrella, that is the Criminal

Procedure Code as the main body of material criminal law. Thus there will be a legal basis that what is done by the police is something that lives in society. Sociologically and philosophically, this kind of settlement through restorative justice has a strong foundation.

Conclusion

Police efforts for restorative justice are a procedural mess in the criminal justice system, because it violates the principle of legality that justice must end in court, but in terms of achieving legal objectives in the form of peace and a sense of justice, this is very useful, because the police first carry out mediation and of course, the solution is in accordance with the wisdom that lives in society.

In order to achieve good and systemic procedures, it is necessary to revise the Criminal Procedure Code as the mainstay of the formal criminal law which opens opportunities for the police to resolve cases that occur by looking at the wisdom in society.

Further research is needed to perfect this research because this research is only limited to whether what is done by the police to stop an investigation that is not in accordance with the Criminal Procedure Code achieves its goals. Further research is needed to examine which sets of rules are ideal for improving regulatory policies, so that at each stage of examination in the Criminal Justice System there is also a final settlement.

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