

## The Implementation of Code of Conduct for Members of Police as Accurators of Murder

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### Abstract.

*The police are figures and protectors of the community and also as law enforcement officers have committed a crime that is burdensome and disturbing to the community, namely eliminating a person's life through a planning process that contains elements of violating Article 340 of the Criminal Code for his actions that are declared unfit to carry out the police profession in accordance with the Decree National Police Chief KEP/23VII/2003 concerning the Code of Ethics for the Indonesian National Police. The purpose of the study 1) To find out and examine the application of the code of ethics for members of the Police 2) To find out and analyze the strategies taken by the Police to build its image in tackling criminal acts committed by unscrupulous members of the Police. This research method was sociological juridical which a legal research using secondary data as initial data, which was then followed by primary data in the field. The results of this study conclude that: 1) The application of the Code of Ethics for members of the Police that results in a criminal act will be processed first in a disciplinary hearing due to a dead line or time limit for the implementation of a disciplinary hearing, which is a maximum of 30 (thirty) days as in Article 19 Decree of the National Police Chief No. Pol Kep/44/IX/2004. After the implementation of the disciplinary hearing, a trial will be held within the scope of the general court in accordance with Article 2 of PP NO. 3 of 2003 concerning the Implementation of Technical Institutional General Courts for Members of the Indonesian National Police. 2) The strategy that needs to be taken by the Police to build its image in tackling criminal acts committed by unscrupulous members of the Police is that the Police are able to create familial conditions in providing services to the community and are more responsive.*

*Keywords: Code; Crime; Ethics; Murder; Police.*

### 1. Introduction

The functions and duties of the Indonesian National Police (hereinafter referred to as Polri) have been regulated in several statutory provisions. Act No. 2 of 2002 concerning the National Police of the Republic of Indonesia expands the functions and duties of the Police which include maintaining security and public order, law enforcement, protection, shelter, and service to the community by upholding human rights.<sup>1</sup> Therefore, the National Police must be able to follow and oversee the rapid development of society, along with the spread of the phenomenon of the rule of law, human rights, globalization, democratization, and transparency.

The perpetrators of criminal acts in the State of Indonesia are not only carried out by civilians but also from the Police, they can be involved in the occurrence of a criminal act involving a violation of the Police Code of Ethics which results in

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<sup>1</sup> Utomo, Warsito Hadi. (2005), *Hukum Kepolisian di Indonesia*. Jakarta: Prestasi, p. 9.

honoring or dishonorable discharge or discharge. In this case, the police are the masterminds of the perpetrators or the mastermind behind the premeditated murder which is a form of violation of Article 340 of the Criminal Code with a maximum imprisonment of 20 (twenty) years.

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In the context of tackling the widespread crime of murder or killing of human beings, the police have a very large role and responsibility for maintaining the security and stability of the state<sup>3</sup>. However, the fact is that it is the police officers who are the brains of the murderers who violate Article 340 of the Criminal Code. Because of this, the public has lost confidence in the National Police, which should be at the forefront of public services, in particular providing security and comfort, as well as preventing and reducing the number of homicides that result in the loss of a person's life. In the example case taken and decided by the District Court Number 96/Pid. Thus the defendant's actions were sentenced to 20 (twenty) years and the defendant was declared no longer fit to carry out the police profession in accordance with the Decree of the National Police Chief KEP/23VII/2003 concerning the Code of Ethics of the Indonesian National Police and was dishonorably discharged for committing a criminal act and sentenced to imprisonment based on a court decision which has permanent legal force and according to the opinion of the competent authority cannot be maintained to remain in the service of the State Police of the Republic of Indonesia, this is in accordance with Government Regulation Number 1 of 2003 concerning Dismissal of Members of the State Police of the Republic of Indonesia Article 12 paragraph (1) letter (a), so the author is interested in studying this matter by conducting a panel;

The purpose of this research is to find out and examine the application of the code of ethics for members of the Police as perpetrators of the crime of murder in the Central Java Regional Police and to analyze the strategies taken by the Police to build their image in tackling criminal acts committed by police officers.

