


## The Role Of The Indonesian National Police (POLRI) In Conducting Investigations According To The Criminal Justice System In Relation To Law No. 2 Of 2002 On The Indonesian National Police And Law No. 8 Of 1981 On The Criminal Procedure Code (KUHAP)

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Article Info	ABSTRACT
<p><b>Keywords:</b> Investigation, POLRI, Suspect's Rights, KUHAP, Criminal Justice System</p>	<p>Investigation is a crucial stage in the criminal justice system aimed at uncovering and collecting evidence to determine whether or not a criminal act has occurred. In this context, the Indonesian National Police (POLRI) plays a key role as investigators, as stipulated in Law No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP). This study aims to analyze the role of POLRI in conducting investigations and its relationship with the protection of suspects' rights in accordance with the principles of criminal procedural law. The findings indicate that POLRI has broad authority in investigations, including arresting, detaining, searching, and confiscating evidence. However, these investigative activities must be carried out professionally, transparently, and accountably to avoid abuse of power. Additionally, the relationship between investigative practices and the protection of suspects' rights is a critical issue in ensuring justice. The rights of suspects, such as the presumption of innocence, the right to legal assistance, and humane treatment, must be safeguarded throughout the investigative process. This study recommends enhancing the competence of investigators through continuous training, leveraging technology for transparency, strengthening internal oversight systems, and educating the public about suspects' rights. Consequently, POLRI is expected to effectively and with integrity fulfill its role as investigators while ensuring the protection of human rights within the criminal justice system.</p>
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### INTRODUCTION

Indonesia, as a nation established on a structured and organized foundation, always considers every component within the unitary state of the Republic of Indonesia to be of paramount importance. This is because its system is inherently formulated through a bottom-up approach. This approach is distinctly different compared to other nations worldwide. The bottom-up formation ensures a structure resembling a solid building, as its foundation is prioritized in its construction. When applied to the context of a nation, this foundation

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translates into ethical and moral perspectives. Ethics operate at a broader scope, encompassing the state, while morals pertain to the nation.

Ethics and morals are interconnected and structured in such a way that, in Indonesia, ethics consist of laws and norms, while morals are composed of beliefs and values. When morals are translated into laws and norms, they manifest as regulations that must be adhered to by all without exception. The translation of laws and norms within ethics emerges from a structured understanding within knowledge management (Saputra, 2021). Knowledge management refers to human activities related to doing things correctly rather than merely being right. This implies that the order within state governance becomes more systematically organized. During a national seminar hosted by Universitas Islam Syekh Yusuf, a speaker emphasized that ethics and morals are closely related to the fundamental principles of the system (Saputra, 2021).

The fundamental principles of a system are akin to the indicators found in ethics and morals. These ethical-moral indicators apply not only to civilians but also to non-civilians, including members of the Indonesian National Armed Forces (TNI). The TNI, particularly the navy, is obligated to uphold the integrity and enforcement of Indonesia's laws. As stated in Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia: *"Indonesia is a state governed by law."* This signifies that the behavior of all citizens must comply with applicable laws, positive laws, or other regulations, ensuring they do not conflict with laws, norms, principles, or other established rules.

This applies universally, including to violations committed by law enforcement officers, such as members of the TNI. Article 27 Paragraph (1) of the 1945 Constitution asserts: *"All citizens are equal before the law and government and must uphold the law and government without exception."* To ensure effective law enforcement, it is necessary to employ adequate methods. In this context, Mochtar Kusumaatmadja emphasized that *"law functions as a tool for reform or development, based on the assumption that law, in the sense of rules or legal norms, can serve as an instrument or means of development by directing human activities toward the desired objectives of development."* (Kansil, C. S, 1979). Based on Mochtar's perspective, the law can act as a coercive tool for societal improvement. Therefore, any violators of existing regulations can be compelled to make changes for the better. In the field of law, such violations fall under the study of criminal law, which governs offenses and crimes against public interests, acts that are punishable under the law.

According to Prof. Dr. Wirjono Prodjodikoro in his book *Asas-Asas Hukum Pidana di Indonesia* (Principles of Criminal Law in Indonesia), the term "criminal act" (or *strafbaarfeit* in Dutch) is an official term used in the *Strafwetboek*, or the Criminal Code, which is currently in effect in Indonesia. Another foreign term commonly used is *delict*. A criminal act refers to an act whose perpetrator can be subjected to criminal law. The perpetrator is thus considered the "subject" of the criminal act (Prodjodikoro, W, 2008).

