

THE URGENCE OF INVESTIGATION TERMINATION ORDERS (SP2LID) IN THE CRIMINAL ACTION INVESTIGATION PROCESS AS IMPLEMENTATION OF THE CIRCULAR LETTER OF THE KAPOLRI NUMBER : SE/7/VII/2018

AZAN FUJIYANTO, OTONG ROSADI, IYAH FANIYAH

azanfoedjy@gmail.com

Fakultas Hkum Universitas Ekasakti

Abstrak: Surat Edaran Kapolri Nomor: SE/7/VII/2018 tentang penghentian penyelidikan merupakan aturan yang dibuat untuk mengisi kekosongan hukum mengenai penghentian penyelidikan di tubuh Kepolisian. Aturan ini mengatur bagaimana mekanisme dan aturan untuk menghentikan penyelidikan yang telah dilakukan untuk menjawab kebutuhan masyarakat atas sebuah kepastian hukum untuk laporan yang telah dibuat sebelumnya. Kepastian hukum dalam proses penyelidikan apabila laporan atau pengaduan yang dibuat sebelumnya tidak terpenuhi unsur pidananya atau terdapat tidak cukup bukti maka penyelidikan harus dihentikan, menjawab penghentian penyelidikan tersebut terbitlah di internal Polri Surat Edaran Nomor:SE/7/VII/2018 tentang penghentian penyelidikan Hal ini juga terjadi di lingkungan Kepolisian Daerah Sumatera Barat. Penelitian ini merupakan penelitian deskriptif analitis. Pendekatan yang digunakan dalam penelitian ini adalah pendekatan yuridis normatif yang didukung pendekatan yuridis empiris. Data yang digunakan dalam penelitian ini yaitu data sekunder dan data primer. Terhadap semua data dan bahan yang diperoleh dari hasil penelitian disusun dan dianalisis secara kualitatif, dan disajikan dalam bentuk deskriptif kualitatif. Dari hasil penelitian dapat dijelaskan bahwa urgensi dari SP2Lid sebagai implementasi atas terbitnya Surat Edaran Nomor: SE/7/VII/2018 dalam proses penyelidikan tindak pidana adalah bahwa untuk mengisi kekosongan hukum perihal mekanisme dan prosedur penghentian penyelidikan yang tidak diatur di dalam KUHAP, serta menjadi petunjuk mengenai tata cara pelaksanaan persyaratan dalam proses penyelidikan yang ditujukan kepada penyidik Polri, karena Kepala Kepolisian memiliki kewenangan untuk menerbitkan surat edaran yang berisikan instruksi ataupun pemberitahuan mengenai ketentuan penghentian penyelidikan yang apabila dalam hal penyelidikan tersebut fakta dan bukti yang dikumpulkan tidaklah cukup ataupun peristiwa tersebut bukanlah suatu tindak pidana maka penyidik dapat menghentikan penyelidikan dan tidak meneruskannya ketahap penyidikan tetapi apabila suatu saat nanti pelapor ataupun penyidik mendapatkan fakta dan bukti yang baru (novum) maka tahapan penyelidikan yang sebelumnya diberhentikan akan dapat dibukakan kembali dengan melewati mekanisme gelar perkara dan kemudian penyidik menerbitkan Surat Perintah Penyelidikan Lanjutan.

Kata Kunci: SP2LID, Penyelidikan, Tindak Pidana, SE/7/VII/2018.

Abstract: The Circular Letter of the Chief of Police Number: SE/7/VII/2018 concerning the termination of investigations is a rule made to fill a legal vacuum regarding the termination of investigations within the Police. This rule regulates the mechanisms and rules for stopping investigations that have been carried out to answer the community's need for legal certainty for reports that have been made previously. Legal certainty in the investigation process if the report or complaint previously made does not meet the criminal element or there is not enough evidence then the investigation must be stopped, answering the cessation of the investigation is published in the Internal Police Circular Letter Number: SE/7/VII/2018 concerning the termination of the investigation. also occurred within the West Sumatra Regional Police. This research is a descriptive analytical research. The approach used in this study is a normative juridical approach which is supported by an empirical juridical approach. The data used in this study are secondary data and primary data. All data and materials obtained from the research results were compiled and analyzed qualitatively, and presented in a qualitative descriptive form. From the results of the research, it can be explained that the urgency of SP2Lid as the implementation of the issuance of Circular Letter Number: SE/7/VII/2018 in the process of

