

Police Responsibilities in Security Using Tear Gas in Relation to Child Protection

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Abstract. *This research is an answer to the problem. This type of research is field research, using a sociological legal analysis method, meaning that the type of research used is legal research that is sourced from legislation and approaches related to social theory. The theories used in this study are the Legal Certainty theory from Gustav Radbruch and the Legal Protection theory from Christine STKansil. Referring to the regulation of the Chief of Police No. Pol 16 of 2006 concerning guidelines for crowd control, a warrant is prepared for security activities, training is carried out for personnel appointed to fire tear gas, checking the expiration date of the tear gas to be used, and an attempt is made to reprimand them to be calm or conducive (building communication to avoid more aggressive security efforts). Children are not allowed to be in crowds or in areas that endanger the physical safety of children, but if there are conditions that turn out to be children in vulnerable or dangerous areas, then an appeal is the most important thing. The role of DP3AP2KB in providing advocacy and community education is expected to support efforts to prevent and overcome child protection for their participation in violence, and securing the masses who are forced to use tear gas must be in accordance with Police SOP. The main objective in this protection role is to ensure that the use of tear gas is carried out in a manner that is in accordance with ethical standards and human rights, and to minimize the risk of injury to all parties involved.*

Keywords: *Police; Responsibility; Violence.*

1. Introduction

Creating a sense of security, maintaining and protecting the Indonesian people from all forms of insecurity and chaos is the responsibility of the Indonesian National Police from the center to the remote areas of the country. The existence of the Indonesian National Police cannot be separated from the daily roles and main tasks that are its responsibility. Article 13 of Law Number 2 of 2002 concerning the Indonesian National Police (UUKNRI) generally regulates the main tasks and responsibilities of the Indonesian National Police, which include: First,

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maintaining public security and order. Second, law enforcement and third, providing protection, guidance and community services.¹

"The Indonesian National Police are the Main Servants of the Nation and Country." This term is the first Brata of the Tri Brata which was declared as the guideline for the life of the Indonesian National Police since July 1, 1954.² As one of the law enforcement institutions, the actions of the Police must protect the community and prioritize safety and human rights. The guarantee of these rights stipulates that every child in Indonesia must be protected from participating in conflict, armed conflict, social unrest, and events containing elements of violence, including war, as stated in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. The state, government, society, family, and parents are obliged and responsible for implementing child protection.

In the context of public safety and child protection, the use of tear gas or non-lethal weapons must always comply with applicable legal, human rights and guidance standards. It is best to consult official sources, such as the police or local authorities, for the SOPs or regulations that actually apply in this case.

The Indonesian police must always refer to the applicable standard operating procedures and guidelines for the use of tear gas. These SOPs may regulate the standards for the use of tear gas, warning procedures, and actions after use. It is important to understand that each state has different regulations and guidelines regarding the use of tear gas for public safety. Therefore, it is important to refer to official sources and standard operating procedures issued by Indonesian law enforcement agencies, such as the Indonesian National Police, for further and up-to-date information on the procedures for the use of tear gas in Indonesia.

In connection with the elaboration of child protection carried out by the Police in their mass security duties, the author feels very enthusiastic in conducting research entitled, "Police Responsibility in Security with the Use of Tear Gas in Relation to Child Protection". The purpose of analyzing the procedure for the use of tear gas in relation to child protection events must always comply with the law and human rights. In addition, as an SOP in avoiding misuse or excessive use of this non-lethal weapon in order to avoid dangerous consequences.

2. Research Methods

The method used in this research is sociological juridical.³

The Sociological Juridical Approach emphasizes research that aims to obtain legal knowledge empirically by going directly to the object.⁴

¹Burhanuddin, Journal "Effectiveness of Integrated Patrol Implementation in Efforts to Reduce Crime Rate (At Bungo Resort Police), ISSN: 1693-0819, E-ISSN: 2549-5275, Jurnal Serambi Hukum Vol. 11 No. 01, February - July 2017.