The role of the Indonesian National Police (POLRI) in the criminal justice system is highly significant, particularly during the investigation phase. Investigation is the initial step in the

law enforcement process that determines the progression of a criminal case. Therefore, the role of investigators, who are members of POLRI, is critical in deciding whether a criminal case can proceed to court. In this context, POLRI is tasked not only with collecting evidence and identifying suspects but also with ensuring that all legal procedures are conducted in accordance with the applicable laws and regulations. Under Law No. 2 of 2002 on the Indonesian National Police (POLRI Law), one of the main duties of POLRI is to conduct investigations into criminal acts occurring within society. This duty is carried out to uncover the material truth in every criminal case handled (Sutrisno, D, 2019).

One of the legal instruments underpinning POLRI's investigative activities is Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP). The KUHAP provides detailed regulations on investigation procedures, the rights and obligations of investigators, and mechanisms for collecting valid evidence to resolve criminal cases. In this context, POLRI, as the investigating authority, has extensive powers to take necessary actions during investigations, including detentions, searches, and seizures. However, these powers are also constrained by principles of human rights and the rules of fair trial outlined in the KUHAP. This aims to ensure that the rights of suspects or defendants are protected while maintaining the effectiveness and efficiency of the investigation process (Sudikno, S, 2018).

However, in practice, the role of POLRI in conducting investigations often faces various challenges, including human resource limitations, infrastructure, and other external factors such as political and social pressures. According to Herdianto (2020), the main challenges faced by POLRI are budget constraints and insufficient training for investigators, which affect the quality and speed of investigations. Additionally, some argue that there is a discrepancy between POLRI's policies in carrying out investigations and the principles of criminal procedure law as stipulated in the KUHAP, particularly concerning the enforcement of suspects' and defendants' rights during the investigative process. Therefore, it is crucial to assess the extent to which POLRI's role in investigations aligns with the provisions of Law No. 2 of 2002 and the KUHAP, as well as how these practices can be improved to enhance the quality of the criminal justice system in Indonesia. Within the framework of a fair criminal justice system, the success of POLRI as investigators is not only measured by their ability to resolve criminal cases but also by how well they perform their duties in accordance with the applicable legal principles. Hence, this study aims to analyze in greater depth the role of POLRI in conducting investigations, linking Law No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP).

This study is expected to provide a clearer picture of POLRI's investigative practices and offer recommendations for necessary improvements to enhance the effectiveness and fairness of Indonesia's criminal justice system. In Indonesia's criminal justice system, POLRI serves as the investigative authority responsible for gathering evidence and information, as well as apprehending and detaining suspects (Article 5 Paragraph (1) of Law No. 8 of 1981 on the Criminal Procedure Code). However, several issues persist in the investigation process, such as abuse of authority, human rights violations, and lack of transparency (Indonesian

Prosecutorial Commission, 2020). Therefore, it is essential to analyze the role of POLRI in conducting investigations within Indonesia's criminal justice system, referring to Law No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code. This analysis aims to identify the strengths and weaknesses of POLRI's investigative processes and provide recommendations to improve the quality of investigations.

### **Problem Statement**

1. What is the role of POLRI in conducting investigations in accordance with its authority as stipulated in Law No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code (KUHP)?
2. How does the implementation of investigations by POLRI relate to the protection of suspects' rights in accordance with the principles of criminal procedural law under KUHP?

### **Theoretical Review**

#### **Theory of Criminal Acts**

In the administration of criminal law (criminal justice system), it holds a central position because decisions regarding sentencing have consequences and far-reaching impacts, directly affecting both the perpetrator and society at large (Muladi, B. N. A, 2005). The term "criminal act" is often equated with "punishment." However, this is a conventional and general interpretation (Suparni, N,2007).Therefore, a more specific definition is needed to convey the essence or central meaning of a criminal act. Roslan Saleh, a legal scholar, defines a criminal act as a reaction to a criminal offense (strafbaar feit/delict), intentionally imposed by the state on the perpetrator of the offense as a form of suffering (Saleh, R, 1978). Alf Ross further interprets criminal punishment as a form of social response, represented by penalties or suffering, in response to norm violations (Saleh, R, 1978)..

