

AS A RESULT OF THE LAW, DIFFERENCES IN RESTORATIVE JUSTICE ARRANGEMENTS IN POLICE REGULATION NUMBER 8 OF 2021

Nugraha Pranadita
Langlang Buana University, Bandung
Email : nugpra@yahoo.com

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ABSTRACT

The aim of law enforcement in Indonesia is For reach justice that is useful and provides legal certainty for public. Efforts to reach matter that, keep going attempted by the authorities law enforcement, among others is republican state police Indonesia and the prosecutor's office Republic of Indonesia, where second agency This constitute guard gate in law enforcement. In an attempt law enforcement, often apparatus law enforcement confronted to contradictory situation between regulation existing legislation. There is moreover previously with existing culture become habit public in finish something problem, where? public more prioritize the deliberation process For reach consensus in finish it . Identification problem study This is : How? due to the law of difference room scope arrangement justice restorative according to perpol number 8 of 2021 towards criminal law enforcement ? Study This use method Normative legal research and uses approach descriptive analytical with purpose For describe and analyze positive legal provisions related to justice restorative, Normative legal research using secondary data later categorized become primary, secondary and tertiary legal materials , then the data analyzed in a way juridical qualitative. Result of study This is that kinds and types follow possible punishment resolved through implementation justice restorative in level police more Lots or more wide compared to at level attorney. Second, that condition formal implementation justice restorative in level attorney more *rigid* compared to at level police.

INTRODUCTION

Pancasila is is crystallization from values nor norms that live and develop within life Indonesian nation . Like We you know , the Indonesian nation consists of from ethnic group diverse nations , languages and cultures . From diversity here it is nation Indonesia has tie himself become A nation . Pancasila itself has become source from all Where are the sources of law in Indonesia? the Indonesian nation has agreed For make the law as commander-in-chief , and Indonesia has officially state himself as a rule of law (*rechstaat*) .

As embodiment a state of law, government together with the House of Representatives as representation from all over inhabitant Indonesia , has Lots make regulation legislation . And in the every formation regulation legislation This is aligned with Pancasila and the law the foundation of the Republic of Indonesia in 1945 as state constitution .

As usually a state of law, guaranteed that the law will occupy the main thing (*supremacy of law*), so that the law will sovereign in all situation to maintain truth and justice , besides That too , in a legal state everyone must considered The same position before the law, that a rule of law must can give protection to right basic humans , too have A power independent judiciary from intervention party anywhere as well as have legality legally , in a good sense government , state or inhabitant his country in Act must based on over the law.

The aim of law enforcement in Indonesia is For reach justice that is useful and provides legal certainty for public . Efforts to reach matter that , keep going attempted by the authorities law

enforcement, among others is the Republic of Indonesia state police and the prosecutor's office Republic of Indonesia, where second agency This is guard gate in law enforcement. In an attempt law enforcement, often apparatus law enforcement confronted to contradictory situation between regulation existing legislation. There is moreover previously with existing culture become habit public in finish something problem, where? public more prioritize the deliberation process For reach consensus in finish it.

National Police of the Republic of Indonesia carry it out task the main thing is as arranged in article 13 of the law invite number 2 of 2002 concerning the state police of the Republic of Indonesia, which has task principal as custodian security and order society, protector protector and servant public as well as as apparatus law enforcement, has emit regulation Republic of Indonesia State Police Number 8 of 2021 concerning handling follow criminal based on justice restorative, next dshort perpol number 8 of 2021. Where is the political regulation This born Because police force consider need For guard balance protection and interests, both victims and perpetrator follow criminal, of which nature No oriented to punishment (*ultimum remedium*), aside For accommodate living laws in society (*living law*) as something solution in law enforcement.

Apart from the police, the authorities law enforcers who have do effort progressive other in criminal law enforcement is attorney Republic of Indonesia, by issuing regulation attorney Republic of Indonesia number 15 of 2020 concerning termination prosecution based on justice restorative, next abbreviated perjak number 15 of 2020. Prosecutor's Office Republic of Indonesia as arranged in article 30 of the law number 16 of 2004 concerning attorney Republic of Indonesia, has task principal in the field criminal that is do prosecution, carrying out judge's determination and decision the court has obtain permanent legal force, do supervision to implementation decision criminal conditional, verdict criminal supervision, and decisions free conditional, do investigation to follow criminal certain based on law, complement file case particular and for That can do inspection addition before handed over to deep court its implementation coordinated with investigators.

