

## **The Role of Police in the Handling of Criminal Cases through Restorative Justice**

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**Abstract.** *This study aims to analyze and find out regulations related to the handling of minor crimes through restorative justice in Indonesia's current positive law and to find out the role of the National Police, especially at the Jepara Police in handling minor crimes through restorative justice after the ratification of Act No. 1 of 2023 concerning the Criminal Code. The research method used is to use a non-doctrinal legal research type, a descriptive analytical research specification. The research approach uses a juridical-empirical approach, uses primary and secondary data and collects data through field and literature studies. The data analysis method used is a qualitative analysis method. The results of this study are that the regulation for the settlement of criminal cases through restorative justice by the National Police in positive law in Indonesia is regulated in Act No. 1 of 2023 has acknowledged the existence of settlement of cases outside the judicial process as stated in Article 132 paragraph (1) letter g. The role of the Police in law enforcement against minor crimes through restorative justice can be carried out through the application of penal mediation as a form of ADR and Obstacles to the Investigators of the Jepara Police Criminal Investigation Unit in carrying out law enforcement with restorative justice for justice and the benefit of society is in the process of conventional criminal proceedings if it has occurred peace between the perpetrator and the victim, and the victim has forgiven the perpetrator.*

*Keywords: Crime; Justice; Police; Restorative.*

### **1. Introduction**

The Police of the Republic of Indonesia have very important duties and functions in maintaining security and order in society. Institutionally, Polri is required to be able to carry out its duties and functions in a professional and accountable manner. Polri must also be able to adapt to all the changes and developments that occur in the social life of society. The progress of the times marked by the rapid development of information technology can make the modes of crime and security disturbances in society which are also increasingly sophisticated, must be anticipated by the Police. The development of this technology has awakened various elements of the nation to be able to carry out reforms, reforms or reforms of systems, institutions and performance that are not professional and proportional to realize the welfare and prosperity of the community. The Republic

of Indonesia National Police Institute is also not free from this discourse of change. The National Police is always improving and improving all aspects of the institution so that it can realize people's expectations for the creation of a safe, orderly and peaceful society.<sup>1</sup>

Polri is an integral part of society in carrying out responsibilities in accordance with the duties and functions of Polri. Each community has characteristics that vary in interests and existing problems. These differences in interests and issues can be a potential for conflict or disturbance of security and order in society, and can even lead to criminal acts. The rate of occurrence of criminal acts is still relatively high, so the presence of the police is needed to be able to improve security and carry out their functions as fair law enforcement officers in society. Aside from being a law enforcement apparatus in the event of a crime, the police are needed to bridge conflicts that occur in society, become a builder and protector of the community to be able to improve order and security through coaching and prevention actions. This proves that the community needs the police, while the police without the community is nothing. For this reason, the importance of a partnership between the police and the community in maintaining security, order and regularity in society to realize shared prosperity.<sup>2</sup>

The ratification of the new Criminal Code, especially those related to the settlement of criminal cases outside the court through restorative justice, is in line with the rules of the Indonesian National Police Chief Regulation Number 8 of 2021 concerning Handling of Crimes Based on Restorative Justice.<sup>3</sup>

The handling of criminal cases in the Police can be carried out in cases of minor crimes. Handling minor crimes that are processed up to the court level is not always able to resolve conflicts that exist in society. In several cases considered as minor criminal acts (tipiring), for example in the case of Grandma Minah (55 years) who stole 3 cacao in Banyumas, the case of Basar Suyanto (45 years) and Kholil (49 years) who stole watermelons worth 30 thousand in Kediri, the case of Aal (15 years) who stole flip-flops in Palu and the case of Prita Mulyasari who was considered to have defamed a hospital, the existing court decisions are considered unsatisfactory and hurt the sense of justice for the poor in Indonesia. Laws that are made and apply in society will have no meaning if they are not followed by law enforcement by law enforcement officials. However, law enforcement is currently

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<sup>1</sup>Wahyurudhanto, 2018, "An Analysis of the Ability of Early Detection by Bhabinkamtibmas in the Implementation of Polmas as Strengthening the One Police One Village Program", Journal of Police Science, Volume 12 Number 2, July 2018, page 86.

<sup>2</sup>Nofta Wulan Sari, Winarti and Joko Suranto, 2016, "The Role of Bhayangkara Trustees of Community Security and Order in Improving Community Security Services at the Sumoroto Police, Ponorogo Regency", Journal of Transformation Volume II Number 29, page 118.