Simons adds that criminal punishment is a form of suffering imposed by criminal law through judicial decisions because the perpetrator has violated applicable norms (Lamintang, P. A., & Lamintang, T, 1984). This is reinforced by Mahrus Ali's perspective, which defines criminal punishment as suffering or hardship imposed on an individual for violating criminal law, with the expectation that such penalties will deter them from repeating the offense (Ali, M, 2022). According to Moeljatno, a criminal act is an act prohibited by a legal provision, accompanied by the threat of a specific penalty for anyone who violates it (Ali, M, 2022). This view is supported by Bambang Poernomo, who asserts that a comprehensive definition of a criminal act would be an act prohibited and punishable by criminal law for anyone violating the prohibition

Wirjono Prodjodikoro explains that a criminal act is a violation of norms in three areas: civil law, constitutional law, and administrative law, which lawmakers respond to with criminal penalties (Kresida Annur, 2022). Vos views a criminal act as human behavior threatened with penalties under regulations or laws, meaning that the behavior is generally prohibited with the threat of punishment (Andrisman, T, 2009).

The term "criminal act" is more commonly known in Dutch as strafbaar feit. According to Pompe, strafbaar feit is defined as a norm violation (a disturbance to legal order) committed either intentionally or unintentionally by a perpetrator, for which punishment is deemed necessary to maintain legal order and ensure public interest, or as de normovertreding (verstoring der rechtsorde), waaraan de overtreder schuld heeft en waarvan de bestraffing dienstig is voor de handhaving der rechtsorde en de benhartiging van het algemeen welzijn (Jupri Pasaribu, 2020).

Therefore, legal scholars strive to provide meaning and substance to the term. Unfortunately, there is still no consensus on the scientific formulation of strafbaar feit. Indonesian lawmakers have translated the term strafbaar feit as "criminal act" in the Criminal Code (Kitab Undang-Undang Hukum Pidana) without providing an explanation of its intended meaning.

Van Hammel defines strafbaar feit as menselijke gedraging, or human behavior, as outlined in the law, which is against the law, punishable (strafwaarding), and committed with fault (Moeljatno, 2019). Van Hattum argues that an action cannot be separated from the individual who committed it. He interprets the term strafbaar to mean voor straf in aanmerking komend or straf verdienend, which can also mean "deserving of punishment." Thus, the term strafbaar feit, as used in the Criminal Code, should elliptically be understood as an "act that makes someone liable to punishment" or a feit terzake van hetwelk een persoon strafbaar is (Moeljatno, 2019).

### **Theory of Criminal Liability**

Criminal liability refers to imposing punishment on the perpetrator for actions that violate prohibitions or result in forbidden circumstances. Criminal liability, therefore, involves the process of transferring the punishment inherent in a criminal act to the perpetrator. To hold someone accountable under criminal law means transferring the punishment objectively attached to the criminal act to the perpetrator subjectively.

Criminal liability is determined based on the perpetrator's fault and not merely on the fulfillment of all elements of the criminal act. Thus, fault is positioned as the determining factor for criminal liability and is not merely regarded as a mental element in the criminal act (Chairul Huda, 2019).. Declaring someone to have fault pertains to the issue of criminal liability (Admaja Priyatno, 2020).

To impose punishment on a perpetrator for committing a criminal act, the rules of criminal liability serve to determine the conditions that must be present in a person for them to be lawfully punished. Criminal liability, concerning the perpetrator of the criminal act, regulates how to treat those who violate obligations. Therefore, actions prohibited by society are attributed to the perpetrator, meaning that the objective punishment for the act is then passed on to the defendant.

Criminal liability cannot be established without fault on the part of the violator. Thus, a person cannot be held accountable or punished if they have not committed a criminal act.

However, even if they have committed a criminal act, they are not always subject to punishment.

Van Hamel defines criminal liability as a normal psychological state and maturity that involves three types of abilities:

1. Understanding the meaning and consequences of one's own actions.
2. Being aware that their actions are unjustified or prohibited by society.
3. Determining control over the action (Admaja Priyatno, 2020).

Furthermore, the basis of a criminal act is the principle of legality, while the basis for punishing the perpetrator is the principle of fault. This means that the perpetrator of a criminal act can only be punished if they are at fault in committing the act. Determining when a person is at fault pertains to the issue of criminal liability (Adji, 2019).

According to Simons, the basis of criminal liability is the fault found in the perpetrator's psyche in relation to their conduct that is punishable. Based on this mental state, the perpetrator can be blamed for their actions. To establish the perpetrator's fault, several factors must be considered and determined, including :

1. The ability to be held accountable.
2. The psychological relationship between the perpetrator and the consequences of their actions (including behavior that does not conflict with the law in daily life)
3. *Dolus* (intent) and *culpa* (negligence), where fault constitutes a subjective element of the criminal act. This is a consequence of the view that links (*unites*) *strafbaar feit* with fault.

