

## Independency of Investigators in Conducting Investigations in Cases of the Crime of Premeditated Murder Pasal 340 KUHP

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*Article history:* Received April 05, 2023: Revised April 21, 2023: Accepted April 27, 2023

### Abstract

Investigation is the first step in disclosing a criminal case before entering the investigation stage. The importance of investigations carried out by investigators is to obtain detailed information on the field or crime scene both in the form of statements from eyewitnesses and the results of investigators' investigations. In carrying out an investigation, it is hoped that the independence of the police as investigators, especially if the crimes that occur are complex in nature, such as the crime of premeditated murder. However, in carrying out investigations, investigators often experience various obstacles and intervention from outsiders who feel they have an interest in the case being investigated is no exception, so it takes quite a long time. In this study the authors used a normative juridical research method, namely an approach method based on a study of existing laws and applicable laws and regulations. This study aims to determine the importance of the independence of the police as investigators and the legal basis governing independence itself, in order to create a sense of justice in disclosing a case of premeditated murder starting from the earliest stages.

**Keywords:** Independence; investigator; Investigation; Planned Murder

## INTRODUCTION

Indonesia is country law Which based on ideology Pancasila And base constitution Constitution Year 1945. In in Chapter 1 paragraph 3 Constitution Year 1945 clear state that "Country Indonesia is country law". On base base This, every inhabitant country must obey law And obey regulation legislation Which apply. Indonesia uphold tall degrees And right basic man as well as ensure that every inhabitant country The same position in front of law ( *equity before the law* ).

Law created as bunch rule Which agreed together in put things in order order life public become more regular. Law Also something matter Which No inseparable from life man since from born until die Because law characteristic tie. In life social public Which the more dynamic This, law Also characteristic dynamic follow development Which There is. Development This more dominant in the field science and technology Which in a manner No direct disrupt values Which There is in public. Say disruption according to KBBI is "matteruprooted from the root." <sup>1</sup> circumstances This naturally Already No in line Again with objective law Which apply in Indonesia Which more uphold tall mark – mark sublime Which There is.

In its application in a day 's life – day, There is Lots matter found action deed oppose lawlike follow crime. Crime is something problem Which often found And experienced man, since man Certain There is crime ( *crime is eternal – US eternal US society* )." <sup>2</sup> Naturally impact from action oppose law This become specter scary environment social public. Like case Which warm talked about public that is case murderplanned Which done by enforcer law.

In do investigation to something case Which characteristic complex, like case follow criminal murder. A lot of times face various obstacle Good Which technical nor non technical. So, investigator must characteristic independent And obey code ethics institution Which aim so that every information And information Which got

Correct exists in accordance fact without intervention from party anywhere. Investigation arranged in Article 1 point 5 of the Criminal Procedure Code, that is: “ *Inquiry is series action investigator For look for and find an event Which suspected as follow criminal to determine can or nope done investigation according method Which regulated by law – Invite this* .”<sup>3</sup> Whereas Which entitled do investigation is in accordance Chapter 1 number 4 Criminal Procedure Code, namely: “ *Investigator is official police Country Republic Indonesia Which given authority by Constitution This For do investigation* .”

<sup>4</sup> With exists base law Which arrange about investigation expected investigator do it in a manner professional, obey law, And independent.

Independent in Dictionary Big Language Indonesia is “ *Which stand alone , Which spirited free, No bound on party another* .”<sup>5</sup> Meanwhile according to Mautz And Sharaf in Theodorus M. Tuankotta (2011:64) state that “ *Independence reflect attitude No take sides as well as No under influence pressure or party certain in take action And decision* .”<sup>6</sup> From understanding the We know that independent is attitude Which very important in our legal system so walk according to purpose Which expected And should attitude independent No only for For a number of institution Which arranged according to Constitution. However, in a manner general enforcement law capable practice it in the in self Alone nor in process law. One of part enforcer law Which expected have independence that is investigator.

Leave from many action oppose law specifically follow criminal murder planned Which has confiscate attention public wide, as well as hope to investigator will upright justice start from stage investigation Which is a start from process law criminal, so writer will analyze importance independence investigator as well as upright justice in the process criminal law Which most beginning that is investigation.

### **Objective Study**

As for Which be the goal study of writing journal This is:

1. For analyze And know importance independence investigator in do investigation.
2. For analyze And know the exact justice in process law investigation.
3. For analyze And know effort Which done police as investigator in practice independence within its capacity as enforcer law.

## **METHOD**

In accordance problem And objective study, so type study Which is used by the author type study Which juridical normative namely method study with approach legislation ( state approaches ) And study References Which There is.

