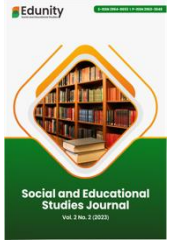
Edunity

Volume 2 Number 11, November 2023
p- ISSN 2963-3648- e-ISSN 2964-8653

Doi:

https://edunity.publikasikupublisher.com/index.php/Edunity/index



JURIDICAL REVIEW OF THE PROVISIONS OF TIME LIMITS FOR INVESTIGATION OF GENERAL CRIMINAL ACTS AGAINST THE PROTECTION OF THE RIGHTS OF SUSPECTS

Muhammad Zulfan Fathur Rohman[1], Candra Lesmana [2], Ruslan Baidhowi Kamal[3], Agus Dimyati[4]
Swadaya Gunung Jati University, Cirebon, Indonesia
Email: Muhammadzulfan879@gmail.com[1]*, rbaidhowik@gmail.com[2]
Chandralesmana2001@gmail.com[3] , dimyatiagus94@gmail.com[4]

ABSTRACT

Abstract: The phenomenon of criminal law enforcement today is increasingly losing its direction and is even considered to have reached its lowest point, the justice-seeking community complains about the process of investigating criminal acts (general) which is a convoluted process, protracted and even has no end to its resolution, this situation clearly does not provide legal certainty, justice and benefits in law enforcement, moreover there will be violations of the rights of suspects, one of the causes of this situation is the absence of a provision for the time limit of investigation (vacuum of norms). The research method used in this study is to use the type of Normative legal research with the approach used in this study is a statute approach and a conceptual approach, with the specification of the research is descriptive analytical, while the technique of collecting legal materials used in this study is to use document studies. i.e. documents obtained from the Jatanras Unit of the Source Police Station. Based on the results of the study, it shows that there are no provisions governing the time limit for investigation of suspects from the start of investigation to the transfer of cases to trial, so the status of suspects depends on the investigation process. The absence of a time limit in determining suspects causes legal uncertainty guaranteed in Articles 28D and 281 paragraph (2) of the 1945 Constitution, therefore in the Draft Criminal Procedure Code there is a time limit for investigation as stipulated in article 48 of the Criminal Procedure Bill. Paragraph (1) and Paragraph (3).
Keywords: Information System; Sales; Website; Waterfall

Introduction

The Code of Criminal Procedure (KUHAP) as stipulated in Law Number 8 of 1981 (State Gazette of the Republic of Indonesia of 1981 Number 76) is more than thirty-seven years old, as a general guideline in handling criminal cases in general has regulated the duties and obligations of law enforcement officers and the rights of

citizens involved in criminal law issues, In the Code of Criminal Procedure (KUHAP) regulated the stages of handling cases which are divided into the stages of Investigation, Prosecution, Court Examination, Legal Remedies and the Execution / Execution of Verdict stages, law enforcement officials have also been regulated who are in charge at each stage of handling cases (Indonesia & Indonesia, 1981)

The purpose of the Criminal Procedure Law is to seek and obtain or at least approach the material truth, namely the complete truth of a criminal case by applying the provisions of the criminal procedure law honestly and appropriately, with the aim of finding who the perpetrator can be charged with an offense and then requesting an examination and decision from the court to find whether it is proven that a criminal act has been committed and whether people The alleged one can be blamed (Palit, 2021).

The implementation of crime countermeasures based on the Code of Criminal Procedure (KUHAP) certainly must not ignore the protection and respect for human rights, especially for citizens involved in criminal law issues, broadly speaking the Code of Criminal Procedure (KUHAP) has regulated the protection of the human rights of suspects / defendants as stipulated in the provisions of Articles 50 to Article 74 of the Code of Criminal Procedure (Rahmi, 2019). which basically determines: the rights of suspects such as the right to be immediately examined (taken into account) by investigators, the right to know about the criminal acts alleged against him, the right to give information freely, the right to get legal assistance, the right to get interpreter assistance, the right to contact legal counsel, receive doctor visits, the right to receive family visits, the right to send and receive letters from legal and family counsel, the right to receive visits from clergy, the right to present favorable expert witnesses, the right to claim compensation, the right to be contacted by legal counsel and assistance, the right to receive derivative minutes of examination (Abdullah &; Lala, 2020).

