

Analysis of the Authority of Indonesian National Police Investigators Regarding Criminal Acts of Assault from a Restorative Justice Perspective

Agus Setiarso

Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-Mail:
agussetiarso.std@unissula.ac.id

Abstract. *This study aims to determine and analyze the construction of the authority of National Police investigators regarding criminal acts of assault. To determine and analyze the use of restorative justice mechanisms by National Police investigators in handling criminal acts of assault. This writing is a normative juridical type using the approach method of law, case, research specifications are descriptive analysis, secondary data sources are taken from primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies and analysis techniques using qualitative. The results of this study indicate that the regulation of restorative justice principles by Police investigators in criminal acts of assault is guided by Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code as well as the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice, with the principle of paying attention to the public interest of all parties, including victims, perpetrators, and the community. Police investigators have the authority to offer restorative justice mechanisms in resolving criminal acts of assault. If the restorative justice mechanism is reached, the investigator is obligated to notify the public prosecutor of the termination of the investigation and request a ruling from the Chief Justice of the District Court within a maximum of three days. This provision emphasizes that terminating a restorative justice-based investigation is not solely the investigator's authority but is also under the judicial control of the court.*

Keywords: *Abuse; Investigator; Justice; Restorative.*

1. Introduction

The role of the police as law enforcers in enforcing criminal law (integrated criminal justice system) is: first, preventing criminal acts by enforcing legal norms to protect the community; second, socializing criminals by providing guidance so that they become good and useful people; third, resolving conflicts caused by

criminal acts, restoring balance and bringing a sense of peace to society.¹ Restorative justice has become a very popular discourse in the midst of a diverse society that sees formal law as dominated by positivist thought and unable to optimally accommodate the community's sense of justice because it prioritizes legal certainty (*rechtssicherheit*).²

Restorative justice comes with a concept of non-formalistic resolution that simply emphasizes the formal legalistic side, but can be done through mediation between the perpetrator and the victim, reparation (the perpetrator repairs everything that was damaged), victim-perpetrator conferences (which involve families from both parties and prominent figures in the community), and victim-resilience work (an effort by the perpetrator to be more concerned about the impact of his actions).³

The ratification of the new Criminal Procedure Code, namely Law Number 20 of 2025 concerning the Criminal Procedure Code (hereinafter abbreviated as KUHP), opens up space for the implementation of restorative justice at all stages of the criminal justice process, as stated in Article 79 paragraph (8) which states:

"The Restorative Justice Mechanism is implemented at the stages of Investigation, Inquiry, Prosecution and examination in court."

Normatively, Article 80 paragraph (1) of the Criminal Procedure Code formulates the conditions for implementing restorative justice by limiting it to certain criminal acts that fulfill the following provisions:

- a. criminal acts are punishable by a maximum fine of category III or are punishable by a maximum prison sentence of 5 (five) years;
- b. first time crime committed; and/or
- c. does not constitute a repetition of a criminal act, except for criminal acts for which the verdict is a fine or criminal acts committed due to negligence.

In practice, the application of restorative justice in certain cases, such as assault, creates various legal and social dilemmas. Assault is a crime that not only causes material losses but also far more complex immaterial losses, such as psychological trauma, fear, and emotional distress for the victim. While physical wounds may heal, the trauma experienced by the victim remains and may even recur at a later

¹Ibnu Suka, Gunarto, Umar Ma'ruf. The Role and Responsibilities of the Indonesian National Police as Law Enforcers in Implementing Restorative Justice for Justice and the Benefit of Society. *Khaira Ummah Law Journal*. Vol. 13 No. 1 March 2018. p. 111

²Sitta Saraya, Andri Winjaya Laksana, Sri Endah Wahyuningsih, Implementation of Restorative Justice in Termination of Investigation at Kendal Police Resort, *Proceedings Series on Social Sciences & Humanities*, Volume 23, 2025, p. 94

³*ibid*

date. This demonstrates that victim recovery cannot be measured solely in material terms.

In line with this view, the implementation of the restorative justice mechanism in cases of criminal acts of assault raises the question of whether the crime of assault with aggravation is prosecuted with a prison sentence of more than five years, so that this case is not included in the category of cases that can be resolved through restorative justice.

Upholding the law is a prerequisite for a state based on the rule of law. Law enforcement always involves human beings and, as such, influences human behavior. Criminal law enforcement efforts are essentially part of the law enforcement effort and are often referred to as criminal law policy, which is part of the law enforcement policy (Law Enforcement Policy).⁴

Based on the description above, the author will explain the problem formulation: first, how the restorative justice mechanism is implemented in terminating investigations into criminal assault cases in the police. Second, what obstacles are encountered in implementing the restorative justice mechanism in terminating investigations into criminal assault cases in the police.

2. Research Methods

The research used is empirical juridical legal research. Empirical juridical legal research combines normative legal elements, supported by additional data and empirical elements, using primary data as the primary source. This type of research examines legal issues in relation to their application in society.

3. Results and Discussion

3.1. Implementation of Restorative Justice Mechanisms in Terminating Investigations into Criminal Acts of Assault in the Police.

