

Process of Investigation on Criminal Actions of Fake Reports by the Reserse & Criminal Unit Investigators to Prosecutor

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Abstract.

The aim of this research is to find out and analyze the process of investigating criminal acts of false reports by investigators from the Criminal Investigation Unit to the prosecutor's office. To find out and analyze the obstacles to the process of investigating criminal acts of false reports by investigators from the Criminal Investigation Unit to the prosecutor's office. To find out and analyze efforts to overcome obstacles to the process of investigating criminal acts of false reports by investigators from the Criminal Investigation Unit to the prosecutor's office. This study uses a sociological juridical approach, with descriptive analytical research specifications. The data used in this research is secondary data obtained through literature study which is then analyzed qualitatively. The results of this study are the Process of Investigating False Reports by Criminal Investigation Unit Investigators to the Prosecutor's Office is an investigator who submits a case file or the result of the report turns out to be false to the prosecutor's office, the prosecutor can return the case file or the results of the report to the investigator with instructions or directions from the prosecutor. Its office with coordination or cooperation between the police and the prosecutor's office. The resistance is the investigation of a criminal act of a false report takes a long time: in handling a criminal act of a false report by a defendant, it cannot be processed further if it only relies on information/confessions from the suspect, and if the case related to the crime of a false report has not been revealed or proven. Proving is difficult, it is difficult to prove the case in the investigation because in fact this case does not exist so that investigators must be more observant and patient in every collection of evidence. The solution is intensify every report or input from everyone about everything related to the problem of the crime of the false report. Increased awareness of new modes of crime.

Keywords: Attorney; Crime; False; Investigation; Report.

1. Introduction

The State of Indonesia is a constitutional state, based on Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution). That everyone who is in the territory of Indonesia is obliged to obey the laws that apply in Indonesia and no one can be immune to the law, and all actions must be based on and have consequences in accordance with the laws and regulations in the Unitary State of the Republic of Indonesia aimed at realizing social life, an orderly, prosperous and just nation and state in the context of achieving the goals of the state as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia.¹

Based on the fourth paragraph of the Preamble of the 1945 Constitution, there are four (4) points of interest for the State of Indonesia, namely as follows: Protect

¹Beno, 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* Volume 3 Issue 1, Unissula

the entire Indonesian nation and the entire homeland of Indonesia, promote public welfare, educate the nation, and participate in implementing world order based on eternal peace and social justice.²

Problems that arise in the life of the state in developing countries such as Indonesia, in ex-colonies that are developing are willing to implement a constitution based on the constitution. The constitution inherits the Western legal tradition, but fails to inherit and accept without reserve its basic constitutionalist ideas of the rule of law, limitation of state power, and guaranteeing the people's civil rights for their freedoms.³

Procedural law or formal law is a legal regulation that regulates the procedures for maintaining and implementing material law regulations. Its function is to solve problems that meet the norms of material law prohibitions through a process guided by the regulations contained in the procedural law. This means that the procedural law functions when there are problems faced by individuals and those problems need to be resolved fairly to obtain the truth.⁴

Investigators are police officers or certain civil servants who are given special authority by law. While investigation means a series of actions carried out by investigating officials in accordance with the methods regulated by law to seek and collect evidence and with that evidence make it clear that the crime that occurred while at the same time finding the suspect or perpetrator of a crime.⁵

Investigators must make a Minutes of Examination (BAP) for all their actions in the investigation process. The link between the Minutes of Examination (BAP) and the Law of Evidence is very close because the Minutes of Examination (BAP) are used as the basis by the Public Prosecutor (JPU) in making the Indictment, and the basis for proving the defendant's guilt in the examination process at trial, therefore the truth of the BAP is always maintained by the public prosecutor. The BAP that fulfills the requirements of evidence is the BAP that can provide answers to the questions: what, when, where, who, why, and how, regarding the alleged criminal event.

Someone who has given false information or information that is not true is a very difficult act. A person who provides information in an uneasy and unclear condition and is not chronological, it cannot be immediately suspected that the person providing the information has given false information or information that is not true. On the other hand, an information given by someone with good language, chronology, being calm and reassuring, does not necessarily mean that someone is giving the actual information.⁶In the case of examining someone in a trial, the judge does not only listen to the testimony, but also always pays attention to the witness who gave the information and his background in life.

