



The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Vydanie rozhodnutia na zastavenie vyšetrovania v perspektíve obnovenia indonézskeho trestného konania

Andi SINJAYA¹

¹Faculty of Law, University of Brawijaya, Malang, Indonesia

The manuscript was received on 09. 01. 2023 and was accepted after revision for publication on 28. 03. 2023

Abstract:

According to the Indonesian criminal justice system, the police is the gatekeeper in addition to other law enforcement institutions. By synchronizing the authority of the police investigator, the Letter of Cancellation Order for Investigation (SP3) can be published as the response to the citizen's report when there is not sufficient proof or the reported matter turns out to be a non-crime act or there are reasons in the name of the law according to the Code of Criminal Procedure (KUHP) and the Law Number 2 the Year 2002 on the Indonesian National Police. This study used empirical methods by using primary data. Primary data was the observation of the implementation of the policy in releasing a determination for termination of the investigation. Thus, this study aimed to reveal the philosophical basis, the impact of removing judgment for termination of research based on the perspective of Indonesian criminal procedure law renewal, and the implication of releasing determination for termination of the investigation in law enforcement efforts. The result showed that the philosophical foundation of the need to formulate policy still needed to be revised to realize the law's general goals. The formulation policy on the authority of the police investigator to issue the Provision Letter for Investigation Cancellation is carried out by changing or revising, or adding the power of the police investigator in cancelling the investigation. Then, the juridical implication of the issuance of the Provision Letter for Investigation Cancellation (SKP2) by the police investigator for the law enforcement effort is that it strengthens the exercise of the duties and responsibilities of the police investigator in solving the case and facilitating the attainment of the goals of the law.

Keywords: Policy, Termination, Procedural Law Renewal, Law Enforcement, Criminal Event



This work is licensed under a Creative Commons Attribution 4.0 International License.

The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Andi SINJAYA

Abstrakt:

Podľa indonézskeho systému trestného súdnictva je strážcom okrem iných orgánov činných v trestnom konaní aj polícia. Synchronizáciou právomocí policajného vyšetrovateľa je možné zverejniť Zrušovací príkaz na vyšetrovanie (SP3) ako reakciu na oznámenie občana v prípade, že neexistujú dostatočné dôkazy alebo sa ukáže, že nahlásená vec nie je trestným činom, resp. sú dôvody v mene zákona podľa Trestného poriadku (KUHAP) a zákona číslo 2 z roku 2002 o indonézskej národnej policii. V tejto štúdií sa použili empirické metódy s použitím primárnych údajov. Primárnym údajom bolo pozorovanie implementácie politiky pri vydaní rozhodnutia o ukončení vyšetrovania. Cieľom tejto štúdie bolo teda odhaliť filozofický základ, vplyv zrušenia rozsudku za ukončenie výskumu na základe perspektívy obnovenia indonézskeho trestného práva procesného a dôsledok uvoľnenia odhodlania ukončiť vyšetrovanie v úsilí o presadzovanie práva. Výsledok ukázal, že filozofický základ potreby formulovať politiku stále treba revidovať, aby sa realizovali všeobecné ciele zákona. Zásady formulovania poverenia policajného vyšetrovateľa vydať zrušenie zabezpečovacieho listu sa vykonáva zmenou alebo prepracovaním, prípadne doplnením právomocí policajného vyšetrovateľa zrušiť vyšetrovanie. Právny dôsledok vydania predbežného listu na zrušenie vyšetrovania (SKP2) policajným vyšetrovateľom na účely presadzovania práva je, že posilní výkon povinností a zodpovedností policajného vyšetrovateľa pri riešení prípadu a uľahčení dosiahnutia cieľov zákona.

Kľúčové slová: *Politika, ukončenie, obnova procesného práva, vymáhanie práva, trestné konanie*

1. Introduction

In the Indonesian criminal justice system, the police are the leading institutions in law enforcement (the gatekeeper of the criminal justice system). This paradigm has been emphasized since the Second Amendment of the 1945 Constitution of the Republic of Indonesia. In Chapter XII concerning State Defense and Security, Article 30 paragraph (4) reads: “The Indonesian National Police as an Instrument of the state that maintains security and public order tasked with protecting, nurturing, serving the community, and upholding the law,” so it was the police that first came under the scrutiny of the public. [1]

The public scrutiny has resulted in many complaints about police performance which are reflected in the National Police Commission’s (*KOMPOLNAS*) report. The report states that the public’s suggestions and complaints (*SKM or Saran dan Keluhan Masyarakat*) against the Police Criminal Investigation Unit are still more than 90 percent. In January-September 2010, 1.106 of the 1.199 SKM were aimed at the Criminal Investigation Unit. According to Topo Santoso, the high number of complaints indicates the number of alleged violations committed by members of the National Police in exercising their powers, including arrest, detention, confiscation, searches (houses or bodies), and examination of letters following the Criminal Procedure Code. [2] According to *KOMPOLNAS* data, complaints against the Indonesian Police have continued to increase yearly, and *SKM* to the Criminal Investigation Unit still dominates. In 2008, there were 895 complaints out of 1.035 addressed to the Criminal Investigation Unit. [2] Likewise, in 2009, there were 1.386 complaints from 1.466 *SKM* directed at the unit. Therefore, in 2008 the Chief of Police, based on the Chief of Police DECREE NO. POL.: KEP/37/X/2008 Date. 27 October 2008, Concerning the Police Transformation Acceleration Program towards a National Police that is Independent, Professional, and Trusted by the Community, asking all levels of the police to be able to change the paradigm of the police quickly.

The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Andi SINJAYA

By adjusting the authority possessed by *Polri* investigators, reports or complaints submitted by members of the public if there is not enough evidence or the event turns out to be not a crime, or there is a reason for the sake of law following the provisions stipulated in the Criminal Procedure Code and the RI Law No. 2 of 2002 concerning the Indonesian National Police, the investigation was stopped, by issuing a Notice of Termination of Investigation (in practice it is often referred to in the form of an Order for Termination of Investigation or abbreviated as *SP3*). Many investigators have issued this. However, there are still many cases in arrears that have accumulated in each investigation unit. As reflected in the report on the settlement of arrears of cases at the *Polrestabes* Specific Crime Unit in Surabaya.

The issuance of the term indicates that the incident or case being reported or complained about has been completed. In fact, in the implementation of the investigation process, it is not uncommon to be faced with cases that are pretty complicated and not simple, so collecting initial evidence or understanding whether the incident was a crime or not is not easy, so that it does not drag on, a letter is issued. Notification of the Termination of the Investigation, even though it is not impossible that in the future there will be new circumstances which confirm the existence of sufficient initial evidence or clarify that the incident constitutes a crime so that it must be processed within the framework of achieving and finding material truth for the events that occurred or to achieve the purpose of the Criminal Procedure Code.

With this background, there are three fundamental problems discussed in this study. The first is regarding the philosophical basis of the need for the authority of *Polri* investigators to issue an Investigation Termination Decree. The second is regarding the policy formulation regarding the power of *Polri* investigators to issue an Investigation Termination Decree from the perspective of procedural law reform in Indonesia. The third is to discuss the juridical implications of giving an Investigation Termination Decree on law enforcement efforts.

2. Literature Review

2.1. Authority Theory

According to Miriam Budiarmo, power is often equated with authority, and energy is often interchanged with the term authority and vice versa. Management usually forms a relationship because “there is one party who rules and another party is governed” (the rule and the ruled). [3] Power related to law by Max Weber is referred to as rational or legal authority; authority based on a legal system is understood as a rule that has been recognized and obeyed by society and even strengthened by the State. [4]

In public law, authority relates to power. Power has the same meaning as an authority because the executive, Legislative, and judiciary powers are formal. Power is an essential element of a State in the process of administering government in addition to other factors, namely: a) law; b) authority; c) fairness; d) honesty; e) bestarian policy; and f) benevolence. [4]

Juridically, the notion of authority is the ability granted by laws and regulations to cause legal consequences. The definition of authority according to H.D. Stoud as

The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Andi SINJAYA

quoted by Irfan Fachrudin is: *Bevoegheid wet kan worden omscreven als het geheel van bestuurechtelijke bevoegdheden door publiekrechtelijke rechtssubjecten in het bestuurechtelijke rechtsverkeer* (authority can be explained as a whole of the rules relating to the acquisition and use of government authority by public law subjects in public law). [4]

Of the various definitions of authority, as mentioned above, the authority has a different meaning from competence. Authority is a formal power that comes from the law, while authority is a specification of authority. It means that whoever (legal subject) is given authority by law is authorized to do something within that authority.

2.2. Law Enforcement Theory and the Criminal Justice System

The definition of criminal law enforcement in a narrow sense is the enforcement or implementation of criminal rules that apply to violations of illegal regulations. One of the law enforcers in Indonesia is the police. The existence of the police is an integral part of the criminal justice system. Internationally this can be seen in the report of the 5th UN Congress in 1975 regarding 'The prevention of crime and the treatment of offenders', which specifically discussed the emerging roles of the police and other law enforcement agencies and emphasized: "It was recognized that the police were a component of the larger system of criminal justice which operates against criminality."

In the series of the Criminal Justice System, the task of the police is as an investigator whose task is to deal with violations of the provisions of criminal regulations. The criminal justice system is a process of enforcing criminal law. In the criminal justice system's operation, various law enforcement agencies are components or subsystems of criminal justice. According to Mardjono Reksodipuro, the criminal justice system is a crime control system consisting of police agencies, prosecutors, courts, and prisons for convicts. [4] Indonesia is known for five Institutions which are subsystems of criminal justice studied from the perspective of the Criminal Justice System. The terminology of the five institutions is known as the Five Houses of Law Enforcement: the police, prosecutors, courts, correctional institutions, and advocates. [4] With the regulation of Advocates by Law Number 18 of 2003 concerning Advocates, according to Sidik Sunarya, Advocates are an integral part (subsystem) of an integrated criminal justice system (Integrated Justice System).

Thus, an integrated criminal justice system means synchronization or simultaneity and harmony. The synchronization can be divided into Structural, Substance, and Cultural Synchronization.[5] Structural synchronization is the existence of synchronization and peace in the framework of relations between law enforcement agencies (Police-Attorney-Judiciary-Penitentiary). In contrast, substantial synchronization is the existence of simultaneity and harmony that is vertical and horizontal concerning positive law. While cultural synchronization, namely the simultaneity and peace in living the views, attitudes, and philosophies that as a whole underlie the running of the criminal justice system. Thus, the criminal justice system can be described as a series of regular and continuous activities to seek and find justice by synchronizing or aligning structurally, substantively, and culturally. As with criminal procedure in the Criminal Procedure Code, the results of investigative activities that produce the minutes of examination (BAP) of the suspect and the

The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Andi SINJAYA

witnesses, as well as the available evidence, are the input used as the basis for the Public Prosecutor's prosecution. The results of the activities of the Public Prosecutor and the defense of the accused or his Legal Counsel (Advocate) in the trial are input for the Judge to try and decide, so based on the decision of the criminal Judge in the form of a criminal conviction, the Penitentiary will guide the convicts.

2.3. Theory of Investigation in Criminal Procedure Law

The investigation comes from the Dutch *opsporing* contained in the HIR (*Het Herzine Inlandsch Reglement*) staatsblad 1941 No. 44, which can be interpreted as "investigation". In the Republic of Indonesia's Law No. 2 of 2002 concerning the Indonesian National Police, the term "investigation" is no longer used, but "police investigation" is now in use. According to the Law of the Republic of Indonesia, Number 8 of 1982 concerning Criminal Procedure Code article 1 paragraph (2) stated: "Police investigation is a series of investigative actions actions in matters and according to the methods regulated in this law to seek ad collect evidence with which evidence makes clear about crime that occurred and to find the suspect."

The National Police, as a law enforcement tool and protector of the community, is obliged to maintain law enforcement, justice, and protection of human dignity and respect, as well as order and legal certainty. In carrying out its duties, one of the authorities possessed by the Indonesian National Police (*Polri*) is to conduct investigations into allegations that a crime has occurred. Hopefully, this investigative effort will shed light on the criminal acts that have occurred and also find out who the suspects are. Auxiliary science is needed, namely Criminalistics, which seeks to investigate crimes in the broadest sense based on evidence and statements using the results determined by other sciences to expedite the investigative task. [5] In an examination at the crime scene (*TKP*) to collect evidence, a search plan is needed that covers the entire background of the incident. The guidelines for investigators in their efforts to collect evidence are as follows: [5]

a. Strips Method

In this method, the area is blocked out as a rectangle. The three searchers, A, B and C, proceed slowly at the same piece along paths parallel to one side of the rectangle. When evidence is found, the finder announces his discovery and all halt until the evidence is cared for. A photographer is called necessary. The evidence is collected and tagged, and the search proceeds at a given signal. At the end of the rectangle. [6]

b. Grid Method

A Modification of this plan is the double strip of grid method. Here, the rectangle is traversed first parallel to the base and then parallel to the side.