One form of reform in Indonesian criminal law is the regulation of criminal law in the perspective and achievement of justice towards the improvement and restoration of conditions after an event and criminal justice process known as restorative justice which is different from justice. One form of reform in Indonesian criminal law is the regulation of criminal law in the perspective and achievement of justice towards the improvement and restoration of conditions after an event and criminal justice process known as restorative justice which is different from retributive justice or justice which emphasizes retribution and restitutive justice which emphasizes justice on compensation.⁵

⁴Barda Nawawi Arief, *Anthology of Criminal Law Policy*, PT. Citra Aditya Abadi, Jakarta, 2014, p. 29

⁵Sitta Saraya. *Restorative Justice Legal Policy in Pancasila-Based Criminal Law Political Reform*. Media Sains Indonesia: Bandung. 2024, p. 45

The ratification of the new Criminal Procedure Code, namely Law Number 20 of 2025 concerning the Criminal Procedure Code (hereinafter abbreviated as KUHAP), opens up space for the implementation of restorative justice at all stages of the criminal justice process, as stated in Article 79 paragraph (8) which states:

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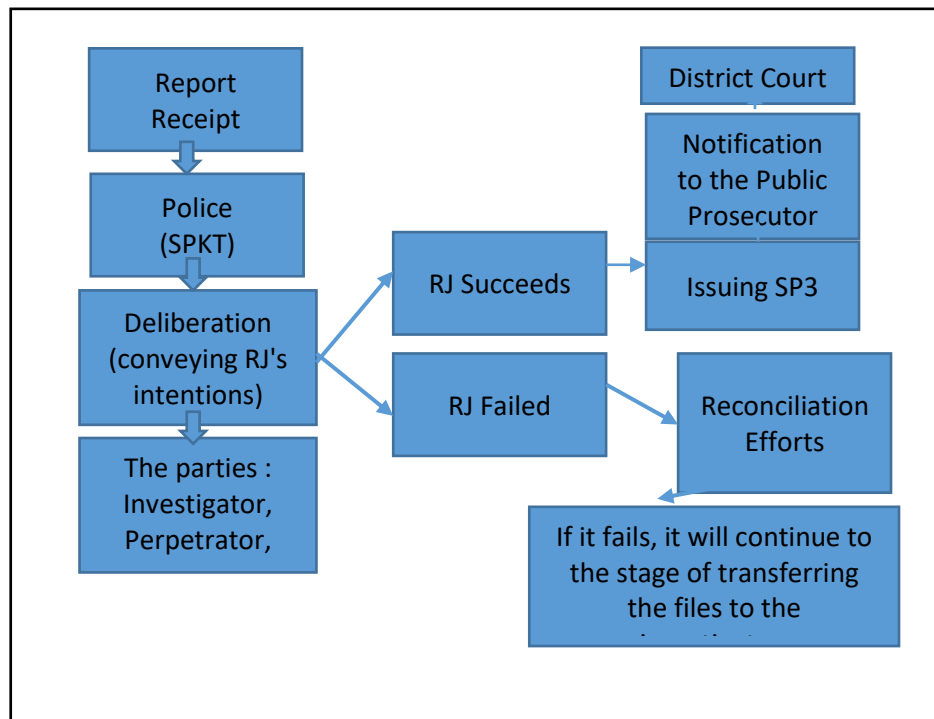
- a. criminal acts are punishable by a maximum fine of category III or are punishable by a maximum prison sentence of 5 (five) years;
- b. first time crime committed; and/or
- c. does not constitute a repetition of a criminal act, except for criminal acts for which the verdict is a fine or criminal acts committed due to negligence.

In the Republic of Indonesia National Police, the restorative justice mechanism is regulated by Police Regulation No. 8 of 2021 and Law No. 20 of 2025 concerning the Criminal Procedure Code. The process of resolving cases using the restorative justice mechanism begins with a complaint or finding from the public. The report is received by the Police Service Center for further processing by the investigation team. If the case is declared a crime, it will be forwarded to the authorized unit, such as the General Criminal Investigation Unit (Reskrim) or the Special Criminal Investigation Unit (Reskrimsus).⁶

In this process, restorative justice is initiated through mediation through a mediator, known as comprehensive mediation. If a settlement is reached, the agreement will be outlined in a joint decision to be executed in accordance with applicable regulations. However, if no agreement is reached, the case will proceed to prosecution, which will be transferred to the Public Prosecutor and proceed to trial by a panel of judges.

⁶Zulfa, Eva Achjani, *Shifting the Paradigm of Criminalization*, Lubuk Agung Publisher, Bandung, 2011, p. 74

Table Restorative Justice Implementation Flow



Source: Author's Data Processing

The regulation of the principles of restorative justice by Police investigators in criminal acts of assault is guided by Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code as well as Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice.

The role of the police as facilitators in the restorative justice mediation process is crucial for achieving justice and benefit for both perpetrators and victims. Resolving cases through dialogue without one-way pressure creates balanced justice. Direct dialogue provides space for perpetrators to admit their mistakes, evaluate themselves, and apologize without coercion. Victims receive compensation that does not exceed the losses they experienced. This facility allows all parties to assert their rights, creating a more harmonious life before the crime occurred. The community participates by monitoring and observing the mediation process.⁷

⁷Salsabila and Slamet Tri Wahyudi. The Role of the Prosecutor's Office in Resolving Corruption Cases Using a Restorative Justice Approach, Legal Issues 51, No. 1 (2022), p. 61

3.2. Obstacles to the Implementation of the Restorative Justice Mechanism for Terminating Investigations into Criminal Acts of Assault in the Police.

The implementation of restorative justice mechanisms in investigations in the criminal investigation sector is currently experiencing several obstacles,⁸ First Structurally, the main problems relate to the limited number of investigators, the high caseload, and the suboptimal support for investigative facilities and infrastructure. The imbalance between human resources and case volume has the potential to reduce the quality of investigations and prolong case resolution. Limited forensic facilities, information technology, and an integrated case administration system also hamper the application of scientific evidence methods in investigations. These conditions emphasize that the reform of criminal procedure law through the 2026 Criminal Procedure Code must be accompanied by institutional strengthening so that progressive norms can be effectively implemented in practice.⁹

Obstacles in the substantial dimension, changes to norms brought by Law Number 20 of 2025 concerning the Criminal Procedure Code, particularly regarding strengthening the protection of suspects' rights, limiting coercive measures, and expanding judicial oversight, require comprehensive procedural adjustments. Investigators are required to understand the legality standards of actions, the obligation of technology-based documentation, recording of the examination process, and guaranteeing access to legal assistance from the early stages of the investigation. During the transition period, potential disharmony between the new Criminal Procedure Code and sectoral regulations and previous practices can create legal uncertainty, which could lead to an increase in pretrial lawsuits, the cancellation of evidence, and even the invalidity of investigative actions.

Cultural barriers relate to the unequal level of public legal awareness, low trust in law enforcement officials, and resistance to procedural changes that emphasize human rights. Within law enforcement, a paradigm shift from a repressive approach to one that is accountable, transparent, and upholds fair trials requires a sustained transformation of organizational culture. Without strengthening integrity and professionalism, normative reform risks failing to produce substantive changes in law enforcement practices.¹⁰

These various obstacles have direct implications for the quality of restorative justice mechanisms implemented in the criminal justice process. Therefore, an ideal model is needed to strengthen and provide legal protection for both perpetrators and victims. This ideal model includes:

⁸Interview with Bripka Hendra Putra A, SH, assistant investigator at Semarang Police.

⁹Mardjono Reksodiputro, *The Indonesian Criminal Justice System: (Looking at Crime and Law Enforcement Within the Boundaries of Tolerance)* (University of Indonesia, 1993).

¹⁰Satjipto Rahardjo, *Op., Cit*

1) Strengthening institutional capacity and the professionalism of investigators are fundamental conditions for the implementation of a criminal justice system oriented toward achieving substantive justice. Within the theoretical framework of an integrated criminal justice system, the quality of law enforcement is largely determined by the quality and competence of law enforcement officers, starting from the investigation stage.

2) Efforts to harmonize regulations and develop integrated technical guidelines serve as instruments to ensure procedural certainty in the exercise of investigative authority. Disharmony between laws and regulations, sectoral regulations, and operational practices has the potential to create legal uncertainty.

3) Shifting legal culture toward professionalism, accountability, and respect for human rights is a sociological dimension that is crucial to the success of criminal procedural law reform. Normative reform without a corresponding transformation of organizational culture has the potential to create symbolic law, a situation where the law appears formally progressive but is ineffective in practice. Therefore, internalizing the values of integrity, transparency, and public service orientation within the police institution is an essential part of developing a legal culture that aligns with the principles of a modern rule of law.

Another recommendation is to encourage active community involvement in supporting restorative justice mechanisms. This could include establishing support groups, volunteer training, and community-level education campaigns. Furthermore, it is important to ensure that restorative justice mechanisms do not replace fair law enforcement. In some cases, conventional courts may still need to play a role in more serious cases or when restorative justice is not appropriate. The government and other stakeholders must maintain a long-term commitment to restorative justice mechanisms. This is a systemic change that requires time and dedication to achieve full success.

4. Conclusion

The regulation of the principles of restorative justice by Police investigators in criminal acts of assault is guided by Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code as well as Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, with the principle of paying attention to the public interest of all parties, including victims, perpetrators and the community. There are obstacles in the implementation of restorative justice mechanisms, including structural obstacles, the main problem related to the limited number of investigators, the high caseload, and the suboptimal support of investigative facilities and infrastructure. Imbalance between human resources and case volume. Obstacles in the substantial dimension, changes in norms brought by Law Number 20 of 2025 concerning the

Criminal Procedure Code during the transition period, the potential disharmony between the Criminal Procedure Code and sectoral regulations and previous practices can create legal uncertainty that has implications for increasing pretrial lawsuits, cancellation of evidence, and even invalidation of investigative actions. Obstacles from a cultural perspective, obstacles related to the unequal level of public legal awareness, low trust in law enforcement officials, and resistance to procedural changes oriented towards human rights.

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- Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice