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Integration Of The Investigation And Investigation Agency In Realizing The Independence Of Criminal Law Enforcement

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ABSTRACT

This study aims to explain the urgency of an integrative investigation and investigation agency in realizing the independence of criminal law enforcement, and to find a model for structuring an integrative investigation and investigation agency in order to realize the independence of criminal law enforcement. This type of research uses normative (doctrinal) legal research. The approaches used are statutory approaches, conceptual approaches and comparative approaches. The technique of data collection is done through literature study. Meanwhile, the technique of analyzing data or legal materials uses deductive logic, as well as prescriptive drawing conclusions. The findings of this study, first; Until now there has been no permanent and integrated criminal investigation and investigation agency into an independent body, as is the case with the prosecution agency (prosecutor), judicial body (court), correctional institution (pencial institution), and legal aid agency (penal institution). advocate), in the current legislation only appoints which officials are entrusted with the task of carrying out the functions of investigation and investigation of criminal acts, which are spread over many officials in different agencies. This condition has given rise to pluralism of investigative and investigative powers, legal uncertainty regarding the division and distribution of authority which causes overlapping and monopoly of authority among and by some investigators and investigators. into one integrative investigative organization. Second; The model of the body of inquiry and investigation offered is independent, as an Independent State Institution (LIN) which is free from interference from the executive and legislative powers. The independence of this integrative investigation and investigation body includes regulatory independence in the laws to be established, recruitment of human resources (investigating officers and investigators), the type of authority possessed and the implementation of the authority, as well as the supervisory system to be built. In conclusion, the position of the Investigation and Investigation Agency has a theoretical, constitutional, and juridical basis as the executor of some of the functions of an independent judiciary in the field of criminal law enforcement.

Keywords: Integration, Agency, Investigation, Independence, Enforcement, Law, Criminal.

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INTRODUCTION

The era of globalization has had an impact on the development of the Indonesian law enforcement system, Satjipto Rahardjo in Edi Setiadi stated that the development of other nations has influenced changes in the national laws of nations, which include; Law is increasingly experiencing rapid progress, legal practice materials are created, and the power of logic that works in the economic, state and international fields also has an impact on the legal field so that legal logic forms a new world. of a larger social phenomenon.(1)

The criminal law enforcement system continues to change in line with global developments, where previously the enforcement of criminal law at the investigation and investigation stage was originally the duty and authority of the Indonesian National Police and Civil Servant Investigators (PPNS) then has expanded to include other officials in different agencies. This reflects the development of an increasingly dynamic legal structure, according to the needs and demands for handling criminal acts that are increasingly developing in various types and new models. Investigations and investigations are the initial series of criminal law enforcement that arise in connection with reports or complaints from the public or through the knowledge of law enforcement officials themselves.

The term investigation and investigation in criminal law is related to a series of processes for carrying out the functions and duties of certain officials authorized by law in the enforcement of criminal law. Investigation in Article 1 number (5) of Law Number 8 of 1981 concerning the Criminal Procedure Code is defined as a series of investigative actions to search for and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out in the manner prescribed by law. regulated in this law.

While the investigation is defined as a series of actions of investigators in terms of and according to the method regulated in this law (meaning the Criminal Procedure Code) to seek and collect evidence with which evidence makes clear about the criminal act that occurred and in order to find the suspect.(2) Thus, the investigation and investigation function is the initial function in all stages of criminal law enforcement as a follow-up or response in connection with an incident that is known to the investigator himself or through reports and/or public complaints regarding an alleged criminal act that has occurred and/or will happen.



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In Law Number 8 of 1981 concerning the Criminal Procedure Code (UU 8/1981) as guidelines and procedures for criminal law enforcement, it regulates the stages of law enforcement which include the stages of investigation and investigation, prosecution stages, trial stages, and the stages of implementing decisions. crime/execution and it includes the stage of providing legal assistance. The authority to carry out investigation and investigation functions in the criminal law enforcement system is given to Indonesian police investigators and Civil Servant Investigators (PPNS) whose authorities are regulated by law, but in the development of legislation outside of Law 8/1981, the authority to carry out the function of investigation and investigations are also carried out by a number of other officials, including; Officials of the Corruption Eradication Commission (KPK), it is stated in article 6 letter (c) of Law Number 30 of 2002 concerning the Corruption Eradication Commission (UU 30/2002) that "the Corruption Eradication Commission has the task of "performing investigations, investigations, and prosecutions". against criminal acts of corruption", Prosecutors as referred to in Article 30 paragraph (1) letter (d) of Law Number 16 of 2004 concerning the Indonesian Prosecutor's Office (UU 16/2004) are authorized to carry out investigations of certain criminal acts based on the law, and officials of the National Narcotics Agency (BNN) as regulated in Article 71 of Law Number 35 of 2009 concerning Narcotics (UU 35/2009) which reads "In carrying out the task of eradicating the abuse and illicit trafficking of Narcotics and Narcotics Precursors, BNN is authorized to conduct investigations and investigations of abuse and illicit trafficking of Narcotics and Narcotics Precursors, as well as a number of other officials in different agencies also.

This is actually not a problem as long as there is harmonization between investigating officers and investigators in various agencies/institutions. However, this is not the case, the variety of investigative and investigative officials sometimes creates many new problems in the enforcement of criminal law. In practice, conflicts between investigating officers and one investigator and other investigating officers and investigators seem to describe discoordination and disharmony between fellow officers/criminal law enforcement agencies as evidenced by the struggle for the exercise of power/authority in handling certain cases to the potential for prosecution. criminalize each other. As one example, for example, the problem that is always repeated (in the media it is known as the Cicak Versus Crocodile Conflict, Volumes 1, 2 and 3), and there are also frequent conflicts between the TNI/TNI AL with the Police, the Police with the KPK, and the Police with the Prosecutor's Office, (3) which leads to obstruction of criminal law enforcement efforts, especially in the investigation and investigation stage which has an impact on decreasing public trust(4).

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In order to overcome these problems, this study aims to explain the urgency of an integrative investigation and investigation agency in realizing the independence of criminal law enforcement(5), as well as finding a model for structuring a one-stop investigation and investigation agency in order to realize the independence of criminal law enforcement(6). This type of writing uses normative (doctrinal) legal research, using a law approach, a conceptual approach and a comparative approach. The technique of collecting is done through literature study(7), while the technique of analyzing data or legal materials uses deductive logic(8), and drawing conclusions is prescriptive(9).

METHODS

The method used in this study is a type of normative legal research (doctrinal). The approaches used include: 1) Legislative approach, 2) Conceptual approach, 3) Comparative approach. The statutory approach, in this case, is to examine and examine the legal formulations that apply in Indonesia. The conceptual approach, according to Irwansyah, is a legal research that provides an analytical point of view of problem solving in legal research seen from the aspects of the legal concepts behind it, or even can be seen from the values contained in the norming of a rule in relation to the concepts used.(10) Comparative approach (comparative) according to Irwansyah, is an approach taken by comparing legal regulations or court decisions in a country with legal regulations in other countries, one or more countries with a note that the things being compared must be about the same things.(10)

The target in this study is to find a model for structuring an integrative investigation and investigation agency in order to realize the independence of criminal law enforcement. The technique of data collection is done through literature study. Meanwhile, the technique of analyzing data or legal materials uses deductive logic, as well as prescriptive drawing conclusions.

RESULTS

The Urgency of the Integrative Investigation and Investigation Agency in Realizing the Independence of Criminal Law Enforcement

Investigation and investigation is essentially one of the functions of judicial (judicial) power in the field of criminal law. In Article 1 number 5 of Law 8/1981 it is explained that an investigation is a series of actions carried out by investigators in terms of finding out and finding acts that are suspected of being criminal acts in order to determine whether or not an investigation can be carried out according to the method regulated by law. Meanwhile, the investigation in Article 1 number 2 of Law 8/1981 is a series of tasks and actions of the investigator in terms of and according to the method regulated in the law to seek and collect evidence which with that evidence makes clear about the criminal act that occurred and in order to find the perpetrator. The investigation function emphasizes action to examine whether an



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event that is currently, will and/or has occurred is a criminal act or not a crime, while the investigation function is an action taken to seek and find evidence with which evidence can be obtained. find or identify suspects. Yahya Harahap stated that the investigative action is the initial act or the beginning of the investigation and is not an act that is independent/separate from the investigation. (9) So before there is a decision regarding the suspect, the investigating officer must first seek and find sufficient preliminary evidence, namely at least 2 legal evidence.

In accordance with the provisions of Article 5 of Law 8/1981, investigating officers due to their obligations have a number of authorities, including:

- 1. Receive reports/complaints from someone regarding the existence of a criminal act;
- 2. Looking for information and evidence;
- 3. Terminate the suspect and ask and check identification;
- 4. Take other legally responsible actions.

Meanwhile, in Article 7 of Law 8/1981, investigating officers due to their obligations have the following powers:

- 1. Receive reports/complaints from someone regarding the existence of a criminal act;
- 2. Take the first action at the scene of the incident;
- 3. Terminate the person suspected of being the perpetrator and ask and check his/her identification;
 - 4. Take action in the form of arrest, detention, search, and confiscation;
 - 5. Carry out inspection and confiscation of documents;
 - 6. Taking fingerprints and taking pictures of a person;
 - 7. Summon someone to be heard and examined as a suspect or witness;
 - 8. Bring in the necessary experts in relation to the case being examined;
 - 9. Hold a termination of criminal case investigations;
 - 10. Carry out other legally responsible actions.

Law 8/1981 states that investigators are officers of the Indonesian National Police, while investigators consist of officers of the State Police of the Republic of Indonesia and Civil Servants who are given special powers by law. Along with the development of community needs and demands for the development of the Indonesian nation's national law, those who hold the investigative and investigative powers are not only police officers and civil servants as mentioned in Law 8/1981, but various new laws and regulations have appointed and given authority. to other officials in different agencies/ institutions to carry out the same function (investigation and investigation function) in the enforcement of Indonesian criminal law.

The variety of investigative officers and investigators in the current legislation can be explained in the table below:



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Table 1 (Details of Investigating Officers and Criminal Investigators)

No	Investigating	Basic Authority	Scope of	
	Officer/Investigator		duties/authorities	
	(Institution)			
1.	Police Officers and Civil	Law 8/1981 on the	General Crimes and	
	Servants	Criminal Procedure	Special Crimes	
		Code		
		Law No. 2/2002 on the		
		Indonesian National		
		Police, Law 22/2009		
		on LLAJ		
2.	PPNS official at the TPK	Law 30/2002 Jo. Law	Special Crimes	
	Eradication Commission	19/2019 concerning	(Corruption)	
		the TPK Eradication		
		Commission		
3.	PPNS Officer at the	Law 16/2004 on	Special Crimes	
	Attorney General's	Prosecution	(Human Rights and	
	Office/Prosecutor		Corruption)	
4.	PPNS official at the	Law 41/1999 Jo. Law	Special Crime	
	Ministry of Environment	19/2004 on Forestry		
	and Forestry			
5.	PPNS official at the	Law 35/2009 on	Special Crimes	
	National Narcotics	Narcotics	(Narcotics)	
	Agency (BNN)			
6.	PPNS official at the	Law 6/ 2011 on	Special Crimes	
	Ministry of Law and	Immigration	(Immigration)	
	Human Rights			
7	PPNS official at the	Law 34/2004	Marine Crimes.	
	Indonesian Navy	concerning TNI Jo. PP		
		27/1983 concerning		
		the Implementation of		
		the Criminal		
		Procedure Code		



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8	PPNS Officer at OJK	Law 21/2011 on OJK	Special Crimes	
	Institution		(Financial Services)	
9	PPNS official at the	Law 36/1999 on	Special Crimes (in	
	Ministry of	Telecommunications	telecommunications)	
	Communication and			
	Information			
10	Investigating Officer at	Law 39/2009 on	Specific crimes	
	Human Rights	Human Rights Jo. Law	(human rights	
	Institutions/Commissions	26/2000 on Human	violations)	
		Rights Court		

Based on the description of the table above, it can be found that there is a pluralism of investigative and investigative powers in the enforcement of Indonesian criminal law which is distributed into various officials who come from different law enforcement institutions/agencies. In the laws and regulations, it seems that they only appoint which officials are entrusted with the task of carrying out the authority to investigate and investigate criminal acts that have occurred without appointing/mentioning the special institution/body that handles this function. This condition often has a serious impact, where there is domination and struggle for the implementation of authority between officials in dealing with certain criminal acts, for example between police investigators and civil servant investigators or between police investigators and investigators from the corruption eradication commission. Amurllah Rinaldy .'s research results explain the differences in perception in carrying out investigative authority between police investigators and civil servant investigators at the Forestry Service of Lampung Province, there is overlapping authority in terms of detaining suspects so that it hinders the law enforcement process which is barren.(4) Likewise, in the SIM simulator case of Inspector General Djoko Susilo in 2012, there was a struggle over the authority of the investigation between the Corruption Eradication Commission officials and the Indonesian Police investigators, which led to the direct intervention of the President of the Republic of Indonesia, Sulilo Bambang Yudhoyono, who suggested that the investigation of the case be submitted to the Corruption Eradication Commission.(5)In addition to the examples of cases described above, of course there are other similar cases in the practice of law enforcement in Indonesia today. Such conditions cannot be avoided due to the unclear distribution of investigative powers in the laws and regulations regarding the system and management of investigations and integrative investigations.

The pluralism of the authority to investigate and investigate criminal acts at this time often creates legal uncertainty and overlaps in authority between investigating officers and investigators which often



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hinders fast and easy law enforcement and low cost. The diversity of arrangements and distribution of authority for investigation and investigation of criminal acts creates its own losses in the enforcement of Indonesian criminal law, where each official has the potential to criminalize each other (revenge) if certain officials are designated as suspects. If the investigating officer and investigator cannot work together in an integrated subsystem (investigation and investigation) (one unit). Mardjono Reksodiputro (8) has estimated that such conditions will at least cause 3 losses, including:

- Difficulty in assessing the level of success or failure of each official/institution in relation to joint tasks;
- 2. Difficulty in solving the agency's main problems on its own;
- 3. Each official/agency does not really see the overall effectiveness of the criminal law enforcement system, this is because the distribution of duties and responsibilities of each official/agency is often unclear.

The complexity of investigating officers and investigators in the structure of criminal law enforcement has an influence on the effectiveness of the law enforcement system (investigation and investigation) of each official/institution which is immeasurable, with respect to the function of investigation and investigation being a shared task, besides that it also has the potential to criminalize each other, and tackle each other. In overcoming this, in the author's opinion, a law is needed that specifically regulates separate investigative and investigative institutions/agencies, as is the case with the prosecution (prosecutor's office), judicial institutions (courts), advocate institutions, and the convict's correctional institution or agency as a single unit, integral system in the enforcement of Indonesian criminal law.

DISCUSSION

Model for Structuring the Integrative Investigation and Investigation Agency to Realize the Independence of Criminal Law Enforcement

Constitutionally, the basis for the enforcement of Indonesian criminal law is regulated in Article 24 of the 1945 Constitution of the Republic of Indonesia with the term judicial power, namely independent power to administer justice to uphold law and justice. The Supreme Court of the Republic of Indonesia is the *top leader* as the highest person in charge in carrying out the functions of judicial power, especially in the enforcement of criminal law. In addition to the Supreme Court and its lower judicial bodies within the general judiciary (especially criminal law enforcement), there are also other bodies that also participate jointly in carrying out judicial power/criminal law enforcement, this is explained in Article 24 paragraph (3) The 1945 Constitution of the Republic of Indonesia which states "Other bodies whose functions are related to judicial power are regulated in law", then these other bodies are regulated in a



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number of laws and regulations including Law 2/2002 concerning the Indonesian Police, Law 16/2004 on the Prosecutor's Office, Law 30/2002 on the Corruption Eradication Commission, Law 5/1995 on Corrections, and so on.

Juridically and operationally, the procedure for enforcing criminal law is regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code, which regulates the process of enforcing criminal law in a unified system known as the criminal justice system involving components/stages; investigation and investigation, prosecution, trial, and implementation of criminal decisions (execution). Atmasasmita Romli(11) defines such a system as a term that indicates a working mechanism in crime prevention using a system approach, namely a normative approach, an administrative approach, and a social approach. (police, prosecutors, courts, correctional institutions and advocates) as implementing institutions for the applicable laws and regulations in the field of criminal law enforcement, including the laws and regulations themselves. The administrative approach views law enforcement officers as a management organization that has both vertical and horizontal work mechanisms in accordance with the prevailing organizational structure. Meanwhile, the social approach views law enforcement officers as an inseparable part of a social system, so that the community as a whole is responsible for the success or failure of criminal law enforcement.(11) In forming an *integrated system*, according to Muladi demands/desire for synchronization or synchronization and harmony as follows:

- 1. Structural synchronization, which requires harmony in the framework of relations between law enforcement agencies;
- 2. Substantial synchronization, namely vertical and horizontal alignment in relation to positive law;
- 3. Cultural synchronization, namely harmony in living the views, attitudes, and philosophies which as a whole underlies the course of the criminal law enforcement system.

In relation to implementing the functions of judicial power/criminal law enforcement in the field of investigation and investigation, it seems that there has not been a synchronization and harmony of working relations among law enforcement officers/institutions in the field of investigation and investigation, where this function is carried out by many officials in different institutions without there can be supervision or control from other institutions (eg the parent agency of investigations and investigations), but the supervision is by direct superiors at their respective institutions. It is different, for example, when compared to the Netherlands, where the judiciary, the prosecutor's office, the police as the executor of the functions of investigation, immigration, even the Interpol and criminal laboratories are in the organization and structure of the judicial power (the ministry of justice) so that structural and functional coordination is better, than Indonesia, where law enforcement officers are under different institutions. In terms of investigating criminal acts, although the Dutch police have the authority to carry out investigations, they must first coordinate and get directions from the prosecutor's



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office, so that the implementation of their duties and authorities can be measured and the level of success and failure can be evaluated.(11)

In the author's opinion, in the face of many officials implementing the investigation and investigation function in Indonesia today it is necessary to integrate it into one "Investigation and Investigation Agency" in order to create harmonization and harmony in enforcing criminal law at the same time this will answer the problem of overlapping and seizure of authority, discoordination, criminalization and other technical problems between investigators and investigators so far. According to the Putra Jaya Union Nyoman, the variety of investigative and investigative institutions that handle criminal acts in Indonesia, if examined from the point of view of the *Integrated Criminal Justice System*, then not in accordance with / not in accordance with expectations because the criminal justice system is a network *that* uses criminal law as a means of working material, formal and criminal criminal law.(6)

The policy that must be taken is to reformulate the structure of the investigation and investigation agency structure through a comprehensive process, namely the establishment of a special investigation and investigation agency that is independent and free from interference from executive power.

The establishment of the Investigation and Investigation Agency is very necessary in organizing a system of investigation and investigation of criminal acts that is better, independent, and independent. This body has a constitutional basis, because it is an order in Article 24 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states "Other bodies whose functions are related to judicial power are regulated in law". The other bodies that are intended to be the executor of the judicial power function are of course not individuals or certain officials, but rather appoint an organ/institution that includes investigation and investigation bodies, in addition to the prosecution agency (there is a prosecutor), the judiciary (there has been a court of law or a court of law). state and appeal) and the implementing agency for criminal/execution decisions (there are correctional institutions), including legal advisory bodies (advocates' organizations) as a unified system in the criminal law enforcement system.

In order to achieve the intended goal, namely the agency for investigation and investigation of criminal acts, the main thing to do is to reformulate aspects of legal substance, namely to make special laws regarding investigation and investigation bodies as well as amend and adjust the legislation in the field of criminal law which appoints and provides the authority to carry out investigation and investigation functions, for example Law 8/1981 on the Criminal Procedure Code, Law 2/2002 on the Indonesian Police, Law 16/2004 on the Prosecutor's Office, Law 30/2002 on the KPK, and other related laws, so that the authority to carry out the function of investigation and the investigation of all criminal acts is returned to the investigation and investigation agency that will be formed.

Meanwhile, in terms of the legal structure (the establishment of a body of inquiry and investigation) it is independent or placed as *Independent Regulatory Agencies (IRAs)* whose position is



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outside/separate to executive power. According to Thatcher, there are three most important aspects of an Independent State Institution. (*Independent Regulatory Agencies*), namely its independence from *elected officials*, relations with other administrative institutions (*regulates*), and the decision-making process.(7) Thus, the independence of the Investigation and Investigation Agency to be established can be determined several indicators which include the independence of regulation in the law to be formed, recruitment of human resources (investigating officers and investigators), the type of authority to be possessed and the implementation of authority, as well as the supervisory system to be built.

Regarding the Independent State Institutions (LIN) in Indonesia itself, there are indeed many, specifically in the field of investigation and the investigation itself actually has the Corruption Eradication Commission (KPK), the National Human Rights Commission (KOMNASHAM), the Supreme Audit Agency (BPK) and so on. However, the Independent State Institutions (LIN) referred to in Rizki Ramadani's research Independent State Institutions in Indonesia (including those mentioned by the author) tend to experience politicization, intervention, resistance, or resistance to their policies, both coming from the government, but also by other parties, related to their duties and authorities. According to him, the majority of the elections for independent state institutions involving the legislature have resulted in politicization, and politicization by the DPR occurs in almost every independent state institution. (7)

Therefore, in the case of the establishment of this Agency for Investigation and Investigation, improvements must be made to aspects; first, to minimize the authority of the DPR in the election of officials and/or the Head of the Investigation and Investigation Agency, secondly, to provide independent and permanent authority, and thirdly, to emphasize the non-partisan provisions in every institutional regulation of the investigative and investigative bodies, thus the existence of an investigative and investigative agency. criminal investigations can be trusted as criminal law enforcement agencies/institutions that are independent, free from interference from executive and legislative powers.

CONCLUSION

Based on the results of the description above, the author draws a conclusion; First, an integrative investigation and investigation body is indispensable in order to overcome pluralism and the struggle for authority between investigators and investigators in dealing with each criminal act, through the establishment of an independent and permanent Integrative Investigation and Investigation Agency. Second, the structural model of the investigation and investigation body must be independent as an Independent State Institution (LIN) which is free from interference from the executive and legislative powers. The independence of this integrative investigation and investigation body includes the independence of regulations in the law to be formed, the recruitment of human resources (investigators



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and investigators), the type of authority to be possessed and the implementation of the authority, as well as the supervisory system to be built. While the recruitment of human resources (investigating officers and investigators) can be taken from the existing investigative officers and investigators from each current institution/institution, but its nature is not a temporary assignment that can be withdrawn from time to time by the original agency, but its position as officials remain in the investigation and investigation agency so that in carrying out their duties, functions and authorities they are increasingly independent.

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