The investigation of a case is calculated from the moment the investigator notifies the investigation action (SPDP) to the public prosecutor, many have not been / have not been followed up by sending the first stage of the case file within more than 6 (six) months or even 1 (one) year, the settlement of cases is not based on the order in which the report / complaint or incident is entered, there is a judicial mafia for the actions of the investigator, the public is dissatisfied with the performance of the investigator making efforts such as making reports / complaints to the supervisor of the investigator, to the National Police Commission (Kompolnas) regarding the performance of the investigator in handling cases. This situation can also trigger the community to want to solve cases by means outside the law (vigilantism) if they become victims or encounter a criminal act, because of their distrust of the performance of the investigating officers (Koeswanto, Riswandi, &; Redi, 2023).

The protracted handling of criminal cases (general), especially at the investigation stage, is caused because in the provisions of the criminal procedure law (KUHAP) there is a vacuum of law, namely the absence of a time limit for how long the investigation process of criminal cases (general) must be completed and therefore the Criminal Procedure Code must be immediately revised or updated and in the upcoming criminal procedure law (Ius Constituendum) is expressly regulated regarding time limits Investigation of general criminal cases and paying more attention to the issue of protection and fulfillment of the human rights of suspects, victim witnesses and witnesses in general (Caunang, 2017).

Considering various legal problems that occur in the process of handling criminal cases at the investigation stage, it is enough to attract the author's attention to raise the title, "Juridical Review of the Provisions for the Time Limit for Investigating General Crimes Against the Protection of Suspects' Rights"

Research Method

Method of Approach

The approach method in this study uses a normative approach because the data used as objects are secondary data to the problems found, namely the existence of legal vacancies in criminal procedural law legislation, then studied by conducting research on the juridical impact of current laws and regulations related to the actions of law enforcement officials, especially in the context of investigating criminal acts

Research Specifications

The specifications in this study are descriptive analytical in this study The author tries to describe the state of the object studied in detail, namely the legal vacuum in the legislation of criminal procedure law against the time limit for investigation for suspects.

Sources of Legal Materials

Secondary legal data by their binding strength, can be distinguished:

1. Primary Legal Materials are binding legal materials in the form of laws and regulations, including the 1945 NRI Constitution, Law No. 8 of 1981 under the Criminal Procedure Code, Law No. 39 of 1999 concerning Human Rights, Law. No. 2 of 2002 concerning the R.I. Police Law No. 14 of 1970, jo Law No. 4 of 2004 jo Law No. 48 of 2009 concerning Judicial Power, Law No. 18 of 2003 concerning Advocates; Law No. 16 of 2004 concerning the Attorney General of the Republic of Indonesia.; Law No. 16 of 2011 on Legal Aid; Law No, 12 of 2005 concerning Ratification II of CPR; Government Regulation No. 27 of 1983 jo PP No. 58 of 2010 concerning the Implementation of the Code of Criminal Procedure, and others.

2. Secondary legal materials are legal materials that provide explanations of primary legal materials such as books on legal science related to writing this thesis, scientific works, draft laws, and also the results of a study.
3. Tertiary legal materials, such as articles, magazines, newspapers, the Internet, dictionaries, and encyclopedias.

Legal Material Collection Techniques

The technique of collecting legal materials used in this study is to use Document Studies. i.e. documents obtained from the Jatanras Unit of the Source Police Station.

Analysis Techniques

Processing and Analysis of legal materials in this study is by Qualitative Analysis where the legal material obtained is processed into a series of words that are monographic or tangible cases are not arranged into a classification structure so that the sample is more non-probable. Primary legal materials and skunder are arranged systematically, these materials are then analyzed with techniques:

1. Descriptive, that is, descriptions are written as they are to a condition or position of a legal or non-legal proposition.
2. Interpretive, namely by explaining the use of interpretation in existing legal science both now and applied in the future.
3. Evaluative, assessing a view, statement of norm formulation in primary and secondary legal materials.
4. Argumentative, which is an assessment based on reasons that are legal reasoning.

So as to produce an accurate research according to the decision to support scientific papers / writings

Result And Discussion

Provisions for the time limit for investigating general crimes related to the protection of suspect rights in the Code of Criminal Procedure (KUHAP)

Border **Police Time to Follow Up on Crime Reports** Like Known, The police here act as Investigators. **Investigators** means an official of the national police of the Republic of Indonesia or certain civil servant officials who are specially authorized by law to do**investigation**. whether there is a rule in the Code of Criminal Procedure regarding the time limit for the Police to follow up on the report, then the answer is no. However, inRegulation of the Chief of the National Police of the Republic of Indonesia Number 14 of 2012 concerning Management of Criminal Investigations **("Perkapolri 14/2012")**It is stated that the time for the completion of the investigation is based on the weight of the case (Besouw, 2019).

