

The Duties & Functions of the Internal Prosecutor's Intelligence Disclosing on Corruption Crime

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Abstract.

The purpose of this paper is to find out, examine and analyze the duties and functions of the Public Prosecution Service in uncovering criminal acts of corruption. This research used a normative juridical method with research specifications in the form of descriptive analysis. Based on the discussion, it was concluded that Article 130 of the Decree of the Attorney General of the Republic of Indonesia Number: Kep- 225/A/JA/05/2003 stated that the Deputy Attorney General for Intelligence has the duty and authority to carry out judicial intelligence activities in the social, political, economic, financial, defense fields/security and public order to support law enforcement and justice policies, both preventive and repressive. In general, the handling of corruption cases has 3 roles, the first being in repressive efforts, namely by conducting investigations into criminal acts of corruption, second, in preventive efforts or prevention of criminal acts of corruption by forming the Guard and Security Team for Regional Government and Development (TP4D), and third, in the search for fugitives from the Prosecutor's Office or Court. Regarding the analysis of the Prosecutor's Intelligence, after the Task Order was issued and signed by the Head of the District Attorney's Office, the Intelligence Section of the Prosecutor's Office took a series of actions by making an Analysis of Targets (Ansas), Analysis of Tasks (Antug) and Targets of Operations (TO).

Keywords: Corruption; Crimes; Duties and Functions; Intelligence; Prosecutors.

1. Introduction

In the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) states that the State of Indonesia is a legal state based on Pancasila and the 1945 Constitution which contains the meaning of all actions, patterns of behavior of citizens which must also be synchronized with the norms set by the state.¹

The concept of the rule of law leads to the goal of creating a democratic life, and protecting human rights, as well as equitable welfare.² It is the law that determines which actions may or may not be performed. According to Utrecht, law is a set of rules (orders and prohibitions) that regulate the order in a society and must be obeyed by the community.³ In the fourth paragraph of the preamble to the 1945 Constitution, the purpose of the Indonesian state is to protect the entire Indonesian nation, promote public welfare, educate the nation's life and participate in carrying out world order. To be able to realize this goal, it is necessary to have an

¹Supriyono. (2020). *Criminology Study of Crime of Fencing the Stolen Goods*. Jurnal Daulat Hukum, 3(1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8407/4068>

²Masyhadi Irfani and Ira Alia Maerani. (2019). *Criminal Code Policy in The Effort of Corruption Prevention in Institutions Regional Disaster Management Agency*. Jurnal Daulat Hukum, 2 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/4209/2915>

³Sri Praptini, Sri Kusriyah and Aryani Witasari, (2019). *Constitution and Constitutionalism of Indonesia*. Jurnal Daulat Hukum, 2 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/4149/2897>

effort that is carried out continuously and continuously while paying attention to every aspect that influences it. This effort is called development.⁴

In the implementation of development, there are many inhibiting factors. One of the inhibiting factors in the development process that greatly affects the economy and state finances is corruption. In various parts of the world in general and in Indonesia in particular, corruption has always received more attention than other criminal acts. This phenomenon is understandable given the negative impact caused by the criminal act of corruption. The resulting impact can affect various areas of life. Corruption is a threat to the nation's ideals towards a just and prosperous society.⁵

One of the law enforcement efforts in corruption is to carry out a process of investigation and investigation. To assist this process, apart from the role of investigators and investigators in general, the role of intelligence agencies in a country is also very necessary. Act No. 17 of 2011 concerning State Intelligence is the basis for regulating Intelligence in the Republic of Indonesia. In law enforcement efforts, the Prosecutor's Intelligence is one of the efforts made by the Prosecutor's Office to uncover cases of criminal acts of corruption. The method or method of operation of the Prosecutor's Intelligence is expected to reduce the occurrence of corruption in Indonesia. Prosecutors' intelligence is one part of the implementation of state intelligence. In the law enforcement of criminal acts of corruption, the Prosecutor's office has a fairly central role. The Prosecutor's Office does not only have the authority to carry out prosecutions, in handling special criminal cases the Prosecutor's Office is usually divided into the stages of Investigation, Investigation, Prosecution.

