

THE ROLE OF INVESTIGATOR IN CRIMINAL OFFENCE COMMITTED BY SOMEONE INDICATED BY MENTAL DISORDERS

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ABSTRACT

The writing of this paper was intended to explain the role of the investigation carried out by the investigator against a criminal offense committed by someone who is indicated to have a mental disorder.

This scientific work was made because there were not a few criminal acts committed by someone who is indicated to have a mental disorder. As in Purworejo district where the authors as investigators served in the area, there were 5-6 cases during the last 2 years, during the final 2016 to the present.

This case becomes attention because it has a quite dangerous impact on kamtibmas (community order) in the community.

This scientific work focused on actors who indicated mental disorder, investigators were also expected to be able to carry out investigative procedures, guided by the procedures and environment of the area where the case occurred, because a criminal case handling conducted by someone who indicated a mental disorder cannot be equated with criminal acts committed by normal people.

With this scientific work, it was expected that the investigators can also innovate, so that in handling criminal cases committed by someone who is indicated mental disorder in the future will be better. Since, the development of the law and the situation in the jurisdiction of each region is different, and it is expected that investigators can adapt to the conditions of the region in service.

Keyword: Role of Investigation, Crime, Mental Disorders

INTRODUCTION

Polri (Indonesian Police) is an institution that is directly responsible under the President, which is headed by a Chief of Police. It is an organization whose duty is to protect, to serve and to safeguard the people in all parts of Indonesia. The Indonesian National Police is also tasked with maintaining security and order that occurs in the community, as well as maintaining internal security. In KUHAP article 1 number 2, states that "Investigators are police officers of the Republic of Indonesia or certain civil servants who are given special authority by law to conduct investigations" whereas in article 1 point 2, "Investigation is a series of actions of investigators in matters and according to the method regulated in this law

to search for and collect evidence with evidence that makes it clear about the crime that occurred and to find the suspect ".¹

In this paper, the writer who also serves as a law enforcement officer, especially in the investigation section, namely the police department, emphasized the discussion of the role of the investigation in the implementation of law enforcement when a criminal case occurs. Investigation is a process that must be followed in law enforcement, before in the end a criminal case will be tried in a court by a local judge.

Unlawful acts in the form of violations or criminal acts often occur in our own neighborhood, various forms of criminal cases depend on the actions taken by the person in carrying out their actions. Some crimes that often occur include theft, embezzlement, fraud and murder. The case or criminal case that occurred was better known as a conventional case.

The crime arises because of various reasons, intentions and opportunities from the behavior of the people themselves. The author is brave and believes in the reason, because the author himself feels and follows the process of law enforcement as an investigator which is one of the police law enforcement functions.

A criminal case does not always arise as a result of a realistic or concrete intention or opportunity that exists so that the perpetrators commit acts against the law, one of them as in the title, namely a crime may occur by someone who is indicated to have a mental disorder.

Purworejo Regency is an area that is still not much developed. The people still work as laborers and peasants. The Purworejo community is dominated by Muslims, but there are also many other religious communities such as Christianity and Catholicism, therefore Purworejo is also known as the "City of Santri".

The standard of living of the people in the Purworejo region is still fairly low. This is supported by the large number of workers who become agricultural laborers, as well as the large number of people who drop out of school. There are still many people living in rural areas that are less affordable than the attention of people in the city area in Purworejo.

From an inadequate environment and lack of attention from the surrounding community, there are still found people who have mental disorders in rural areas or villages. Sometimes there are also some people who experience mental disorders who roam freely and walk on the streets of Purworejo, naked. This also explains that the population of Purworejo is not a few who experience mental disorders.

¹ Pembahasan permasalahan dan penerapan KUHAP, Jakarta, 2017, page 109

Mental disorder experienced by several people/communities in the Purworejo area also has an impact on the situation and conditions in this region, especially against illegal acts. As the author explained above, an act against the law is not only based on the intention and opportunity of the perpetrator, where there are things that need to be explained with special attention. One of the causes is person with mental disorder. Moreover, in the last 2 years, there have been 5-6 criminal cases in which, the unlawful action was carried out by someone who was indicated to have a mental disorder.

The incident of investigators as police law enforcement officers took steps, in order to carry out law enforcement/investigations in accordance with his provisions, because the case involved a person who experienced a mental disorder. This is what the adopted as a scientific work, where the writer as a law enforcement officer and as an investigator has a role to uphold the law itself. Moreover, this unlawful behavior is known to be carried out by someone who is indicated to have a mental disorder.