The length or speed of investigation in the Police depends on tThe level of difficulty of investigating a case is determined based on the following criteria: (Agustina, 2016)

a. **Simple things**, the criteria:
   1. sufficient witnesses;
   2. sufficient evidence;
   3. the suspect is already known or arrested; and
   4. The handling process is relatively fast.

b. **Medium case**, the criteria:
   1. sufficient witnesses;
   2. there is evidence of clues pointing to the involvement of the suspect;
   3. the identity and whereabouts of suspects are well known and easy to arrest;
   4. the suspect is not part of the organized crime offenders;
   5. the suspect is not impaired by his health condition; and
   6. No expert information is needed, but if needed experts are easy to obtain.

c. **Difficult things**, the criteria:
   1. the witness did not know firsthand about the criminal act that occurred;
   2. the suspect has not been identified or is impaired in health or has a certain position;
   3. suspects are protected by certain groups or part of organized crime offenders;
   4. evidence directly related to the case is difficult to obtain;
   5. Expert testimony is needed that can support the disclosure of the case;
   6. special equipment is needed in handling the case;
   7. criminal acts committed occurred in several places; and
   8. Requires sufficient investigation time.

d. **Things are very difficult**, the criteria are:
   1. no witnesses directly related to the crime have been found;
   2. the witness is not yet known whereabouts;
   3. the witness or suspect is abroad;
   4. Crime scenes in multiple countries/across countries;
   5. the suspect is abroad and there is no extradition treaty;
   6. the evidence is abroad and cannot be confiscated;
   7. the suspect has not been identified or is impaired in health or has a certain position; and
   8. It requires a relatively long investigation time.

Handling case According to these criteria are determined as follows: (Mulyani, 2019)

a. the level of Police Headquarters and Polda handling difficult and very difficult cases;
b. the police level handles simple, medium and difficult cases; and
c. Police level handles easy and moderate cases.

So there is no rule in the Criminal Procedure Code regarding the time limit (expiration) of the Police to follow up on reports. However, in Perkapolri 14/2012 it is stated that the time for completing the investigation is based on the weight of the case as we described above. For information, in the realm of criminal law, daluwarsa is regulated to file complaints, prosecutions, carry out criminal and other legal remedies, but is not regulated by daluwarsa to follow up reports. According to **Article 74**Criminal Code, the period when daluwarsa filed a complaint with the police was (Helmi, 2016):

a. 6 (six) months after the complainant knows the act committed, if he is in Indonesia;
b. 9 (nine) months after the complainant knows that the act was committed, if he is abroad.

Meanwhile, the authority to prosecute criminal is removed because of daluwarsa in the case of (Antow, 2019):

1. regarding all violations and crimes committed by printing after 1 (one) year;
2. regarding crimes that are punishable by fines, imprisonment, or imprisonment for a maximum of 3 (three) years, after 6 (six) years;
3. regarding crimes punishable by imprisonment for more than 3 (three) years, after 12 years;
4. Regarding crimes punishable by death or life imprisonment, after 18 years.

Efforts If the Report Is Not Followed Up in the event that the Police do not follow up on the report, or if there is dissatisfaction with the results of the investigation, it can file a Community Complaint. **Community Complaints ("Dumas")**is a complaint from the public, Government Agencies or other parties orally or in writing containing information, complaints,**dissatisfaction or irregularities in the performance of the National Police that require further handling and resolution** (Novianti &; Krisdiawan, 2019).

Dumas can be delivered directly or indirectly. Dumas can be directly or indirectly submitted by agencies, the public, or members of the National Police, upon (Trisusilowaty, Lumbanraja, &; Suteki, 2019):

a. **complaints or dissatisfaction with the services of members of the National Police in the performance of duties**;
b. deviations in the behavior of members of the National Police related to violations of discipline, code of ethics, and criminal acts;

c. suggestions, contributions of thought, constructive criticism that are beneficial for improving the performance and service of the National Police;
d. **requests for clarification or clarity on the handling of cases handled by the National Police or police actions**; and
e. complaints or dissatisfaction with the decision of administrative punishment for civil servants at the National Police.

Dumas **directly** , is a complaint submitted by the complainant directly through:
a. Dumas Service Center; and
b. every civil servant in the National Police.

Dumas indirectly, is a complaint submitted by the complainant through:
a. letter;
b. Drum Post 7777 or Dumas Mabes Polri post box or in each regional unit;
c. Polri website and e-mail;
d. telephone, facsimile or SMS;
e. mass media and social networks;
f. Dumas letter through Government Agencies:
   1) President of the Republic of Indonesia through the State Secretariat (Setneg) or Special Staff for Dumas Management;
   2) DPR-RI or DPRD;
   3) ministries/agencies;
   4) bodies/commissions;
   5) local government;
   6) law enforcement agencies; and
   7) other government internal supervisory agencies;
g. Dumas' letter through the civic institution:
   1) Non-Governmental Organizations (NGOs); and
   2) Legal Aid Institute (LBH) or Advocates;
h. Dumas letter through Religious Leaders (Toga), Community Leaders (Tomas), Indigenous Leaders (Todat), or Youth Leaders (Toda).