In the investigation stage, this task is carried out by the Intelligence party at each stage of the prosecutor's position. The investigation stage is carried out by a special criminal section which is given the authority to investigate special crimes, while in the prosecution stage it is carried out by the Public Prosecutor as stipulated in the legislation.

To be able to carry out investigation activities optimally, the prosecutor's intelligence through the intelligence section is tasked with carrying out the investigation chain, namely from planning, collecting activities, processing activities to data use activities. In this case collecting and managing data and facts if there is a suspicion that there is or has occurred a special crime, namely a criminal act of corruption. If an incident is suspected as a special crime, the prosecutor's intelligence officers carry out judicial/investigative intelligence operations to determine whether the incident is a corruption crime or not. In the event that the judicial intelligence/investigation operation is carried out by the prosecutor's intelligence.

2. Research Methods

⁴Abdul Kholiq Nur and Gunarto. (2021). *Concept of Criminal Law on Corruption of Corporate Criminal Liability System Based on Justice Value*. Jurnal Daulat Hukum. 4 (1), url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/14205/5388>

⁵Danr Danr Krisnawati, et.all. (2006). *Bunga Rampai Hukum pidana Khusus*. Jakarta, Pena Pundi Aksara, p. 78

To conduct an assessment in this writing, the author uses a normative juridical method. This study uses research specifications with descriptive methods. The data used for this research is secondary data. To obtain the data in this paper, secondary data collection methods were used which were obtained from literature books, laws and regulations, as well as the opinions of legal experts. The data that has been obtained is then analyzed by qualitative analysis.

3. Results and Discussion

Acts against the law in criminal acts of corruption also include disgraceful acts which according to the sense of justice of the community must be prosecuted and punished.⁶ Acts against the law here include acts against the law in a formal or material sense, i.e. even though the act is not regulated in laws and regulations.⁷ However, if the act is deemed reprehensible because it is not in accordance with the sense of justice or the norms of social life in society, then the act can be punished according to the Elucidation of Article 2 paragraph 1 of Act No. 31 of 1999.

The number of perpetrators of Corruption Crimes involving state officials or government officials is currently still happening in the State of Indonesia, although increasing efforts to eradicate Corruption Crimes continue to be carried out and become a concentration point for the President of the Republic of Indonesia Joko Widodo in law enforcement efforts. The main substance of the demands in realizing the order of "Good Governance" and "Clean Government" is the call for eradicating corruption in the administration of government and the management of BUMN/BUMD.⁸ All parties also agree that one of the most important instruments in the effort to eradicate corruption is the legal system and judicial process that is objective, impartial, transparent and consistent. In an effort to eradicate corruption (*Tipikor*) it is necessary to have external and internal support and strengthening from law enforcement agencies (Police, Prosecutors, KPK and the Court).⁹ External strengthening comes from the creation of a National Consensus on strategies and approaches for handling corruption in an optimal manner and can be accepted by the wider community. In the aspect of internal strengthening, the KPK together with the Prosecutor's Office and the Corruption Court need to immediately follow up on the National Consensus by drawing up an Action Plan or actions that include preparation and development.

The factors that cause a person to commit acts of corruption, then in general an opinion can be drawn, namely that someone who commits acts of corruption can be categorized into 3 (three), namely: a) Corruption by needs; b) Corruption by greed; c) Corruption by Opportunities.¹⁰ In accordance with the handling of

⁶R. Wiyono. (2005). *Pembahasan Undang-Undang Pemberantasan Tindak Pidana Korupsi*, Jakarta, p. 31

⁷Rasyid Ariman and Fahmi Raghieb. (2016). *Hukum Pidana*. Malang: Setara Press, p. 21

⁸Moh. Mahfud MD. (2001). *Dasar & Struktur Ketatanegaraan Indonesia*. Jakarta : PT Rineka Cipta, p. 43