investigating criminal acts is that to fill the legal vacuum regarding the mechanisms and procedures for stopping investigations that are not regulated in the Criminal Procedure Code, as well as being instructions regarding procedures for implementing the requirements in the investigation process addressed to Polri investigators, because the Chief of Police has the authority to issue circulars containing instructions or notifications regarding the provisions for stopping the investigation if in the case of the investigation the facts and evidence collected are not sufficient or the event is not a criminal act, the investigator can stop the investigation and not continue it to the investigation stage but if one day the reporter or investigator gets new facts and evidence (novum) then the previous stage of the investigation will be removed. The arrest can be reopened by going through the case title mechanism and then the investigator issues a Further Investigation Order.

Keywords: SP2LID, Investigation, Crime, SE/7/VII/2018.

A.Introduction

The Head of the Indonesian National Police (Kapolri) General Police Drs. Listyo Sigit Prabowo, M.Si has 16 priority programs to transform the National Police into the PRECISION Police. The formulation of PRESISI itself is an abbreviation of Predictive: Anticipatory Forecasting which prioritizes security to predict situations and conditions that become issues and problems as well as potential disturbances in public order, Responsibility: Interactive Communication, a sense of responsibility embodied in speech, attitude, behavior and responsiveness in implementation The overall task is aimed at ensuring the interests and expectations of the community in creating security and order, and Fair Transparency: Regulated openness, which is the realization of principles, ways of thinking and systems that are open, accountable, humane and easy to supervise (Kompas, 2021). In the Kapolri priority program, apart from making the National Police human resources (HR) superior in the police 4.0 era, carrying out the transformation of the Police in the operational field, improving law enforcement performance is also one of the priorities, in which the application of restorative justice is the main step in resolving cases in the investigation process. as stated in the Commander Wish of the National Police Chief (Republika, 2021).

Restorative justice carried out in the investigation process is considered a new way of thinking/paradigm in viewing a crime committed by a person. The police as the front line in law enforcement through the process of investigation and case investigation have a large enough responsibility to synergize the duties and authorities of police investigators in dealing with every citizen's problem in conflict with the law. Keep in mind, the implementation of the rule of law is the law enforcement process itself. Ideally, law enforcement should be able to understand the three basic values of the law, namely justice, the value of legal certainty and the value of benefits and provide guarantees of equality for everyone's rights before the law (Hınca IP Pandjaitan XII, 2020).

Carrying out the duties of the law enforcement process, the National Police of the Republic of Indonesia has duties, functions, and authorities in the field of criminal acts in accordance with laws and regulations that must be carried out professionally, transparently and also accountable for every criminal case in order to realize the rule of law that reflects legal certainty. , a sense of justice and also expediency. Investigations as regulated in the Criminal Procedure Code (KUHP) must still pay attention to the protection of human rights. Internal Police have regulations as guidelines for implementing the investigation process, which refers to the Regulation of the Head of the Indonesian National Police Number 6 of 2019 concerning Management of Criminal Investigations which revokes the previous Regulation of the Chief of the Police of the Republic of Indonesia Number 14 of 2012 concerning Management of Criminal Investigations. In addition, the regulation of the Head of the Republic of Indonesia Number 6 of 2019 concerning the Management of Criminal Investigations regulates the investigation which is stated in Article 5 Paragraph (2), which states that: In the event that there is information regarding an alleged criminal act, an information report is made and an investigation can be carried out. prior to the existence of a report and/or complaint accompanied by a warrant.