Receipt and recording of Dumas directly, carried out by the Dumas Service Center within the National Police from the level of the Polsek to the Police Headquarters, and every member of the National Police who receives a complaint. Every member of the National Police who receives a report must immediately forward it to the National Police official on duty at the Dumas Service Center, for recording (Amandita, 2020).

The reception and recording of Dumas is indirectly organized by (Maknunah, 2015):
a. Bagdumas Itwasum Polri, Rowasidik Bareskrim Polri, and Bagyanduan Divpropam Polri, at the level of Police Headquarters;

b. Subbagdumas Itwasda, Bagwassidik Ditreskrim, and Subbidyanduan Bidpropam, at the Polda level;
c. Satreskrim, Siwas, and Sipropam, at the Police Level; and
d. Police Chief, at the Police level.

The application of criminal procedural law in the Republic is often, criminal procedural law is applied based on different interpretations of the law by law enforcement personnel. Regarding the Determination of Suspect Status Until now, the criminal procedural law in force in Indonesia is Law Number 8 of 1981 concerning the Code of Criminal Procedure, which is then referred to as the Code of Criminal Procedure (KUHAP). The definition of suspect is very clearly stipulated in the provisions of Article 1 number 14 of the Criminal Procedure Code which states that: *"A suspect is a person who, because of his actions or circumstances, based on preliminary evidence should be suspected of being the perpetrator of a criminal act."* Furthermore, the definition of suspects with the same formulation is also regulated in the provisions of Article 1 number 10 of the Regulation of the Chief of Police Number 14 of 2012 concerning Management of Criminal Investigations (Perkap No. 14 of 2012).

Preliminary Evidence as referred to in Article 1 number 14 of the Code of Criminal Procedure is not specifically regulated in the Code of Criminal Procedure. The definition is precisely regulated in Article 1 number 21 of Perkap No. 14 of 2012 as follows: *"Preliminary Evidence is evidence in the form of a Police Report and 1 (one) valid evidence, which is used to suspect that someone has committed a criminal act as abasis for arrest."*So, based on the police report and one valid piece of evidence, a person can be determined as a suspect and an arrest can be made. The Criminal Procedure Code does not explain further about the definition of 'preliminary evidence', but the Criminal Procedure Code clearly regulates valid evidence in the provisions of Article 184 of the Criminal Procedure Code, which includes: (1) witness statements, (2) expert statements, (3) letters, (4) instructions, (5) statements of the accused. In the investigation process, it is only possible to obtain valid evidence in the form of witness statements, expert statements and letters. Meanwhile, evidence in the form of instructions is obtained from the judge's assessment after conducting an examination in the trial, and evidence in the form of the defendant's statement is obtained when a defendant is in court, as clearly stipulated in the provisions of Article 188 paragraph (3) of the Criminal Procedure Code and the provisions of Article 189 paragraph (1) of the Criminal Procedure Code.

If in an investigation process there is a police report and one valid piece of evidence, a person can be determined as a suspect, and the valid evidence in question can be in the form of witness statements, expert statements and letters. In addition, it should be emphasized that the 'witness statement' referred to as valid evidence is inseparable

from the provisions of Article 185 paragraph (2) and paragraph (3) of the Criminal Procedure Code and the principle of *unus testis nullus testis*.

The testimony of a witness alone cannot necessarily be a valid evidence, because it must be accompanied by another valid evidence. It must also be in accordance with other existing evidence, as further stipulated in the provisions of Article 185 paragraph (6) of the Code of Criminal Procedure, because the performance of the investigator in collecting valid evidence is "raw material" for judges to examine and try a criminal act

If there has been a police report supported by one valid evidence taking into account the provisions of Article 185 paragraph (3), Article 188 paragraph (3) and Article 189 paragraph (1) of the Criminal Procedure Code, then a person can be determined as a suspect. Suspects cannot immediately be subjected to forced arrest because there are certain conditions regulated by Perkap No. 14 of 2012.Article 36 paragraph (1) states that the arrest of a suspect can only be carried out based on two cumulative (not alternative) considerations, namely:

1. The existence of sufficient preliminary evidence, namely the police report, is supported by one valid evidence by taking into account the provisions of Article 185 paragraph (3), Article 188 paragraph (3) and Article 189 paragraph (1) of the Criminal Procedure Code, and
2. The suspect has been summoned twice in a row for failing to show up without proper and reasonable cause.