### Theory of Justice

Justice originates from the word "just," which, according to the Indonesian dictionary, means not arbitrary, impartial, and unbiased. Being just primarily implies that decisions and actions are based on objective norms. Justice is essentially a relative concept; it varies among individuals. What is considered just by one person may not be deemed just by another. When someone asserts that they act justly, it must align with public order, where a recognized scale of justice exists. The scale of justice varies greatly from one place to another, and each scale is defined and determined by the society in accordance with its public order (Santoso, 2018).

In Indonesia, justice is depicted in Pancasila, the foundation of the state, as social justice for all Indonesian people. The fifth principle embodies values that represent the objectives of living together. This justice is based on and inspired by the essence of human justice, which encompasses justice in a person's relationship with themselves, with others, with society, the nation, and the state, as well as their relationship with God (Santoso, 2018).

The concept of justice has existed since ancient times, from Socrates to Francois Grey, who stated that upholding justice is the crown of the law. Aristotle's theory of justice, as outlined in his books *Nicomachean Ethics*, *Politics*, and *Rhetoric*, defines justice as both numerical and proportional equality. This is commonly understood as equality before the law—proportional equality giving each person their due based on their abilities, achievements, and so forth. Furthermore, Aristotle distinguishes between distributive justice

and corrective justice. Distributive justice focuses on the distribution of honors, wealth, and other assets that can be collectively obtained in society. Disregarding mathematical "proof," distributive justice emphasizes the allocation of wealth and valuable goods based on the prevailing values among citizens according to their merit (Friedrich, 2019).

On the other hand, corrective justice focuses on rectifying what is wrong. If a violation or wrongdoing occurs, corrective justice seeks to provide adequate compensation to the aggrieved party. If a crime is committed, appropriate punishment must be imposed on the offender. Thus, corrective justice pertains to the judiciary, while distributive justice falls within the realm of government (Friedrich, 2019). Meanwhile, in his book *A Theory of Justice*, Rawls explains the theory of social justice as the difference principle and the principle of fair equality of opportunity. The core of the difference principle is that social and economic disparities must be arranged to benefit the least advantaged members of society (Friedrich, 2019).

## METHOD

This research employs a library research method, where data sources are obtained from various written materials such as books, laws, journals, encyclopedias, the internet, and other written works related to the object of study. It is a normative or doctrinal legal research focusing on the analysis of laws, legal doctrines, and legal principles related to the role of the Indonesian National Police (POLRI) in investigations within the criminal justice system, as outlined in Law No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP).

The research utilizes several approaches to achieve a comprehensive analysis. First, the statute approach examines relevant laws, such as Law No. 2 of 2002 and Law No. 8 of 1981, to understand the legal framework governing POLRI's investigations. Second, the conceptual approach analyzes legal concepts related to investigative authority, suspects' rights, and inter-institutional relationships within the criminal justice system. Third, the case approach involves analyzing relevant court decisions to observe the application of laws in the practice of POLRI's investigations.

The data used in this research is secondary data, consisting of three types of legal materials. First, primary legal materials, including Law No. 2 of 2002, Law No. 8 of 1981, and other relevant regulations. Second, secondary legal materials, such as books, journals, scientific articles, and academic works discussing POLRI's role, investigations, and the criminal justice system. Third, tertiary legal materials, including legal dictionaries and legal encyclopedias, which support the understanding of legal terms and concepts used in this research.

The data collection method involves library research, which gathers data from legal documents, academic literature, and other secondary sources. Additionally, an analysis of relevant court decisions is conducted to understand the application of laws in practice, particularly concerning POLRI's role in investigations.

The data obtained is analyzed using a qualitative method through several stages. First, the data is described by outlining the laws, legal doctrines, and relevant cases. Second, legal materials are organized systematically based on categories or themes relevant to the research focus. Third, a comparative analysis is conducted by comparing the rules and practices of POLRI's investigations with the principles of criminal procedural law and the investigative practices of other law enforcement institutions. Finally, conclusions are drawn deductively based on the analyzed data to address the research questions and provide recommendations for improving the quality of investigations within Indonesia's criminal justice system.

