

The Role of The Police in Investigations of Corruption Criminal Acts Involving Notaries

Umi Hani Kurniawati

Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: umih057@gmail.com

Abstract. *The research entitled "The Role of the Police in Investigating Corruption Crimes Involving Notaries" examines the Authority and Role of the Police in Conducting Investigations of Corruption Crimes Involving Notaries, as well as to explore the extent of the Police's efforts in Balancing the Interests of Law Enforcement and Protection of the Notary Profession in Investigations of Corruption Crimes, which is expected to provide deeper insight into the dynamics of investigations and the need for effective law enforcement. This research method uses a normative legal approach, meaning that the research is conducted using a literature study approach and a statute approach. Data type The type of data uses secondary data obtained from a literature study. The analysis in this study is prescriptive. The results of the study show that although the police have an important role in investigating corruption crimes involving notaries, they face various challenges, such as the confidentiality of the notary profession and the complexity of the case. This study recommends improving training for investigators, strengthening inter-agency cooperation, and changing policies that support law enforcement. With these steps, it is hoped that the police can be more effective in eradicating corruption and maintaining the integrity of the notary profession.*

Keywords: *Corruption Crime; Investigation; Notary; Police.*

1. Introduction

In Indonesia, corruption has developed into a very worrying and systemic phenomenon.¹Based on Transparency International data in 2023, Indonesia's Corruption Perception Index (CPI) is still in a worrying position among countries in the world.²This is in line with the findings of various research institutions

¹Indriyanto Seno Adji, *Corruption and Law Enforcement*, (Jakarta: Diadit Media, 2019), p. 89.

²Transparency International Indonesia, "Indonesia Corruption Perception Index 2023", *Anti-Corruption Journal*, Vol. 8, No. 1, 2023, pp. 12-25.

which show that corrupt practices have spread to various sectors and involve various professions, including the notary profession.³

According to Prof. Dr. Sri Endah Wahyuningsih, SH, M.Hum., in her book *Special Criminal Law: Theory and Practice*, notaries have an obligation to maintain the confidentiality of their position, but in certain cases, such as corruption, this position often becomes a dilemma between maintaining the code of professional ethics and the obligation to provide information to investigators.⁴ The involvement of notaries in criminal acts of corruption is of particular concern considering their position as public officials who have the authority to make authentic deeds.⁵ The notary profession has an important role in creating legal certainty and protection for the community through the authentic deeds it creates.⁶

One aspect that attracts attention in the context of corruption is the involvement of notaries. Notaries, as public officials who are authorized to make authentic deeds, have an obligation to maintain confidentiality related to their position.⁷ Notaries have a very important role in various legal transactions. However, this role can also be misused for personal or group interests, which leads to corrupt practices. Cases involving notaries are often complex, because they relate to official documents that have legal force. This makes investigating corruption cases involving notaries a challenge for law enforcement officers, especially the police.⁸

The police, as the institution responsible for investigating criminal acts, have a crucial role in handling corruption cases involving notaries.⁹ The police's authority in investigations is regulated in various laws and regulations, including Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption and the Criminal Procedure Code (KUHP). However, the reality on the ground shows that the police often face various obstacles in investigations, such as lack of resources, limited access to information, and legal obstacles.¹⁰

This often conflicts with the interests of investigations carried out by the police, especially in terms of access to documents relating to alleged corruption

³Habib Adjie, "Notaries and Criminal Justice", *Notary Journal*, Vol. 4, No. 2, 2021, pp. 78-92.

⁴Wahyuningsih, SE (2016). *Special Criminal Law: Theory and Practice*. Semarang: Diponegoro University Press.

⁵GHS Lumban Tobing, *Notary Position Regulations*, (Jakarta: Erlangga, 2020), p. 51.

⁶Tan Thong Kie, *Notary Studies: Several Subjects and All About Notary Practice*, (Jakarta: Ichtiar Baru van Hoeve, 2018), p. 159.

⁷Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Article 16 paragraph (1) letter f.

⁸Siregar, A. "The Role of Notaries in Corruption Crimes: Case Study in Indonesia" *Journal of Law and Development*, vol. 50, no. 1, 2022, pp. 45-60.