Thus, arrest can only be taken if the suspect is absent without a proper and reasonable reason after being summoned twice in a row by investigators. If the suspect is always present to fulfill the investigator's call, then an arrest order based on Perkap No. 14 of 2012, cannot be made against the suspect.
Similarly, suspects who have only been summoned once and have appeared before investigators for the purposes of examination for investigation, cannot immediately be arrested. Since the suspect has come to fulfill the investigator's summons, one of the two considerations for arrest as stipulated in the provisions of Article 36 paragraph (1) of Perkap No. 14 of 2012 is not fulfilled. However, a suspect may be subject to detention even though he is not subject to arrest, where the detention action is carried out with alternative considerations based on the provisions of Article 44 of Perkap No. 14 of 2012, as follows:
1. the suspect is feared to be running away,
2. the suspect is feared to repeat his actions,
3. the suspect is feared to eliminate evidence, and
4. The suspect is expected to complicate the investigation.

While Article 21 paragraph (1) of the Code of Criminal Procedure stipulates that a detention order can be made against a suspect in the event of circumstances that give rise to:
1. fear that the suspect will run away,
2. damage or eliminate evidence, and/or
3. Repeat criminal acts.

Starting from a law enforcement process in accordance with the corridors of the law, it is hoped that justice will be born for the people in need, and the Indonesian nation is in the process of achieving that justice. Of course, that goal will be achieved when there is a good faith intention to apply the law without being ridden by 'interests' and only purely in accordance with due process.

That due to the absence of a time limit for the determination of a person from a suspect to a defendant, opens a gap for a number of law enforcement officers to take advantage of existing conditions. "I think in the formulation of the Criminal Procedure Code (KUHAP), the length of time a person is determined to be a suspect needs to be given a time limit. Because now, there are even 14-year-olds who are set to be suspects. Strangely hung just like that, SP3 (Cease Investigation Warrant) was also not issued,"(Wicaksana, 2017).

This step needs to be done to ensure legal certainty. Moreover, the conditions for determining a person to be a suspect that have been in effect are also considered too simple. That is, with only a minimum of two pieces of preliminary evidence sufficient, this is obviously very dangerous. Just because there is a confession from someone plus a letter or receipt that does not know where it came from, someone can already be a suspect. This in my opinion is too simple, so it can be used by certain parties," (Ihsani, 2017).

For this reason, in revising the Criminal Procedure Code and the Criminal Code (KUHP) which are currently in Commission III of the DPR, ask policy makers to pay close attention to this matter." Because with what exists today, everyone can be determined to be a suspect. In order for loopholes to play with the law over the determination of someone to be a suspect can be minimized, the importance of tightening supervision of existing law enforcers.

With no time limit for investigating general crimes regulated in the Criminal Procedure Code, there are many protracted case resolutions, violations of a number of suspects' rights and the non-application of the principle of fast, simple and low-cost case resolution and this situation will certainly not be able to provide legal certainty, a sense of justice and the benefits of the law itself.

With regard to this situation, concrete steps are needed to overcome it so as not to lose public trust in law enforcement efforts, protection of human rights (suspects) and even community human rights, especially for those who are witnesses (koban) and witnesses in general. Because of their existence as witnesses, it is not uncommon to get criticism from certain parties.

Obstacles Faced by Investigators with the Setting of Time Limits for Investigating General Crimes

The existence of Law Number 8 of 1981 in legal life in Indonesia has entered a new era, namely the era of national law revival that prioritizes the protection of the human rights of suspects in the mechanism of the criminal justice system (criminal justice system). Protection of the suspect's human rights is expected to be implemented since the suspect is arrested, detained, prosecuted and tried before a court of law.

In the course of the Criminal Procedure Code has been enforced for almost 31 years, many weaknesses have been found.

1) The formulation of unclear norms, for example the words "immediately" there is no time limit for how long, what is the sanction if not implemented then the words "mandatory" what is the legal effect of the case or what is the sanction for law enforcement officials, if the obligation is not implemented. The formulation of this vague norm is still widely found, especially with regard to investigations carried out by investigators.
2) The weaknesses of the Criminal Procedure Code can be seen from selection institutions, for example: pretrial, pretrial judges have so far only examined from the formal aspect but not the material aspect.
3) Pre-prosecution so far the Criminal Procedure Code does not limit the number of times the alternating flow of cases between investigators and public prosecutors, so that the length of alternating flows of this case seems to indicate that law enforcement officials are less professional.