<sup>3</sup> <https://nasional.kompas.com/read/2022/11/09/13102661/restorative-justice-versi-polisi#:~:text=Regulations%20Kapolri%20No%208%20Tahun,investigation%3B%20or%20c.%20investigation.>, accessed on March 3, 2023, at 19.40 WIB

considered not to reflect a sense of justice, especially for the lower classes of society. This is because law enforcement is considered to be sharp downwards and blunt upwards.<sup>4</sup>

The penal system must be able to fulfill a sense of justice, benefit and legal certainty in society. The existing punishment system should also be in line with the values that live and develop in Indonesian society. The penal system and sentencing objectives that are not in accordance with the initial concept will have a negative impact on social and legal aspects in Indonesia.<sup>5</sup>In relation to this legal aspect, the role and function of the Police is very strategic in realizing a sense of justice in society through resolving cases with the concept of restorative justice. The strategic role of the police can be carried out within the police structure at the Resort Police (Polres) level as the spearhead of the handling of criminal cases. The Jepara Police as part of the Police Structure also carries out roles and functions in resolving criminal case handlers through restorative justice in accordance with the new Criminal Code and Police Chief Regulation No. 8 of 2021

To be able to realize security and order in society requires good coordination and cooperation between optimizing the role and function of the Polres and the community. The big role of the Polres in maintaining security and protecting the community will not work without the active participation of the community. This can be realized if the Polres institution focuses on the function of fostering and preventing security disturbances in the community, and goes directly to the community so that it can build closeness with the community without any distance. Proximity to the community can affect the growing level of trust from the community in just law enforcement

The focus of research that will be discussed in this study is related to the role of the Jepara Police in solving criminal cases through restorative justice which is associated with the ratification of Act No. 1 of 2023 concerning the Criminal Code so that it can realize legal goals that are just, useful and have legal certainty.

Based on this description, the authors can identify the problems in this research, namely 1) What are the regulations related to the handling of minor crimes through restorative justice in Indonesia's current positive law? 2) What are the roles of the police in handling minor criminal cases through restorative justice carried out at the Jepara police station? And 3) What are the obstacles faced by the Jepara Police in carrying out the role of handling minor crimes through restorative justice?

This study aims to analyze and find out regulations related to the handling of minor

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<sup>4</sup>Muhammad Taufiq, 2014, Substantial Justice Cuts the Chain of Legal Bureaucracy, Cet I, Yogyakarta: Student Library, p. 161

<sup>5</sup>Sigit Suseno, 2012, Criminal System in Indonesian Criminal Law Inside and Outside the Criminal Code, Jakarta: National Legal Development Agency, Ministry of Law and Human Rights, p. 2

crimes through restorative justice in Indonesia's current positive law and to find out the role of the National Police, especially at the Jepara Police in handling minor crimes through restorative justice after the ratification of Act No. 1 of 2023 concerning the Criminal Code

## 2. Research Methods

The research method used is non-doctrinal legal research. In this legal research, the research specification used is analytical descriptive in nature, which describes problems related to strengthening the role and function of the Police in Handling Criminal Cases through Restorative Justice After the Ratification of Act No. 1 of 2023 concerning the Criminal Code. The approach method used in this thesis research is a juridical-empirical approach. The juridical-empirical approach is a method with procedures used to solve research problems by examining primary data in the field. The types of legal materials used in this research are primary and secondary types of legal materials.

## 3. Results and Discussion

### 3.1. Regulations Regarding the Handling of Minor Crimes in Current Indonesian Positive Law

*The restorative justice* is an approach that aims to build a criminal justice system that is sensitive to victim issues. Restorative justice is important to be associated with victims of crime. Because the restorative justice approach is a form of criticism of the criminal justice system in Indonesia which tends to lead to retributive justice. Restorative justice emphasizes justice on retaliation and ignores the role of the victim in determining the case process.

The application of restorative justice in the country has started a new chapter with the issuance of Act No. 1 of 2023 concerning the Criminal Code relating to a settlement of cases out of court. In a recent development, restorative justice arrangements are outlined by each law enforcement institution.