c. Zone/field Method

One searcher is assigned to each subdivision of a quadrant. Depending on the size of the area, it is divided into quadrants, and then each quadrant is cut into another set of quadrants. [6]

**The Determination of Policy Issuance to Stop Investigation in The
Perspective of The Renewal of Indonesian Criminal Law Procedure**
Andi SINJAYA

d. Wheel Method

In this method, the area is considered to be approximately circular. The searchers gather at the center and proceed outward along radii or spokes. The procedure should be repeated several times depending on the size of the circle and the number of searchers. One shortcoming of this method is the significant increase of relative area to be observed as the searcher departs from the center. [6]

e. Spiral Method

In the Spiral method, three officers line up sequentially, starting a search outside the spiral and then circling towards the center of the loop. Investigators use the spiral form to collect evidence, such as forest locations, bushes, and others. In other words, the spiral method is used when only a small number of people can cover a large outdoor area. With this quest, the evidence seeker will walk straight and turn a right corner in the place to be investigated/examined until the evidence can finally be found.

2.4. Policing Theory

According to Satjipto Raharjo, the police are a tool of the state whose job is to maintain security and public order and provide protection and protection to the community. [7] Suppose the law aims to create order in society, including fighting crime. Ultimately it is the police who will concretely determine what constitutes order enforcement. [7]

In Republic of Indonesia Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia, in Article 1 paragraph (1), it is explained that the Police are all matters relating to the functions and institutions of the Police following statutory regulations. The term police in this law contain two meanings: the part of the Police and the police institution. In Article 2 of Law No. 2 of 2002 concerning the State Police of the Republic of Indonesia, the function of the Police as one of the functions of the state government is in the field of maintaining public security and order, law enforcement, protection, and community service. At the same time, the police institution is a government organ designated as an institution and is given the authority to carry out its functions based on statutory regulations.

Police duties in general, as stated in Article 13 of the Republic of Indonesia Law No. 2 of 2002 concerning the Indonesian National Police, says that the main tasks of the Indonesian National Police are:

- a. Maintain public order and security;
- b. Upholding the law;
- c. Provide protection, shelter, and community service.

The authority possessed by the police to carry out tasks in the field of criminal proceedings according to Article 16 of Republic of Indonesia Law No. 2 of 2002 concerning the Indonesian National Police are:

- a. Carry out arrests, detentions, searches and confiscations.
- b. Prohibit any person from leaving or entering the scene of the case for the purposes of investigation.

The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Andi SINJAYA

- c. Brining and presenting people to investigators in the context of investigations.
- d. Ordering the suspect to stop and asking and checking personal identification.
- e. Carry out mail checks.
- f. Calling people to be heard and examined as suspects or witnesses.
- g. Bring in the necessary experts in connection with the examination of the case.
- h. Carrying out an investigation termination.
- i. Submit the case file to the public prosecutor.
- j. Submit a request directly to the authorized immigration official at the immigration checkpoint in an urgent or sudden situation to prevent or deter people suspected of committing a crime.
- k. Provide instruction and investigative assistance to civil servant investigators to be submitted to the public prosecutor.
- l. Take other actions according to responsible law.

3. Method

This study used an empirical research method that examined existing legal sources and analyzed them with an economic analysis of the law. This study used primary data, which was the observation of the implementation of the policy in releasing a determination for termination of the investigation. Not only using preliminary data but also secondary data. Secondary data consisted of documents, regulations, books, etc. The data will be analyzed using some theories written in the previous subchapter. After that, the conclusion will be drawn based on the research questions of this study.