Establishment of regulations good at the police nor attorney this, in essence has showing that government has endeavor do legal development, especially in the field of criminal law to more direction OK, p This seen in vision and direction plan development period long Republic of Indonesia in 2005-2025, as has set in Constitution number 17 of 2007 concerning plan development period long national (RPJPN) 2005-2025.

Principles and norms in regulation existing legislation. There is moreover among them is principle legality or "*nullum delictum nulla poena sine praevia lege poenali*", where principle This load four element that is *lex scripta* (all criminal law rules must written), *lex certa* (every follow criminal must explained its elements), *non-retroactive* (no applies receding) and *non-analogy* (law enforcement does not can make method analogy/analogical argumentation), It means that in criminal law enforcement must based to Indonesian positive law. However in in fact, inside life Every day, the Indonesian people still many have completed it something dispute or matter in a way discussion For take consensus, which is followed by the perpetrator, victim, family the perpetrator, the victim's family, the authorities local meupapun figure public. Completion method like on during This Lots done Indonesian society as a whole down hereditary, which is philosophical is achievement highest about law enforcement through base love Darling humanity.

Solving model paradigm follow criminal conventional in a way retributive, of late This Already start shifts with the existence of a solution model through method restorative, which is performed on some stages criminal law enforcement, both at stage investigation, investigation nor prosecution. In enforcing criminal law with a restorative model This need notice method communicate suffering experienced by the victim, remembering past violations, stop anger, repair relationships and creating connection new between the victim and the perpetrator, so that in the end will happen forgiveness will create mutual feelings trust, empathy, humility, respect, positive recognition and appreciation, hope, as well as commitment (*commitment*). Things the on is a supporting pillar upright connection Good between the parties, and for guard balance and justice about interests of the parties so also need to pay attention principle *affectio old nomen imponite operation tuo* which means that motivation someone is very influential his actions.

Effectiveness criminal law enforcement based justice restorative measures carried out on each the steps, you have to in accordance with the principles Justice fast, simple and cost light.

The principle of equality before the law (everyone is equal before the law), *presumption of innocence* (presumption No guilty) and *audie et alteram partem* (second party must heard) is legal principles that are full of values and messages humanity to apparatus law enforcement so No sacrifice humans and humanity , but precisely put forward humans and humanity That Alone. Identification problem study This are : First, how? consequence juridical difference arrangement justice restorative in perpol number 8 of 2021 for certainty in criminal law enforcement ? Second , how consequence juridical difference arrangement justice restorative in perjak number 15 of 2020 for certainty in criminal law enforcement ?

RESEARCH METHODS

In doing study this, writer use type study juridical normative, that is something research that emphasizes legal science and practice inventory of positive law related to effectiveness regulation legislation.

Study This done by examine theories, concepts, legal principles as well regulation legislation, incl learn books, rules legislation and other documents (approach literature) related to research This. The secondary data used This is in the form of positive law related to the problems studied. Research conducted is nature descriptive analytical that is research in nature describe and analyze problem based on regulation relevant legislation. Study This relates to legal provisions, legal theories and practice implementation of positive law related to the research being studied.

Data analysis techniques used in writing This is by method analysis normative qualitative. Normative means that the data is analyzed based on relevant regulations as positive law . Whereas qualitative is data analysis without use formulas and numbers.

RESULTS AND DISCUSSION

In criminal law enforcement based on justice restorative with two different regulations , ie Perpol number 8 of 2021 and Perjak number 15 of 2020 of course will give different legal consequences , p This because in the second regulation the own room scope different settings .

The goals of the Indonesian nation are stated in paragraph to four opening Constitution the foundation of the Republic of Indonesia in 1945 , namely "improving well-being general", which means in a way conceptual according to paragraph to four this , that the Indonesian state adheres to the concept (principle) of a welfare state, and this confirm that well-being is is the most basic right for every citizens , and the state must responsible answer full For increase well-being life inhabitant his country so that life in a way worthy.

Action term criminal is translation from term *strafbaar feit* in the current Dutch Criminal Code This applied as national law in Indonesia through principle concordance , with the existence of the Criminal Code (KUHP). According to Simmons understanding follow criminal is is an act of violating criminal law that is done intentionally by someone who can insured answer on enforcement and by criminal law has stated as something possible actions punished.

According to article 1 paragraph (3) perpol number 8 of 2021, which is meant by justice restorative is completion follow crime involving perpetrator, victim, family perpetrator, victim's family, figure community, religious figures, figures custom or holder interest For together look for fair settlement through peace by emphasizing recovery back to the situation beginning. Whereas according to article 1 paragraph (1) perjak number 15 of 2020, which is meant by justice restorative is solution case follow crime involving perpetrator , victim, family perpetrators/victims, and other related parties For together look for fair settlement by emphasizing recovery Return to state again, and not revenge. Regulation The National Police of the Republic of Indonesia is short perpol is regulation police force determined by the National Police Chief based on order regulation more legislation tall or in accordance binding authority in a way external. Regulation attorney Republic of Indonesia abbreviated perjak is type regulation legislation established by the attorney general based on authority or in frame carry out regulation more legislation tall.

Implementation justice restorative measures implemented by the Party Police follow arrangement as intended by the Regulations Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative. Whereas implementation justice

restorative measures implemented by the Party attorney follow arrangement as intended by the Regulations attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice Restorative .

Basically implementation justice restorative related to existence condition materials and conditions formal , specified regulation legislation , which must fulfilled by the parties concerned . Condition material related to action the crime That alone , meanwhile condition formal related to procedures implementation of the peace process . A series of criminal law enforcement processes initiated by institutions police through activity inquiries and investigations. Furthermore implemented by the institution attorney through activity prosecution. Because in the second institution law enforcement there is mechanism implementation justice restorative , then can understood that institution police obtain chance First For can do implementation justice restorative. If Because one thing or another implementation justice restorative No can implemented in institutions police force , then For same case can hope Can held implementation justice restorative in institutions attorney . That fact have a number of implications juridical as following :

1. enforcement process for each stage criminal law enforcement in every the level can held in a way more effective and efficient . As example ; For follow criminal (case) which is not can categorized as as follow criminal heavy , though not even action criminal light , the solution possible in level police so that the case No must continues to level prosecution at the prosecutor's office , trial at court , and execution decision court at the institution correctional . You can imagine big savings costs , as well as time , are a must issued by the state compared to if case the proceed to stage punishment in institutions correctional .
2. More society fast obtain legal certainty . Current legal certainty This identical to the verdict court already have permanent legal force . In one side in a way general public expect exists legal certainty in fast time . On the other hand , the judicial process from various the level can use up time many years . There is legal certainty will more fast felt by society if something case can completed in level police or level attorney just .

Implications juridical that at the end will in a way direct impact to enhancement satisfaction public related to performance law enforcement and so on national impact on the field economy Because increasing efficiency have correlation straight away with savings resource in various field , where resources results savings the can used For activity productive that produces mark plus tall .

Institution police is gate First implementation justice restorative . Based on position that , then reasonable during the implementation process justice restorative in level police perceived as more easy and more loose the conditions compared to the implementation process justice restorative in institutions other law enforcers in the criminal law enforcement process .

For test perception that , then following This will done comparison condition material implementation justice restorative in level police with implementation justice restorative in level attorney . Condition material related in a way directly with the level crimes committed by criminals (perpetrator follow criminal). Condition material implementation justice restorative as intended by the Regulations Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative contained in Article 5, namely :

1. No give rise to anxiety and/ or rejection from public ;
2. No impact conflict social ;
3. No potential break split nation ;
4. No nature radicalism and separatism ;
5. No perpetrator repetition Act Criminal based on Decision Court ; And
6. No Act Criminal terrorism , Act Criminal to state security , Act Criminal Corruption and Crime Criminal to people's lives .

Based on condition material the can is known that follow criminal offense that is not can processed through justice restorative in level police is follow criminal that:

- a. Give rise to unrest in society .
- b. Give rise to conflict social .
- c. Potential break split nation .
- d. Characteristic radicalism and separatism .

- e. Repetition follow criminal .
- f. Act Criminal terrorism , Act Criminal to state security , Act Criminal Corruption and Crime Criminal to people's lives .

Condition material the nature qualitative , no nature quantitative , with e.g determine limit maximum threat of imprisonment . Condition material nature qualitative the No nature *rigid* (stiff), but more nature flexible and able adapt to conditions local moment That .

Act actual crime No Possible applied justice restorative in level police is Act Criminal terrorism , Act Criminal to state security , Act Criminal Corruption and Crime Criminal to people's lives . To follow criminal other than those mentioned it is possible For implemented it justice restorative . Condition material implementation justice restorative in level attorney as intended by the Regulations attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice Restorative there is the regulations are in Article 5. Article 5 paragraph (1) determines that ; “ Matter follow criminal can closed by law and discontinued the prosecution based on Justice Restorative in matter fulfilled condition as following :

- a. suspect new first time doing it follow criminal ;
- b. follow criminal only threatened with criminal law fine or threatened with criminal law prison No more from 5 (five) years ; And
- c. follow criminal done with value goods proof or mark losses incurred consequence from follow criminal No more from Rp. 2,500,000.00 (two million five hundred thousand rupiah).

By comparing condition material implementation justice restorative provisions contained in Article 5 of the Regulations Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative as contained in Article 5 paragraph (1) of the Regulation attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice Restorative so can is known that :

- 1. Implementation justice restorative in level police covers more Lots follow criminal compared to implementation justice restorative in level attorney .
- 2. Implementation justice restorative in level police possible for follow criminal threat the punishment more tall compared to threats possible punishment implemented it justice restorative in level attorney .

Based on description on can understood that difference condition material implementation justice restorative in level police and at the level attorney caused Because the legal basis for its implementation is different . Therefore so No unreasonable and inappropriate if difference condition material related to implementation justice available restorative the settings are inside Regulation Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative and inside Regulation attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice Restorative perceived as contradictory or not each other support . Precisely difference the must interpreted as one of the effort For fill in legal vacuum , which if No filled , maybe just keep seekers away justice from his rights For obtain justice .

Implementation justice restorative measures implemented by the Party attorney follow arrangement as intended by the Regulations attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice Restorative . As for implementation justice restorative measures implemented by the parties Police the settings follow as intended by the Regulations Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative .

A series of criminal law enforcement processes at the level attorney in form prosecution is advanced from the criminal law enforcement process at the level police in form later investigation improved become investigation . Good on level police as well as at level attorney possible implementation of the justice process restorative . Therefore can understood that the justice process restorative in level attorney only possible if the justice process restorative in level police Because one thing or another No can held .

In section previously on Already be delivered A perception that ; “ institution police is gate First implementation justice restorative . Based on position that , then reasonable during the implementation process justice restorative in level police perceived as more easy and more loose the conditions compared to the implementation process justice restorative in institutions other law enforcers in the criminal law enforcement process .” Therefore can understood that condition implementation justice restorative in level attorney relatively more difficult compared to at level police . For prove matter that , then will done comparison between condition formal implementation justice restorative in level prosecutor's office with at level police .

Usage comparison condition formal process of justice restorative in level attorney based to fact that room scope implementation justice restorative in level attorney is more narrow if compared to space scope implementation justice restorative in level police . That matter caused Because in a way material condition justice restorative level attorney formulated in a way quantitative , whereas in level police formulated in a way qualitative .

Condition formal implementation justice restorative in level attorney is as referred to by Article 7 to Article 14 of the Regulations attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice Restorative . As for the conditions formal implementation justice restorative in level police is as intended by Article 6 of the Regulations Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative .

Condition formal implementation justice restorative in level attorney in a way sequentially can outlined as below This :

1. Public Prosecutor offered effort peace to Victims and Suspects . Therefore initiative implementation justice restorative be on the side Public Prosecutor (attorney). Initiative implementation justice restorative No originate of victims and suspects . In that case object study This , the Public Prosecutor was given task For do effort peace .
2. Peace efforts done without pressure , coercion , and intimidation . That matter indicated that although initiative implementation justice restorative originate from party Public Prosecutor (attorney), but in its implementation fully on will free (voluntary) from the Victim and Suspect . The Public Prosecutor did not can force implementation justice restorative without expressed consent of the Victim and Suspect in a way volunteer . In that case object study all of these parties involved inside it given freedom For convey opinion by the facilitator peace .
3. Peace efforts done in stages prosecution , that is, at the time submission not quite enough answer on suspects and items evidence (stage two). That matter showing that the peace process is at the level attorney fully become responsibility party attorney For carry it out . Although thereby party investigator police invited or given chance For become part of the peace process the . In that case object study This is the peace process done after did it submission evidence and suspects from party police to party prosecutor's office (Stage Two) .
4. For needs effort peace , the Public Prosecutor did calling towards the Victim valid and appropriate by mentioning reason calling . Because of the initiative implementation justice restorative fully is in hand Public Prosecutor (attorney), then party The Public Prosecutor has obligation in a way formal For call the parties concerned For carry out the justice process restorative the . In that case object study Here , facilitator peace inviting all parties involved , incl investigator police For join in as well as in the peace process .
5. In terms of considered need effort peace can involve Victim/ Suspect's family , figures or representative community , and other related parties . Basically a peace process in frame implementation justice restorative must involve all party which is related . If the victim and/ or Suspect categorized as as child , then participation of parents / family in the implementation process justice restorative becomes very important . The Public Prosecutor invited figure / representative public For follow the implementation process justice restorative must have ability For determine figure / representative representative society . At least figure / representative public the must can reflect opinion part big communities in the area the . In that case object study This is because of the victim and the suspect You're welcome Already mature , then presence party Victim's and Suspect's families become not enough required Again .

6. Public Prosecutor informed purpose and objectives as well as rights and obligations of Victims and Suspects in effort peace , incl right For reject effort peace . Because the Public Prosecutor (attorney) is positioned as initiator peace through implementation justice restorative , then The Public Prosecutor is burdened responsibility carry out various formal procedures related to the ongoing peace process implemented , includes , but No limited to ; tell purpose and objectives as well as rights and obligations of Victims and Suspects in effort peace , incl right For reject effort peace . In that case object study Here , facilitator peace convey matter that stage beginning meeting peace .
7. In terms of effort peace received by the Victim and Suspect so continued with the peace process . Provision This tell to We that there is two formal stages related to efforts For obtain peace process agreement , namely :
 - a. first stage is ensure that the Victim and the Suspect agreed For go through peace For finish moderate matter faced him .
 - b. Second stage is efforts made by the Public Prosecutor to ensure that Victims and Suspects can agreed A agreement nature of peace comprehensive , that is plenary can finish moderate matter faced by them .
8. After effort peace received by the Victim and Suspect , the Public Prosecutor made report effort peace accepted to Head District Attorney or Head Branch District Attorney's Office for continued to Head High Prosecutor's Office . Agreement peace achieved between the victim and the suspect No in a way as well as immediately can finish existing matters . Moreover formerly Public Prosecutor in his position as facilitator must formally report success of the peace process the to Head District Attorney's Office for furthermore be delivered return to level more organization high , that is to Head High Prosecutor's Office . In that case object study this , the Public Prosecutor will be facilitator peace make report success of the peace process being delivered to Head District Attorney , for furthermore be delivered to Head High Prosecutor's Office .
9. In case certain ones get it attention special from leaders and the community , reports are also submitted to the Attorney General tiered . In terms of This report success there is only peace made by the Public Prosecutor be delivered to Head District Attorney and Chief Just the High Prosecutor's Office , therapy Because reason certain there is also a report submitted to the Attorney General. In that case object study this , report results peace No be delivered to the Attorney General because the case in question No can categorized as as cases that get attention special from leadership and society .
10. In terms of effort peace rejected by the Victim and/ or Suspect so Public Prosecutor :
 - a. pouring No achieved effort peace in News ;
 - b. make a note of opinion that case delegated to court by mentioning the reason ; And
 - c. bestow file case to court .
11. Peace process done in a way voluntary , with deliberation For consensus , without pressure , coercion , and intimidation .
12. In the peace process The Public Prosecutor plays a role as facilitator . As facilitator , the Public Prosecutor provides all facilities and procedures for the peace process can held . In that case object study Here , facilitator do various matters for the peace process can implemented , started from the calling process all related parties , provide place implementation negotiations peace , and create report results peace .
13. Public Prosecutor did not have interest or connection with the case , victim, or Suspect , fine in a way personal nor profession , straight away nor No direct . Can be said that position Public Prosecutor as facilitator peace is neutral . In that case object study This , the Public Prosecutor carries out his task based on letter the assignment he received .
14. Peace process carried out in the office attorney except there is condition or circumstances that are not possible Because reason security , health , or condition geography , peace process can carried out in the office government or other places agreed by letter order from Head of the District Prosecutor's Office Branch or Head State Prosecutor's Office . In that case object study This is the peace process held in the hall in the office state prosecutor's office .
15. Peace and fulfillment process obligation held in the longest time is 14 (four twelve) days since submission not quite enough answer on suspects and items evidence (stage two) . In that