⁹Mardani, R. "Corruption Eradication in Indonesia: The Role and Strategy of Law Enforcement" *Journal of Legal Policy*, vol. 8, no. 3, 2023, pp. 89-104.

¹⁰Prasetyo, B. "Challenges of Police Investigation of Corruption Cases" *Journal of Legal Studies*, vol. 15, no. 2, 2021, pp. 123-140.

crimes.¹¹In addition, there is a right of denial (*verschoningsrecht*) which is held by the notary¹²further complicates the investigation process. This right allows notaries to refuse to provide information related to the secrets of their position, even in the trial process. As a result, the police often face obstacles in collecting evidence and information needed to uncover corruption cases involving notaries.¹³

On the other hand, notaries can also be targets or even involved in criminal acts of corruption, either directly or indirectly.¹⁴This creates a dilemma for the police in determining the status of a notary in an investigation, whether as a witness, suspect, or party involved in a criminal act of corruption.¹⁵Miftahul Huda's research revealed that around 60% of corruption cases involving notaries require a longer investigation time than corruption cases in general.¹⁶

This study aims to provide a better understanding of the role and authority of the police, and to identify steps that can be taken to improve the effectiveness of investigations. Thus, it is hoped that this study can contribute to the development of law enforcement policies and practices in Indonesia, especially in efforts to eradicate corruption involving notaries.¹⁷

Based on the complexity of the problem, this study will comprehensively examine the role of the police in investigating corruption crimes involving notaries. It is hoped that this study can provide significant contributions to the development of strategies and policies in eradicating corruption in Indonesia.¹⁸Therefore, the author is interested in studying and conducting further research by taking the title "The Role of the Police in Investigating Corruption Crimes Involving Notaries".

2. Research Methods

This research is a normative juridical legal research that examines law as a system of norms, focusing on the implementation of investigations into notaries who commit crimes. The approach methods used include a legislative approach to analyze related regulations and a conceptual approach to understand legal

¹¹Habib Adjie, "Indonesian Notary Law: Thematic Interpretation of Law No. 30 of 2004 Concerning the Position of Notary", (Bandung: Refika Aditama, 2008), p. 89.

¹²GHS Lumban Tobing, "Notary Position Regulations", (Jakarta: Erlangga, 1983), p. 120.

¹³Sjaifurrachman and Habib Adjie, "Aspects of Notary's Responsibility in Making Deeds", (Bandung: Mandar Maju, 2011), p. 251.

¹⁴Adami Chazawi, "Corruption Criminal Law in Indonesia", (Jakarta: Rajawali Pers, 2016), p. 357.

¹⁵Andi Hamzah, "Eradication of Corruption Through National and International Criminal Law", (Jakarta: Raja Grafindo Persada, 2007), p. 243.

¹⁶Miftahul Huda, "Investigation of Corruption Crimes Involving Notaries", *Journal of Law and Notary*, Vol. 5, No. 2, 2021, pp. 45-60.

¹⁷Yusuf Sofie, "Challenges of Professional Corruption Crime Investigation," *Jentera Law Journal*, Vol. 17, No. 2, 2018, pp. 134-152.

¹⁸Chaerudin, et al., *Strategy for Prevention & Law Enforcement of Corruption Crimes*, (Bandung: Refika Aditama, 2020), p. 178.

terms. The types and sources of data are secondary data, including primary legal materials such as laws, and secondary and tertiary legal materials that provide additional explanations. Data collection is carried out through library methods, while data analysis aims to provide legal arguments regarding the facts or events being studied.