## 2. Research Methods

The approach method in this study used a sociological juridical approach which leads to the settlement of criminal acts committed by unscrupulous members of the Police.<sup>4</sup> The research specifications used in this study used descriptive

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<sup>2</sup> Beno, Gunarto, and Sri Kusriyah, (2020). *Implementation of Fully Required Elements in the Crime of Planning Murder (Case Study in Blora State Court)*, Jurnal Daulat Hukum Vol. 3 issue 1 March 2020

<sup>3</sup> Chuasanga A., Ong Argo Victoria. (2019). *Legal Principles Under Criminal Law in Indonesia and Thailand*, Jurnal Daulat Hukum, Vol 2, No 1 (2019) <http://jurnal.unissula.ac.id/index.php/RH/article/view/4218>

<sup>4</sup> Asikin, Amirudin and Zainal, (2008). *Pengantar Metode Penelitian Hukum*. Jakarta: Raja Grafindo Persada. p. 51

analytical.<sup>5</sup> The data sources of this research include primary data sources and secondary data sources. Primary data were obtained directly from the field including respondent statements (investigators and witness statements), which relate to the object of research and practice that can be seen and relates to the object of research and from the results of the analysis of the Temanggung Court Decision Number 96/Pid.B/2019/PN Tmg. Secondary data is done by means of literature study. Primary Legal Materials include 1) the Criminal Code (KUHP); 2) MPR Decree Number VII/MPR/2000 concerning the Role of the Indonesian National Armed Forces and the Role of the Indonesian National Police; 3) MPR Decree Number VI/MPR/2000 concerning the separation of the Indonesian National Army and the Indonesian National Police; 4) Act No. 48 of 2009 concerning Judicial Powers; 5) Act No. 2 of 2002 concerning the Indonesian National Police; 6) Government Regulation Number 2 of 2003 concerning Disciplinary Regulations for Police Members; 7) Government Regulation Number 3 of 2003 concerning the Implementation of Technical Institutional General Courts for Members of the Indonesian National Police; 8) Perkap of the National Police Chief Number 7 of 2006 concerning the Professional Code of Ethics of the Indonesian National Police; 9) Chief of Police Decree No. Pol: Kep/32/VII/2003 concerning the Professional Code of Ethics of the Indonesian National Police; 10) Decree of the National Police Chief No. Pol: Kep/33/VII/2003 concerning Procedures for the Session of the Commission on the Code of Ethics of the Indonesian National Police; and 11) Decision of the National Police Chief No. Pol Kep/44/IX/2004 concerning Procedures for Disciplinary Sessions for Members of the Indonesian National Police.

### 3. Result and Discussion

#### 3.1 Implementation of the Code of Ethics for Police Members as Perpetrators of the Crime of Murder in the Central Java Regional Police

Polri is an inseparable part of the function and position of the Indonesian National Police (Polri) as a State apparatus under the President. The investigative function carries out some of the duties of the Police, particularly in the field of law enforcement. Article 13 of Act No. 2 of 2002 concerning the Indonesian National Police confirms that the main tasks of the National Police are: a. maintain public security and order; b. enforce the law; and c. provide protection, protection, and service to the community maintain, public order and safety.<sup>6</sup>

The role of the Internal Affairs Bureau of the National Police in terms of controlling members by conducting investigations, filings that raise suspicion and prosecution. As the provisions contained in the Notice of Examination and the List of Discipline Violations of the Preliminary Examination where it is necessary to determine the article violated by the alleged violator, but that does not mean that the alleged member of the Police has violated the Article of examination that has been determined. For a sense of justice for each member of the Police, a filing has been carried out which will then be disciplinary for the trial, and a disciplinary

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<sup>5</sup> Ibid, p. 32

<sup>6</sup> Achmad Budi Waskito, (2018). *Implementasi Sistem Peradilan Pidana Dalam Perspektif Integrasi*. Jurnal Daulat Hukum. Vol. 1 No. 1 March 2018

hearing will be held with a clear "who did what", thus avoiding the sentence being wrong in the sense that the member did not do something that was suspected but got a guilty sentence.<sup>7</sup>

In terms of the investigation process against members of the National Police, it is regulated in Article 4 PP No. 3 of 2003 which reads: "Investigations against members of the Indonesian National Police who commit criminal acts are carried out by investigators as regulated according to the criminal procedure law applicable in the general court environment". So based on the article, the reference in the process of investigating the members of the Police is the Criminal Procedure Code.

For every member of the National Police who commits a criminal act, for him or her will be processed first in a disciplinary hearing due to the dead line or time limit for the implementation of the disciplinary hearing, which is a maximum of 30 (thirty) days as stated in Article 19 of the Decree of the Chief of Police No. Pol Kep/44/IX/2004. After the implementation of the disciplinary hearing is complete, a trial will be held in the scope of the general court in accordance with Article 2 of PP NO. 3 of 2003 concerning the Implementation of Technical Institutional General Courts for Members of the Indonesian National Police. Settlement in cases of violation of the code of ethics, the Police conduct a disciplinary hearing based on the Decree of the Head of the Indonesian National Police No. Pol Kep/44/IX/2004 concerning procedures for disciplinary hearings for members of the Indonesian police.<sup>8</sup>

