

# The Capture Process in the Crime of Murder by A Special Team

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## Abstract.

*The aims of this paper are as follows: To find out and analyze the process of arrest in the crime of murder by a special team. To find out and analyze the obstacles and solutions in the arrest process in the crime of murder by a special team. This study uses a sociological juridical approach, with descriptive analysis research specifications. The data used in this study is secondary data obtained through literature study which is then analyzed qualitatively. The results of this study are the process of arresting in the crime of murder by a special team is: Arresting the perpetrator if the perpetrator is still within the reach of investigators to be arrested immediately. Closing the scene of the incident to anyone whose presence there is not required to save the victim, to save people's assets or for the purposes of investigation and investigation with the intention that the place of the incident of the case remains in its original state to facilitate the process of investigation and investigation. Finding, rescuing, collecting, and retrieving evidence and traces that can help investigators to obtain clues about the identity of the perpetrator, about the methods and tools used to commit the crime, as well as to determine where the crime scene occurred. Finding witnesses who are expected to help investigators to solve problems in the crime incident. The obstacle: Changes in the authenticity of the place that occurred at the scene of the case. Lack of experience of investigators in conducting investigations. The absence of completeness of equipment at the time of investigations. Investigators' efforts in overcoming the lack of completeness of tools to conduct investigations. Investigators' efforts to overcome the unavailability of a database on fingerprinting.*

*Keywords: Arrest; Crime; Murder, Special.*

## 1. Introduction

The life of the nation and state, security is a determining factor in the life of the nation and state, the implementation of a sovereign and authoritative government, which is the main condition supporting the realization of a just, prosperous, prosperous and civilized civil society system based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Domestically, the National Police carry out law enforcement efforts through the process of investigating and investigating criminal acts as regulated in Act No. 2 of 2002 concerning the Indonesian National Police.<sup>1</sup>

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<sup>1</sup>Ni Made Srinetri, Umar Ma'ruf, (2020), *Progressivity Of Criminal Handling Fraud And Disease By The Directorate Of The General Criminal Reserse Of Central Java Regional Police (POLDA)*, in Jurnal Daulat Hukum Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8777/4076>

The police or the police are the front line in the enforcement of criminal law, so it is not an exaggeration to say that the police are living criminal law.<sup>2</sup>The police or the police aim to realize internal security which includes the maintenance of public security and order, order and law enforcement, the implementation of protection, protection and service to the community and the establishment of public peace by upholding human rights.<sup>3</sup>

Article 5 of Act No. 2 of 2002 concerning the Police of the Republic of Indonesia states that the Police is a state instrument that plays a role in maintaining public security and order, enforcing the law, and providing protection, protection and services to the community in the context of maintaining domestic security. Between functions and duties is a system that cannot be separated from one another, because the functions are described in the tasks and tasks are further elaborated into various roles and authorities, and in its implementation must be supported by the professionalism of each member of the National Police who reflected in the attitude / behavior that is commendable and skilled in carrying out their duties.<sup>4</sup>

Acts of violence that occur in the community are increasingly disturbing. In resolving a conflict or problem accompanied by acts of violence. In general, acts of violence can be defined as the intentional use of physical force or force, threats or actual violence against oneself, another person, or against a group or community, which results in injury or is likely to injure, kill, harm psychologically, abnormal growth or loss. There are many forms of violence, including physical violence, verbal violence, psychological violence, economic violence, symbolic violence and neglect. Violence can be carried out by individuals or in groups, haphazardly (in conditions of urgency) or organized.<sup>5</sup>

The increase in the crime of murder requires the role and duties of the authorities including the Police, the Prosecutor's Office. The most important thing is the task of the Police, especially the Criminal Investigation Unit, in revealing the cause of the murder committed by this perpetrator, requiring hard work from the Police. Cooperation between the Police, the Prosecutor's Office in resolving cases can bring the law into reality, guarantee legal certainty, and justice, so that it plays an important role in realizing the rule of law.

As the party responsible for public security, the Police, especially the Criminal Investigation Unit, should realize this sense of security. This is a homework for the Indonesian National Police, especially the Criminal Investigation Unit to search for and find the perpetrators of crimes and prevent this crime from happening again in accordance with what is the ideals of the Police, especially the

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<sup>2</sup>Satjipto Raharjo, (2002), *Polisi Sipil dalam Perubahan Sosial di Indonesia*, Penerbit Buku Kompas, Jakarta, p. 25.

<sup>3</sup>Untung S. Rajab, (2003), *Kedudukan dan Fungsi Polisi Republik Indonesia dalam Sistem Ketatanegaraan (berdasarkan UUD 1945)*, Utomo, Bandung, p. 12.