## **RESULT AND DISCUSSION**

### **Procedure Do Investigation**

Investigation is stage beginning in investigative process . Investigation also interpreted as door beginning in set is something deed certain enter in follow criminal or No through proof or information Which got by investigator. In book Instruction Guidelines Implementation Criminal Procedure Code stated that " investigation" is Wrong One method or method or sub than function investigation Which get ahead action other, that is prosecution Which form arrest, detention, search, foreclosure, inspection letter, calling action inspection And submission file case to prosecutor general. As for about task And authority investigator Which arranged in Article 5 paragraph 1 letter (a) and (b) that is:<sup>7</sup>

1. If seen from assignment And authority investigator based on law can in the form of:
  - a. Accept report or complaint;
  - b. looking for information And tool proof;
  - c. Ordered stop someone Which suspected and ask as well as inspect sign self-identification;
  - d. Stage action other according to punishment Which responsible.

2. Authority investigator on order investigator:
  - a. Arrest, prohibition leave place, search And foreclosure;
  - b. Inspection And foreclosure letter;
  - c. Take print jaridan photograph somebody;
  - d. Bring And confront somebody to investigator.

Implementation investigation done after get report or complaint from public Where on base report the suspected or is known currently or has happen follow criminal. guess This is conclusion from information Which has been delivered by reporter Good in a manner individual nor in a manner together to officer. However, if something follow criminal it is known in a manner caught hand, so stages something inspection No Again through process investigation, because Already Certain is something follow criminal And direct known culprit.

In process investigation This There is things necessary noticed by investigator that is protect dignity And dignity human and do it in a manner Be careful And careful in accordance in *Blacklaw Dictionary* “ *investigation is a term that means to examine and to look at carefully, discover the factor make legal inquiry .*”<sup>8</sup> Because from the results of the investigation This later somebody will be done arrest And retainer on base facts And truth Which found.

Report is right And obligation somebody For give information about currently or has happen something follow criminal (Article 1 point 24 Criminal Code). Report the Can form oral nor writing. In the Criminal Procedure Code differentiate between report And complaint, as for the difference includes:

No.	Report	Complaint
1.	Right And Obligation	Right And Obligation accompanied by request certain
2.	Offense normal	Offense complaint
3.	No can revoked	Can revoked return

From table on clear difference between report And complaint that report characteristic offense normal whereas on complaint characteristic offense complaint as well as accompanied by request special from complainants.

Step next after officer conclude report certain, so quick taken One action with come direct to Place Incident Case (crime scene). Here party investigator operate his job To use dig information more details on report Which accepted. After all information And evidence Which got complete For be dealt with continue, so investigator in continue case Which There is stage furthermore that is investigation.

In study This, writer expose results investigation to case murder Brigadier J Which warm talked about lately This. Uniquely case follow murder brigadier J located on many irregularities Which there . Wrong only one is ever party police in process disclosure case, Which where incident murder happen on 8 July 2022, but Police just revealed it on 11 July 2022, three day Then.<sup>9</sup> Explanation Polres Jakarta South related results investigation reason his death Brigadier J considered awkward by a number party, including President. President Joko Widodo (Jokowi) request so that incident each other shoot between members police the investigated in a manner complete and transparent. Without investigation Which open, trust public to Police be a bet. it be delivered President Jokowi in information pers in Island Rinka, District Manggarai West, Nusa Southeast East, 21 July 2022.<sup>10</sup>

So that For answer anxiety public especially family victim on results investigation Which done Polres Jakarta South, so Police chief form team combination consisting from internal parties And external Police. As for party external Which involved is Commission Police National (Kompolnas) And Commission National Right Fundamental Man (Komnas HAM). Whereas Team Internal/Team Special Which led by deputy chief Commissioner General Eddy pramono, members Inspector Supervision General Commissioner General great Budi maryoto, Kabareskrim Police Commissioner General Agus Adrianto, Head Intelligence Agency And Security Police Commissioner General Ahmad dofiri, Assistant Police chief field Source Power Man Inspector General Revelation Widada, provost, And Security Internal (Paminal).<sup>11</sup>

Formed team combined formation Police chief show that police as investigator has operate task And authority in accordance with rule Which There is. And One matter Which interesting need And very highlighted from team investigator in case This that is joining institution external police force . Which where Kompolnas as institution nonstructural have some function that is carry out supervision performance Police to guarantee professionalism as well as independence Police. Matter This Also can interpreted in a manner general that is that Kompolnas as institution supervisor The police are closely monitoring whole included performance Police as an investigator in follow case criminal Which involve person police That Alone. Kompolnas is at under leader minister Minister Political Law And HAM, Minister In Country, And Minister Law And HAM. In operate task And the authority of Kompolnas is at in lower president And responsible answer to president. <sup>12</sup> Besides Kompolnas, institution other Which enter in team investigation that is National Commission HAM Which is institution independent Which function For do assessment, study, counseling, monitoring, And mediation basic man Which arranged in article 1 Constitution Number