The series of actions in the investigation are explained in Article 6 Paragraph (1) and Paragraph (2) in the Regulation of the Head of the Indonesian National Police Number 6 of 2019 concerning Management of Criminal Investigations, which explains that: Article 6 Paragraph (1) states the following: Investigation activities are carried out by: a) crime scene processing; b) observation (observation); c) interviews (interviews); d) follow-up (surveillance); e) disguise (undercover); f) undercover buys; g) delivery under control (control delivery); h) tracking (tracking); and i) research and document analysis. Article 6 Paragraph (2) states that: The targets of the investigation include: a) people; b) objects or goods; c) place; d) event/occurrence; e) activities. Based on the results of a series of investigation activities, a case is then carried out in order to be able to decide whether the report is a criminal act or not, so that the results of the investigation may or may not proceed to the investigation stage or vice versa.

If based on the results of the investigation the reported event is not a criminal act, the report may be terminated. This includes also if there is a criminal case and it turns out that the report is not under the authority of the National Police Investigator, the report will be transferred to a more competent agency in accordance with the provisions of the legislation. The consequences that will arise from a series of investigations if it turns out that the reported event is not a criminal event or it can be said that an event based on a case title stating that the event is not a criminal act then the investigation must be stopped. So that the case is not continued from the investigation stage to the next stage, namely the investigation stage.

In relation to the termination of the investigation, the Indonesian National Police issued Circular Letter Number: SE/7/VII/2018 concerning the Termination of Investigation, in which the circular regulates the requirements and mechanism for the termination of the investigation. The mechanism for stopping investigations as regulated in Circular Letter Number: SE/7/VII/2018 concerning Termination of Investigations is as follows: 1) The investigator makes a report on the results of the investigation to determine whether or not the incident can be escalated to the investigation process; 2) Investigators carry out ordinary case titles and in carrying out case titles may involve supervisory functions and legal functions at the level of: Police Headquarters by the Directorate, At the Polda level by the Sub-Directorate, at the Polres level by the Unit and at the Polsek level by the Unit; 3) Publish investigation administration including: a) Case Title Report (in the form of: attendance, documentation, and degree minutes); b) Order for Termination of Investigation (SP2Lid) explaining the reasons for not finding a criminal incident; c) Notification of Termination of Investigation given to the reporter. Seeing and reviewing the contents of Circular Letter Number: SE/7/VII/2018 concerning the Termination of Investigation, this circular is a guideline for the Indonesian National Police apparatus in carrying out the duties of investigators in handling a legal event, whether it is initiated from a report or a complaint, so that can then decide in making a decision on the reported or reported event that can be continued or stopped (Yunan Hilmy, 2013).

The termination of an investigation can also be interpreted as the termination of a case that has been previously reported. The termination of the investigation, of course, caused various reactions to both the complainant or victim as well as to the public, where the arguments or facts from the results of the case were for the internal interest of the Police in this case the investigator who handled the case or report. Investigators only submit an Investigation Termination Order (SP2Lid) to the reporter by containing the contents or information explaining that what has been previously reported has not found a criminal incident or is not a criminal act. Regardless of the reporter's reaction to the issuance of the notification of the termination of the investigation, this of course will cause pros and cons that occur in the law enforcement process itself. As it is known that one of the goals in law enforcement is the achievement of legal certainty (Anne Safrina, 2017).

The National Police as one of the law enforcement officers in carrying out law enforcement often face obstacles, especially those related to social development and of course this is a logical consequence of the development of civilization in the world community. In this case the development of society that is faster than the development of legislation is a problem

related to matters that have not been or are not regulated by law, it can be concluded that it is impossible for a statutory regulation to regulate all life as a whole, so that allow the occurrence of a situation where the legislation in force in the country is considered incomplete and does not guarantee legal certainty for citizens, which results in a legal vacuum (*rechtsvacuum*) in society. In the criminal procedure law in Indonesia, there is no specific phrase that regulates the termination of an investigation. Moreover, it regulates the termination of the investigation. Article 109 of the Criminal Procedure Code only regulates the termination of the investigation and does not mention the termination of the investigation. Of course, this is a void in the current legal regulations.