If there is a violation of the code of ethics that results in a criminal act, the first trial of the violation of the code of ethics is carried out. This is because there is a dead line or time limit for the implementation of the disciplinary hearing, which is a maximum of 30 (thirty) days after the superior who has the right to punish (Ankum) receives the examination dossier as regulated in Article 19 of the Decree of the National Police Chief No. Pol Kep/44/IX/2004.<sup>9</sup>

In carrying out their duties and responsibilities in handling cases of violations of the Police Code of Ethics, the ranks of the Central Java Regional Police Bidpropam are guided by existing rules, including Act No. 8 of 1981 concerning the Criminal Code (KUHP) and the Regulation of the Head of the State Police of the Republic of Indonesia. Number 6 of 2019 concerning Criminal Investigation.<sup>10</sup>

Based on Article 12 PP No. 1 of 2003, a member of the National Police is dishonorably discharged from the National Police service if convicted based on a court decision that has permanent legal force and according to the consideration of the competent authority cannot be maintained to remain in the National Police

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<sup>7</sup> Iwan Setiyadi, dan Sri Kusriyah, (2019). *Law Enforcement Process Analysis by Agencies of Provos Indonesian National Police (INP) On Discipline Violation in the Form of Crime by Police Members (Case Study In National Police Headquarter)*, Jurnal Daulat Hukum Vol. 2 issue 2 June 2019.

<sup>8</sup> Nia Dian Widyani, (2014). *Penanganan Terhadap Polisi Yang melanggar Kode Etik Profesi Kepolisian (Studi di Polisi Resort Malang)*. <http://hukum.studentjournal.ub.ac.id>.

<sup>9</sup> Based on the results of interviews with Brigadier Sigit Prabowo, Bamin Urbinetika Subbidwabprof, Central Java Police Propam, on January 4, 2022

<sup>10</sup> Kusfitono, Umar Ma'ruf, and Sri Kusriyah, (2017). *Implementasi Putusan Mahkamah Konstitusi Nomor 130/PUU-XIII/2015 Terhadap Proses Penyidikan Tindak Pidana Pencurian Dengan Pemberatan Di Sat Reskrim Polres Kendal*, Jurnal Hukum Khaira Ummah Vol. 12 No. 4 December 2017, Magister Ilmu Hukum UNISSULA Semarang.

service. This provision does not explain the minimum amount of punishment imposed on a member of the National Police to be declared unfit to carry out a profession or function in the National Police service. However, in Article 15 of the National Police Chief Regulation No. 7 of 2006 states: "Police members who are sentenced to a minimum prison sentence of 3 (three) months which have permanent legal force can be recommended by members of the National Police Code of Ethics Commission hearing are not fit to be retained as members of the Police."<sup>11</sup>

Meanwhile, according to Article 13 PP No. 2 of 2003 concerning the Police Disciplinary Regulations, it is stated that members of the National Police who are sentenced to discipline for more than 3 (three) times and are deemed inappropriate to maintain their status as members of the Police may be honorably or dishonorably discharged from the Police Service through a session of the Professional Code of Ethics Commission. Police. So, if a member of the National Police commits disciplinary violations three times, it means that he is not a deterrent and the disciplinary punishment that has been imposed is not able to guide the member to the "right path", so it is very appropriate if the person concerned is recommended to be dismissed with respect or not with respect.

From the facts of the results of research in the field, researchers take examples of cases of violations of the Police code of ethics carried out by unscrupulous Police Investigators who commit crimes that are not related to the service and only for the personal interest of the Police person who has committed a crime of premeditated murder, this is in accordance with the Decision of the District Court Temanggung Number 96/Pid.B/2019/PN Temanggung. In this case, the defendant has passed the trial process of the Code of Ethics of the Indonesian National Police, the defendant was declared no longer fit to carry out the Police profession in accordance with the Decree of the Chief of Police KEP/23VII/2003 concerning the Code of Ethics of the Indonesian National Police and was dishonorably discharged for committing a crime and sentenced to imprisonment based on a court decision that has permanent legal force and according to the opinion of the competent authority it cannot be maintained to remain in the service of the State Police of the Republic of Indonesia, this is in accordance with Government Regulation Number 1 of 2003 concerning Dismissal of Members of the Indonesian National Police Article 12 paragraph (1) letter (a).

### **3.2 Strategies who Police Need to take to Build Its Image in Overcoming Crimes Committed by Unscrupulous Police Members**

The strategy to build the image of the Police is the same as the Police's efforts to restore its good image in the eyes of the public. According to Korry's opinion in an article entitled Analysis of Medan June 22, 1995 Page IV column 19 concerning the Partnership between the Police and the Community to Prevent Disturbances in the National Security and Security Council, this can be used as a strategy for the Police to build their image in tackling criminal acts committed by unscrupulous

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<sup>11</sup>Lundu Harapan Situmorang, (2016). *Fungsi Kode Etik Kepolisian Dalam Mencegah Penyalahgunaan Wewenang Sebagai Aparat Penegak Hukum.* <https://ejournal.uajy.ac.id/11613/1/HK10579%20jurnal.pdf>.

members of the Police.<sup>12</sup>

Strategies to build the image of the Police in tackling criminal acts committed by elements that disturb the community and burden the community can also be carried out by making various improvements to the police related to; police exemplary, police professionalism. The police are a mirror of the law that lives in society. The police are never separated from the community, therefore it is natural that the public always pays attention to the performance of the police. Therefore, the example of the police is a determining factor in building the image of the police. Police professionalism can be linked to the right of investigation which, according to Article 2 of PP No. 27 of 1983 ; Police officers who are entitled to become investigators are Assistant Second Lieutenant Police / AIPDA, if in the police institution that rank is not present, then the rank of NCO is determined. Improvements that need to be made regarding the rank of Polri investigators are related to professionalism / intellectualism, namely law undergraduate investigators. The reason is that as part of the criminal justice system, apart from prosecutors and judges, only the police do not require quality education/intellectualism.

The strategy of building the image of the police cannot be separated from law enforcement in the line of Police members who commit and violate a criminal act. The following study can be considered in building the image of the police. Law enforcement is always one of the functions of the Police because it is related to the role of the police to protect life and property. Increased examination and prosecution of every member of the Police who violates the Police Code of Ethics and immediately handles when a report or evidence is found when a Police person commits a violation to be processed immediately by law and applicable legislation.<sup>13</sup>

Of all the functions of the police, which are law enforcement officers, many officers consider it to be frustrating among members. In the public's view, the perpetrators of law violations committed by police officers are not criminals at all or are assumed to be people who are immune to the law. Therefore, people always think that every member of the police force when committing a crime will get forgiveness from the law, this assumption is often found in people's lines who look down on the duties of the police, which results in a decline in the image of the police in society.<sup>14</sup> In this case, the police will continue to be law enforcers who must be able to act fairly and professionally in carrying out their profession in the future. Problems related to criminal acts committed by police officers who are considered disturbing and burdensome to the community will still be processed by the police agency. Many officers assume that crimes are uncovered and even solved through law enforcement and investigation processes.

According to Soerdjono Soekanto, with the capacity building strategy and implementation pattern as described above, it is hoped that every form and type of crime that occurs or will occur can be handled effectively and efficiently. Especially

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<sup>12</sup> Korry, (1995). *Memacu Kemitraan Polri dan Masyarakat Menangkal Gangguan Kamtibmas dalam Merenungi Kritik terhadap Polri*. Jakarta: Cipta Manunggal. p. 142

<sup>13</sup> Subur, Ali dkk, (2013). *Pergulatan Profesionalisme Dan Watak Pretorian (Catatan Kontras Terhadap Kepolisian)*. Ed. IV. Jakarta: Sinar Grifika. p. 41

<sup>14</sup> Bibit Samad Rianto, (2016). *Pemikiran Menuju Polri Yang Profesional Mandiri, Berwibawa Dan Dicintai Rakyat*. Jakarta: Restu Agung. Jakarta, p.13

for the types of crimes that use technological aspects, the Police are also ready with their criminal laboratories, which are in charge of scientifically proving crimes. With the functioning of the criminal laboratory, laboratory detection of every crime that uses technological aspects, will obtain a high degree of certainty for the sake of proof.<sup>15</sup>

Police Strategic Planning Process For convenience, the strategic planning process in the Police, which has task specifications, maintains security and order. Thus, one must try to recognize the development of the situation in the future, what has changed, what crimes have occurred; and how to control it, taking into account the strengths and weaknesses of Police.

#### 4. Conclusion

The application of the Code of Ethics for members of the Police which results in a criminal act, so the problematic Police will be processed first in a disciplinary hearing due to a dead line or time limit for the implementation of a disciplinary hearing, which is a maximum of 30 (thirty) days as in Article 19 Decree of the National Police Chief No. Pol Kep/44/IX/2004. After the implementation of the disciplinary hearing is complete, a trial will be held in the scope of the general court in accordance with Article 2 of PP NO. 3 of 2003 concerning the Implementation of Technical Institutional General Courts for Members of the Indonesian Police, and the strategy that needs to be taken by the Police to build its image in tackling criminal acts committed by unscrupulous members of the Police is that the Police are able to create familial conditions in providing services to the community and are more responsive, sympathetic and do not discriminate against anyone who deals with the Police.

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<sup>15</sup> Arief, Barda Nawawi, (2001). *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan*. Bandung: Citra Aditya Bakti. p. 73

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