
Analysis of Reporting and Investigation Problems in Criminal Procedure

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Abstract

Laws in Indonesia, especially regarding criminal procedural law, are often unprofessional and overlapping or one-sided. The purposes of this paper are as to know the follow-up if there is a court request regarding a case but it is not processed legal, and to find out the follow-up to the problem if there is a case when the initial investigation is not enough. This research uses qualitative research. Based on the above discussion, it can be concluded that the case was in the reporting stage, the police did not follow up on the case report. In this case, the reporter can submit a pretrial application as a basis for the case not being processed for one year. The reporter must first confirm the letter on the progress of the investigation results. Then, regarding the issue of sufficient evidence investigation, the Court considers the minimum requirement of two pieces of evidence and examination of a potential suspect for transparency and protection of a person's human rights so that before a person is declared a suspect he can provide a balanced statement.

Keywords: Reporting; Investigation; Criminal Procedure; Criminal Law.

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INTRODUCTION

Criminal procedural law is a formal law used to enforce material criminal law. Criminal procedural law is a series of rules made by the state to enforce material criminal law. This criminal procedural law can be found in Law No.8 of 1981 or what is commonly referred to as the Criminal Procedure Code. More clearly, criminal procedural law is a science that studies regulations created by the state as a result of allegations of violations of the criminal law, namely: 1) the state through the means of investigating the truth; 2) as far as possible the investigator of the perpetrator of the act; 3) take the necessary measures to apprehend the maker and if necessary restrain him; 4) collect evidence (bewijsmateriaal) that has been obtained during the truth investigation in order to be delegated to the judge and bring the accused before the judge; 5) the judge gives a calm decision proving whether the act accused to the defendant is not true and for that reason imposes a criminal or disciplinary action; 6) legal remedies to oppose the decision; and 7) finally carry out the decision regarding criminal and disciplinary action (Hamzah, 2008)

Some terms that must be known in the criminal procedure law are regarding investigators, investigators, assistant investigators, investigators, investigations, prosecutors, public prosecutors, prosecutors, judges, trial, pretrial, court decisions, legal remedies, legal advisers, suspects, defendants, confiscation, search, arrest, arrest, detention, compensation, rehabilitation, reports, complaints, saki, witness testimony, expert testimony, statement of children, family, one day, and the convict. Law in Indonesia has experienced ups and downs along with the change of rulers who have different views and approaches regarding the existence and function of these laws. Law enforcement in Indonesia requires cooperation and seriousness from the government, law enforcers, and society as a whole. This synergy can create good and fair law enforcement, also inseparable from the various necessary means such as laws and regulations.

Several studies discuss this kind of matter, one of which is research by Ulfah, M. (2017). This paper discusses the discretionary authority of investigators from the Police to stop investigations through the issuance of an Investigation Cessation Order (SP3) and its use in practice. This paper is based on legal research using normative (dogmatic) and socio-legal approaches in criminal procedural law and administrative law. This study shows that investigators enjoy very broad discretionary powers to determine when and how an investigation is terminated. The second research conducted by Fauzi (2014), which discusses the Prosecutor's review in criminal cases, is a paradox in the criminal law system, where the legal practice is contrary to the values and legal norms as regulated in the Criminal Procedure Code. However, in practice, prosecutors often carry out a judicial review because there is court jurisprudence to decide the case. As a result, the law does not reflect justice and certainty and even tends to collide with the legal interests of the convict and his heirs. The research method uses the normative juridical method with an emphasis on literature study. The analysis is carried out on legal norms, both law in statutory regulations and law in court decisions).

Laws in Indonesia, especially regarding criminal procedural law, are often unprofessional and overlapping or one-sided. Often, there is an attitude of wanting to win alone, feel the most righteous, and prioritize the group's interests. Some cases still occur where there are laws that are sharp upward blunt down, reports that are not processed, investigations that sink, and much more. Based on these problems, the authors are interested in analyzing two problems regarding criminal procedural law, namely regarding reporting and investigation. The purposes of this paper are as to know the follow-up if there is a court request regarding a case but it is not processed legally, and to find out the follow-up to the problem if there is a case when the initial investigation is not enough.

RESEARCH METHODS

This research uses qualitative research. This research is carried out through the library, where research is carried out by collecting information and data with various materials in the library such as documents, books, magazines, historical stories, news, and so on. Meanwhile, according to library research experts, it is a theoretical study, references, and other scientific



literature related to culture, values, and norms developed in the social situation under study. In this study, data was collected through news, articles and journals.

To get answers to know the follow-up if there is a court request regarding a case but it is not processed legally, and to find out the follow-up to the problem if there is a case when the initial investigation is not enough starting from data checking (editing), namely checking or correcting the data collected because the data collected may not be logical, and re-checking the suitability of the problems to be studied after the data has been collected. Next is data marking (coding), which provides data records that state the types and sources of data, be they sources from or literature books that are following the problem under study. The last thing to do is data reconstruction, which is to rearrange regularly sequentially, logically so that it is easy to understand according to the problem. Conclusions are drawn as the final stage in the research process.

The analysis technique used is descriptive qualitative analysis techniques, data processing by looking for an overview of the data from the discussion results, comparing the data obtained and looking for the relationship of each data obtained so as to produce a final conclusion.

RESULTS AND DISCUSSION

In the book Principles of Criminal Law, the term complaint means a different meaning from reporting. Reports can be filed against all criminal acts, while complaints are only about crimes, where the existence of such a complaint is a condition. Reporting is not a condition for holding criminal charges. Complaints in certain crimes should be a condition for prosecution. A report is a notification given by a person due to a right or obligation based on the law to the competent official regarding whether a criminal event has occurred or is currently or is suspected of occurring. In that sense, reporting the incident has not proven that an incident is a criminal act, so it is necessary to investigate the competent official. Article 108 paragraph (1) and paragraph (6) of the Criminal Procedure Code states that "Every person who has experienced, seen, witnessed and or is a victim of an incident which constitutes a criminal act has the right to submit a report or complaint to the investigator and/or the investigator, both oral and written". Then article 6 reads "after receiving a report or complaint, the investigator or investigator must provide a letter of receipt of the report or complaint to the person concerned."

The way to submit a report is first to come to the nearest police station, both the National Police Headquarters (MABES) for the Unitary State of the Republic of Indonesia, the Regional Police (POLDA) for the province, the Resort Police (POLRES) for regencies or cities, and the Sector Police. (POLSEK) for the district area. Then, the reporter can go to the Integrated Police Service Center. The reports received will then be subjected to a preliminary study to assess whether a police report is appropriate or not. Furthermore, investigations will be carried out based on police reports and investigation warrants. In addition, reports can be made at the POLRI call centre service.

There were cases where the police did not follow up on the case reports during the reporting stage. In this case, the reporter can submit a pre-trial application as a basis for the case not being processed for one year. It is not included in the pre-trial. Pre-trial is the authority of a district court to examine and decide according to a manner regulated by law regarding 1) whether or not an arrest and or detention is legal at the request of a suspect or his family or other parties on the power of the suspect; 2) whether or not the termination of investigation or prosecution at the request is valid or not for the sake of upholding law and justice; 3) a request for compensation or rehabilitation by the suspect or his family or other parties on his behalf whose case has not been submitted to the court.

There are several things to note about this. The first is to ensure that the reporter has received a Notification Letter for the Commencement of Investigation or abbreviated as SPDP. Based on article 13 paragraph (1) of the Regulation of the Chief of Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigation, investigations are carried out on the basis of police reports and investigation warrants. This SPDP is issued no later than seven days after the Investigation Order is issued. Secondly, suppose you do not get information about the investigation. In that case, the reporter can request a Notification Letter on the Progress of

Investigation Results (SP2HP). Referring to article 10 paragraph (5) Perkap 6/2019, any progress in case handling in criminal investigation activities must be issued SP2HP. Article 11 paragraph (2) Perkap 21/2011 then states that the SP2HP at least contains the subject matter of the case, the investigator's actions and the results have carried out, and the problems/obstacles faced in the investigation.

If Suppose investigation is made of a sudden report and the reporter has an objection. In that case, the reporter can file a pre-trial request. Suppose there is a termination of an investigation informed by the investigator as a reporter through the SP2HP. In that case, the reporter cannot submit a pre-trial application. Pre-trial applications can be filed when the investigation process has been completely stopped.

An investigation is a series of actions by an investigator to search for and discover an event suspected of being a criminal act to determine whether or not an investigation can be carried out in a manner regulated by this law. Investigators are authorized to carry out investigations, namely state police officers of the Republic of Indonesia and certain civil servants who have special powers by law. Meanwhile, according to Article 7 Paragraph 1 of the Criminal Procedure Code, there are several powers of investigators, namely 1) receiving a report or complaint from a person regarding the existence of a criminal act; 2) take the first action at the scene; 3) order a suspect to stop and check the suspect's identification; 4) carry out an arrest, detention, search and confiscation; 5) carry out an inspection and confiscation of letters; 6) take fingerprints and take a picture of a person; 7) summoning people to be heard and examined as suspects or witnesses; 8) bringing in the necessary experts in connection with the case examination; 9) to terminate the investigation; 10) take other actions according to responsible law.

Article 183 of the Criminal Procedure Code states that "a judge may not impose a sentence on a person unless with at least two valid pieces of evidence he is convinced that a criminal act has actually occurred and the defendant is guilty of committing it". The Criminal Procedure Code clearly explains that what is meant by "sufficient initial evidence" is the initial evidence to suspect a criminal act in accordance with Article 1 point 14 of the Criminal Procedure Code. This article provides that an arrest order cannot be made arbitrarily but is aimed at those who have actually committed a criminal act. Legal evidence according to Article 184 paragraph (1) of the Criminal Procedure Code is 1) witness testimony; 2) expert statement; 3) letter; 4) instructions; and 5) statement of the defendant.

The Constitutional Court argued that the Criminal Procedure Code did not explain the limit on the number (evidence) of the phrases "preliminary evidence", "sufficient preliminary evidence", and "sufficient evidence". The Court considers the minimum requirement of two pieces of evidence and examination of a potential suspect for transparency and protection of a person's human rights. Before a person is declared a suspect, he can provide a balanced statement. It avoids arbitrary action by the investigator, especially in determining sufficient preliminary evidence.

CONCLUSION

Based on the above discussion, it can be concluded that the case was in the reporting stage, the police did not follow up on the case report. In this case, the reporter can submit a pretrial application as a basis for the case not being processed for one year. The reporter must first confirm the letter on the progress of the investigation results. Then, regarding the issue of sufficient evidence investigation, the Court considers the minimum requirement of two pieces of evidence and examination of a potential suspect for transparency and protection of a person's human rights so that before a person is declared a suspect he can provide a balanced statement

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