The development of society is faster than the development of existing laws and regulations, so that developments in the community become a starting point for the existence of a regulation. In people's lives, it is necessary to have a legal system that aims to create a harmonious and orderly community life. But in reality, the laws or regulations that are made do not cover all cases that arise in the midst of society so that law enforcement officers are constrained in carrying out their duties and responsibilities. The principle of legality is often considered as a principle that can provide legal certainty in the face of the reality that the community's sense of justice cannot be fulfilled by this principle because of the rapid development of society in line with existing technological advances. This rapid change then becomes a problem with regard to what has not been regulated and fully accommodated in a legislation, because it is impossible for a law to completely regulate all human life. So that sometimes the regulations that have been made previously are not clear and incomplete which results in a legal vacuum that exists in the community.

For the sake of legal certainty and to fill the legal vacuum regarding the termination of the investigation, the Police issued a circular letter Number: SE/7/VII/2018 concerning the termination of the investigation which regulates the mechanisms and rules for stopping the investigation that has been carried out to answer the community's need for legal certainty. for previously generated reports. Because based on this Circular of the Chief of Police explains, if the facts and evidence collected by investigators in the investigation process are not sufficient to provide legal certainty, then the investigation will be terminated by taking into account the requirements and applicable mechanisms.

For this matter, quoting Fitzgerald's opinion stating (Satijipto Raharjo, 2000) that the law aims to integrate and coordinate various interests in society because in a traffic of interests, protection of certain interests can only be done by limiting various interests on the other hand. Because the legal interest itself must pay attention to the rights and interests of humans as legal subjects, the law should have the highest authority to determine human interests that must be regulated and protected. Satijipto Raharjo (2000) argues that legal protection provides protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law. One of the rights that must be owned by both the reporter and the reported party in dealing with a case is the right to legal certainty. So to ensure legal certainty in the investigation process if the report or complaint previously made does not fulfill the criminal element or there is insufficient evidence, the investigation must be stopped, and to answer the termination of the investigation, an internal Police Circular Letter Number: SE/7/VII/2018 is issued. regarding the termination of the investigation.

B. Research Methodology

Research is a scientific activity related to analysis and construction, which is carried out methodologically, systematically, and consistently (Soerjono Soekanto, 1986). The research method is a path that is carried out in the form of a series of scientific activities carried out methodologically, systematically, and consistently to obtain complete data that can be scientifically justified so that the research objectives can be achieved. The process carried out in this study is to find data in order to answer the problems raised in this study, namely regarding the urgency of the Investigation Termination Order (SP2LID) in the process of investigating criminal acts as the implementation of the Chief of Police Circular Letter

Number: SE/7/VII/2018. This research is descriptive analytical research, namely research that describes the urgency of the Termination of Investigation Warrant (SP2LID) in the process of investigating criminal acts as the implementation of the Circular Letter of the Chief of Police Number: SE/7/VII/2018. To get the desired data and to get satisfactory results, the author uses a normative juridical approach, where the author studies the legislation. The normative juridical approach can be interpreted as an approach through a library research that can be done by reading references available, citing and analyzing existing legal theories and laws and regulations related to the problems in this research. This study also uses an empirical juridical approach as a supporter. An empirical juridical approach is used by conducting research to see how the legal rules related to the Termination of Investigation Order (SP2Lid) are implemented as the implementation of the Circular Letter of the Chief of Police Number: SE/7/VII/2018 in practice in the community.

C. Results and Discussion

1. Legal Position of the Circular Letter of the Chief of Police Number: SE/7/VII/2018 concerning Termination of Investigation in Indonesian Laws and Regulations

The mechanism for stopping investigations has not yet been specifically regulated in the Criminal Procedure Code, this is the main reason for the National Police Chief to issue a Circular Letter from the Head of the State Police of the Republic of Indonesia Number: SE/7/VII/2018 concerning Termination of Investigations as a reference for stopping investigations and as a reference for investigators. in stopping the investigation. The investigator's authority is regulated in Article 5 of the Criminal Procedure Code including: 1) Searching for information and evidence; 2) Receiving a report or complaint by a person regarding a criminal act; 3) Examining a suspect; and 4) Take other legally responsible actions. The explanation of other actions of the investigator who is responsible for the investigator's authority above is aimed at the interests of the investigation in which such action must take into account the following conditions: a) Respect for human rights; b) On due consideration based on compelling circumstances; c) The action must be appropriate and reasonable and included in the environment of his office; d) In accordance with the legal obligations that require an official action to be taken; and e) Does not conflict with a rule of law.