²A. Aziz Saefudin, M. Pd. & Salemba Psychology Team, (2017) Psychological Analysis of TNI POLRI Recruitment Tests, Yogyakarta: Buku Edukasi.com, 1st ed., p.34

³Ronny Hanitijo Soemitro, (1990), Legal Research Methodology and Jurimetrics, Bandung, p. 34

⁴Soerjono Soekanto, (2005), Introduction to Legal Research, Jakarta: Publisher, University of Indonesia Press, p. 51

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Through this sociological legal approach, the research can obtain empirical legal knowledge by going directly to the object to find out how the efforts to protect safety related to the use of tear gas in conditions of securing a conflicting community in the context of child protection are carried out by the Police.⁵

To obtain precise and accurate data for this study, the author conducted data collection techniques in various ways that were adjusted to the desired information, interviews and literature studies. As for the reviewers in this study were the West Kotawaringin Resort Police, DP3AP2KB (Population Control, Family Planning, Women's Empowerment and Child Protection Service) West Kotawaringin, and Mako Brimob Batu Balaman.

3. Results or Discussion

3.1 Procedures for Using Tear Gas in Relation to Child Protection Events

The sense of security to protect civilians, especially children, is an absolute right as a form of responsibility and dedication of the National Police in providing security. All forms of dangerous things should be avoided, even in the use of tear gas weapons, detailed SOPs are needed so that not just any security condition is used.

IPDA Purwoyo, SIKom and AKBP Yusfandi Usman SIK, MIK, from POLRES Kotawaringin Barat, and IPTU Teguh P. Utomo, S.Ti.K from SATBRIMOBDA KALIMANTAN, they explained that the role of the Police in securing the masses is regulated by Law No. 2 of 2002 concerning the Republic of Indonesia Police and Perkap No. 16 of 2016. This role includes providing escort and guarding of community activities, including demonstrations or other crowds. In situations of crowds, the police are tasked with providing direct security in the field.

Strict procedures for the use of tear gas weapons, in accordance with the regulation of the Chief of Police No. Pol 16 of 2006. The steps include preparing a warrant, training for officers, checking the expiration date of tear gas, and giving a warning before using the weapon. Tear gas is fired at a 45° angle into the air or in front of an anarchic crowd.

The short-term effects of tear gas cause watery and red eyes, blurred vision, mouth and nose irritation to burning, difficulty swallowing, skin rashes, nausea and vomiting, coughing, choking, and shortness of breath. These effects usually disappear within 15 to 20 minutes when someone who is exposed to this weapon is immediately taken to an open space with adequate air circulation and cleans themselves. For this reason, there are strict guidelines regarding the use of this weapon to control the crowd. Among them, tear gas shooting must be from a distance, only used outdoors, and the type of material used must have the lowest possible concentration. Exposure to tear gas indoors or with any high concentration can cause serious health effects. Such as blindness, serious burns, respiratory failure, and even death. Regardless of the concentration and People who have a history of respiratory disorders such as asthma and chronic obstructive pulmonary disease are at high risk of respiratory failure if exposed to tear gas.⁶

According to the author's understanding of the strict SOP in the use of tear gas by special forces, special training is given to personnel on duty, and the use of tear gas must be

⁵Zainuddin Ali, (2011), *Legal Research Methods*, Jakarta: Sinar Grafika, p.31

⁶IPDA Purwoyo, SIKom and AKBP Yusfandi Usman SIK, MIK, from the West Kotawaringin Police, interviewed on January 25, 2024 in Pangkalan Bun, Central Kalimantan Province

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proportional to the situation at hand. Field inspections are carried out to ensure that vulnerable groups, such as women, children, and the elderly, are not affected. If there are fatalities due to the use of tear gas, legal liability can be a serious consideration and an independent investigation will be carried out.

According to IPDA Purwoyo and AKBP Yusufandi Usman, there are several principles and procedures that can be applied in the use of tear gas related to child protection, namely all actions that have the potential to affect children must pay attention to their human rights, such as the right to life, development, and protection from violence. This statement is in accordance with the theory of legal protection from CST Kansil, namely legal protection is a variety of legal efforts that must be provided by law enforcement officers to provide a sense of security; both mentally and physically from disturbances and various threats from any party.

The decision to use tear gas must be taken with consideration of its impact on children. Before using tear gas, security forces should provide education and counseling to parents or guardians of children and children themselves about the risks and possible impacts, provide them with an understanding of the actions to be taken, children have different needs and tolerances to various stimuli, including tear gas. Procedures must take into account the child's age and health conditions to minimize risks.⁷

Then IPTU Teguh P. Utomo added that children are in a crowd or situation that requires the use of tear gas, security personnel who have special training in handling children should be involved. They must be able to ensure the safety of children and provide necessary assistance, and before the use of tear gas, warnings must be given to the crowd, including special warnings for groups of children. Adequate evacuation time must be provided to give children the opportunity to leave the affected area, after the use of tear gas, monitoring of the impact must be carried out actively. Security officers must be ready to provide first aid and assist in the evacuation of children who may need medical care, as far as possible, safer alternative options that are in accordance with children's rights must be explored before making a decision to use tear gas, and there needs to be cooperation and coordination with local child protection agencies should be established to ensure that the security measures taken do not harm children and are in accordance with the principles of child protection.⁸

IPDA Purwoyo, AKBP Yusufandi Usman, and IPTU Teguh P. Utomo agreed that the use of tear gas in securing the community usually follows certain procedures to ensure its effective and safe use. The following are the general stages in the use of tear gas:⁹

- a. Before using tear gas, security officers must carefully evaluate the situation. They need to understand the level of threat, the number of people involved, and the context of the situation.

⁷IPDA Purwoyo, SIKom and AKBP Yusufandi Usman SIK, MIK, from the West Kotawaringin Police, interviewed on January 25, 2024 in Pangkalan Bun, Central Kalimantan Province

⁸IPTU Teguh P. Utomo, S.Ti.K from SATBRIMOBDA KALIMANTAN, interviewed on January 27, 2024 in Pangkalan Bun, Central Kalimantan Province

⁹IPDA Purwoyo, SIKom and AKBP Yusufandi Usman SIK, MIK, from the West Kotawaringin Police, interviewed on January 25, 2024 in Pangkalan Bun, Central Kalimantan Province and IPTU Teguh P. Utomo, S.Ti.K from the Central Kalimantan SATBRIMOBDA, interviewed on January 27, 2024 in Pangkalan Bun, Central Kalimantan Province

- b. Officers must warn individuals or groups who may be involved in an upcoming action, such as tear gas, to give people a chance to follow directions and leave the area.
 - c. Officers must ensure they are equipped with appropriate equipment, including tear gas, protective masks and other equipment necessary to protect themselves.
 - d. Tear gas use must be in accordance with established guidelines. Tear gas can be sprayed in an appropriate manner to minimize the risk of serious injury to the targeted individual. Officers must avoid excessive use and ensure that their actions are in accordance with the law.
 - e. Following the use of tear gas, officers must provide first aid and assistance to affected individuals. This may involve evacuating individuals from the area affected by tear gas or providing medical assistance if necessary.
 - f. Reporting and Documentation: Any use of tear gas must be accurately documented. This includes notes on the circumstances, the reason for the use of tear gas, the amount used, and its effects.
 - g. Training and Supervision: Officers using tear gas must undergo appropriate training in the use of this non-lethal weapon. Tear gas use must also be monitored and evaluated regularly to ensure compliance with applicable guidelines and standards.
2. In enforcing the rules on the use of tear gas so far in West Kotawaringin Regency, it has been in line with the thoughts of Gustav Radbruch who stated that justice and legal certainty are inseparable parts of the law so that justice and legal security can be upheld, and legal security is maintained for the sake of security and order, as a form of respect for positive Indonesian law, of course legal certainty and the values to be achieved are the values of justice and happiness.¹⁰

3.2 Problems Arising in Police Security with the Use of Tear Gas in Relation to Child Protection

Based on the author's interview with DP3AP2KB, the Head of DP3AP2KB, Mr. Agus Basra Wiyanta, S.Pd., MTP, explained the prevention efforts made against children and adolescents so that they do not get involved in anarchist masses. The efforts made by DP3AP2KB include providing counseling before as a prevention effort and support and protection for children involved in these activities, both as victims and as children facing the law in efforts to overcome them. Empowerment programs and psychosocial support are part of DP3AP2KB's efforts to support the Regulation of the Minister of Women's Empowerment and Child Protection (Permen PPPA) Number 12 of 2022 concerning the Implementation of Child-Friendly Districts/Cities.

According to the Head of DP3AP2KB, Mr. Agus Basra Wiyanta, S.Pd., MTP, West Kotawaringin Regency has not yet had any cases of tear gas victims involving children, this was also

¹⁰Achmad Ali, *Unveiling the Veil of Law (A Philosophical and Sociological Study)*, Publisher Toko Gunung Agung, Jakarta, 2002, pp. 82-83

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confirmed by IPDA Purwoyo, SIKom and AKBP Yusfandi Usman SIK, MIK, from the West Kotawaringin Police, as well as IPTU Teguh P. Utomo, S.Ti.K from the Central Kalimantan SATBRIMOBDA who with their responsiveness from the West Kotawaringin Police and Brimob always tried to reprimand and appeal to calm the masses and always succeeded in conducting the masses.

Mr. Agus Basra Wiyanta, S.Pd., MTP, said that so far DP3AP2KB has never held counseling or socialization regarding the dangers of tear gas fired in urgent conditions on anarchic crowds. This has not been done because there have been no cases of tear gas involving children, but as an effort to educate and prevent, counseling or socialization regarding the dangers of tear gas in protecting children can be scheduled.

The use of tear gas by police in security situations can cause various problems, especially when it involves child protection. Some of the problems that may arise include the physical and psychological impacts on children, who are more vulnerable to the physical and psychological impacts of tear gas than adults.

According to DP3AP2KB, tear gas can cause difficulty breathing, eye irritation, and psychological stress. When viewed from the risk of injury and health, tear gas can cause the risk of injury and health problems in children, especially if they have certain medical conditions or are susceptible to allergic reactions. The inability of children to escape; children may not have the ability to quickly escape from the area affected by tear gas. This can increase their risk of longer and more intensive exposure. In security situations involving tear gas, children may be separated from their parents or guardians.¹¹ Privilege rights granted by the state or government arising from the Constitution and statutory regulations.¹²

The author is of the view that the use of tear gas on children can cause negative reactions from the community and public opinion. This can create public relations problems and raise ethical questions regarding child protection.

If the use of tear gas does not pay attention to children's rights; especially the right to life, development, and protection from violence, this can be considered a violation of children's human rights. Therefore, preparation before securing is the availability of a medical team in the secured area. This is in anticipation of rapid treatment for victims if there are anarchic actions from the masses or crowds.

The author highlights that the important thing in the use of tear gas, especially when children are accidentally involved in areas that need to be secured, is to consider their rights, namely their welfare, and the possible health impacts. In addition, the involvement of child protection institutions and human rights advocates can help address the problems that arise and ensure maximum child protection.

3.3 Police Responsibilities in Security Using Tear Gas in Relation to Child Protection

Tear gas can be stored in the form of spray or grenades. Tear gas or often called CS with the chemical formula 2-Chlorobenzaldehyde Malononitrile with a length of only about 10 cm or the size of an adult's palm, usually tear gas is shaped like a bullet and is fired through a launcher

¹¹Head of DP3AP2KB, Mr. Agus Basra Wiyanta, S.Pd., MTP, West Kotawaringin Regency, Interview on January 24, 2024

¹²Fatchur Rahman, *The Science of Inheritance*, Al-Ma'arif Publisher, Bandung, 1981, p.42

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gun or fired from a tube, after being fired and falling, tear gas will emit thick white smoke. Tear gas itself is not actually a gas, it is a powder that expands into the air as a fine mist and is usually used to disperse crowds or groups of people who are considered a threat. Generally used in demonstrations.¹³

In securing using tear gas, especially in relation to child protection, the police's responsibility includes a series of actions and principles to ensure the safety, welfare, and protection of children's rights. mentions that there are several aspects of police responsibility in the existence of permission or notification to the police that there will be mass crowd activities in every activity, so that on that basis the decree to hold security will be implemented, activities that are crowds or masses that can endanger the safety and health of children, then the Police appeal from the receipt of the activity security permit not to involve children, anticipate the medical team as first aid for people in the security area who suddenly fall ill, compliance with the Law and Human Rights Standards.¹⁴

Various ways to remove chemicals and relieve symptoms, first aid for burning eyes is irrigation (spraying or rinsing) with water to remove chemicals, bathing, and scrubbing the whole body with soap and water can remove particles attached to the skin, clothes, shoes and accessories exposed to vapors must be washed thoroughly because the attached particles can remain active for a week. Avoiding or moving from the gas-exposed area to fresh air, removing exposed clothing, and avoiding sharing towels can reduce skin reactions and immediately removing contact lenses because they can be attached to particles.¹⁵This indirect risk can also be fatal to dangerous. The condition of the masses when crowded in a crowd, oxygen levels drop drastically in a short time.¹⁶

Based on this statement, the author sees a great responsibility in preparation before carrying out security. The stages of carrying out this security are in accordance with Christine STKansil's statement, namely "the law must be able to integrate it so that conflicts of interest can be minimized". The police must operate in accordance with national law and human rights standards, ensuring that children's rights are respected and protected. The use of tear gas must be in accordance with the law and not harm children's rights.

IPTU Teguh P. Utomo stated that officers deployed in the field had gone through various maximum military training, including, police officers involved in security duties must receive special training in handling situations involving children. They must understand the special needs of children. Before using tear gas, the police must provide a clear warning to the masses, including a special warning for groups of children.¹⁷The author argues that effective communication can help reduce the risk of unwanted impacts, and in safeguarding situations, police should try to separate children from potentially dangerous situations and provide

¹³IPTU Teguh P. Utomo, S.Ti.K from SATBRIMOBDA KALIMANTAN, interviewed on January 27, 2024 in Pangkalan Bun, Central Kalimantan Province

¹⁴IPDA Purwoyo, SIKom and AKBP Yusufandi Usman SIK, MIK, from the West Kotawaringin Police, interview date

January 25, 2024 in Pangkalan Bun, Central Kalimantan Province

¹⁵IPDA Purwoyo, SIKom and AKBP Yusufandi Usman SIK, MIK, from the West Kotawaringin Police, interview date

¹⁶Ibid,.

¹⁷IPTU Teguh P. Utomo, S.Ti.K from SATBRIMOBDA KALIMANTAN, interviewed on January 27, 2024 in Pangkalan Bun, Central Kalimantan Province

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special escorts for them. Children should be carefully secured and supervised. Warnings voiced by the Police will always be verbalized to increase awareness.

This responsibility reflects the principles of human rights and child protection which are a priority in every security action carried out by the police in line with the theory of Christine STKansil SH, M.Hum. which explains that legal protection is a variety of legal efforts that must be provided by law enforcement officers to provide a sense of security; both mentally and physically from disturbances and various threats from any party.¹⁸

In cases involving children, both the perpetrator and the victim must have their rights protected based on applicable regulations. In Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, it is explained in Article 1 Paragraph 2 that Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow and participate optimally in accordance with human dignity and receive protection from violence and discrimination.

The rules for the use of tear gas by the police in Indonesia have been included in the Chief of Police's Procedure No. I/X/2010. In the process, to carry out preventive efforts until tear gas is carried out (firing) because it is already anarchic, has attacked officers, damaged cars, and finally hit by tear gas. The perpetrators put up physical resistance against officers, then actions were taken to paralyze the crowd with blunt weapons, and the last action was to shoot chemical weapons including tear gas, or other tools according to Police standards which are directed 45° (forty-five degrees) towards the sky/not hitting the crowd.

Regulation of the Chief of Police No. 10 of 2022 concerning the Control of Riots, Procedure of the Chief of Police No. 1 of 2010 concerning the Handling of Anarchy, and Regulation of the Chief of Police No. 1 of 2009 concerning the Use of Force in Police Actions, the use of tear gas is not the first choice in taking action when facing a state of riot/anarchy, even after the Kanjuruhan tragedy, the Regulation of the Chief of Police was issued for a total ban on the use of tear gas in every sports competition. This means that the use of chemical weapons-based force by officers aimed at civilians should not be used and will only result in casualties (deaths and injuries) instead of dispersing the masses.

Based on this statement, the author is of the view that if the police use tear gas, it should be followed by strict transparency and accountability efforts, so that it does not become an excessive use of force, so that there needs to be; first, the Indonesian National Police through the Information and Documentation Management Officer (PPID) immediately open the tear gas purchase contract to the public in accordance with the mandate of Information Commission Regulation Number 1 of 2021, second, the Indonesian National Police must be responsible for all cases of tear gas shootings that result in fatalities, and third, the Indonesian National Police must open information regarding the management of assets related to tear gas so that expired ammunition is not reused.

4. Conclusion

Based on the research conducted by the author, it can be concluded that based on the Regulation of the Chief of Police No. Pol 16 of 2006 concerning guidelines for crowd control, tears are used only in urgent situations and are the last option in securing anarchist masses

¹⁸Online Legal Team, upload date September 30, 2022, <https://www.Hukumonline.com/berita/a/theoretica-perlindungan-Hukum-menrut-para-ahli-lt63366cd94dcbc/?page=2>, download date 05 November 2023

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against vulnerable civilians such as women, the elderly and children before firing tear gas into anarchist crowds. If there are children, women or the elderly in a dangerous area, then an appeal is the most important thing. The appeal will be delivered three times with the intention of providing an opportunity for vulnerable communities to evacuate and disperse for safety. Building communication in the form of appeals and providing ambulances and medical teams is a form of responsibility as a mass security that upholds safety, ethics and human rights. Effective communication can help reduce the risk of unwanted impacts.

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