4. Result and Discussion

4.1. Philosophical Basis for Policy Formulation on the Authority of Police Investigators to Issue Decision Letters to Stop Investigation

The criminal procedure Code does not formulate what an Investigation Warrant or investigation Decree means. [8] However, it regulates the termination of investigations in Article 109 of the Criminal Procedure Code, paragraph (1). If an investigator has started investigating an event that constitutes a criminal act, the investigator informs the public prosecutor about this. Paragraph (2) if the investigator stops the investigation because:

- a. There is not enough evidence or
- b. The event turned out to be not a crime or
- c. The investigation is stopped for the sake of the law. The investigator informs the public prosecutor, the suspect or his family.

Paragraph (3) If the termination of the investigation referred to in paragraph (2) is carried out by the investigator as referred to in Article 6 paragraph (1) letter b, notification regarding this matter shall be immediately conveyed to the investigator and public prosecutor. Therefore, it can be formulated that the termination of an investigation is the action of an investigator to stop the analysis of an event that is suspected of being a crime because to make light of the incident and determine the perpetrator as the suspect, there is not enough evidence, or from the results of the investigation, it is known that the incident is not a crime, or the analysis is terminated

The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Andi SINJAYA

for the sake of the law. The reasons for stopping the investigation for the sake of law are: [8]

- 1) There is a revocation of the complaint if the criminal act being investigated is a criminal act of protest (Article 75 of the Criminal Code).
- 2) *Nebis in idem*, referred to in Article 76 of the Criminal Code. This principle states that a person may not be prosecuted once again for the same act for which the judge has already decided.
- 3) Because the suspect died (Article 77 of the Criminal Code), the right to file criminal charges is nullified by the suspect's death.
- 4) Due to the expiration as referred to in Article 78 of the Criminal Code.

Regarding the procedure for the termination in Article 109 Paragraph (2) and Paragraph (3) of the Criminal Procedure Code, it is only determined that the Investigator notifies the public prosecutor, the suspect or his family about the matter. [8] In the Additional Guidelines for the Implementation of the Criminal Procedure Code, point four is given the following instructions: If the Investigator stops the investigation, the Investigator must carry out the provisions of Article 109 Paragraph (2) of the Criminal Procedure Code, namely notifying the public prosecutor, the suspect, and his family. [8] The law has stated "limitatively" the reasons investigators can use as a basis for terminating an investigation.

The policy of stopping the investigation implies the existence of a policy that determines the events that have occurred or that the case has been completed. Even though looking at the complexity of reports or public complaints about the events that happened, it is not always straightforward to uncover them so that it can be immediately determined whether sufficient evidence has been collected or whether it is clear that the incident is a crime or not. Still, sometimes investigators are faced with extraordinary events, complicated and complex, so uncovering them is rather tricky and requires a long time. It must be determined whether enough evidence has been collected or whether it is clear that the incident was a crime or not. Based on this, it is necessary to formulate policy stages as a basis for investigators in issuing termination of investigations. As can be done at the level of prosecution based on Article 140 of the Criminal Procedure Code, as follows:

- (1) If the public prosecutor thinks that a prosecution can be carried out from the results of the investigation, he shall make an indictment as soon as possible.
- (2) a. Suppose the public prosecutor decides to stop the prosecution because there is insufficient evidence, the event turns out to be not a crime, or the case is closed for the sake of the law. In that case, the public prosecutor sets this matter out in a decision letter.
 - b. The contents of the decree are notified to the suspect; if he is detained, he must be released immediately.
 - c. Derivates of the decree must be submitted to the suspect, his family, legal counsel, officials at the state detention center, investigators, and judges.
 - d. If later it turns out that there is a new reason, the public prosecutor can prosecute the suspect.

The Determination of Policy Issuance to Stop Investigation in The Perspective of The Renewal of Indonesian Criminal Law Procedure

Andi SINJAYA

4.2. Formulation Policy on the Authority of Polri Investigators in Issuing Stipulations on Termination of Investigation

Issuance of a stipulation of termination of the investigation is given following the considerations of the *Polri* investigators. The reviews are juridical, theoretical, and sociological urgency. The juridical speed regarding the issuance of a letter of termination is that the police are given authority in law enforcement, and the National Police is part of the Criminal Justice System as an investigator who has law enforcement (repressive) capabilities and international police cooperation in anticipating international crimes. The theoretical urgency is the issuance of *SKP2* based on the restorative justice process. The beneficial justice process is carried out through discretion (wisdom). This diversion attempts to divert from the criminal justice process outside the formal process to be resolved by deliberation. Meanwhile, based on sociological urgency, this policy is related to Indonesian society, where the community's cultural roots are oriented towards family cultural values, prioritizing the principle of deliberation to reach a consensus to resolve a dispute within a social system.