The consequence of resolving cases through a restorative justice mechanism must be integrated between investigators and public prosecutors through arrangements in a law as stipulated in Article 132 paragraph (1) letter g of Law No. 1 of 2023 concerning the Criminal Code (KUHP).

Article 132 paragraph (1) letter g of Act No. 1 of 2023 states, "The prosecution authority is declared null and void if:... g. there has been a settlement outside the judicial process as stipulated in the law; While in the elucidation of Article 132 paragraph (1) it states, "In this provision what is meant by prosecution is a judicial process that begins with an investigation". Thus, the investigative process is an integral part of the prosecution which cannot be separated.

In addition, to avoid the problem of differences in criminal acts that can be carried

out by implementing a restorative justice mechanism, it is necessary to make conditions and restrictions in carrying out restorative justice.

In Article 70 of Act No. 1 of 2023, it has actually emphasized that as far as possible imprisonment is not imposed if circumstances are found: the defendant is a child, aged 75 years, this is the first time he has committed a crime (TP), the loss and suffering of the victim is not too great, has paying compensation to the victim, not realizing that the TP committed will cause a large loss, TP occurs due to very strong incitement from other people and so on.

In addition, paragraph 2 of Article 70 above can of course be used as a limitation for any crime that cannot be applied to restorative justice, namely: TP which is punishable by imprisonment for 5 years or more, TP which is subject to a special minimum sentence, certain TP which is very dangerous or detrimental to the community or TP which is detrimental to the country's finances or economy.

Seeing this situation, it cannot be denied that Act No. 1 of 2023 has acknowledged the existence of settlement of cases outside the judicial process as set forth in Article 132 paragraph (1) letter g. In addition, the implementation of restorative justice also reforms the criminal justice system which prioritizes punishment to be harmony between the interests of victim recovery and the accountability of criminal offenders. In this way, in the future, there will be a shift in the concept of the obligation to prosecute (compulsory prosecution) adopted by the Criminal Procedure Code towards a discretionary prosecution policy through a restorative justice approach adopted by Act No. 1 of 2023.

Restorative justice programs are based on the basic principle that criminal behavior not only violates the law, but also harms victims and society. Any attempt to deal with the consequences of criminal behavior should, whenever possible, involve the perpetrator as well as the injured parties, in addition to providing the victim and the perpetrator with what is needed in the form of assistance and support.<sup>6</sup> Clifford Dorn defines restorative justice as a philosophy of justice emphasizing the importance and relevance of perpetrators, victims, society and government in cases of juvenile crime and delinquency.<sup>7</sup>

The implementation of restorative justice in settling cases is also based on Article 18 of the Police Law, namely "to take action based on self-assessment based on considerations of the benefits and risks of the action and really for the public interest". This effort to find the right legal basis was then interpreted differently by each investigator. There are those who think that the legal basis for stopping an investigation for the sake of the public interest is that there is not enough

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<sup>6</sup>UNODC, 2006, Handbook on Restorative Justice Programmes. Criminal Justice Handbook Series, Vienna, UN New York, h. 5

<sup>7</sup>Susan C. Hall, Restorative Justice in the Islamic Penal Law. A Contribution to the Global System, Duquesne University School of Law Research Paper, No. 2012-11, p. 4.

evidence because the victim, complainant and witnesses withdraw the report and all the information that has been given to the investigator, there are also those who base it on the concept of restorative justice and alternative solutions. disputes outside the court (Alternative Dispute Resolution).<sup>8</sup>

Implementation of restorative justice in resolving cases in accordance with statutory provisions, especially Perpol Number 8 of 2021, which is carried out after a request for a peaceful settlement of the case and an agreement from the perpetrator and the victim are signed by all parties involved and then followed up by investigators until issued an Investigation Termination Warrant. In this case the perpetrator provides compensation to the victim, which aims to provide a sense of justice for both the victim and the perpetrator so that it is expected to improve the relationship between the victim and the perpetrator of the crime. This is a legal embodiment that is enabled to solve problems that arise in society,

### **3.2. The Role of the Indonesian National Police in Handling Minor Crime Cases through Restorative Justice Conducted at the Jepara Police**

The law is not just to create order, more than that the law must provide a sense of justice for society. The law does not by itself give birth to justice, but to achieve justice, the law must be upheld. The function of law enforcement is to actualize legal rules so that they are in accordance with what the law itself aspires to, namely manifesting human attitudes or behavior in accordance with the framework (frame-work) that has been established by an Act or law. A law enforcement system that has good values is a matter of harmonizing values with rules and real human behavior. In essence, the law has an interest in guaranteeing the social life of society, because law and society have an interrelationship. The criminal justice system must always promote the interests of law and justice. Whatever theory of justice is used, the definition of justice must include: fairness, impartiality, and appropriate reward and punishment.

So far, the role of the Police as law enforcers in enforcing criminal law (integrated criminal justice system) is: first, to prevent crimes from being committed by upholding legal norms in order to protect society; second, socializing criminal offenders by providing guidance so that they become good and useful people, third, resolving conflicts caused by criminal acts, restoring balance and bringing a sense of peace in society.

*The restorative justice* become a very popular discourse in the midst of a pluralistic society that views formal law as dominated by positivism schools of thought and cannot optimally accommodate people's sense of justice because it puts more emphasis on legal certainty (*rechtssicherheit*), Restorative justice comes by

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<sup>8</sup>Ronni Bonic, The Role of the National Police in Implementing Restorative Justice in Handling Criminal Cases (Study at the Binjai Police), *USU Law Journal*, Vol.4.No.4 (October 2016), h. 75.

offering a non-formalistic settlement concept that only puts forward the formal legalistic side, but it can be done by means of mediation between the perpetrator and the victim, reparations (the perpetrator repaired everything that was damaged), conferences of victims-perpetrators (which involve the families of both parties and prominent figures in society), and victim-worth work (an attempt by the perpetrator to be more concerned about the consequences of his actions). Besides that, the existing criminal justice system is considered no longer able to provide protection for human rights (human rights) as well as transparency towards the public interest which is increasingly not felt. The fact shows that many people prefer to settle criminal cases that are experienced outside the system.

Settlements outside the system are either carried out by the parties (independent perpetrators and victims) or by involving law enforcement. Dissatisfaction with the criminal justice system is thus related not only to the mechanism of case handling and administration, but also to the final outcome of the ongoing process. Therefore an event and procedure is needed in the system that can accommodate the settlement of cases, one of which is by using a restorative justice approach, through a legal renewal that does not merely change the law but also modifies the existing criminal justice system, so that all objectives are met. what is required by law is achieved. One form of the restorative justice mechanism is dialogue which among Indonesian people is better known as "deliberation to reach a consensus". So that through the concept of restorative justice it becomes a very important consideration in resolving criminal cases

Humanity and justice are the goals of everything in our legal life. Then the sentence "law for humans" also means "law for justice". This means that humanity and justice are above the law. The point is the emphasis on just law enforcement in Indonesia, namely the creation of social welfare or what is often referred to as a "just and prosperous society".<sup>9</sup>Thus the National Police of the Republic of Indonesia is a State tool that plays a role in maintaining public security and order, enforcing the law and providing protection, protection and public service in the context of maintaining domestic security.<sup>10</sup>This is the role and responsibility of the Jepara Police Criminal Investigation Unit investigator in handling cases to carry out restorative justice for the sake of justice and the benefit of society.

On February 27, 2012, the Supreme Court issued a written regulation in the form of PERMA Number 2 of 2012 concerning the Settlement of Limitations for Minor Crimes (Tipiring) and the Amount of Fines in the Criminal Code. Basically this PERMA was issued to regulate any criminal acts including minor crimes and to readjust the value of the loss to the object of the case. Based on PERMA Number 2 of 2012, the words two hundred and fifty rupiah in Articles 379,407,364,384,382 and Article 373 of the Criminal Code, are replaced with Rp. 2,500,000. With the

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<sup>9</sup>F. Anton Susanti, 2004, *Police in Law Enforcement Efforts in Indonesia*, Rineka Cipta Jakarta. H. 15

<sup>10</sup>Article 5 Law No. 2 of 2002 concerning the Indonesian National Police



enactment of this PERMA, there are case objects whose value is not more than Rp. 2,500,000, so the examination is carried out by Quick Examination Program in accordance with Articles 205 to 210 of the Criminal Procedure Code.