⁹Moekijat. (1998). *Analisis Jabatan*. Print. VIII, Bandung, Mandar Maju, p.29

¹⁰A.Kurniawan. (2015). *Korupsi di Indonesia : Keuangan Negara, Birokrasi dan Pengendalian Intern*, Yogyakarta: BPFE Yogyakarta, p. 41

corruption cases, in general, the Prosecutor's Intelligence has 3 roles, the first is in repressive efforts, namely by conducting investigations into criminal acts of corruption, secondly, in preventing or preventing corruption by forming a Team for Guarding and Security for Government and Regional Development (TP4D), and the third is in the search for fugitives from the Prosecutor's Office or Court. The roles carried out by the Prosecutor's Intelligence are as follows:

- Investigation of Corruption Crimes by Prosecutors' Intelligence (Repressive Efforts)

The definition of Intelligence Investigation, based on Article 1 point 9 of the Regulation of the Attorney General of the Republic of Indonesia Number: PER-024/A/JA/08/2014 concerning Intelligence Administration of the Attorney General of the Republic of Indonesia: "Intelligence Investigation, hereinafter referred to as Lid, is a series of Efforts, Jobs, Activities, and actions carried out in a planned and directed manner to seek, find, collect, and process information into Intelligence and present it as input for policy formulation and decision making".

Investigation of Corruption Crimes by the Prosecutor's Intelligence is divided into several stages, namely: Information Receiving and Initial Investigation Stage, Planning and Data Collection or Information Collection Stage, Data Processing Stage, Data Submission and Use Stage.

- Prevention of Corruption Crimes by Padang State Attorney's Intelligence (Preventive Efforts).

The Prosecutor's Intelligence, apart from investigating corruption, also plays a role in preventing the occurrence of corruption by establishing the Government and Regional Development Guard and Security Team (TP4D). This prevention is carried out by the intelligence section of the Padang District Attorney by guarding and supervising regional government and development based on the Decree of the Attorney General of the Republic of Indonesia Number: Kep-152/A/JA/10/2015 concerning the Establishment of a Government and Development Guard and Security Team based on Presidential Instruction. Number 7 of 2015 concerning Prevention and Eradication of Corruption. If there is a possibility that a criminal act will occur, especially a criminal act of corruption, intelligence will convey legal opinions/views to prevent the occurrence of criminal acts of corruption.

The tasks and functions of the TP4D are to guard, secure and support the success of the government and development through prevention/preventive and persuasive efforts, by:

- Provide legal information within government agencies, BUMN, BUMD and other parties related to materials regarding planning, auctions, implementation of work, supervision of work implementation, licensing, procurement of goods and services, orderly administration and orderly management of state finances;
- Conduct discussions or discussions with government agencies, BUMN, BUMD to identify problems faced in budget absorption and development implementation;

- Providing legal information and counseling both at the initiative of the TP4 and at the request of the parties in need, the place and time of implementation being determined based on an agreement and as needed;
- TP4D may involve other agencies or parties who have the capacity, competence and are relevant to legal information and counseling materials that will be submitted to government agencies, BUMN, and BUMD.¹¹

The State Attorney's Intelligence also has a role in the search for fugitives from the prosecutor's office or the search for someone with the status of a convict. The disbursement was carried out by the Prosecutor's Intelligence on orders from the Head of the District Attorney's Office, as a form of the Prosecutor's authority as the Executor of court decisions that have obtained permanent legal force. Regarding the analysis of the Prosecutor's Intelligence, after the Task Order was issued and signed by the Head of the District Attorney's Office, the Intelligence Section of the Prosecutor's Office took a series of actions by making an Analysis of Targets (*Ansas*), Analysis of Tasks (*Antug*) and Targets of Operations (TO). Target Analysis or what is called *Ansas*, is an analysis made by implementing intelligence operations to study in detail and thoroughly about the target of the investigation.¹²

Meanwhile, Task Analysis or what is known as *Antug*, is an analysis made by intelligence operations to detail and analyze what information materials must be searched and collected, collect collecting materials and their sources, how to carry out Investigations, Security, Raising, time period and the place of submission of the report as well as how to obtain and explore as much information as possible from the target or source. *Antug* is a division of tasks carried out by the intelligence section to speed up the investigation process and make it easier to collect the data and information needed.

In the field of intelligence, investigative activities are commonly referred to as intelligence operations or opsin. Options are efforts, activities and actions that are carried out based on a plan to achieve a specific detailed goal outside of continuous goals in a defined space and time relationship and carried out on the basis of orders from the leadership. With the approval of the Head of the Intelligence Section and the Head of the District Attorney's Office, the Head of the District Attorney's Office issues an Intelligence Operation Order (SprintOps). This Intelligence Operation is carried out to deepen the results of the implementation of the tasks that have been carried out. In this Intelligence Operation, there have been formal and material acts that have occurred in criminal acts that are being investigated and investigated. During the Intelligence Operations, the SprintOps Team was officially able to summon the parties concerned for questioning at the Prosecutor's Office. Information from related parties required can be examined in more detail. The results of the information stated in the Minutes of Requests for Information which will later be based on the BA Request for Information will be processed and legally analyzed by the SprintOps Team.

¹¹Ramelan. (2003). *Pemberantasan Tindak Pidana Korupsi, Pusdiklat Kejaksaan Agung RI*. Jakarta, Direktorat Produksi dan Sarana Inlelijen, p.85

¹²Marwan Effendy. (2005). *Kejaksaan RI Posisi dan Fungsinya dari Perspektif Hukum*. Jakarta, Gramedia, p.76

In intelligence theory, the term "Intelligence Differentiation" is known.¹³This type occurs when a democratic country forms various intelligence services that are specifically directed to deal with a particular threat, both from within and outside the country.¹⁴From the perspective of political development, this differentiation can be used as an indicator to reveal the degree of political institutionalization which is the foundation of macro system stability and continuity. Structural differentiation also serves as a modern technocratic instrument for the supervisory function. This technocratic instrument follows the principles of "small is beautiful" and "dispersion of power" as a method to minimize the tendency of corruption inherent in power and reduce the risk of abuse of power.¹⁵Through this principle, each intelligence service should only have one specific function, following the line of argument of Lord Acton: "Too many missions being performed by a single intelligence service implies an accumulation of power".¹⁶

4. Conclusion

In general, the handling of corruption cases has 3 roles. The Prosecutor's Intelligence has 3 roles, first in repressive efforts, namely by conducting investigations into corruption crimes, secondly in preventing or preventing corruption by forming the Guard and Security Team for Regional Government and Development (TP4D) and third, in the search for fugitives from the Prosecutor's Office or Court. The need for improvement of the Prosecutor's Law, the Law governing the Eradication of Corruption Crimes, as well as the Prosecutor's Regulations, especially the Regulations for the Intelligence Sector, in the process of investigating a criminal act, especially a criminal act of corruption. It is hoped that the Prosecutor's Office will continue to carry out its duties and authorities properly in terms of law enforcement, especially in eradicating corruption, especially in the field of intelligence in disclosing alleged criminal acts of corruption and can play a good role as the Guard and Supervision Team for Regional Government and Development (TP4D) to prevent corruption.

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¹³Arthur S. Hulnick. (2007). *Indications and Warning for Homeland Security: Seeking a New Paradigm*, *Journal Intelligence and CounterIntelligence*. Routledge: Taylor & Francis Group, 18 (4), p 163

¹⁴Ali Abdullah Wibisono and Faisal Idris. (2006). *Menguak Intelijen "Hitam" Indonesia*. Ed. Andi Widjojanto, Jakarta, Pacivis UI, p.87

¹⁵Thomas C. Breneau and Steven C. Boraz. (2007). *Intelligence Reform: Balancing Democracy and Effectiveness*. Austin, University of Texas Press Journal, 4 (2)

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