<sup>4</sup>Kunarto, (1997), *Etika Kepolisian*, Cipta Manunggal, Jakarta, p. 97

<sup>5</sup>Aan Hardiansyah, Akhmad Khisni, Jawade Hafidz, (2018), *Tindak Pidana Kekerasan Dalam Proses Belajar Mengajar Ditinjau Dari Perspektif Hukum Pidana Dan Undang-Undang Nomor 14 Tahun 2005 Tentang Guru Dan Dosen*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula p. 88, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2622/1972>

Criminal Investigation Unit and has been regulated in the Act. National Police of the Republic of Indonesia No. 2 of 2002.

Justice is basically the implementation of the law, in the sense of demanding concrete rights or disputes or violations, a function performed by an entity by providing binding decisions and aiming to prevent vigilantism (*eigenrichting*).<sup>6</sup> The existence of the principle of independence of judges in examining and deciding cases and the absence of partiality is a guarantee of producing a fair decision, and judges in a case must refer to and apply laws and regulations, sources and other sources of law (jurisprudence, custom, law) awareness, legal principles ) for each rule-based court decision.<sup>7</sup>

The aims of this paper are as follows: To find out and analyze the process of arrest in the crime of murder by a special team. To find out and analyze the obstacles and solutions in the arrest process in the crime of murder by a special team.

## 2. Research Methods

The research carried out, the writing uses a sociological juridical approach, namely research that uses an approach method to the problem by looking at the norms or laws that apply as positive provisions, the following theories are relevant to this paper by linking their implementation to the facts found in the field. The specification of the research used is descriptive analysis research, namely research that seeks to describe a symptom, event and event that is happening now. The data used in this study is secondary data obtained through literature study which is then analyzed qualitatively.

## 3. Result and Discussion

### 3.1. The Process of Arresting in the Crime of Murder by a Special Team

The law must be fair and fight for justice.<sup>8</sup>Therefore, in the criminal justice system, the police are the "gateway" for justice seekers. This is where it all started. That is why the police are the party most often blamed in cases of wrongful arrest. Because, in criminal cases, they are the first and foremost in contact with the public.<sup>9</sup>

Satjipto Rahardjo, said "generally the way of law in our country is still more dominated by "law with regulations" than "law with common sense". Ruling by law is minimalistic law, which is carrying out the law by applying what is written in the text outright. It stops at spelling out the law. The soul and spirit (conscience) of the law are not carried around."<sup>10</sup>

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<sup>6</sup>Sunarto, (2014), *Peran Aktif Hakim dalam Perkara Perdata*, PrenadaMedia Group, Jakarta, p.62

<sup>7</sup>Wilmar Ibni Rusydan, Umar Ma'ruf, and Bambang Tri Bawono, (2019), *Judicial Activism In Criminal Case To Ensure The Human Rights Upholding (Study In State Court Of Semarang)*, in Jurnal Daulat Hukum Volume 2 (4), Published Master Of Law, Faculty of Law Unissula, p. 477, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8347/3868>

<sup>8</sup>E. Sumaryono. (2002). *Etika Hukum: Relevansi Teori Hukum Kodrat Thomas Aquinas*, Kanisius, Yogyakarta, p.5

<sup>9</sup>Editorial Media Indonesia, (2008), *Kasus Salah Tangkap dan Asas Legalitas*, p.1

<sup>10</sup>Satjipto Rahardjo. (2008), *Berhukum dengan Akal Sehat*. Opini Kompas, p. 6

Crime is defined by JM VAN Bemmelen in his book *Criminology* (1958) as any harmful (destructive) and immoral behavior that causes such a great shock in a particular society, so that the community has the right to denounce or fight against such behavior by deliberately dropping a sorrow (suffering) for the perpetrator of the act).<sup>11</sup>

Violence itself is categorized as a crime as regulated in the Criminal Code Book II. In connection with the above phenomenon, in Book II Chapter V regulating crimes against public order, there are articles that are often used to adjudicate a case similar to the above phenomenon, especially those formulated in Article 170 paragraphs (1) and (2) of the Indonesian Law. Criminal.<sup>12</sup>

In general, crimes against public order are a group of crimes which by their nature can pose a danger to the survival of the community and can cause disturbances to order in the community. Crimes against public order in the MVT (*memory van toelichting*) are defined as crimes which in nature can pose a danger to people's lives and can cause disturbances to natural order in society. Even Van Bemmelen and Van Hattum assert crimes against public order to maintain the functioning of society and the state. Concrete examples of crimes against public order as regulated in the Criminal Code are: Desecration of the national flag, national anthem, and state symbol; Expressing feelings of hostility towards the government; Expressing feelings of hostility towards certain groups; Incitement in public that causes chaos.