39 Year 1999 about Right Fundamental Man. With presence institution external This, objective And hope in completion case brigadier Yes as soon as possible resolved in a manner transparent And objective. <sup>13</sup>

On 1 September 2022, National Commission HAM deliver results his investigation to team special Police. Which where previously National Commission HAM has disclose a number guess violation HAM found in case murder planned to brigadier J. guess violation HAM That form right life or loss life And right justice. Besides loss life And right justice, Also exists *obstruction of justice* or effort obstruction process law. From two findings This, so can be concluded temporary that perpetrator can imposed chapter layered that is related murder planned Chapter 340 Criminal Code And effort obstruct process investigation Chapter 221 paragraph (1) Criminal Code Chapter 231 And Article 233. <sup>14</sup>

### **Planned Murder and Obstruction of justice**

Murder planned is One follow criminal heavy Which treatment planned first before implementation murder. Chapter 340 Criminal Code state “ *Whoever on purpose And with plan especially formerly deprive life person other, threatened, because of murder with plan (moord), with criminal dead or criminal prison lifetime life or during time certain, most long two twenty year.* ” <sup>15</sup> Difference between follow murder with follow murder planned located on situation mentally And personality in self perpetrator before do action. Where in follow murder normal it happened because will and emotion to kill Which happen simultaneously , whereas murder planned happen in a manner No spontaneous Because need time or designing plan before implementation murder.

In Dictionary Big Language Indonesia say “ planned ” that is : *with plan, planning, there is a plan* . <sup>16</sup> Part expert criminal law interpret meaning planned as opinion Abidin & Hamzah, he thought planned require between emergence intentional For kill person other And implementation intentional the There is time (period) for shaper offense For think about with calm , for example How do murder. <sup>17</sup> Meanwhile according to Tirtaamidjaya say period time Which long or short between decision And implementation No is criteria for deed Which planned especially formerly. It means planned in fact think to deed Which done. <sup>18</sup> Thereby Also according to Mitchell & Robert that is “ *premeditation in other words, the defendant thought about the consequences of what he was going to do and chose proceed.* ” <sup>19</sup>

Can concluded that understanding planned is exists process consideration or thinking Which thought by perpetrator to deed Which he did, so that with process the produce One decision with calm. Consequence from existence process consideration the need time certain Which characteristic relatively long or narrow. In results investigation to case murder brigadier J element planned This clear from statement commissioner National Commission HAM Beka accomplished Hapsara Which say “ murder brigadier J is *extra judicial kill* ” . Matter final from Suite murder it is crime or follow criminal *obstruction of justice* "Which as it happens by investigator thus currently do steps handling follow criminal the" said Beka. <sup>20</sup>

In chapter 221 paragraph (1) Criminal Code arranged about concealment who do crime or give help to perpetrator For avoid investigation. So Chapter 221 paragraph (1) 2 states “ *Whoever Which do deed cover follow criminal Which done, with method destroy, remove And hide goods proof And tool proof threatened with criminal prison most long four year.* ” Then Chapter 233 Criminal Code also stated “ *Whoever with on purpose destroy, spoil,*

*make ruler authorized, deeds, letters or lists Which on order ruler general, Keep going continuously or For temporary time saved, or submitted to an official, or to person other For interest general, threatened with criminalprisonmostlongfouryear .”*

said that Brigadier case J fulfil element Chapter 221 paragraph (1) number 1 And 2nd. Because, There is action Which done by part person For provide help to perpetrator follow criminal For give help to perpetrator follow criminal For avoid investigation. There is Also action other Which done by part person do deed cover follow criminal Which done, with method destroy, remove And hide goods proofand tool proof.

For can see actions What from the apparatus enforcer law and para suspect Which can classified into the *obstruction of justice* , We can see criteria of justice Which apply in a country America Union. Deborah C. England in his writing Which entitled “ *obstruction of justice* ” convey a number of criteria action Which can classified as *obstruction of justice* ;

1. **Aiding a suspected:** help suspect with give information related process investigation Which currently going on. leaks information This can leave or damage goods proof form action other. Classified into the *aiding a suspected* is hide suspect.
2. **Lying:** is action from witness or suspect Which lie or give information false to investigator (enforcer law) on it's time he did inspection witness or suspect Good in a manner written nor in a manner oral.
3. **Famous Obstructions:** gang or together help perpetrator follow criminal For can trick the apparatus enforcer law like take goods proof and remove goods proof.
4. **Tampering with Evidence:** ie deed damage goods evidence or tool proof. Bribe witness For can engineering something event criminal Also including into the type This.

However, if We analysis content Chapter 221 paragraph (1), paragraph (2), Chapter 231 And 233 Criminal Code arranged Also *obstruction of justice* Which done by apparatus country or apparatus enforcer law. If para enforcer law Which do *obstruction of justice* , is matter This become ballast punishment to case follow criminal Which done? Which should they become example And roles model in the creation enforcement And certainty law in something incident criminal?

In handler case Brigadier J, allegedly There is manipulation case Which done by suspect. Suspect perpetrator suspected engineering in such a way about motive or events follow Brigadier murder J. Victim's death as if is an event Which Can in classify to in *nodweer* or *nood w eer excess*. Scenario For trick investigators made And accompanied by action other with damage And remove a number of goods proof.

In Indonesia, although No stated in a manner firm in element chapter 221 verse(1) number 1 And 2nd Criminal Code action the can indicted Because enter in deed cover follow criminal Which done uh suspect, so that Chapter 221 in use investigator And prosecutor general. So that, investigator And prosecutor general authorized use article other throughout relevant with follow criminal Which charged. The low threat punishment Which can imposed to perpetrator *obstruction of justice* . The low threat punishment Which arranged in Chapter 221 Criminal Procedure Code And No exists arrangement about reason ballast Which can dropped to perpetrator if perpetrator is apparatus enforcer law make dubious society article enforcement This. Application chapter the will tested in the judge case Brigadier J. <sup>21</sup>

### **Constraint investigator In Case Brigadier J**

There is guess that place incident case (crime scene) murder Brigadier J ie in House service Freddy Sambo has cleaned, become challenge And constraint alone for team investigator. According to Head Center Study Security National University Bhayangkara, Hermawan Sulisty, say crime scene has cleaned. According to him, Kombes Pol Budhi Herdi Susantio Which moment That served as Chief of Police Jakarta South that cleans crime scene. Kombes Pol Budhi Herdi Susantio has disabled as Chief of Police Metro Jakarta South since 20 August

2022 Then. In *breaking News Compass tv*, Hermawan say “ Based on rule, firm Hermawan Sulisty, crime scene No can cleaned. Evidence his physique That on No There is like that, on is lost, Because the crime scene cleaned. That so The police chief removed Because crime scene how come cleared. TKP right No can cleaned, ” plus HermawanSulisty.<sup>22</sup>

## **Community Response Against Performance Police About Handling Case Murder Brigadier J**

Police as institution enforcer law Which based on the law act RI No. 2 Year 2002 About Constitution police Country. Based on UU Which meant with police is like Which poured in Chapter 1 paragraph 1 (1), i.e. “Police is all matter about related with function And institution police in accordance with regulation legislation”. Whereas paragraph (2) arrange: “Member police Country Indonesia is employee country Police Country Republic Indonesia.”

Role Police in enforcement law in a manner clear arranged in UU No. 2 Years 2002 that is chapter 2, state that “function police is Wrong One function government Country in the field maintenance security And public order.” Based on explanation chapter 2, function police must pay attention Spirit enforcer HAM, law and justice.

Chapter 5 paragraph 1 UU No. 2 year 2002 confirm return role Police that is: “ Police Country Indonesia is tool country Which role in look after security And order public, enforce law, as well as give protection, protection, And service to public in framework maintained security in country.” Task tree Police Country Republic Indonesia arranged in Chapter 13 that is: look after security And order society; enforce law; And give protection; protection And service to public. Based on provision on appear in a manner firm stated that role Police Country Republic Indonesia Wrong only one is enforcement law. Enforcement law is Wrong One task tree Which must run by member police.

Wrong One task important Which stated in UU No. 2 Year 2002 is do investigation, task This is end spear in enforcement law. With so he explained about base law police And investigator, so institution like Police very expected by public as institution Which independent, have integrity, as well as professionalism Which push Police enter the 3rd big based on trust public.

But trust public to Police direct down drastic consequence case murder Brigadier J. Results survey Indonesian Survey Circle (LSI), denny JA show before There is case murder Brigadier J, trust public to police reach 72,1 percent. However, after exists case Freddy Sambo Cs, level trust public to Police decrease 13 percent become 59,1 percent. Researcher LSI denny JA, Ardian Sopa, explained the Police Once get 87.8 percent trust public in the year of 2018. Then after presidential election 2019 trust to police decrease on number 72,1 percent And back down after exists case Ferdy Sambo to number 59,1 percent.