²Muhammad Adib, Sri Kusriyah and Siti Rodhiyah Dwi Istinah, (2019), The Giving Of Disciplinary Penalty of Civil Servants Based On Government Regulation Number 53 of 2010 in Governments of Demak Regency, *Jurnal Daulat Hukum* Volume 2 Issue 4, Unissula

³Sri Praptini, Sri Kusriyah and Aryani Witasari, (2019), Constitution and Constitutionalism of Indonesia, *Jurnal Daulat Hukum* Volume 2 Issue 1, Unissula

⁴R. Abdul Jamali, (1993), *Pengantar Hukum Indonesia*, Jakarta: Raja Grafindo Persada. p. 173.

⁵M. Yahya Harahap, (2006), *Pembahasan Permasalahan Dan Penerapan Kuhaap Penyidikan Dan Penuntutan* (edisi kedua), Jakarta: Sinar Grafika. p. 109

⁶Wirjono Prodjodikoro, (1967), *Tindak-Tindakan Pidana Tertentu Di Indonesia*, Bandung: Eresco. p. 169.

The purpose of this study, among others, is to identify and analyze the process of investigating the crime of false reports by investigators from the Criminal Investigation Unit to the prosecutor's office. To find out and analyze the obstacles to the process of investigating criminal acts of false reports by investigators from the Criminal Investigation Unit to the prosecutor's office. To find out and analyze efforts to overcome obstacles to the process of investigating criminal acts of false reports by investigators from the Criminal Investigation Unit to the prosecutor's office.

2. Research Methods

In this study, the sociological juridical research method used by the author is a case study research method.⁷ The author conducted a research included in the Analytical Descriptive research. The data used in this research is secondary data obtained through literature study which is then analyzed qualitatively.

3. Result and Discussion

3.1. The Process of Investigating the Crime of False Reports by the Investigation and Criminal Unit Investigators to the Prosecutor's Office

Evidence plays an important role in the trial process. Criminal Investigation Process Investigators as Crime Investigation carry out investigation techniques from crime scenes to find and collect evidence with an action strategy for perpetrators who use fake documents and then analyze evidence from witnesses, evidence and suspects based on the parameters of Article 184 of the Criminal Procedure Code at least 2 pieces of evidence from 5 tools evidence, namely Witness Statements, Expert Statements, Letters, Instructions, Statements from the Defendant.⁸

The purpose of making a law is to regulate life in society in a country by forcing members of the community to obey the law. If the law is not obeyed, to defend the law and rights in a state of law, namely through proceedings, certain legal officials have the right to determine the law in a concrete way, namely judges and courts.⁹

Implementing criminal law requires ways that must be taken so that legal order in society can be enforced. This method is known as criminal procedural law. The purpose of the criminal procedure law, among others, can be read in the Guidelines for the Implementation of the Criminal Procedure Code issued by the Minister of Justice, which is to seek and obtain or at least approach the material truth. This means that the complete truth of a criminal case by applying the provisions of the criminal procedure law honestly and precisely with the aim of finding out who the perpetrators can be charged with committing a violation of the law and then requesting an examination and decision from the court to find out

⁷ Robert K. Yin, (2008), *studi kasus, desain & metode*, Ed. 1, Print.12, Jakarta: Raja Grafindo Persada. p. 1

⁸Eko Adi Susanto, Gunarto, Maryanto, (2018), *Pertanggungjawaban Pidana Yang Memakai Surat Palsu Ditinjau Dari Pasal 263 Ayat (2) KUHP*, Jurnal Daulat Hukum Vol. 1. No. 1, Unissula

⁹ Yusti Probowati Rahayu, (2005), *Dibalik Putusan Hakim (kajian psikologi hukum dalam perkara pidana)*, Surabaya: Srikandi. p. 17.

whether it is proven that a crime has been committed. committed and whether the accused person is to blame.¹⁰

The criminal justice process involves the activities of the criminal justice agency which proceed according to certain stages. Each of these stages shows a complete set of units as a running wheel system. The stage or periodization of criminal justice starts from the stage of investigation, prosecution, examination before the court to the implementation of court decisions.¹¹ These activities are carried out by each criminal justice agency in accordance with their duties and authorities based on applicable regulations, including the police, prosecutors, courts and correctional institutions.