Article 170 of the Criminal Code is defined as the legal protection of the public interest from disturbances of order and is not intended to protect individual interests. In *memorie van toelichting (mvt)* it is even stated that this offense is aimed at groups who openly want to disturb public order, not to injure individuals or officers who are carrying out their duties. Injury and damage is the excess of that action. In essence, it must be found that the actions carried out by the gang or group want to cause disturbance or create discomfort in the wider community. This offense is intended to create an unsafe atmosphere, so that in the event of injury, death, damage, the responsibility for the incident rests with the individual who committed the act, so that each participant from the group is responsible individually and the consequences are not accountable to the person who does not commit the act. This is intended so that people who do not commit acts of vandalism and other forms of attack are not punished.

The authority given to investigators is so broad, based on the authority granted by the law, investigators have the authority to reduce a person's freedom and human rights, as long as it is still based on a legal basis. The authority to reduce a person's freedom and human rights must be linked to the basis of legal principles that guarantee the maintenance of one's human dignity and remain guided by the basis of a balance orientation between protecting the interests of the suspect on the one hand, and the interests of the community and the enforcement of law and order on the other.<sup>13</sup>

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<sup>11</sup>Hendrijoono, (2005), *Kriminologi Pengaruh Perubahan Masyarakat Dan Hukum*, Cetakan Pertama, Dieta Persada, Jakarta, p.2

<sup>12</sup>Moeljatno, (2015), *Asas-Asas Hukum Pidana*, Rineka Cipta, Jakarta, p. 64

<sup>13</sup> Sitompul. DPM, (1985), *Polisi Dan Penangkapan*, Tarsito, Cetakan Pertama, Bandung, p. 19.

Arrests are carried out through procedures that are bound by the laws and regulations. This aims to have a fair trial (due process), which pays attention to the principle of presumption of innocence, the correct way of working in which a person accused of being arrested and examined is carried out honestly and openly. The process must be genuine, not pretend and must be free from coercion or the slightest threat.

Integrally and systematically we will get the view that the more free investigators carry out tasks (authorities) determined by formal rules (not flexible), the greater the possibility of violations (deviations or irregularities), because basically the rules (themselves) are hidden enemies.<sup>14</sup>

So far, Act No. 8 of 1981 concerning the Criminal Procedure Code provides that the supervision of investigators is still weak. If there is no media exposure or there is no public attention to a case, of course the control will be loose. Besides that, it is equally important that our police often over-act, the important thing is to arrest the person first. In addition, there are demands from superiors," said criminologist Erlangga Masdiana to detikcom.<sup>15</sup>

In addition, one thing that can explain why irregularities occur in arrests is the discretion or authority granted by law to act in special situations in accordance with the judgment and conscience of the agency or the officers themselves.<sup>16</sup> This assessment is the "baseline" of the deviation. This view is only subjective. So prone to violations or irregularities.

The process of arresting in the crime of murder by a special team is to arrest the perpetrator if the perpetrator is still within the reach of investigators to be arrested immediately. Closing the scene of the incident to anyone whose presence there is not required to save the victim, to save people's assets or for the purposes of investigation and investigation with the intention that the place of the incident of the case remains in its original state to facilitate the process of investigation and investigation. Finding, rescuing, collecting, and retrieving evidence and traces that can assist investigators in obtaining clues about the identity of the perpetrator, about the methods and tools used to commit a crime, as well as to determine where the crime scene occurred.

### **3.2. Obstacles and Solutions in the Process of Arresting in the Crime of Murder by a Special Team**

Crimes against one's soul result in death, for one's death is prohibited and is punishable by law. The term crime in Dutch can be referred to as "strafbaarfeit" which means an act that makes the perpetrator convicted.<sup>17</sup>The definition of a

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<sup>14</sup>Doni F. Jambak, (2008), *Dilema Bantuan Hukum. Harian Singgalang*, p. 22

<sup>15</sup><http://www.detiknews.com/read/2008/08/28/105553/996111/10/salah-tangkap-pembunuh-asror-i-akibat-polisi-over-acting>

<sup>16</sup>Thomas Barker and David L. Carter. (1999). *Police Deviance, Penyimpangan Polisi. (Kunarto, penyadur)*, Cipta Manunggal, Jakarta, p. 27

<sup>17</sup>Beno, Gunarto and Sri Kusriyah, (2020), *Implementation of Fully Required Elements in the Crime of Planning Murder (Case Study in Blora State Court)*, in *Jurnal Daulat Hukum* Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 110, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8404/4058>

crime is an act or act against the applicable law, whether it is a violation or a crime that can be prosecuted by criminal law or the provisions of laws and regulations.<sup>18</sup>

Conceptually, the essence and meaning of law enforcement lies in the activity of harmonizing the relationship of values that are spelled out in solid and embodied methods and attitudes as a series of final stage value elaborations to create, maintain, and maintain peaceful social life. Furthermore, he said that the success of law enforcement may be influenced by several factors that have a neutral meaning, so that the negative or positive impact lies in the content of these factors. These factors have a close interrelated relationship, which is the essence and benchmark of the effectiveness of law enforcement.<sup>19</sup>