Regarding restorative justice arrangements for minor crimes, see the Memorandum of Understanding (Nokesber). Where with the issuance of PERMA No. 2 of 2012, this agreement note was issued as PERMA implementing regulations. The mechanism for resolving minor crimes through the concept of restorative justice is regulated in article 4 paragraph 1 of the Memorandum of Understanding (Nokesber) This is an approach that places more emphasis on the situation in achieving balance and justice both for the perpetrators of criminal acts and for the victims themselves. Procedural mechanisms focused on sentencing will be transformed into a deliberative dialogue process with the aim of creating a more just and balanced settlement of criminal cases for victims and perpetrators.

In line with the breath of criminal law renewal, in handling criminal cases by prioritizing the concept of restorative justice it can provide different approaches and views to understand a settlement of a crime. From the perspective of restorative justice, the meaning of a crime actually has the same meaning as the criminal law approach in general, which means attacks on the public or private persons. But in the context of restorative justice, the main victim when a crime is committed is not the State as understood by the criminal justice system which is used to handle criminal cases now.<sup>11</sup> Settlement of crimes through restorative justice is carried out by involving both victims, perpetrators, families of both victims and perpetrators, as well as from other related parties in jointly seeking solutions in resolving fair issues which emphasize restoration to their original conditions and not on retaliation.

Resolving minor criminal cases through restorative justice can only be done if the consent of the victim and perpetrator is obtained. If one of the parties does not agree with the settlement of minor criminal cases with restorative justice, the settlement of the case will be returned in accordance with the procedure for handling cases through a quick examination led by a single judge as regulated in articles 205 to 210 of the Criminal Procedure Code.<sup>12</sup>

In law enforcement efforts that can be implemented against Police institutions is in minor criminal cases where one way to achieve restorative justice in minor crimes is through alternative dispute resolution (ADR) in which there is a mediation penal issued by the National Police Chief. This is stated in the Letter of the Chief of Police Number Pol B/3022/XII/2009/SDEOPS concerning Case

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<sup>11</sup>Sirande, E., Mirzana, HA, & Muin, AM (2021). Realizing Law Enforcement Through Restorative Justice. *Journal of Law and Notary Affairs*, 5 (November), 570–589.

<sup>12</sup>Karim. (2019). *Arrangements for Settlement of Minor Crime Cases through Restorative Justice*. CV. Jakad Media Publishing.



Handling through Alternative Dispute Resolution (ADR), Regulation of the Head of the National Police of the Republic of Indonesia Number 7 of 2008 concerning Basic Guidelines for Strategy and Implementation of Community Policing in the Implementation of Police Duties as well as Circular of the Chief of Police Number: SE/8/VII/2018 regarding the Application of Restorative Justice in Settlement of Criminal Cases

In the Regulation of the Chief of Police Number 7 of 2008, Article 14 letter f stipulates that problem solving will be more effective in neutralizing problems other than justice or litigation by applying the ADR concept, for example, peacekeeping at the police level. Where one type of ADR through peace efforts in question is penal mediation. In the Police Chief's Letter Pol Number: B/3022/XII/2009/SDEOPS this is an effort to follow up on the ADR in Article 14 letter f of the Head of Police's Regulations that already existed before. This letter from the Chief of Police further instructs the police apparatus that the cases pursued through ADR are cases that are classified as misdemeanors. Until finally, the Police issued a Circular of the Chief of Police No. SE/8/VII/2018.<sup>13</sup>

One alternative in resolving disputes, namely Alternative Dispute Resolution (ADR), is not only known in the field of civil law, but in its development it has also begun to be developed and known in the field of criminal law. Where one type of ADR is currently developing in the field of criminal law, namely mediation or known as penal mediation, namely the term mediation in the realm of criminal law

The application of penal mediation as a form of ADR in the realm of criminal law in realizing restorative justice in seeking penal reform. But in fact the application of penal mediation for minor crimes has not run optimally. Criminal penalties are only regulated at the police level issued by the National Police Chief and there are no laws and regulations above that regulate mediation penalties for minor crimes which has resulted in uneven implementation of mediation penalties in all regions.

Based on the results and discussion, it can be concluded that the legal arrangements for minor crimes were originally regulated in the Criminal Procedure Code. Arrangements related to minor crimes in the Criminal Procedure Code determine that those included as minor crimes are criminal cases where the threat of punishment is imprisonment for a maximum of 3 months and or a maximum fine of Rp. 7500. In its development, PERMA No. 2 of 2012 was issued. The PERMA regulates crimes that include minor crimes, namely Articles 354,373,379,384,407 and Article 482 of the Criminal Code and losses of not more than IDR 2,500,000.00. KUHAP and PERMA in determining these minor crimes are

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<sup>13</sup>Sihotang, PH (2020). Settlement of Minor Crimes According to the Regulations of the Chief of Police in Realizing Legal Construction Journal Vol. 3, No. 3, 2022 550 Restorative Justice (Study at the Deli Serdang Polresta). *Iuris Studia: Journal of Legal Studies*, 1(6), 107–120.

determined in the articles contained in the Criminal Code.

Law enforcement against minor crimes through restorative justice can be carried out through the application of penal mediation as a form of ADR regulated by the Chief of Police, including the Regulation of the Chief of Police Number 7 of 2008 concerning Basic Guidelines for Strategy and Implementation of Community Policing in Carrying Out Police Duties, Letter of the Chief of Police No. Pol: B/3022/XII/2009/SDEOPS concerning Case Handling through ADR and the Chief of Police Circular Letter No: SE/8/VII/2018 concerning the Application of Restorative Justice in Case Settlement. So that with the existence of rules related to penal mediation issued by the Chief of Police, the settlement of minor crimes can be resolved at the police level.

### **3.3. Obstacles Faced by the Jepara Police in Carrying out the Role of Handling Minor Crimes through Restorative Justice**

The responsibility of the Jepara Police Satreskrim Investigator as a law enforcer in carrying out restorative justice for justice and the benefit of the community by handling cases is carried out with a family approach where victims and perpetrators and community leaders are brought together, the settlement is carried out amicably, lost items are returned to victims and relatives There is no problem between the perpetrator and the victim. The perpetrator is still a relative of the victim, the perpetrator of the theft also admits to his actions and apologizes to the victim and will not repeat his actions, and the items taken are returned, the roles and responsibilities of the Jepara Police Criminal Investigation Unit investigator, this restorative justice approach is for the sake of justice and the benefit of victims and perpetrators.

The process of resolving cases through restorative justice no longer uses conventional methods that have been used so far in the criminal justice system, which only focuses on finding out who is right and who is wrong, and looking for what punishment is appropriate for the guilty party. While in resolving cases through restorative justice it is no longer those two things, what restorative justice wants is a remedy for the perpetrator so that he no longer commits a crime, recovery is also aimed at the victim as the injured party and the relationship between victims, perpetrators and the community so that things go smoothly. life can return to normal. Restorative Justice, involves both parties namely victims and perpetrators and focuses on their personal needs. Besides that, it also provides a form of assistance to the offender to avoid future offences. It is based on a theory of justice which considers crimes and violations to be violations against individuals or society, not the state. Restorative justice that encourages dialogue between victims and perpetrators shows the highest levels of victim satisfaction and perpetrator accountability.

The ultimate goal of this restorative justice concept is to eliminate stigma and

return criminals to normal human beings, perpetrators of crimes can realize their mistakes, so they do not repeat their actions, do not create a sense of revenge because the perpetrators have been forgiven by the victims, victims quickly get compensation, empower the community in overcoming crimes and, reintegration of criminals in society.

The policy carried out by the Jepara Police Satreskrim Investigators who have the authority to do a number of things as follows: as a determinant of the final outcome of a dispute, conflict, dispute or violation case, but also has the authority to exercise discretion / set aside criminal cases committed by certain parties, continued with a request to the perpetrator / violator to accommodate the loss of the victim. A popular general term is carrying out "peace" in cases of violations of criminal law. The advantage of the Jepara Police Satreskrim Investigators using a restorative justice approach in resolving criminal cases is that the settlement is generally left to the perpetrators and victims.

The obstacle of investigators from the Jepara Police Criminal Investigation Unit in carrying out law enforcement with restorative justice for justice and the benefit of the community is in the conventional criminal procedure process if there has been peace between the perpetrator and the victim, and the victim has forgiven the perpetrator, then this will not affect the authority of law enforcers not to forward the case to the criminal realm which will eventually lead to the conviction of the criminal offender.

In criminal investigations at the police level, the existence of "out-of-court settlements" often raises suspicions about the authority of police investigators in resolving cases. The existence of an agreement between the victim/reporter and the perpetrator/reported in the police investigation process is often seen as an abuse of authority by law enforcers. The good intentions of police investigators who handle cases with "settlement out of court", known in the police investigation process with the term SP3 (Warrant for Termination of Investigation) are often regarded as a "commodity". Cynical satire is often uttered, namely how much money the investigator asked for, or how much money was given by the disputing or disputing parties (reporter with the reported).

Controversy in criminal law enforcement based on the Criminal Procedure Code often occurs, while law enforcers are still struggling in the paradigm of formalism, so that many cases that should be tried simply evaporate due to limited thinking about the implementation of law enforcement. Whereas the main goal of law enforcement is to realize truth and justice. As long as law enforcement officials do not change their minds that the main goal of criminal law enforcement is to achieve truth and justice, then the implementation of the Criminal Procedure Code will often cause controversy.

The authority to set aside criminal cases is itself known as a manifestation of the opportunity principle which only belongs to the Attorney General. In practice,

actually at the police investigation level, they often collide with formal criminal procedures if they want to set aside a criminal case, the discretion that belongs to the Police does not include the scope of their authority to assess a case to continue or stop, only limited to sufficient evidence of a crime. . If there is evidence that a crime has occurred, the police will continue the case.

In the implementation, it is necessary to have a legal umbrella for handling cases using a restorative justice approach because it is considered to provide justice and benefits for victims and for perpetrators, because in accordance with Article 109 paragraph (2) of Act No. 8 of 1981 concerning Criminal Procedure Code "In the event that investigators stop investigation because there is not enough evidence or the event turns out to be not a crime or the investigation is stopped for the sake of law, the investigator informs the public prosecutor, the suspect or his family about this."<sup>14</sup>

The restorative justice approach in law enforcement carried out by the Jepara Police Satreskrim Investigators that the main goal of criminal law enforcement is to realize truth and justice not because there is a certain nominal, which is used as a formal basis in every handling of criminal cases reflects more of a sense of justice for society, a humanist approach a more just approach must be encouraged and prioritized over a formal, legalistic, rigid approach that does not create justice in society. Because the real goal in a sentencing process is justice, so that later it can create justice and not be based on punishment

The restorative justice approach in law enforcement carried out by the Jepara Police Satreskrim Investigators aims to bring about truth and justice not because there is a certain nominal value, which is used as a formal basis in every handling of criminal cases to reflect a sense of justice for society, a more just humanist approach must be encouraged and takes precedence over a rigid legalistic formal approach that does not create justice in society. Because in fact the goal in a sentencing process is justice, so that later it can create justice and not be based on punishment, but in practice it experiences several obstacles, the solution to the obstacles of the Jepara Polres Criminal Investigation Unit investigators in handling criminal cases with a restorative justice approach is:

- 1) There needs to be a definite legal umbrella regarding the handling of cases with a restorative justice approach
- 2) The main goal of enforcing criminal law with a restorative justice approach is to realize justice and benefit victims and perpetrators not because of a certain nominal value.
- 3) Increasing legal knowledge of the community so that regarding criminal threats for people who commit criminal acts, so as to prevent criminal acts from occurring

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<sup>14</sup>Article 109 paragraph (2) of Law Number 8 of 1981 concerning Criminal Procedure Code

#### 4. Conclusion

The regulation of settlement of criminal cases through restorative justice by the Indonesian National Police in positive law in Indonesia is regulated in Act No. 1 of 2023 has acknowledged the existence of settlement of cases outside the judicial process as set forth in Article 132 paragraph (1) letter g. The role of the Police in law enforcement against minor crimes through restorative justice can be carried out through the application of penal mediation as a form of ADR regulated by the Chief of Police, including the Regulation of the Chief of Police Number 7 of 2008 concerning Basic Guidelines for Strategy and Implementation of Community Policing in Carrying Out Police Duties, Letter from the Chief of Police Pol No:B/3022/XII/2009/SDEOPS concerning Case Handling Through ADR and Chief of Police Circular Letter No: SE/8/VII/2018 concerning the Application of Restorative Justice in Case Settlement. So that with the existence of regulations related to penal mediation issued by the Chief of Police, the settlement of minor crimes can be resolved at the police level and the Obstacles of the Jepara Police Satreskrim Investigators in carrying out law enforcement with restorative justice for justice and the benefit of society is in the conventional criminal procedure process if there is peace between the perpetrator and the victim, and the victim has forgiven the perpetrator, so this will not be able to affect the authority of law enforcement not to continue the case to the criminal realm which will eventually lead to the conviction of the criminal.

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