According to Ardian number decline trust to police more tall, happen in public Which level in urban. Survey LSI denny JA yag done 11-20 September 2022 to 1,200 respondent in 34 province state as much 51,3 percent public Which stay in city, state less/no believe to police. Whereas living community in rural, around 32,1 percent state less or don't believe in police. Then from side gender, man Which more Lots No believe with police, ie as much 39,3 percent. Temporary, 36,1 percent public Which manifold sex Woman state not enough or No believe to police. As for survey This use method *multi-stage random samples* <sup>25</sup>.

From explanation on, so Police chief as leader Police Country Republic Indonesia in a manner firm take policy in restore trust public that is with how to investigate complete all persons Which involved in case murder Brigadier J which is fair Wrong only one that is deactivate all elements police involved in case This. As well as policy cleaning up internal Police. Plus response president Joko Widodo Which ordered For investigate complete case This.

## **Independence Deep Investigator Investigation Case of Brigadier J**

In matter enforcement law, institution Police often get criticism from DPR related loyalty And its independence as enforcer law. There is worries that Police Can just in take advantage become tool power by

government Because Police is at under President. Answer matter the, Tito Carnavian Which on moment That as Police chief answer criticism the Which explain that institution Police different with institution enforcer law other like attorney. Because, Police No only operate function guard security And order public, but Also enforcement law. Position Police is at in two aspect ie executive And judicial. On aspect executive, Pore responsible answer direct to president. Matter This emphasized in Chapter 8 UU No.2 Year 2002 about Police. Chapter 8 paragraph (1), “ *Police Country Republic Indonesia is at in lower President*”. Whereas paragraph (2), “ *Police Country Republic Indonesia led by Police chief Which in implementation his job responsible answer to President in accordance with statutory regulations*”. Then Chapter 5 paragraph (1) mention, “ *Police Country Republic Indonesia is a tool country Which role in maintain security And public order , enforce law, as well provide protection, protection, And service to the community in framework maintained security domestic*”. According to Tito, in aspect executive, Police must loyal And loyal full to president. However in aspect judicial, ie enforcement law, Police must loyal to law with No take sides para party divorce. Police must side on truth.<sup>23</sup>

Not yet long before case murder Brigadier J, Minister Coordinator Field Political, law and Right Fundamental Man. Mahfud MD say “ *Me always ask for Don't disturbed independence police, precision Police Don't disturbed with messages political, No can! If no, can damaged everything. Because political That up function democracy, temporary Police Have function nomocracy. We Have hope Which Good And This Which must We push. Kemenko Polhukam carry out strategy And program through strengthening professionalism And accountability implementation enforcement law Police. Critics We capacity But still professional, used precision. That is predictive, capable estimate situation and events so that Can do step anticipatory And preventive. Furthermore responsibility, stepped in a manner proactive, No shut up as well as capable utilise opportunity, critical And serve. And Which final transparent, open and responsible, accept suggestions and critics as part lever together* , “he said on Meeting Work Technical (Rakemis) Body Detective Criminal (Bareskrim) Polr, in Nusa Two, Badung Bali, 7 June 2022.<sup>24</sup>

However, hope on as if not in beautify by Freddy Sambo Cs in case follow criminal murder planned Which done on 8 July 2022. But, so far process investigation in case Brigadier J. investigator has take attitude independence, matter this looks from instructions from the Chief of Police Listyo Sigit Prabowo Which in a manner independent take action direct person police Which involved And Also in the intertwine cooperation with party external police For involved direct in investigation.

## CONCLUSION

On in fact independence very important applied in scope system enforcement law that is in do action investigation Which done by party investigator in accordance with objective Which on basically For enforce justice as well as expected capable practice it in the self Alone nor in process law. Based on in case study This specifically on case Where is Brigadier J ? para investigator has succeed finish case in come back screen premeditated murder Which happen on Brigadier J so that so far deep process investigation Which done para investigator considered has take attitude independence. In process enforcement law that is police has succeed practice or make an effort behave independence in do every action this thing especially proven on cutting case murder planned Which happen on Brigadier J, although Lots from party netizens (public) feel worry that police Can just utilized be a tool powerby government Because the police are under shade President. However, matter That No ignored by police they still professional in operate as well as finish various type case specifically on case Brigadier J.

## THANK-YOU NOTE

Thanks are given to: To all parties who participated in completing this research and the Dean of Faculty of Law, Universitas Tjut Nyak Dhien Medan

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