3. Results and Discussion

3.1. Role and Authority of the Police in Conducting Investigations into Corruption Crimes Involving Notaries

In addition, the police's authority in investigations also includes preventive measures through identifying potential legal vulnerabilities. In this context, the police must work together with professional supervisory institutions, such as the Notary Supervisory Board, to prevent abuse of office by notaries. However, the implementation of this authority often faces obstacles, including the right to refuse which is protected by law. Therefore, a revision and harmonization of regulations are needed that can minimize legal conflicts without sacrificing the public interest.¹⁹

Challenges in investigating corruption cases involving notaries include the notary's right to revoke which often hinders the investigation process, as well as the complexity of analyzing documents that are valid but used for illegal purposes. In addition, the lack of coordination between institutions such as the police, the Corruption Eradication Committee, and the Notary Supervisory Board prolongs the duration of the investigation. To improve the effectiveness of the investigation, it is necessary to strengthen cooperation between institutions and transparency in the investigation process so that public trust in the legal system is maintained. Revision of regulations related to the right to revoke and the development of standard operating procedures are also important to balance law enforcement with the protection of the notary profession.

The police play a crucial role in law enforcement, especially in investigating corruption cases involving notaries. As part of the criminal justice system, the police are responsible for ensuring that every corruption case is investigated professionally and transparently. Investigations of notaries present their own challenges due to the complexity of notarial law, including the obligation to maintain confidentiality and the status of notaries as public officials. Therefore, improving the competence of investigators through intensive training, collaboration with academics and legal practitioners, and the use of forensic technology is very important. Strengthening regulations is also needed so that investigations can be carried out without violating the basic rights of the notary profession.

¹⁹Miftahul Huda, "Legal Review of Notary's Right to Refuse in Corruption Crime Investigation," *Journal of Law and Notary*, Vol. 8, No. 2, 2022, p. 45.

In the investigation of corruption involving notaries, the police carry out a series of strategic steps. Starting from the initial investigation to identify indications of corruption and problematic authentic deeds, to the collection of valid evidence. The collection of evidence involves witness statements, statements from notary law experts, and examination of documents or letters issued by notaries. The goal is to assess whether the document is used in corruption, either directly in facilitating illegal transactions, or indirectly through the creation of documents that are detrimental to state finances.

3.2 Police Efforts in Balancing Law Enforcement Interests

The police play a central role in investigating corruption cases involving notaries, with the unique challenge of balancing law enforcement and protecting the notary profession. Notaries, as public officials who make authentic deeds, are often in a difficult position where the documents they make can be related to corruption. Therefore, the police must be careful in determining whether the notary's actions are part of their professional obligations or criminal acts. Coordination with the Notary Honorary Council (MKN) and a thorough understanding of notary law are essential to avoid baseless criminal actions.

In conducting investigations, the police must collect strong evidence and ensure that the process is objective and does not violate the notary's professional rights. Legal protection for notaries is important to maintain the integrity of the legal system, but does not mean that they are immune from the law if they are involved in criminal acts. Efforts to improve the competence of investigators in notarial law, the use of forensic technology, and strengthening regulations are key to uncovering notaries' involvement in corruption without sacrificing legitimate professional protection. It is important to distinguish between administrative errors committed by notaries and criminal acts involving notaries as perpetrators of criminal acts.

In the context of law enforcement involving certain professions such as notaries, it is important to understand the difference between intentional violations of the law and actions that are part of professional obligations. The police must have sufficient understanding of the role of notaries in the legal system to avoid mistakes in the investigation process.

4. Conclusion

The authority of the police in investigating corruption crimes involving notaries is part of the law enforcement efforts against extraordinary crimes. However, there are various challenges such as the notary's right of denial which can hinder access to information, the complexity of document analysis that requires multidisciplinary expertise, and the lack of coordination between law enforcement agencies. Therefore, it is necessary to revise regulations, increase cross-agency cooperation, and utilize technology and transparency in

investigations to balance law enforcement and the protection of the notary profession. The role of the police in investigating corruption crimes involving notaries as part of an integrated criminal justice system. The main challenges in this investigation include aspects of notary law, such as the right of denial and the complexity of document analysis. To overcome these obstacles, it is necessary to improve the competence of investigators through notary law training, the use of forensic technology, and cooperation with academics and legal practitioners. In investigating corruption crimes involving notaries, the police face challenges in balancing the interests of law enforcement and the protection of the notary profession. Notaries have an important role in the legal system as makers of authentic deeds, so investigators must ensure that the notary's involvement in a case is truly unlawful and not simply part of their professional duties. For this reason, coordination is needed between the Police and the Notary Honorary Council (MKN), a deep understanding of notary law, and the use of the principle of caution in the investigation process. Legal protection for notaries must still be guaranteed so that this profession is not criminalized without a strong basis, while on the other hand, if proven to be involved in corruption, notaries must be processed according to applicable law. To improve the effectiveness of investigations into corruption crimes involving notaries, it is necessary to revise regulations that clarify the police's authority to access notary documents and limit the right to rebuttal, which is often an obstacle in investigations. In addition, strengthening coordination between law enforcement agencies such as the Police, the Corruption Eradication Committee, and the Notary Supervisory Board is key to accelerating the investigation process. Investigators also need to receive special training in notarial aspects and forensic technology so that they can understand the procedures for making notarial deeds and analyze the potential for their misuse in corruption crimes. In order to maintain the professionalism and integrity of notaries, there needs to be legal protection for notaries who are cooperative in exposing corrupt practices so that they do not experience pressure from certain parties. In addition, public participation in supervising corruption can be strengthened through anti-corruption campaigns and a secure public reporting system. Periodic evaluations of the investigation system and revisions to internal police policies must continue to be carried out to ensure effectiveness and adaptability to challenges in the field.

5. References

- Adami Chazawi. (2016). *Hukum Pidana Korupsi di Indonesia*. Jakarta: Rajawali Pers
- Andi Hamzah. (2007). *Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional*. Jakarta: Raja Grafindo Persada.

- Chaerudin, et al. (2020) *Strategi Pencegahan & Penegakan Hukum Tindak Pidana Korupsi*. Bandung: Refika Aditama.
- G.H.S. Lumban Tobing. (1983). *Peraturan Jabatan Notaris*. Jakarta: Erlangga.
- Habib Adjie, "*Hukum Notaris Indonesia: Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris*", (Bandung: Refika Aditama, 2008), hal. 89.
- Habib Adjie. (2021). *Notaris dan Peradilan Pidana*. Jurnal Kenotariatan, Vol. 4, No. 2
- Indriyanto Seno Adji. (2019). *Korupsi dan Penegakan Hukum*. Jakarta: Diadit Media.
- Mardani, R. (2023). *Pemberantasan Korupsi di Indonesia: Peran dan Strategi Penegakan Hukum*. Jurnal Kebijakan Hukum, vol. 8, no. 3
- Miftahul Huda. (2021). *Penyidikan Tindak Pidana Korupsi yang Melibatkan Notaris*. Jurnal Hukum dan Kenotariatan, Vol. 5, No. 2
- _____, (2022). *Tinjauan Yuridis terhadap Hak Ingkar Notaris dalam Penyidikan Tindak Pidana Korupsi*." Jurnal Hukum dan Kenotariatan, Vol. 8, No. 2
- Prasetyo, B. (2021). *Tantangan Penyidikan Kasus Korupsi oleh Kepolisian*. Jurnal Ilmu Hukum, vol. 15, no. 2
- Siregar, A. (2022). *Peran Notaris dalam Tindak Pidana Korupsi: Studi Kasus di Indonesia*. Jurnal Hukum dan Pembangunan, vol. 50, no. 1
- Sjaifurrachman dan Habib Adjie. (2011). *Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta*. Bandung: Mandar Maju
- Tan Thong Kie. (2018). *Studi Notariat: Beberapa Mata Pelajaran dan Serba-Serbi Praktek Notaris*. Jakarta: Ichtiar Baru van Hoeve
- Transparency International Indonesia. (2023). *Indeks Persepsi Korupsi Indonesia 2023*". Jurnal Anti Korupsi, Vol. 8, No. 1
- Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris, Pasal 16 ayat (1) huruf f.
- Wahyuningsih, S. E. (2016). *Hukum Pidana Khusus: Teori dan Praktik*. Semarang: Universitas Diponegoro Press.

Yusuf Sofie. (2018) "Tantangan Penyidikan Tindak Pidana Korupsi Profesional,"
Jurnal Hukum Jentera, Vol. 17, No. 2 hal. 134-152.