Investigators based on orders from investigators can also carry out other activities including examination, search, confiscation, arrest, photographing someone, taking fingerprints, confiscation of letters and prohibition from leaving the premises. So that when carrying out his duties and authorities as an investigator, an investigator has the authority that is in himself because of the obligations that have set it and also other authorities given on orders from the investigator not because of the will of the investigator himself. Then in Article 25 paragraph (1) of Law Number 2 of 2011 concerning the National Police of the Republic of Indonesia, it is stated that every member of the National Police has duties and functions based on the authority and responsibility of the rank he has been given.

Based on the explanation of the investigator's authority, it can be seen that the duties and authorities of the investigator are greater and more numerous than the duties and authorities of the investigator and the investigator can also order the investigator to take several actions in order to assist the investigation task so that the investigator has the authority that lies with him because of his obligations and authority. originating on the orders of investigators who are not of their own volition. The State Police of the Republic of Indonesia has functions and objectives, namely in the function of state government in the field of service to the community, protection, public order, security maintenance, protection and law enforcement, and has the aim of creating national security which is carried out in terms of service to the community to protect and protect so that the maintenance of public order and security for the enforcement of laws that prioritize human rights. In realizing the functions and objectives of the police, of course, there is also a need for regulations or provisions intended for the police with the aim of providing legal certainty in carrying out or carrying out police duties in order to create public order and uphold the law by not acting arbitrarily. The Criminal Procedure Code which is a

guideline for the Indonesian National Police (Polri) in criminal proceedings does not regulate the termination of the investigation (there is a legal vacuum/recht vacuum).

So, in this case, the Indonesian National Police requires arrangements regarding the termination of the investigation which, based on the report on the results of the investigation, the investigator does not find sufficient evidence or the event that has occurred is known to be not a crime, the investigation is discontinued. The National Police Chief has the authority to issue policies that are only within the internal environment of the Indonesian National Police, in this case the Chief of Police Circular regarding the Termination of Investigation. The circular letter is intended to instruct, provide a direction or instructions regarding the mechanism and procedure for stopping an investigation if in the case of an investigation no criminal incident is found or sufficient evidence is not found, the investigation can be terminated and not proceed to the investigation stage. In relation to written law (statutory regulations), it must also be understood that the nature of law is the nature of statutory regulations. It is well realized that law is not identical with statutory regulations because in addition to statutory regulations as written law, there are also unwritten laws that apply in society. Many parties (especially the sociological and historically minded experts) consider that this unwritten law is actually a reflection of the values that live in society because it develops along with the development of the society.

Legislation as written law that tends to be positivist is made consciously by institutions that have the authority to do so. In the course of its enactment, the written law does not run in line with the values that live and develop in society, or are unable to follow the development of society. The weaknesses of such written law, by legal observers in the field of legislation, direct their thoughts in terms of the formation of legislation. Based on this explanation, the existence of legislation can be accommodated properly and completely in the formation of legislation if it contains 3 (three) aspects including philosophical aspects, social aspects, and juridical aspects. Based on these three aspects, the laws and regulations that are formed will embody the nature of the law (laws) and will not conflict with the moral values that live in society.

The circular letter aims to provide Polri personnel with understanding and knowledge in carrying out discontinuation of investigations. This understanding is important so that Polri members can take action to stop the investigation. The Circular of the Chief of Police is addressed to Heads of Regional Units (Kasatwil) throughout Indonesia. The circular explains how to stop an investigation from handling a criminal act. This Circular Letter of the Chief of Police only serves as a technical guide or guideline for carrying out the duties of Polri members in handling criminal acts. Where the police cannot immediately process the offense in question without a complaint from the party who feels aggrieved first. Through the Circular, members of the National Police are encouraged not to hesitate in making decisions in terminating the investigation, especially in cases that cannot proceed to the investigation stage because there is not enough evidence, it is not a criminal act and there is a settlement between the two litigants.

Based on the explanation above, the Circular Letter of the Chief of Police is categorized as a policy (*beleidsregel*). This circular has the same legal status as operational guidelines, technical guidelines, official notes, announcements, guidelines and other similar terms. Pseudo-laws or policy regulations are referred to as policy regulations because pseudo-laws basically contain a line of policy that is determined by the administration itself. Policy regulations are not actual statutory regulations, because the agency or official that issues the policy regulations does not have the authority to make regulations (*wetgevende bevoegdheid*). However, policy regulations are a means of State Administration law which aims to increase the enforcement of laws and regulations. When examined further, the Circular issued by the Head of the National Police regarding the address to members of the police throughout Indonesia which contains guidelines and confirmation of the legislation related to the termination of investigations as well as the procedures that must be taken by the police.

The definition of investigation in Article 1 number 5 of the Criminal Procedure Code, "An investigation is an act of finding an event that is suspected of being a criminal act

committed by an investigator in order to be able to carry out an investigation". The investigation was carried out by an investigator who is an official of the National Police as regulated in the Criminal Procedure Code (KUHAP). An investigative action aims to minimize hasty actions so that later an attitude that prioritizes prudence in acting and a high sense of responsibility in carrying out law enforcement tasks can grow, and then determine whether the event that has occurred is a criminal act. or not, if it has been decided that the event or act that has occurred is a criminal act, the case is continued to be escalated at the investigation stage, and vice versa if the event that occurs is not a criminal act, the investigation is discontinued.

Based on this, it can be concluded that an investigation is a series of actions of an investigator, which is more than one action to determine whether the criminal act that occurred can be increased at the investigation stage or not. The Circular Letter of the Chief of Police Number: SE/7/VII/2018 concerning Termination of Investigation is not a legal basis on which to base criminal proceedings. The Circular of the Chief of Police is only a reference for the Police in anticipating potential conflicts due to hate speech. The Circular of the Chief of Police is addressed to members of the National Police who have been hesitant to handle criminal cases. This Circular of the Chief of Police is the product of a written decision made by a State Administration organ or official. This legal product is basically a rule of law that binds legal subjects with legal rights and obligations in the form of prohibitions, or obligations, or permissibility.

Based on the relationship between the cessation of investigations by the police in Indonesia and the principle of legal certainty, the following can be observed: 1) The regulatory point of view of written laws that explicitly regulate the termination of investigations by the police in Indonesia. If you look at the various regulations regarding the regulation of formal criminal law in Indonesia, especially Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). Basically, there is no explicit provision that regulates the termination of the investigation; and 2) The legal basis for the Police to terminate the investigation using Law Number 2 of 2002 concerning the Indonesian National Police.

The Circular of the Chief of Police is categorized as a policy regulation (*beleidsregel*). Circulars have the same position as announcements, technical guidelines (technical instructions), *juklak* (implementing instructions), guidelines, official notes or other similar terms. Policy regulations are policy regulations that are set by the administration itself. Because the agency or official that forms a policy regulation does not have the authority to make regulations (*wetgevende bevoegheid*), a policy regulation is not a binding statutory regulation. The use of policy regulations is commonly used by state administrative legal entities with the aim of dynamically enforcing laws and regulations. The legal position of the Circular of the Chief of Police regarding the Termination of Investigation is only internally binding within the scope of the Indonesian National Police and does not bind anyone outside the scope of the Police. The Circular Letter is only for notification of implementing technical instructions or provisions that must be considered in the mechanism for stopping the investigation. Therefore, the Circular Letter of the Chief of Police Number: SE/7/VII/2018 concerning the Termination of Investigation does not contain articles as in the law in general.

2. The Urgency of the Circular Letter of the Chief of Police Number: SE/7/VII/2018 concerning Termination of Investigation

The function of the Circular Letter of the Chief of Police Number: SE/7/VII/2018 regarding the Termination of Investigation is more dominant in the function of the circular letter on the second point, which is to function as a guide and explanation regarding certain implementation instructions for an institution or agency. Therefore, the Head of the State Police of the Republic of Indonesia issues a circular regarding the termination of this investigation in order to serve as a guide on the implementation procedure which is more directed at an investigator so that when the investigator is carrying out his duties. The investigator determines that the act or event that has occurred is not a criminal act or the investigator does not obtain sufficient facts and evidence in the results of the investigation, the investigation can be terminated and not proceed to an investigation. The circular also informs

that if the reporter or investigator has found new evidence based on the facts he has obtained, the investigation that was previously stopped will be opened for resumption and not only stop at the investigation, but first through the mechanism procedure, namely the case title and investigation. the investigator issues a letter of further investigation.

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Based on the information described above, it is conveyed that in carrying out the termination of an investigation, the investigator is obliged to pay attention to matters including:

1. Requirements in the investigation process: a) Assignment Warrant; b) Police reports, complaints and Information Reports; c) Investigation Warrant; d) Investigation Report; e) Document Collection; f) Collection of Information Materials; and g) Expert Opinion (if needed).
2. The mechanism for stopping the investigation: a) The investigator shall make a report on the results of the investigation which determines whether the incident can be escalated to the investigation process or not; and b) Investigators carry out ordinary case titles and may involve the supervisory function and legal function at the level of: Polsek by unit; Polres by Unit; Polda by Sub-Directorate; and Police Headquarters by the Directorate.
3. Publishing Administration, including: a) Investigation termination letter (SP2Lid) on the grounds that no criminal incident was found; b) Report on the Result of Case Degree (attendance, documentation and minutes of degree); c) Notice of termination of the investigation is given to the complainant; and d) If a reporter or investigator finds new facts and evidence (novum), the investigation can be reopened through the case process mechanism and by issuing a Further Investigation Order.

So that it can be described the points in the Circular Letter of the Head of the State Police of the Republic of Indonesia Number: SE/7/VII/2018 concerning the Termination of Investigation, namely in point number 2 letter a explaining when in the investigation process, investigators in terms of finding and looking for an event or the act that has occurred is suspected to be a criminal act where based on the evidence and facts obtained by an investigator it turns out that it is not sufficient, the investigation is discontinued. So it can be concluded that the reasons for the termination of the investigation are: First, the incident that occurred which was later suspected was not a criminal act, so based on the results of the investigation the investigator decided that it was not a crime against what was suspected of the perpetrator.

A criminal act is a form of action that is against the law, it can be in the form of a crime or a violation which is subject to imprisonment, a fine or imprisonment. The second reason is that based on fact-finding activities and the evidence from the results of the investigation obtained by the investigator is not sufficient, it can be a reason for not continuing the investigation at the stage of the investigation. Article 183 of the Criminal Procedure Code explains that a judge can impose a criminal law if there are two pieces of evidence as provided for in the law and then a judge must be sure that it is true that the criminal act committed by the defendant has indeed occurred. Point 2 letter b in the Circular Letter of the Head of the State Police of the Republic of Indonesia Number: SE/7/VII/2018 concerning Termination of Investigation explains that the termination of the investigation is carried out in order to provide

legal certainty. Legal certainty is a guarantee that a law is carried out and enforced through appropriate and effective rules.

The mechanism for the termination of the investigation procedure, where the investigator is obliged to prepare a Report on the Results of the Investigation so that it can be determined whether an event or action can be continued at the investigation stage or not. If it is related to Article 102 of the Criminal Procedure Code in the investigation, the investigator who receives, knows of a report or complaint regarding an act or event that has occurred is assumed to be a crime, an investigator is assigned to immediately carry out his duties in the investigation and then the investigator is required to make an official report. and report it to investigators within the jurisdiction of the law, so that it can be concluded that the purpose of the mechanism in both cases is that in essence the investigator is required to make a report on the results of the investigation to the investigator. The report on the results of the investigation consists of the results of a series of investigative actions, namely research, processing of the crime scene (TKP), undercover, tailing, tracking, interviews, and document analysis. In the mechanism for stopping investigations in the Circular Letter of the Chief of Police Number: SE/7/VII/2018 concerning Termination of Investigations, investigators carry out a series of ordinary case proceedings that can include legal functions, supervisory functions at the level of: Polsek By Unit; Polres By Unit; Polda By Sub-Directorate; and Police Headquarters by the Directorate.

In point c in the Circular Letter of the Chief of the Indonesian National Police regarding the Termination of Investigation, it is stated that if the reporter or investigator someday gets new facts and evidence, the investigation process that was previously terminated will be able to be reopened through the mechanism, namely the title of the case which is then issued a Further Investigation Order by investigator. So, in this case, the contents of the circular letter not only contain a notification regarding the mechanism for stopping the investigation, but also notify if the investigator or the reporter finds new evidence that he or she has found, the investigation that was previously dismissed can now be opened to be resumed through the mechanism, namely the case title and then the investigator issues a Further Investigation Warrant so that in the process it is notified that it does not just stop at the investigation. Thus, the intent of the Head of the Indonesian National Police to issue a Circular Letter of the Chief of Police Number: SE/7/VII/2018 concerning the Termination of Investigation is to fill a legal vacuum regarding the mechanism and procedure for stopping an investigation that is not regulated in the Criminal Procedure Code, and has a function as an explanation of instructions regarding the procedure for implementing the requirements in the investigation process as well as the mechanism for stopping the investigation which is more directed at the investigator so that when the investigator is in carrying out his duties in terms of searching for and finding an event or act that is suspected to be a criminal act, the investigator decides that the act or event that has occurred is not a crime. If a criminal act or an investigator does not obtain sufficient facts and evidence in the results of his investigation, the investigation can be terminated and the investigation shall not be continued.

D. Closing

The urgency of the Order for Termination of Investigation (SP2Lid) as the implementation of the issuance of the Circular Letter of the Chief of Police Number: SE/7/VII/2018 in the process of investigating criminal acts is very important. Because it is to fill a legal vacuum regarding the mechanism and procedure for stopping investigations that are not regulated in the Criminal Procedure Code, as well as being a guide on the procedures for implementing the requirements in the investigation process as well as the mechanism for stopping investigations aimed at investigators of the Indonesian National Police because the head of the police force has the authority to issue circulars containing instructions or notifications regarding the provisions for stopping the investigation. If in the case of the investigation the facts and evidence collected are not sufficient or the event is not a criminal act, the investigator can stop the investigation and not proceed to the investigation stage but if one day the reporter or investigator gets new facts and evidence (novum) then the next stage of

the investigation will be previously dismissed, it can be reopened by going through the case title mechanism and then the investigator issues a Further Investigation Order.

Bibliography

- Anne Safrina, W.M. Herry Susilowati dan Maria Ulfah, *Penghentian Penyidikan: Tinjauan Hukum Administrasi Dan Hukum Acara Pidana*, Mimbar Hukum, Volume 29, Nomor 1, Februari 2017.
- Hinca IP Pandjaitan XII, *14 Bulan Idham Aziz Bisa Apa*, Rmbooks PT Semesta Rakyat Merdeka, Jakarta, 2020.
- Kompas, *Dilantik Jokowi, Listyo Sigit Prabowo Resmi Jadi Kapolri*, <https://nasional.kompas.com/read/2021/01/27/09522781/dilantik-jokowi-listyo-sigit-prabowo-resmi-jadi-kapolri>, diakses pada tanggal 20 November 2021.
- Republika, *Komisi III DPR Minta Anggota Polri Patuhi Telegram Kapolri*, <https://www.republika.co.id/berita/r1a8h1409/komisi-iii-dpr-minta-anggota-polri-patuhi-telegram-kapolri>, diakses pada tanggal 20 November 2021.
- Satijipto Raharjo, *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, 2000.
- Soerjono Soekanto, *Pengantar Penelitian Hukum*, UI Press, Jakarta, 1986.
- Yunan Hilmy, *Penegakan Hukum oleh Kepolisian Melalui Pendekatan Restorative Justice dalam Sistem Hukum Nasional*, Jurnal Rechtsvinding, Volume 2, Nomor 2, 2013.