The incident had an impact on how investigators as law enforcement officers carried out the investigation process in handling these cases. There were several obstacles that occurred while carrying out the investigation. It was expected that with the following scientific work, it can provide an overview and explanation on how the investigation process carried out by investigators in a criminal offense, the perpetrator indicated experiencing mental disorders, especially in the Purworejo District Police jurisdiction.

Research Methods

The research method has a lot to do with how to do research. In contrast to the research procedure which emphasizes more on the tools carried out in measuring and collecting research data. Therefore, the research method covers both things, namely procedures and research techniques.

In the Big Indonesian Language Dictionary (KBBI) the method is defined as the regular method used to conduct a business in the hope that the goal is achieved. Then research is a way to get the truth of the data on the symptoms of nature, society, or humanity. With a goal, through a way that can get something expected.

In this research, the author used a sociological legal research approach, where in this approach, the data used were derived from primary and secondary data as comparative data.

Legal sociology is defined as a branch of science that analytically and empirically analyzes or studies the reciprocal relationship between law and other social symptoms.²

The author used a sociological legal approach because the author did actual research, and was in direct contact with this research, namely as investigators who carry out the investigation process. The data and information obtained by the author comes from facts that occur in the field and written provisions and procedures that have legal basis. Thus, to minimize the possibility of invalid data received by the author in making a scientific work entitled "**THE ROLE OF INVESTIGATOR IN CRIMINAL OFFENCE COMMITTED BY SOMEONE INDICATED BY MENTAL DISORDERS**"

The types of data used in this study are:

- a. Primary data were collected by researchers themselves. Data that has never been collected before, either in a certain way or at a certain time period.
- b. Secondary data were obtained through literature studies, namely by reviewing the literature, articles, and applicable legislation.

Data sources in this study are:

- Literature research (library research), which examined various library books, legislation and scientific works that are related to the object of research.
- Field research, which was collecting data by observing systematically the phenomena investigated.

RESEARCH RESULTS AND DISCUSSION

In accordance with the criminal provisions which are mentioned in the Criminal Code, article 44 paragraph 1, "Whosoever commits an act that cannot be accounted for by him, because his soul is deformed in his body, or disturbed by illness, not convicted", and paragraph 2 states "If it turns out that his actions cannot be accounted for because his soul is deformed in his body or disturbed by illness, so the judge can order that the person be entered into a mental hospital, a maximum of one year as a trial time".³

From the article it is clearly stated that, if a perpetrator is suspected of having a mental disorder, the person cannot be criminalized. However, in the process of an investigation, the determination of the article is not immediately assumed, but through the process of investigation that must be passed. This is the role of investigation needed in the process of a criminal offense. Where role is the form of connotation of social science, which defines the

² Mengenal Sosiologi Hukum, Bandung, 1989

³ Kitab undang-undang hukum pidana, Jakarta, 2008, page 21

role as a function that someone carries when occupying a characterization (position) in the social structure.⁴

In an investigation process carried out by an investigator in a criminal act, it will later be filed and sent to the local prosecutor's office. There are stages in the implementation, one of which is the case. A case title is one part of the investigation process that explains which case will be taken or the case that will be brought. From that title, we can determine that a crime can be continued or not.

In the implementation of the investigation process, there are obstacles that occur, among others, where the situation and environmental conditions of the jurisdiction where the case occurred. In this case, a crime is committed by someone who is indicated to have a mental disorder.

The author as an investigator in the Purworejo district area as the official who carried out the investigation process, in which in the last 2 years handled approximately 5-6 criminal cases committed by someone who indicated a mental disorder, 3 of them were homicides, while the rest were other conventional crimes. Against these cases, various types of case handling processes. From many cases, there were several obstacles faced by investigators during the investigation process.

One of the constraints is the time needed during the investigation process and the obstacles from outside the investigation process (environment). Why is time an obstacle in an investigation process? Because at the beginning it is explained that, in practice if the police encounter such an event, he is still obliged to examine his case and make a verbal process. It is the judge who has the power to decide whether or not the defendant can be held responsible for his actions, although he can also seek advice from a psychiatric doctor.⁵

This is a return obstacle, where on the one hand in the field process, the investigator is doubtful if someone indicated mental disorder is detained during the proceedings. It is feared that the perpetrators will do things that are not expected during in the prison. For instance, he/she will commit suicide, or does other things against detainees others. Likewise the prosecutor's office as the party who will study the case file submitted by the investigator, the prosecutor's office also does not dare to hold the perpetrator during the trial process with the same reasons, so that the prosecutor's office usually (in purworejo district) ordered investigators to observe the perpetrator in a mental hospital.

⁴ Teori peran, Jakarta, 1994, page 3

⁵ Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal, page. 61

During the investigation process, the investigator is expected to be quick in taking action, where the investigator is able to decide what to do with the perpetrator. The author as the investigator coordinated and observed directly if he found an actor who has a mental disorder. Because for these observations it also takes a long time, so it requires speed and accurate actions. Thus, the filing process in the investigation continues.

In the implementation of observation, even though sometimes there are still problems, where the cost for observation are also not cheap, and in financing the observation is not supported by the official budget, so that the observation itself is expected to be assisted by the family of the perpetrators and the local community. In fact, the perpetrator who is indicated mental disorders were mostly people from the lower classes. This is one of the obstacles for investigators in carrying out investigations, so that the need for coordination with parties such as village officials and direct leaders is necessary.

During the investigation process carried out so far by the author, it went smoothly even though there were some obstacles found, but these obstacles did not make the process of the investigation process unresolved, but the investigator was obliged to be able to overcome these obstacles.

Other obstacles experienced during the investigation took place was the perpetrators who at the time of a crime brought sharp weapon (knife etc) and often threatened local residents. The perpetrators were people who had long experienced of mental disorders, but the community especially families insisted on caring for and guarding him/her at home. Here, the investigator has a provision where "Criminal action is an act of committing or not doing anything by law and regulation which is declared as an act that is prohibited and threatened with crime".⁶

At the time the perpetrator was proven to violate the provisions in Law no. 12 year 1951, which is about the Emergency Law, in article 2 paragraph 1 states that "whoever enters without rights to Indonesia, makes, accepts, tries to obtain it, surrenders or tries to control, bring, have a supply or possess in his possession, storing, transporting, hiding, using or expelling from Indonesia a battering weapon, stabbing weapon, or stabbing weapon (slag, steek of stoot weapon) is punished with a maximum sentence of ten years".⁷

This is where investigators have not proceeded to the level of investigation, this decision was taken with the intention of giving the family opportunity to take care of the perpetrator who is also his family to be treated in a mental hospital, and not live with the

⁶ Bunga rampai kebijakan hukum pidana: perkembangan penyusunan konsep KUHP baru, Jakarta, 2016, page 84

⁷ Undang-undang darurat republik Indonesia, 1951, page 1

surrounding community. It is done to avoid the occurrence of undesired events. This is also called the discretion of the police, because again we know that if the case is continued, this will also become an obstacle, where the need for re-observation requires time and money. From the policy, the community and family make a statement stating the application and agreement to be made, so that the investigator has the basis for the discretion, with the written agreement being implemented.

Why the process of investigation is in a criminal act, especially against a person/actor indicated by a mental disorder must be properly considered? Because it avoids the existence of cases or other criminal acts that occur. Moreover, the "mental disorder" becomes the shield of the perpetrator to avoid legal bondage. And investigators also may not determine someone has a mental disorder or not if there is information from experts who state it, in this case the psychiatric doctor. Hence, this is where the role of investigation is needed in a process of investigation, especially in this case against the perpetrator who indicated a mental disorder.

CONCLUSION

a. Summary

Investigation is a compulsory process in a case handling, especially in case handling carried out by someone who has a mental disorder. This is supported because mental disorders cannot be decided arbitrarily, but through a process of observation. It is done in order to avoid alibi from the perpetrator to avoid legal entrapment.

The decision that a person is capable of being responsible for his actions is decided by the judge himself, although in reality, when the file goes and coordinates with the prosecutor's office. The prosecutor's office advises the investigator to prove that the person has a mental disorder during the investigation process. So that in his decision the case was stopped, and refers to medical treatment to a mental hospital.

It explains that the role of the investigation is very important, where the verification of the case can be clear and pure, without the investigation process, the case will be difficult to reveal and prove.

b. Suggestion

The existence of an MOU (memorandum of understanding) between the prosecutor's office and the police is as a basis for handling cases, especially against perpetrators who experience mental disorders. It must be clear who can actually decide or determine the perpetrator can account for the case, which is due to mental disorders experienced by the perpetrator, so that in the future there were no complaints or findings from investigators

because of the implementation of the investigation process was not in accordance with the rules and regulations.

Conducting guidance to the community is needed, especially for families who have relatives who experience mental disorders to immediately submit to a mental hospital to be treated. Thereby it can reduce concerns, as well as interference, and criminal acts committed by people who are indicated to have a mental disorder. Because until now, especially in the area of Purworejo district where the authors became investigators, there were still many residents who still treated their relatives who experienced mental disorders in their homes. This was due to the difficulty of financing the treatment for psychiatric treatment. Furthermore, authors also knew that the people in the Purworejo district were classified as middle to lower class.

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