The state has the discretionary authority to divert (diversion) children in conflict with the law from the formal criminal justice process to the peace process outside the trial. Wherever possible children are avoided from arrest, detention and imprisonment, this should be a last resort. Diversion is a discretionary process carried out by components of the criminal justice system (Police, Prosecutors, Courts) aimed at children in conflict with the law. Diversion is a policy that is carried out to avoid perpetrators from the formal criminal justice system.<sup>20</sup>

Policies and crime prevention are essentially an integral part of efforts to protect society (social defense) and efforts to achieve community welfare (social welfare). Therefore it can be said that the ultimate goal of criminal law politics which is also part of criminal politics,<sup>21</sup> is "protection of society in order to achieve the welfare of society". Thus, criminal politics is essentially an integral part of social politics.

Indonesian law is not Onpartijdig, but partijdig, favors humans in a broad sense, protects the Indonesian people, protects, provides welfare, both to individuals and to society at large. Justice can be seen from government policies that give freedom to the public to enjoy taste, creativity, and intention both physically and spiritually, individually or in groups. But not infrequently justice is difficult to enjoy, so that the equality of human nature is trampled and far from justice.<sup>22</sup>

The development of law in Indonesia itself is very dynamic and always changes following the development of society, legal developments, especially in the development of criminal (material) and criminal procedural law (formal) outside the territory of the Indonesian Criminal Code (Criminal Law Book) and the Criminal Procedure Code which is currently in force. This is because the basic rules of the Criminal Procedure Code (material) of the Criminal Code and the Criminal

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<sup>18</sup>Sudarto, (1990), *Hukum Pidana Indonesia*, Yayasan Sudarto Faculty of Law UNDIP, Semarang, p. 39.

<sup>19</sup>Bambang Purnomo, Gunarto, Amin Purnawan, (2018), *Penegakan Hukum Tindak Pidana Anak Sebagai Pelaku Dalam Sistem Peradilan Pidana Anak (Studi Kasus Di Polres Tegal)*, Jurnal Hukum Khaira Ummah Vol. 13. No. 1, Unissula

<sup>20</sup> Fiska Ananda, (2018), *Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana*, in Jurnal Daulat Hukum Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 79, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2566/1923>

<sup>21</sup>M. Hamdan, (1997), *Politik Hukum Pidana*, Raja Grafindo Persada, Jakarta, p. 21

<sup>22</sup>Edi Warman, (1994), *Selayang Pandang Tentang Kriminologi*, Universitas Sumatera Utara Press, Medan, p. 1-2.

Procedure Code (formal) from the Criminal Procedure Code which are old legal products that have not been updated or revised, only the revision / review of the articles in the two laws and regulations does not replace / revise the entire Criminal Code or KUHP.<sup>23</sup>

As a police officer in an effort to enforce the law against violent crimes committed by students, the need for proper handling of students who commit violent crimes. Namely by enforcing the law. Law enforcement involves taking action against any violations or deviations of criminal acts of violence against the laws and regulations. The law gives authority to the police apparatus for law enforcement in a way, one of which is a repressive way in the form of action. Police officers are law enforcement officers, so in carrying out law enforcement efforts, police officers in their services take action against reports and the public regarding criminal acts.

Obstacles in the Arrest Process in the Crime of Murder by the Special Team are: Changes in the authenticity of the place that occurred at the scene of the case. Lack of experience of investigators in conducting investigations. The absence of completeness of equipment at the time of conducting the investigation. Unavailability of Fingerprint retrieval Database.

Efforts to overcome obstacles in the process of arresting in the crime of homicide by a special team are efforts by investigators to overcome obstacles to changes in the nature of the crime scene. Efforts to overcome the lack of experience of investigators in conducting investigations. Investigators' efforts in overcoming the lack of completeness of tools to conduct investigations. Investigators' efforts to overcome the unavailability of a database on fingerprinting.

#### **4. Conclusion**

The process of arresting in the crime of murder by a special team is to arrest the perpetrator if the perpetrator is still within the reach of investigators to be arrested immediately. Closing the scene of the incident to anyone whose presence there is not required to save the victim, to save people's assets or for the purposes of investigation and investigation with the intention that the place of the incident of the case remains in its original state to facilitate the process of investigation and investigation. Finding, rescuing, collecting, and retrieving evidence and traces that can assist investigators in obtaining clues about the identity of the perpetrator, about the methods and tools used to commit a crime, as well as to determine where the crime scene occurred.

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<sup>23</sup>Moch. Isa Nazarudin, Umar Ma'ruf, (2020), *Comparison Of The Implementation Of Pre-Court Process Before And After The Constitutional Court Decision Number: 21 / PUU-XII / 2014 In The Batang*, in *Jurnal Daulat Hukum* Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8684/4070>

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