As for the explanation of juridical considerations based on the 1945 Constitution, Decree of the year 2000 People Consultative Assembly, 4.3.1.3. Law No. 2 of 2002 concerning the Indonesian National Police, Jurisprudence, unwritten law, Law No. 8 of 1981 (Book of Criminal Procedure Codes). The theoretical considerations used are the three theories that underlie the issuance of *SKP2*, namely the Theory of Legal Purpose, the Theory of Police Authority and the theory of law enforcement. Furthermore, sociological considerations concern the settlement of cases outside the court, such as using ADR.

4.3. Juridical Implications of the Issuance of Stipulations on Termination of Investigations by Police Investigators for Law Enforcement Efforts

The implications posed by issuing a decree on terminating an investigation by *Polri* investigators can be seen from the embodiment of justice. Currently, the legal justice in Indonesia is retributive justice, which only focuses on legal and state defense. In addition, the righteousness given is only giving and punishing the perpetrators, and there is no accountability for the victims. With a refreshing justice approach, many parties will benefit. In contrast, the direct benefits that perpetrators of criminal acts can obtain are related to fulfilling and protecting their rights and educating them to be responsible for the damage they have done.

Furthermore, namely the implications for strengthening the existence of police authority gave rise to the era of the new managerialism of police organization, a period regarding the performance of the police as a public institution which has to work with the principles of being like a private institution, namely paying attention to efficiency and effectiveness, accountability and achievements. Finally, there are implications for the realization of legal obligations. It can be illustrated by the existence of goods or evidence that can support allegations of a case. It aims to carry out further investigations. One of the reasons for stopping the research is that there is no other evidence, and the process could result in a new criminal case.

**The Determination of Policy Issuance to Stop Investigation in The
Perspective of The Renewal of Indonesian Criminal Law Procedure**
Andi SINJAYA

5. Conclusion

Based on the description in the background and discussion of the problems in this research, it can be concluded that it is necessary to formulate a policy regarding the authority of *Polri* investigators to issue an Investigation Termination Decree, referring to the power that has been regulated in laws and regulations. In addition, the policy formulation regarding the authority of *Polri* investigators to issue an Investigation Termination Decree is carried out by changing or revising or increasing the power of *Polri* investigators in terminating investigators as stipulated in Article 109 of the Criminal Procedure Code. As for the juridical implications of issuing an Investigation Termination Letter (*SKP2*) by police investigators for law enforcement efforts, it has an impact on strengthening the implementation of the duties and responsibilities of police investigators in resolving cases, as well as facilitating the achievement of legal objectives to achieve justice, benefit and legal certainty, as well as facilitating the search for and finding material truth while still providing guarantees for the protection of human rights.

References

- [1] Setiadi, E. (2010). Reformasi Kepolisian. www.unisba.ac.id
- [2] Santoso, T. (2010). Evaluasi Penanganan Saran dan Keluhan Masyarakat Serta Evaluasi KUHAP terkait Upaya Paksa.
- [3] Budiardjo, M. (1998). Dasar-Dasar Ilmu Politik. Gramedia Pustaka Utama.
- [4] Setiardja, A. G. (1990). Dialektika Hukum Dan Moral Dalam Pembangunan Masyarakat Indonesia. Kanisius.
- [5] Packer, H. L. (1978). The Limits of the criminal sanction. Stanford University Press.
- [6] O'hara, C. E., & O'hara, G. L. (2003). Fundamentals of Criminal Investigation (7th editio). Charles C Thomas Pub Ltd.
- [7] Rahardjo, S. (1980). Bekerjanya Hukum dalam Hukum dan Masyarakat. Angkasa.
- [8] Harun, H. (1991). Penyidikan dan Penuntutan Dalam Proses Pidana. PT. Rineka Cipta.

Autors:

¹**Andi Sinjaya** – Faculty of Law, University of Brawijaya, Malang, Indonesia, e-mail: