

## Investigating Prosecutor Policies Related To Completion Deadline Of Financial Losses Calculation Of The Corruption Case By Internal Government Auditor (APIP) Case Study In State Attorney Of Grobogan

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**Abstract.** The purpose of this study was to determine and analyze the deadline for completion of the calculation of losses to the state by APIPs to requests from law enforcement agencies in Indonesia, especially Attorney Investigator and to determine the actions/policies Attorney Investigator State Prosecutor Grobogan if there are constraints result Counting Losses State Finance APIPs yet immediately handed over to the APH.

This study uses a sociological juridical approach with descriptive analytical research specifications. The data used in this study are primary data and secondary data obtained through interviews and literature study, which was then analyzed qualitatively using theories of justice and the theory of legal certainty and legal purposes.

The results of this study are: (1) setting a time limit Officials Internal Control of Government (APIP) submit the results of the examination Calculation of state financial loss to the Attorney Investigator regulated under Presidential Decree No. 3 of 2016 on the Acceleration of Project Implementation of the National Strategic, namely that if there is a case report and / or complaints from the public submitted to APH, which was later resolved by the time limit APIPs 35 (thirty-five days) and shall submit from APIPs to the APH later than five (5) days; (2) Measures taken by the State Attorney Investigator Grobogan Related deadline is enhanced to step inquiry investigations, general investigations actions undecided suspects and have not made forceful measures in this regard detention; (3) The ideal concept related settings No time limit need a revision of the Cooperation Agreement which specifically regulates the timeline when APIPs submit the results of the examination results of a calculation of financial loss to the country and incorporate APH 3 of Presidential Decree No. 2016 on Accelerating the implementation of the National Strategic Projects Jo. Presidential Decree No. 58 of 2017 as the legal basis for the deadline of 5 (five) days APIPs into a cooperation agreement between APH with the Internal Ministry.

*Keywords: Attorney Policy; Corruption; Deadlines; and APIPs.*

### 1. Introduction

Corrupt practices currently occurring throughout the public sector and has spread into a circle that involves many people, institutionalized, starting from the bottom to the top level, and often coincides with the execution of public duties has led to inefficiency and declining quality of public services. Lately, not least the organizers of the countries in the region, either the local government or Parliament would have to deal with the law because of alleged or proved to have done deviation or use the Local Government budget is not as it should be, especially for the Regional Government often commit acts

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of corruption through project- government projects, particularly in the procurement of goods / services.

According to the instructions of the President (Presidential) No. 1 of 2016 on Accelerating the Implementation of the National Strategic Projects instruct their accelerated development, in which the instructions appear discourse provides protection against strategic policy making. One of the growing discourse is to put the government administrative process in the examination and resolution of reports of abuse of authority in the implementation of the national strategic projects.<sup>2</sup>

The existence of the completion of the process, basically adds to the process or stages in the handling of corruption cases. The process of handling corruption cases which should accelerate but often slow down the handling of cases it is contrary to the principle of a simple, fast and inexpensive. With the examination conducted by APIPs beforehand will add to the time of settlement, even more so if APIPs not immediately give the outcome of the examination (State Financial Losses Calculation) The for law enforcement officers, then the same thing delaying the handling of the case.

Attorney of the Republic of Indonesia based the authority in Article 30 of Law of the Republic of Indonesia Number 16 of 2004 on the Prosecutor has the authority to order an investigation into cases of corruption, which the Prosecutor has also issued regulations Ordinance Attorney General of the Republic of Indonesia NUMBER: short business-039 / A / JA / 10/2010 About Governance Administrative and Technical Case Handling Special Crimes, which in Article 5 set time period investigation of Corruption for 42 (forty-two) and Article 19 to Article 22 set a clear period of investigations conducted Prosecutor investigator for 90 (ninety) days. But on the other hand, the Law of the Republic of Indonesia Number 30 of 2014 on Government Administration, State Prosecutor Grobogan that an extension of the authority of the Attorney of Grobogan area also experienced the same constraints. These obstacles are visible in handling cases of alleged corruption misuse of funds Budget Village (APBDES) Fiscal Of 2017 Rural Sengonwetan Kradenan Grobogan, where the results of the calculation of losses to the state by APIPs Inspectorate Grobogan has not been submitted to the Attorney Investigator State Prosecutor Grobogan, while investigator basing the regulations and urging citizens to quickly resolve the case, so that the state makes the investigating prosecutor in a difficult position in resolving the handling of the case.

Although there are such discourses, basically any administrative effort that examined efforts administration advance by APIPs is something good and in accordance with the principles of sentencing basing their error (*Geen Straf Zonder Schuld*) but on the other hand is also contrary to the principle of the principle is simple, fast and low cost. In enforcing the law in order to assess objectively there are three elements that must be considered are: the element of fairness, certainty and legal expediency, it was stated by Gustav Radbruch as a theory of legal purposes.<sup>3</sup>The third element should be a compromise must be addressed proportionally balanced. But in practice is not always

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<sup>2</sup> Presidential Instruction (Instruction) No. 1 of 2016 on Accelerating the Implementation of the National Strategic Projects, instructions to the two point 9

<sup>3</sup>Tanya, Bernard L, 2010, *Teori Hukum: Strategi Tertib Manusia, Lintas Ruang dan Generasi*, Genta Publishing, Yogyakarta, p. 11.

easy to work out a compromise proportionally balanced between the three elements.<sup>4</sup> Therefore, researchers interested in conducting research with the title, "Investigating Prosecutor Policies Related To Completion Deadline Of Financial Losses Calculation Of The Corruption Case By Internal Government Auditor (APIP) Case Study In State Attorney of Grobogan".

Thus the issues that researchers will be adopted are: How does the setting of deadlines counting losses to the state by the Government Internal Supervisory Apparatus (APIP) to request State Loss Calculation Case of Corruption of law enforcement officials, especially the Attorney Investigator?; How can policy Grobogan District Attorney investigating prosecutor if there are constraints calculation results of the state financial losses by APIPs not immediately handed over to law enforcement officials?; How does the concept of ideal handling of corruption that must pass APIPs mechanism to fit the purpose of the law?

## Research Methods

In carrying out this study, the authors use is socio-juridical. This study examines the Attorney Investigator Related Policy Timeout State Financial Losses Settlement Calculation Case of Corruption By Government Internal Supervisory Apparatus (APIP). Specifications of research is descriptive analysis.<sup>5</sup> In this study, the authors use a type of primary and secondary data, which includes data Primary data were obtained from the fact the field or people who come from the District Attorney of Grobogan Praise Triasmoro, SH.MH and Chief Inspectorate (APIP) Grobogan Puji Raharjo, SH. , MM. In addition, secondary data obtained through library research, and these data were also obtained from institutions / agencies related to the goals of this research.<sup>6</sup> In discussing the subject matter and analyze the data that has been obtained, the authors use all information and data obtained, both the primary data and secondary data. Then the author qualitative analysis are then presented descriptively.

## 2. Results And Discussion

### 2.1. Calculation of Time Limits Losses By State Finance Government Internal Supervisory Apparatus (APIP) Request Counting Losses Against Financial Corruption Cases State Of particular Law Enforcement Attorney Investigator.

In general, in the process of handling corruption cases, the time limit the handling of the case basically arranged in procedural law, both of which are governed by the Law of the Republic of Indonesia No. 8 of 1981 on the draft law Criminal Code (Criminal Code), Law of the Republic Indonesia No 31 of 1999 on Corruption Eradication, as amended and supplemented by the Law of the Republic of Indonesia Number 20 of 2001 and even regulated in the Standard Operating Procedures of law enforcement officers who

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<sup>4</sup> Mertokusumo, Sudikno, 2010, *Mengenal Hukum*, Universitas Atma Jaya Yogyakarta, Yogyakarta, p. 161

<sup>5</sup> Descriptive analytical research is intended to provide the data as accurately as possible about a situation or symptoms other symptoms Soerjono Soekanto & Sri Mamuji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Jakarta: Raja Grafindo Persada, 2001, p. 43

<sup>6</sup> Soejono Soekarno, 2008, *Sosiologi Suatu Pengantar*, Ed. 41, Jakarta: Raja Grafindo Persada, p.53

handle corruption cases both Indonesian National Police (INP), AGO Czech Indonesia (RI AGO) and the Corruption Eradication Commission (KPK).

Specifically AGO issued regulations Ordinance Attorney General of Indonesia (short business) NUMBER: short business-039 / A / JA / 10/2010 About Governance Administration and Case Management Technical Special Crime. In Article 5 short business NUMBER: short business-039 / A / JA / 10/2010 which set the period of investigation follow-Corruption for 42 (forty-two) days and in article 19 to article 22 short business NUMBER: short business-039 / A / JA / 10/2010, the period of time set clear corruption investigation by investigators Prosecutor for 90 (ninety) days.

On the other hand, there are some provisions relating to the functioning AIPs concerning the completion deadline may be the subject of attention and become the analysis are:

- Relevant deadline of supervisory authority by government officials, by Act No. 30 of 2014 on Government Administration, the mere mention of "if the results of surveillance apparatus of internal government in the form contained administrative errors which cause losses to the state referred to in paragraph (2) c, reimbursement of state financial losses more than 10 (ten) working days after the publication of the results of decisions and supervision ". In addition, the Law of the Republic of Indonesia Number 23 Of 2014 About the Regional Government also does not address at all the deadline for completion of the examination results and the timeline when AIPs provide monitoring results to the government's internal apparatus APH, just set the general settlement of the complaint report.
- Indonesian Government Regulation No. 48 of 2016 on the Procedures for Imposing Administrative Sanctions To Government Officials are also set to the same thing as the provisions of the foregoing that is associated with the settlement of complaints by the public who submitted either to AIPs or to APH, which in these provisions also regulates the settlement deadline, specifically to reports of complaints filed with the longest AIPs or APH is 45 (five) working days, but on the other hand does not regulate the timeline when AIPs provide examination results to the APH.
- In the Presidential Decree No. 3 of 2016 Jo. Presidential Decree No. 58 Of 2017 and Presidential Decree No. 1 of 2016 on Accelerating the Implementation of Strategic Projects National also set the time limit which is related to reports and / or complaints from the public submitted to APH, which APH forward / submit the report of the community to the leadership of state officials to do inspection and follow-up of the completion within a maximum period of 5 (five) days after public reports received. If in the initial investigation there are indications of abuse of authority, state officials ask AIPs to inspection / audit further not longer than 30 (thirty) days. Besides that,

Based on some of the main points of discussion mentioned above there is no analysis that "in Act No. 30 of 2014 on Government Administration is that just set a deadline of 10 (ten) days to refund losses to the state, not set when AIPs pass the results to APH , This law is very general, so it needs to be studied more in depth other in rules. There is a model that is similar to addressing the issues related to the timeline when first AIPs must submit the results of the examination (Calculation of Financial Losses of State) to the law enforcement authorities is present in particular the provisions of Presidential

Decree No. 3 of 2016 Jo. Presidential Decree No. 58 Of 2017 and Presidential Decree No. 1 of 2016 on Accelerating the Implementation of the National Strategic Projects, it can be concluded that it has set the completion deadline, especially if there are case reports and / or complaints from the public submitted to APH, which were solved deadline by APIPs 35 (thirty-five days) and APIPs shall submit to the APH later than five (5) days.

Based on the description above authors found and synchronization settings return deadline calculation results of the state financial losses by APIPs with SOP APH is something very important to ensure legal certainty, it is in line with the opinion of the legal experts of Utrecht. which is then completed by the time limit APIPs 35 (thirty-five days) and shall submit to the APH APIPs later than five (5) days. Based on the description above authors found and synchronization settings return deadline calculation results of the state financial losses by APIPs with SOP APH is something very important to ensure legal certainty, it is in line with the opinion of the legal experts of Utrecht. Which is then completed by the time limit APIPs 35 (thirty-five days) and shall submit to the APH APIPs later than five (5) days. Based on the description above authors found and synchronization settings return deadline calculation results of the state financial losses by APIPs with SOP APH is something very important to ensure legal certainty, it is in line with the opinion of the legal experts of Utrecht.<sup>7</sup>

## **2.2. Policy Attorney State Attorney Investigator Constraints There Grobogan If Count Losses Audit of State Finance Submitted By Apip Not Coming To Law Enforcement Officers.**

Difference report or complaint handling mechanism between SOP society owned by the Attorney by Regulation No. 12 of 2017 and the provisions of Presidential Decree No. 3 of 2016 jo. Presidential Decree No. 1 of 2016, raising their vulnerability related conflict settlement deadline to report complaints handling both by APH and APIPs. State Prosecutor Grobogan that an extension of the authority of the Attorney RI Grobogan area also experienced the same constraints.

These obstacles are visible in handling cases of alleged corruption misuse of funds Budget Village (APBDES) Fiscal Of 2017 Rural Sengonwetan Kradenan Grobogan, where the Chief State Prosecutor Grobogan as investigators sought the help of the Inspectorate Grobogan (APIP) to calculate state losses in lawsuit alleged irregularities APBDES Sengonwetan village with Letter No. B.976 / O.3.41 / Fd.1 / 05/2018 dated May 25, 2018. But in reality when the case was already carried together Prosecutors Investigators exposure and APIPs on July 4, 2019 and until on October 4, 2018 APIPs not submit the results of calculation of state losses to the state Attorney of Grobogan even though the billing has been done several times over the results of the investigation to APIPs

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<sup>7</sup>Legal certainty contains two meanings: first the general regulation makes people know what conduct should or should not do, and secondly, in the form of legal security for the individual from the tyranny of the government because of the presence of the general regulation that individuals can also learn what may be imposed or carried out by the State against individuals, Riduan Syahrani, Rangkuman Intisari Ilmu Hukum, Citra Aditya, Bandung, 1999, p. 23

Based on the chronology of the above, there is a deadlock the results of the examination of AIPs requested by the Attorney Investigator attorneys that never delivered, the Chief State Prosecutor Grobogan sake of justice need to take a policy that case handling process is still running in accordance with the Due Process Of Law<sup>8</sup>, Fair enforcement process within the framework of law as Proses Due Mardjono Reksodiputro opinion of the meaning of "due process of law" or "a fair legal process or feasible"<sup>9</sup>, In an interview to the Chief State Prosecutor Grobogan Praise Triasmoro<sup>10</sup> stated that "to resolve the impasse resulting case handling process upon exceeding deadline for case investigation alleged irregularities APBDES Sengonwetan village of Fiscal Of 2017, the investigation of the case is improved to step of general investigation, not a suspect in the case and not do forceful measures in this regard detention ".

### **2.3. Ideal Concepts Handling of Corruption Should Passing Mechanism AIPs Fit For Purpose Law.**

The practices described in the prior subject, of course, will often be found at the level of everyday field, therefore, the need for proper ideal concepts to meet the challenges ahead. Based on that, later on Wednesday, February 28, 2018 was born the Agreement

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<sup>8</sup> The model was initially due process starts in any doubt as to be able to give account of or reliance on facts obtained by the investigator and the prosecutor in the preliminary investigation process (administrative fact finding or pre-trial). According to supporters of the model due process, facts obtained by the investigators and prosecutors through a process that emphasizes efficiency and informality very questionable beliefs. In the view of the concept of due process, people basically a reminder and observers poorly to the events happening around them, witnesses can only add stories and their own version of the facts that really happened, mainly influenced by their views on error the suspect. Therefore, may be obtained at the fact that this level will be very biased in nature and is not reliable level of confidence. A new fact is considered to be true if it is obtained through a process that contains the character: 1) formal, ie emphasis on certain procedures to be followed or obeyed 2) adjudicative, which rests on the process in court and 3) adversarial, ie both neither the state nor the defendant placed on equal footing. These characters can only be implemented in full during examination in court Herbert.L. Packer, *The Limits of the Criminal Sanction*, (California: Stanford, 1968), p. 61 A new fact is considered to be true if it is obtained through a process that contains the character: 1) formal, ie emphasis on certain procedures to be followed or obeyed 2) adjudicative, which rests on the process in court and 3) adversarial, ie both neither the state nor the defendant placed on equal footing. These characters can only be implemented in full during examination in court Herbert.L. Packer, *The Limits of the Criminal Sanction*, (California: Stanford, 1968), p. 61 A new fact is considered to be true if it is obtained through a process that contains the character: 1) formal, ie emphasis on certain procedures to be followed or obeyed 2) adjudicative, which rests on the process in court and 3) adversarial, ie both neither the state nor the defendant placed on equal footing. These characters can only be implemented in full during examination in court Herbert.L. Packer, *The Limits of the Criminal Sanction*, (California: Stanford, 1968), p. 61 that is, both sides neither the state nor the defendant placed on equal footing. These characters can only be implemented in full during examination in court Herbert.L. Packer, *The Limits of the Criminal Sanction*, (California: Stanford, 1968), p. 61 that is, both sides neither the state nor the defendant placed on equal footing. These characters can only be implemented in full during examination in court Herbert.L. Packer, *The Limits of the Criminal Sanction*, (California: Stanford, 1968), p. 61

<sup>9</sup> "That Act No. 8 of 1981 on the Law of Criminal Procedure see the criminal justice process as a "struggle" to enforce the law in a fair (due process of law. Mardjono Reksodiputro, *Human Rights in Criminal Justice System*, Jakarta: Service Center for Justice and Legal Service UI, 1999 p. 28

<sup>10</sup> interview with Puji Triasmoro SH, MHAs Head of State Prosecutors Grobogan dated August 14, 2019

of Cooperation between the Ministry of Interior of the Republic of Indonesia by the Prosecutor of the Republic of Indonesia, and the Indonesian National Police On Coordination Officers Internal Control Government (APIP) With Law Enforcement Officials (APH) In Handling The Public Complaints reports Indicated Or Corruption On Regional Government, No. 119-49 OF 2018 No. B-369 / F / FJP / 02/2018 No. B / 9 / II / 2018,

Therefore, to meet the ideal concept for the future regulation *ius constituendum*<sup>11</sup>, it would require some action by proposing that: need a revision of the Cooperation Agreement which specifically regulates the timeline when APIPs submit the results of the examination to APH and needs to be included Presidential Decree No. 3 of 2016 on Accelerating the implementation of the National Strategic Projects Jo. Presidential Decree No. 58 Of 2017 Cooperation Agreement into changes mentioned above.

### 3. Closing

#### 3.1. Conclusion

- Deadline Apparatus Internal Control of Government (APIP) submit the results of the examination Calculation of losses to the state to the law enforcement authorities Particularly Attorney Investigator is five (5) working days to the Attorney or the Police for follow-up, it is regulated by Presidential Decree No. 3 of 2016 on the Acceleration of Project Implementation National strategic jo. Presidential Instruction No. 1 Of 2016 on the Acceleration of National Strategic Project Implementation.
- Policy taken by the State Attorney Investigator Related Grobogan calculation time limit losses that are not immediately handed over by APIPs and to fulfill legal certainty is enhanced ketahap inquiry investigations, general investigations actions undecided suspects and have not made forceful measures in this regard detention.
- Concept ideal for the future regulation is necessary revision of the Cooperation Agreement which specifically regulates the timeline when APIPs submit the results of the calculation results of the state financial losses to the APH, made of Presidential Decree No. 3 2016 Jo. Presidential Decree No. 58 Of 2017 as a legal basis.

#### 3.2. Suggestion

In this study suggested that it should be the preparation of the Cooperation Agreement between law enforcement authorities with APIPs set time limits to complete and clear and the need for mutual understanding in order to leave the sectoral ego respective law enforcement agencies.

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