Seeing the weaknesses that exist in the Criminal Procedure Code so far, to be more perfect, it is time for "REVISION of the Code of Criminal Procedure". The revision referred to both the norms and the implementing apparatus, especially the qualifications of investigators in relation to investigative duties. On the other hand, there is the desire of the drafting team of the HAP Bill to change the existing system or model, towards the crime control model (CCM) by bringing up the "Institute of Judge Commissioners". The question is whether we will start all over again or will we fix the weaknesses of the existing system and have been lived for almost 31 years in a better direction. Therefore, the author will examine this issue from the aspect of investigation according to the Criminal Procedure Code.

The obstacles faced by investigators with the setting of time limits for investigating general crimes are:

1. Relations Between Law Enforcement Officials

The Relationship of POLRI Investigators with Certain PPNS. There are (Article 7 paragraph (2), Article 107 paragraph (1), (2), (3), Article 109 paragraph (3). In Article 7 paragraph (2), it is stipulated that PPNS investigators in carrying out their duties are under the coordination and supervision of Police investigators. This coordination relationship is further regulated in Article 7 paragraphs (1), (2) and (3) and Article 109 paragraph (3). In practice, PPNS investigators only notify police investigators. The coordination relationship as stipulated in these articles did not work as it should. In the upcoming revision of the Criminal Procedure Code, it is necessary to emphasize the formulation of legal norms on obligations and legal consequences for law enforcement officials who do not carry out obligations.

2. Relationship between Police Investigators and Public Prosecutors

Since the investigator notifies the public prosecutor of the commencement of the investigation under Article 109 paragraph (1), the extension of detention by the public prosecutor at the level of investigation under Article 24 paragraph (2), the notice of termination of the investigation by the investigator to the public prosecutor Article 109 paragraph (2) and pretrial Article 80, 83 paragraph (2), although formally pre-prosecution is regulated in Article 14 point b and seeing the activities that have been carried out shows the existence of functional coordination between the investigator and Public prosecution and materially pre-prosecution have been carried out. In practice, the problem is that the SPDP is only submitted to the public prosecutor at the same time as the case file is submitted to the public prosecutor. The results of research by S. Sibagariang et al (1995) that the relationship between pre-prosecution and court decisions is ineffective, meaning that the verdicts handed down by judges are more free or free from all charges than criminal verdicts. It should be that after going through the pre-prosecution selection, the verdicts handed down are more criminal verdicts. If there are more free or acquittal verdicts, this shows that the investigator is less professional.

3. Relationship between POLRI Investigators and Judges/Courts

a) The Chief Justice of the District Court shall in his decision grant an extension of detention as referred to in Article 29 at the request of the investigator.
b) At the request of the investigator, the Chief Justice of the District Court refuses or grants a warrant for house search, or seizure and/or special permission for a letter inspection (Article 33 paragraph 1, Article 38 paragraph (1) and Article 43 and Article 47 paragraph (1).

c) The investigator shall immediately report to the Chief Justice of the District Court the conduct of a house search or seizure carried out in very necessary and urgent circumstances. As referred to Article 34 paragraph (2) and Article 38 paragraph (2).
d) The investigator shall provide the Pantera with evidence that the letter of judgment has been delivered to the convict (Article 214 paragraph (3)
e) The Registrar notifies the investigator of the resistance of the accused (Article 214 paragraph (7).

4. **Detention**

Forced attempts in the Criminal Procedure Code are carried out under forced circumstances and must meet strict conditions and a limited period of time. Detention and extension of detention as stipulated in Articles 24 to 28 starting from investigation to cassation examination by the supreme court shall amount to 400 days. The detention time is considered long enough so it needs a reduction in time. For the upcoming revision of the Criminal Procedure Code, there is no need to regulate the exceptions that have been formulated in Article 29 of the Criminal Procedure Code. Suspension of detention is not regulated in the Code of Criminal Procedure, but in practice suspension of detention is often used by suspects. In the revision of the Criminal Procedure Code, suspension of detention needs to be formulated along with its legal consequences, namely the reduction of the criminal period for the length of the suspension of detention.

5. Search

From the provisions of Article 33 paragraph (5) and Article 34 of the Criminal Procedure Code, it can be seen that there is no clarity whether after a search then the investigator gets a letter of approval from the chairman of the district court for the investigation actions carried out. Furthermore, it must be strictly regulated what the legal consequences will be if the 2-day time limit is exceeded, the derivative letter is not delivered to the homeowner.

6. Forfeiture

From the provisions of Article 38 paragraphs (1) and (2) of the Code of Criminal Procedure, it can be seen that there are two forms of permits issued by the chairman of the district court, namely: (1) the permit of the chairman of the district court issued before the seizure is carried out; (2) The approval of the Chief Justice of the District Court after the seizure has been made. The question is what if the chief justice does not give approval for the seizure that has been made, whether the seizure that has been made becomes invalid. In the upcoming revision of the Criminal Procedure Code and for legal certainty the word "must immediately" in the formulation of legal norms Article 38 paragraph (2), it must be emphasized what the legal consequences of the judge's decision on the case if the investigator's obligations are not fulfilled, and legal

consequences must be formulated for investigators who do not fulfill their obligations. Thus, Police Investigators are required to be professional in conducting investigations.

7. Rights of Suspects and Defendants,

Regulating the rights of suspects and defendants, the Criminal Procedure Code uses the principle of balance against two interests that are simultaneously protected, namely the interests of the community (including the interests of victims of criminal acts) and the interests of criminal offenders. To suspects and defendants are given the right to realize these rights, the law provides for the obligation of their fulfillment to the maximum. If the arrangement of granting rights on the one hand without any obligation on the other, then the right is only an idea. The rights granted at the stage of investigation and prosecution where the formulation of norms are not clear are Article 50 paragraphs (1), (2), (3). To create legal certainty, the word "immediately" in the formulation of legal norms Article 50 paragraphs (1), (2), (3) of the KUIIAP must be reaffirmed, how long it takes, if the time has been determined, it must be reaffirmed what the legal consequences of the judge's decision on the case if the time is not fulfilled, and legal consequences must be formulated for investigators who do not fulfill their obligations. Thus, Police Investigators are required to be professional in conducting investigations. In the upcoming revision of the Criminal Procedure Code and for legal certainty the word "mandatory" in the formulation of legal norms Article 56 paragraph (1), it must be emphasized what the legal consequences of the judge's decision on the case if the investigator's obligations are not fulfilled, and sanctions must be formulated for investigators who do not fulfill their obligations. Thus, Police Investigators are required to be professional in conducting investigations.

Conduct of investigation

For the creation of legal certainty, the word "immediately" in the formulation of legal norms Article 111 paragraphs (1), (2), the Criminal Procedure Code must be reaffirmed, how long the time is, if the time has been determined, it must be reaffirmed what the legal consequences of the judge's decision on the case if the time is not fulfilled, and legal consequences must be formulated for investigators who do not fulfill their obligations. Similarly, with the words "mandatory" in the formulation of legal norms Article 104, 108, 116 paragraph (4), it must be emphasized what the legal consequences of the judge's decision on the case if the investigator's obligations are not fulfilled, and legal consequences must be formulated for investigators who do not fulfill their obligations. Thus, the professionalism of the National Police Investigator is required in conducting investigations.

Adjudicating Authority.

To test the lawfulness of the use of coercive remedies and the legal consequences of using pacification efforts, suspects are given the right to apply for pretrial legal

remedies. Article 77 of the Code of Criminal Procedure states as follows: The district court is authorized to examine and decide in accordance with the provisions stipulated in this law on:

a. lawful arrest, detention, termination of investigation, or termination of prosecution;
b. compensation and/or rehabilitation for a person whose criminal case is dismissed at the level of investigation or prosecution.

In practice so far, pretrial judges only test or assess the formal conditions of a coercive attempt, while in future revisions of the Code of Criminal Procedure the judge should also assess or test the material conditions of the pretrial application, such as whether the investigator delivers a copy of the warrant or detention order to the family of the suspect or defendant. Or whether the events that occurred were really criminal events, whether the elements of a criminal act were fulfilled, so that detention of suspects should be imposed, materially such matters must also be assessed by a pretrial judge. Further for supervision of pretrial judges' decisions. All decisions of pretrial judges can be appealed, which so far has only been granted exceptions as stipulated in Article 83 paragraph (2), but does not cover the entirety of Article 77 of the Code of Criminal Procedure. Therefore, it is time for the Pretrial institution to be improved and strengthened. The revision of the Criminal Procedure Code (KUHAP) is expected to better support law enforcement and human rights protection. So far, the Criminal Procedure Code has become the fulcrum of hope for various parties for the implementation of a clean and fair judiciary

Conclusion

The time limit for investigation of suspects in the Code of Criminal Procedure (KUHAP) has not regulated the time limit for investigating criminal acts (general), this situation has resulted in legal uncertainty and provides opportunities for law enforcement officials (investigators) to act arbitrarily and there are frequent violations of the rights of suspects in the investigation process. There are no specific provisions governing the time limit for determining suspect status. The status of the suspect depends on the investigation process. The absence of a time limit in determining suspects causes legal uncertainty guaranteed in Articles 28D and 281 paragraph (2) of the 1945 Constitution.

Bibliography

Abdullah, Abdullah, & Lala, Andi. (2020). Penyelesaian Sengketa Hubungan Industrial Melalui Arbitrase Menurut UU Nomor 13 Tahun 2003 Tentang Ketenagakerjaan. *Syntax Literate; Jurnal Ilmiah Indonesia*, *5*(2), 1–11.

Agustina, Sriastuti. (2016). Peran Penyidik Dalam Melakukan Diversi Terhadap Anak Sebagai Pelaku Tindak Pidana Dengan Ancaman Pidana Dibawah 7 Tahun (Study Kasus Di Polres Tulungagung). *Yustitiabelen*, *2*(1), 20–44.

Amandita, Aritztra Arif. (2020). Pemanfaatan Layanan Polisi 110 oleh Command Center untuk Meningkatkan Pelayanan Publik di Polres Banyumas. *Police Studies Review*, *4*(1), 1–56.

Antow, Rudy. (2019). Hapusnya Kewenangan Menuntut Pidana Pembunuhan karena Daluwarsa. *Lex Crimen*, *8*(12).

Besouw, Marco. (2019). Wewenang Penyidik Pegawai Negeri Sipil Melakukan Penyidikan Terhadap Tindak Pidana Di Sektor Jasa Keuangan Menurut Undang-Undang Nomor 21 Tahun 2011 Tentang Otoritas Jasa Keuangan. *Lex Crimen*, *8*(5).

Caunang, Meyland Iwan. (2017). Kajian Yuridis Penetapan Tersangka Dalam Proses Penyidikan Tindak Pidana Ditinjau Dari Perspektif Hak Asasi Manusia. *Lex Administratum*, *5*(3).

Helmi, Muhammad. (2016). Ketiadaan daluwarsa penuntutan dalam hukum pidana islam dan pembaruan hukum pidana di Indonesia. *Mazahib*, 196–207.

Ihsani, Ardli Nuur. (2017). *Penerapan Sah-Tidaknya Penetapan Tersangka Sebagai Objek Praperadilan Dalam Tindak Pidana Korupsi Dari Perspektif Hak Tersangka*. UNS (Sebelas Maret University).

Indonesia, Presiden Republik, & Indonesia, Presiden Republik. (1981). Undang Undang No. 8 Tahun 1981 Tentang: Kitab Undang Undang Hukum Acara Pidana. *Sinar Grafika. Jakarta*.

Koeswanto, Eka Sakti, Riswandi, Riswandi, & Redi, Ahmad. (2023). Implications of Public Trust Due to Weak Law Enforcement Morality. *Edunity: Social and Educational Studies*, *2*(1), 78–86.

Maknunah, Jauharul. (2015). Analisis sistem informasi akuntansi penerimaan dan pengeluaran kas pada lembaga pendidikan. *Smatika Jurnal: STIKI Informatika Jurnal*, *5*(02), 27–39.

Mulyani, Evi Dewi Sri. (2019). Analisis Perbandingan Sistem Pendukung Keputusan Menggunakan Metode SAW Dengan WP Dalam Pemberian Pinjaman. *Cogito Smart Journal*, *5*(2), 239–251.

Novianti, Regita, & Krisdiawan, Rio Andriyat. (2019). Implementasi Algoritma Floyd Warshall Pada Aplikasi Pengaduan Masyarakat Berbasis Android. *NUANSA INFORMATIKA*, *13*(1).

Palit, Geofani Indra David. (2021). Penerapan Keyakinan Hakim (Conviction In Rasionee) Dalam Sistem Peradilan Pidana Indonesia. *Lex Crimen*, *10*(5).

Rahmi, Atikah. (2019). Pemenuhan Restitusi Dan Kompensasi Sebagai Bentuk Perlindungan Bagi Korban Kejahatan Seksual Dalam Sistem Hukum Di Indonesia. *De Lega Lata: Jurnal Ilmu Hukum*, *4*(2), 140–159.

Trisusilowaty, Dian, Lumbanraja, Anggita Doramia, & Suteki, Suteki. (2019). Fungsi Pengawasan Oleh Inspektorat Pengawasan Daerah Berbasis Pengaduan Masyarakat Dalam Perspektif Hukum Progresif. *Law Reform*, *15*(1), 25–41.

Wicaksana, Yuristyawan Pambudi. (2017). *Implementasi Asas Ius Curia Novit dalam Penafsiran Hukum Putusan Hakim yang Memutus Sah Tidaknya Penetapan Seseorang*

sebagai Tersangka. Universitas Islam Indonesia.