## RESULTS AND DISCUSSION

### The Role of POLRI in Conducting Investigations in Accordance with Its Authority as Stipulated in Law No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP)

Based on Article 5 paragraph (1) of Law No. 2/2002 on POLRI, the Indonesian National Police is defined as: "A state apparatus that plays a role in maintaining public security and order, enforcing the law, and providing protection, guidance, and services to the community to maintain internal security."

The term "police" originates from the ancient Greek term *politeia*, which means the government of a *polis* or city (Brotodirejo, 1989). According to the *Kamus Besar Bahasa Indonesia* (Indonesian Dictionary), the word "police" refers to a government body tasked with maintaining public security and order, such as apprehending those who violate laws or state officials tasked with maintaining security (Poerwadarminta, 1985).

Juridically, as stipulated in Law No. 2/2002 on POLRI, the primary duties of the Indonesian National Police are explicitly formulated as law enforcement, protection, guidance, and mentoring of the community, particularly in ensuring compliance with and adherence to applicable laws. The law specifies three fundamental tasks of POLRI as outlined in the *Tribrata* and *Catur Prasetya* principles, namely: (1) maintaining public security and order; (2) enforcing the law; and (3) providing protection, guidance, and services to the community (Article 13, Law No. 2 of 2002).

To maintain security, the primary function of the police is to prevent undesirable incidents and encourage individuals to improve their behavior. The law enforcement function of the police must operate in tandem with the functions of protection, guidance, and service to the community. For example, when the police receive a report of a motorcycle theft case (*curanmor*), several actions must be taken: first, following up on the *curanmor* report by conducting investigations and inquiries, and so on; second, tightening street patrol units to ensure the community feels protected; and third, taking firm legal action against perpetrators of *curanmor* to create a deterrent effect (Poerwadarminta, W. J. S, 1965).

The term law enforcement officer (*law enforcement officer*) in a narrow sense refers only to the police, while in a broader sense it includes prosecutors, judges, and lawyers (advocates). In this broader sense, it can be translated from the term *rechthandhaving*,

meaning law enforcement. Conceptually, the essence and meaning of law enforcement lie in the activity of harmonizing values embodied in established norms and manifesting these values through actions as the ultimate expression of these norms. This aims to create, maintain, and uphold the peace of social interactions. Law enforcement cannot be separated from human rights (Najwan, 2010).

The role of POLRI as a law enforcement institution in Indonesia's criminal justice system is very strategic, particularly in investigating alleged criminal acts. Law No. 2 of 2002 on the Indonesian National Police provides the legal basis for POLRI to perform its duties, including the investigative function, which is a crucial part of the law enforcement process. Article 13 of Law No. 2 of 2002 states that the primary duties of POLRI are:

1. Maintaining public security and order,
2. Enforcing the law, and
3. Providing protection, guidance, and services to the community.

The authority to conduct investigations is further regulated in Article 14 paragraph (1) letter g of Law No. 2 of 2002, which states that POLRI is authorized to investigate any criminal act in accordance with the provisions of the applicable laws. In this regard, Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP) provides a procedural framework for POLRI to carry out its investigative functions. Articles 1 point 1 and Article 6 of KUHAP establish POLRI as one of the institutions granted investigative authority, alongside investigative officials from other agencies in specific cases.

In carrying out investigations, the primary tasks of POLRI include:

1. Searching for and collecting evidence needed to clarify a criminal case.
2. Identifying suspects in a criminal act.

The stages of investigation conducted by POLRI include receiving reports or complaints, conducting preliminary investigations, summoning witnesses and suspects, detaining suspects (if necessary), and preparing the investigation report (*Berita Acara Pemeriksaan* or BAP). All these procedures must be conducted in accordance with the provisions outlined in KUHAP to ensure the legality of investigative actions. However, in practice, POLRI often faces both technical and non-technical challenges. These challenges include limited human resources, inadequate infrastructure, and difficulties in coordinating with other institutions such as the prosecutor's office. Such issues can affect the effectiveness of investigative processes and lead to negative perceptions of POLRI's performance.

### **Legal Basis for the Role of POLRI in Investigations**

The role of POLRI in conducting investigations has a strong legal basis within the Indonesian legal system. Law No. 2 of 2002 on the Indonesian National Police explicitly outlines the duties and authorities of POLRI, which include maintaining public security and order, enforcing the law, and providing protection, guidance, and services to the community (Article 13). In the context of law enforcement, Article 14 paragraph (1) letter g states that POLRI is authorized to conduct investigations into alleged criminal acts in accordance with legal provisions.

Meanwhile, Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP) provides a procedural framework for POLRI's investigative activities. Article 1 point 2 of KUHAP defines an investigation as a series of actions carried out by an investigator to seek and collect evidence that will clarify a criminal act in order to identify the suspect. Article 6 of KUHAP also states that investigators are officials of the Indonesian National Police, granting exclusive authority to POLRI as an integral part of the criminal justice system.

### **Duties and Functions of POLRI**

In the Investigation Process, As investigators, POLRI's duties in the investigation process include:

1. Receiving Reports or Complaints

The initial stage of an investigation involves receiving reports or complaints from the public regarding alleged criminal acts. This is regulated in Articles 102 and 103 of KUHAP, which require investigators to record such reports or complaints as the basis for initiating an investigation.

2. Preliminary Investigation and Evidence Gathering

Once a report is received, a preliminary investigation is conducted to determine whether the incident constitutes a criminal act (Article 1 point 5 of KUHAP). If sufficient evidence is found, the investigation progresses to the next stage, where investigators are authorized to carry out actions such as searches, seizures of evidence, and examinations of witnesses and suspects, as stipulated in Article 7 paragraph (1) of KUHAP.

3. Summoning and Detaining Suspects

POLRI is authorized to summon and, if necessary, detain suspects to ensure the smooth progress of the investigation (Articles 17 and 20 of KUHAP). However, these actions must be conducted in accordance with the principles of legality and proportionality to ensure that suspects' rights are not violated.

4. Preparation of Investigation Reports (BAP)

At every stage of the investigation, investigators are required to prepare investigation reports (Berita Acara Pemeriksaan or BAP) that document all statements from witnesses, suspects, and the evidence collected. These reports are then submitted to public prosecutors as the basis for prosecution (Articles 117 and 118 of KUHAP).

### **Challenges in POLRI's Investigative Practices**

Despite POLRI's clearly defined authority in investigations, its implementation often faces various challenges, including:

1. Resource Limitations

POLRI's human resources, equipment, and facilities remain inadequate in some regions, hindering the optimal execution of investigations (Simanjuntak, 2019).

2. Inter-Agency Coordination

Investigations by POLRI often require coordination with the prosecution and judiciary. In practice, a lack of communication and synergy among these institutions can delay case resolution (Barda Nawawi Arief, 2010).

### 3. Internal and External Oversight

The conduct of investigations by POLRI must be monitored to prevent abuses of power, such as the use of violence against suspects or manipulation of evidence. However, the internal oversight mechanism (POLRI's Propam Division) and external oversight bodies (Kompolnas and Komnas HAM) are still considered suboptimal in certain cases (Komnas HAM, 2022).

### Relevance of POLRI's Role to the Criminal Justice System

In Indonesia's criminal justice system, investigations are a crucial initial stage that determines the success of the entire legal process. POLRI's investigative function plays a vital role in ensuring that every case brought to court is supported by strong evidence. This reflects the working principles of the integrated criminal justice system, in which all law enforcement institutions, including POLRI, the prosecution, and the judiciary, must operate in coordination (Muladi and Barda Nawawi Arief, 1992).

### Solutions to Optimize POLRI's Role in Investigations

To improve the effectiveness of investigations, several strategic steps can be taken:

#### 1. Enhancing Investigator Capacity

Intensive training for investigators, especially in the use of information technology and modern investigative techniques, is essential.

#### 2. Strengthening Inter-Agency Coordination

Establishing more structured mechanisms of cooperation between POLRI, the prosecution, and the judiciary is necessary to ensure the smooth progress of investigations.

#### 3. Transparency and Accountability

Utilizing digital technology to monitor investigative processes in real time can help prevent abuses of power.

With clear legal foundations and efforts to improve implementation, POLRI holds a strategic role in investigations as part of Indonesia's law enforcement. Investigations conducted professionally, transparently, and accountably will strengthen public trust in the police and the criminal justice system as a whole.

### POLRI's Role in Investigations

POLRI's role in conducting investigations is crucial for maintaining public security and order. POLRI's roles in investigations, in accordance with its authority, include:

#### 1. POLRI's Authority in Investigations

POLRI has the authority to investigate criminal acts based on Article 14 of Law No. 2 of 2002 on the Indonesian National Police. This authority includes:

- a. Collecting evidence and information (Article 5 paragraph (1) of Law No. 8 of 1981 on KUHAP).
- b. Arresting and detaining suspects (Article 5 paragraph (2) of Law No. 8 of 1981).
- c. Conducting searches and seizures (Articles 38-40 of Law No. 8 of 1981).
- d. Interrogating suspects and witnesses (Articles 66-71 of Law No. 8 of 1981).

2. POLRI's Investigative Process. POLRI's investigative process includes:
  - a. Receiving reports (Article 4 of Law No. 8 of 1981).
  - b. Investigating and collecting evidence (Article 5 paragraph (1) of Law No. 8 of 1981).
  - c. Arresting and detaining suspects (Article 5 paragraph (2) of Law No. 8 of 1981).
  - d. Preparing Investigation Reports (BAP) (Article 75 of Law No. 8 of 1981).
  - e. Submitting case files to the prosecution (Article 110 of Law No. 8 of 1981).
3. Principles of POLRI's Investigations. POLRI must adhere to the following principles:
  - a. Legal certainty (Article 1 paragraph (3) of Law No. 2 of 2002).
  - b. Justice and equality (Article 2 paragraph (1) of Law No. 2 of 2002).
  - c. Protection of human rights (Article 3 paragraph (1) of Law No. 2 of 2002).
  - d. Transparency and accountability (Article 4 paragraph (1) of Law No. 2 of 2002).

### **The Relationship Between POLRI's Investigative Practices and the Protection of Suspects' Rights in Accordance with the Principles of Criminal Procedural Law in KUHAP**

Investigations conducted by POLRI aim not only to uncover legal facts and reveal material truth but also to ensure the protection of suspects' rights in accordance with the principles of criminal procedural law. KUHAP, as the primary legal basis in Indonesia's criminal justice process, emphasizes the protection of suspects' rights as a critical element in upholding justice and legal certainty.

Several principles of suspect rights protection stipulated in KUHAP include:

#### 1. Presumption of Innocence

Article 8 of KUHAP states that every person arrested, detained, or tried is presumed innocent until proven guilty by a court decision that has legal force. During investigations, POLRI is obligated to treat suspects respectfully and avoid actions that violate their rights.

#### 2. The Right to Legal Assistance

Articles 54 and 56 of KUHAP grant suspects the right to legal assistance from legal counsel. POLRI must ensure that suspects are aware of this right and provide adequate access for consultation with legal counsel during the investigation process.

#### 3. Prohibition of Torture and Inhumane Treatment

KUHAP, along with other legal instruments such as the Convention Against Torture, prohibits acts of violence, intimidation, or inhumane treatment of suspects during investigations. In practice, this remains a challenge due to reports of violations by certain investigators.

#### 4. The Right Not to Provide Involuntary Statements

Article 52 of KUHAP protects suspects from physical or psychological coercion to provide statements against their will. This principle aims to prevent criminalization or manipulation of facts during investigations.

However, the relationship between POLRI's investigative practices and the protection of suspects' rights does not always proceed harmoniously. In some cases, violations of suspects' rights have been reported, such as prolonged detention beyond legal limits, forced

confessions, or inadequate access to legal counsel. Such violations not only harm suspects individually but also undermine the principle of justice in the criminal justice system.

To address these issues, internal and external oversight of POLRI's investigators is necessary, along with capacity-building through training and effective complaint mechanisms for suspects who feel their rights have been violated. Collaboration with other institutions, such as the National Police Commission (Kompolnas) and the National Human Rights Commission (Komnas HAM), is also essential to ensure that POLRI's investigative practices align with the principles of criminal procedural law and respect for human rights. Thus, the relationship between POLRI's investigative practices and the protection of suspects' rights reflects the importance of balancing law enforcement with respect for human rights. Both aspects must proceed in tandem to achieve a fair, transparent, and accountable criminal justice system.

### **The Importance of Protecting Suspects' Rights**

In a criminal justice system based on the principle of justice, investigations aim not only to establish the truth of a criminal act but also to ensure that suspects' rights are protected throughout the legal process. Law No. 8 of 1981 on KUHAP explicitly regulates the principles of protecting suspects' rights, which serve as guidelines for POLRI in conducting investigations. These rights include humane treatment, protection from arbitrary actions, legal assistance, and the presumption of innocence. Such protection embodies the principle of due process of law, ensuring a balance between state authority and human rights.

### **Suspects' Rights During Investigations**

KUHAP specifies the rights of suspects during investigations, which POLRI, as the investigative authority, must respect and uphold:

1. The Right to Presumption of Innocence

Article 8 paragraph (1) of KUHAP states that every person suspected of committing a crime must be presumed innocent until proven otherwise by a court decision with legal force. As investigators, POLRI must respect this principle by not treating suspects in a discriminatory or prejudicial manner.

2. The Right to Information and Notification

According to Article 51 of KUHAP, suspects have the right to know the legal basis for their arrest, their status as suspects, and the charges against them. POLRI is obligated to provide this information at every stage of the investigation.

3. The Right to Legal Assistance

Article 56 of KUHAP requires investigators to appoint legal counsel for suspects facing imprisonment of five years or more if they cannot appoint one themselves. This right ensures that suspects can adequately defend themselves during investigations.

4. The Right to Protection from Torture or Violence

Article 117 of KUHAP states that suspects' statements must be given voluntarily without pressure, coercion, or violence. This aligns with the principle of freedom from

torture as stipulated in the Convention Against Torture, ratified by Indonesia through Law No. 5 of 1998.

#### 5. The Right to Fair Examination

Suspects have the right to a professional and non-discriminatory examination conducted in compliance with legal procedures. POLRI must ensure that investigative actions, such as detention, searches, or seizures, are carried out based on official warrants and within the time limits set by KUHAP (Articles 20 and 33).

### Challenges in Implementing Suspects' Rights Protection by POLRI

Although suspects' rights are clearly regulated, their implementation in investigations often faces various obstacles:

#### 1. Abuse of Authority

Some cases show violations by certain investigators, such as the use of violence to obtain confessions or delays in providing access to legal counsel. This violates KUHAP principles and undermines public trust in POLRI (Komnas HAM, 2021).

#### 2. Limited Knowledge of Suspects

Many suspects, especially in remote areas, lack awareness of their rights, often hindering their ability to adequately defend themselves during investigations (Setiyono, 2020).

#### 3. Public and Media Pressure

In high-profile cases, POLRI often faces pressure to resolve investigations quickly, potentially compromising criminal procedural law principles and suspects' rights.

### POLRI's Efforts to Ensure Suspects' Rights Protection

As a law enforcement institution, POLRI has a moral and legal responsibility to ensure suspects' rights are protected during investigations. Efforts that can be undertaken include:

#### 1. Improving Investigator Competence

Through continuous training and education, POLRI can enhance investigators' capacity to understand criminal procedural law and human rights principles.

#### 2. Strengthening Oversight Mechanisms

POLRI's Propam Division and Kompolnas must actively oversee investigations to prevent violations of suspects' rights.

#### 3. Adopting Digital Technology

Using technology such as body cameras and video recordings during suspect examinations can enhance transparency and prevent investigator misconduct.

#### 4. Public Education

Educating the public about suspects' rights and how to report violations by investigators can foster better legal awareness.

### The Relationship Between Protecting Suspects' Rights and the Criminal Justice System

Protecting suspects' rights during investigations has broad implications for the criminal justice system. Violations of suspects' rights can render subsequent legal processes invalid (batal demi hukum) under Article 183 of KUHAP. This underscores the importance of POLRI

conducting investigations professionally, accountably, and in accordance with criminal procedural law principles. In the context of an integrated criminal justice system, investigations that respect suspects' rights create positive synergy with the prosecution and judiciary in achieving justice for all parties. Thus, the relationship between POLRI's investigative practices and the protection of suspects' rights reflects not only the enforcement of national law but also Indonesia's commitment to international standards in law enforcement and human rights.

## CONCLUSION

From the discussion presented in the previous material, the following conclusions can be drawn: POLRI's Significant Role in Investigations, POLRI plays a crucial role in the investigative process as stipulated in Law No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code (KUHAP). As investigators, POLRI is tasked with searching for and collecting evidence to determine a criminal act, including making arrests, detaining individuals, conducting searches, and seizing evidence. In performing its duties, POLRI is required to act professionally, transparently, and accountably to achieve fair law enforcement. However, challenges such as abuse of power, resource constraints, and public pressure remain obstacles to optimizing POLRI's role as investigators. The Relationship Between Investigative Practices and the Protection of Suspects' Rights. Investigations conducted by POLRI must always align with the principles of criminal procedural law as regulated in KUHAP, particularly in protecting suspects' rights. These rights include the presumption of innocence, the right to legal assistance, the right to humane treatment, and the right to a fair examination. This relationship demonstrates that respecting suspects' rights in investigations is not only a moral and legal obligation but also fosters a fair and integrity-driven criminal justice system. Violations of suspects' rights can undermine public trust in the criminal justice system and potentially invalidate the legal processes undertaken.

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