Investigation is an important stage in the framework of criminal procedural law in Indonesia because at this stage the investigator seeks to reveal the facts and evidence for the occurrence of a crime and find the suspect who committed the crime. In the preamble to letter b of Law Number 2 of 2002 concerning the Indonesian National Police (Police Law) it is emphasized that the maintenance of domestic security is through efforts to carry out police functions which include maintaining security and public order, law enforcement, protection, protection, and service to the public. The community is carried out by the State Police of the Republic of Indonesia as an instrument of the state assisted by the community by upholding human rights.¹²

At this stage of the investigation, the nature of the examination is still searching and groping. What we want to know is a provisional answer to the question whether a crime has occurred and if so, who the perpetrator is and under what circumstances the crime was committed. Investigators collect evidence that can be used as evidence in this first stage, which must be able to give confidence to the public prosecutor about what actually happened. For this reason, the investigator submits the case file to the public prosecutor, whose method of submitting the case file is implied in Article 8 of the Criminal Procedure Code and Article 110 of the Criminal Procedure Code.¹³

If the file is incomplete, the file will be returned to the investigator, but the problem here is that the case file or report given by the police is not true or false. This raises the question what if the case file or report has been received by the prosecutor and the results of the case file have been submitted to the clerk and the file is ready for trial and it turns out that the case file or report results are fake? who is responsible for the error? then the one who will be responsible here is not only the police, even the prosecutor's office to the judge will also be responsible, but the state is responsible for mistakes made by investigators because an investigator is required to immediately complete the investigation thoroughly. It becomes a problem again, how is the accountability from the investigation to the prosecutor's

¹⁰ Andi Hamzah, (2008), *Hukum Acara Pidana Indonesia*, Jakarta: Sinar Grafika. p. 8

¹¹ Kadri Husin & Budi Rizki Husin, (2016), *Sistem Peradilan Pidana di Indonesia*, Jakarta: Sinar Grafika. p.. 91

¹² Ruslan Renggong, (2014), *Hukum Acara Pidana Memahami Perlindungan HAM dalam Proses Penahanan di Indonesia*, Jakarta: Prenadamedia Group.p. 206.

¹³ Ansori Sabuan, Syarifuddin Pettanasse, Ruben Achmad, (1990), "*Hukum Acara Pidana*", Palembang: Angkasa Bandung, p. 113

office for the case file or the results of the report are not true or false? The Criminal Procedure Code does not regulate the responsibility for the case file or the results of the report turned out to be incorrect which were submitted by the investigator to the prosecutor's office, but the Criminal Procedure Code has set about Compensation and Rehabilitation.

The Process of Investigating False Reports by Criminal Investigation Unit Investigators to the Prosecutor's Office is an investigator who submits a case file or the result of the report turns out to be false to the prosecutor's office, the prosecutor can return the case file or the results of the report to the investigator with instructions or directions from the prosecutor. The prosecutor's office with coordination or cooperation between the police and the prosecutor's office.

3.2. Obstacles to the Investigation of Criminal Acts False Reports by the Criminal Investigation Unit Investigator to the Prosecutor's Office

The main source of material criminal law is the Criminal Code (KUHP). The distinction and grouping of criminal acts into crimes and violations is based on the idea that in reality in society there are a number of actions which basically contain prohibited (against the law) nature, for which the maker deserves to be punished even though sometimes such acts are not stated in the Act. In addition, there are new acts that have a prohibited nature and the maker is threatened with a criminal offense after the act is stated in the law. Therefore, for crimes basically the prohibited or disgraceful nature of the act lies with the community, while for violations it is because it is contained in the law.

The crime of forgery or the crime of forgery is in the form of a crime in which it contains elements of an untruth or false state of something (object), which thing appears from the outside as if it were true when in fact it is contrary to the truth. The crimes of counterfeiting contained in Book II of the Criminal Code are grouped into 4 (four) groups, namely:

- Crime of perjury (Chapter IX)
- The crime of counterfeiting money (Chapter X)
- The crime of counterfeiting stamps and marks (Chapter XI)
- The crime of forgery of letters (Chapter XII)

The crime that was qualified in the preparation of this thesis was about a false report. A false report, even though it is an act, can also be an attack on trust in the truth of a report to an official, which means it also provides legal protection for the truth of the contents of a report, but in this case the emphasis is more on betrayal or an attack on the implementation of the duties and position of an official or civil servants from raping public trust in the truth of a report or complaint. The object of the crime is more firmly placed on the official than the report or complaint.

The act of giving a false report or false complaint is a criminal act which can be punished in accordance with Article 220 of the Criminal Code which reads: "Anyone who notifies or complains that a criminal act has been committed even though he knows that it was not committed is threatened with a maximum imprisonment of one year and four months."

The crime of false reporting does not only involve people who are

perpetrators, it can also involve people who do not know anything about the actual incident, who are also affected by the perpetrators of the crime, so that with this they can be threatened with criminal penalties, both those who become the perpetrators and who are advocates in accordance with article 55 of the Criminal Code, which reads: "1. Convicted of being the maker (dader) of a criminal act: 1. Those who do, those who order to do and those who participate in doing the deed: 2nd. Those who intentionally give or promise something, by abusing their power or dignity, by force, threats or misdirection or by providing opportunities, means or information, intentionally encourage others to commit a criminal act.

Obstacles to the Investigation Process of False Reports by Criminal Investigation Unit Investigators and Criminals to the Prosecutor's Office, namely: The investigation of a criminal act of a false report takes a long time: in handling a criminal act of a false report by a defendant, it cannot be processed further if it only relies on information/confessions from the suspect, and if the case related to the crime of a false report has not been revealed or proven. Proving is difficult, it is difficult to prove the case in the investigation because in fact this case does not exist so that investigators must be more observant and patient in every collection of evidence.

3.3. Efforts to Overcome Obstacles to the Investigation Process of Criminal Acts False Reports By Investigators from the Criminal Investigation Unit and to the Prosecutor's Office

Law enforcement is very close to society, as the theory put forward by Carl von Savigny, who said "*Das recht wird nicht gemacht, est ist und wird mit dem volke*" (law is not made but grows and develops with society).¹⁴ But apparently the modern law used by the Indonesian people in society was developed not from Indonesia, but from outside.¹⁵

The false report of the loss of a motor vehicle is in fact a lie from the owner of the vehicle, namely embezzling the vehicle which in the lease purchase agreement is still included in the installments of the vehicle buyer, by pretending that the vehicle has been stolen by the perpetrator of the motor vehicle theft.

False reporting is a criminal act because in this case the perpetrator manipulates or gives a false report by telling a story about the loss of an item (in this case a motorbike) to a police officer, where the report is used by the suspect to gain profit for himself, but harming others (in the case of this is the insurance company).

Investigators are authorized to receive reports/complaints either in writing, verbally or using electronic media regarding the existence of a criminal act. The complaint report is received by the SPKT and then the SPKT receives the report/complaint and then submits it to the investigator. And then SPKT guarantees the smooth making of police reports, conducts studies to assess whether or not it is

¹⁴Darji Darmodiharjo and Shidarta, (2008), *Pokok-pokok Filsafat Hukum: Apa Dan Bagaimana Filsafat Hukum Indonesia*, Jakarta: Gramedia Pustaka Utama .p. 124

¹⁵Muchammad Qomaruddin, Gunarto and Aryani Witasari, (2020), Legal Flexibility in Children Diversion Which Conflict With the Law (ABH) Case Study At Ex Residency of Cirebon Jurisdiction, *Jurnal Daulat Hukum* Volume 3 Issue 1, Unissula

appropriate to strengthen police reports to provide optimal services. After conducting the initial study as referred to in paragraph 3, the receipt of the police report and the police report shall be stated.

Efforts to overcome obstacles to the process of investigating criminal acts of false reports by investigators from the Criminal Investigation Unit to the Prosecutor's Office are: Intensify every report or input from everyone about everything related to the problem of the crime of the false report. Increased awareness of new modes of crime.

4. Conclusion

The Process of Investigating False Reports by Criminal Investigation Unit Investigators to the Prosecutor's Office is an investigator who submits a case file or the result of the report turns out to be false to the prosecutor's office, the prosecutor can return the case file or the results of the report to the investigator with instructions or directions from the prosecutor. Its office with coordination or cooperation between the police and the prosecutor's office. The resistance is the investigation of a criminal act of a false report takes a long time: in handling a criminal act of a false report by a defendant, it cannot be processed further if it only relies on information/confessions from the suspect, and if the case related to the crime of a false report has not been revealed or proven. Proving is difficult, it is difficult to prove the case in the investigation because in fact this case does not exist so that investigators must be more observant and patient in every collection of evidence. The solution is intensify every report or input from everyone about everything related to the problem of the crime of the false report. Increased awareness of new modes of crime.

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