- case object study this , no known for certain When implemented it stage two , but matter the be one base he took it out letter order to Public Prosecutor for do effort peace . Based on matter the can is known that peace process held in range time allowed by regulations legislation .
16. In terms of the peace process achieved , Victim and Suspect make agreement peace in a way written on the front Public Prosecutor . As facilitator , Public Prosecutor facilitates making agreement peace in a way written the . In that case object study Here , Victim and Suspect sign agreement peace in a way written .
 17. Agreement peace in the form of :
 - a. agreed reconcile accompanied fulfillment obligation certain ; or
 - b. agreed reconcile without accompanied fulfillment obligation certain .
 18. Agreement peace signed by the Victim, Suspect , and 2 (two) witnesses and known to the Public Prosecutor . In that case object study This is the deal peace signed by the Victim and Suspect , then signed by two witnesses , viz Village Head and one figure society , as well Then signed by the facilitator peace .
 19. In terms of agreement peace accompanied fulfillment obligations , the Public Prosecutor makes minutes of agreement peace and opinion notes after fulfillment obligation done . In that case object study This is the deal peace accompanied by fulfillment obligation .
 20. In terms of agreement peace without accompanied fulfillment obligations , the Public Prosecutor makes minutes of agreement peace and opinion notes . In that case object study This is the deal peace accompanied by fulfillment obligation .
 21. In terms of agreement peace No succeed or fulfillment obligation No held sexual agreement peace so Public Prosecutor :
 - a. pouring No achieved agreement peace in News ;
 - b. make a note of opinion that case delegated to court by mentioning the reason ; And
 - c. bestow file case to court .
 22. In terms of agreement peace No succeed Because request fulfillment obligations that are not proportional , threat or intimidation , sentiment , treatment discriminatory or abuse based on ethnicity , religion, race , nationality , or group certain to The suspect is acting Good can made consideration Public Prosecutor in do prosecution .
 23. Considerations also apply in matter fulfillment obligation No held in accordance agreement peace Because factor economy or other reasons accompanied by faith Good from Suspect .
 24. Consideration as referred to in paragraph (1) and paragraph (2) in the form of :
 - a. delegation cases with examination proceedings short ;
 - b. mitigating circumstances in submission demands criminal ; and or
 - c. submission demands criminal with conditions .
 25. In terms of agreement peace achieved , the Public Prosecutor reported to Head of the District Attorney Branch or Head District Prosecutor's Office by attaching minutes of agreement peace and opinion notes . In that case object researcha this , peace achieved , and then The Public Prosecutor reported it to Head District Attorney's Office for Then be delivered to Head High Prosecutor's Office . But No be delivered to the Attorney General because No fulfil condition For That .
 26. Based on report Public Prosecutor as referred to , the Head of the District Prosecutor's Office Branch or Head The District Attorney requested agreement termination prosecution based on Justice Restorative to Head High Prosecutor's Office . In that case object study This is a letter from Head State Prosecutor's Office to Head The High Prosecutor's Office is related to the request agreement termination prosecution based on justice restorative No documented .
 27. Request agreement be delivered in a maximum of 1 (one) day after agreement peace achieved .
 28. Head The High Prosecutor's Office determines attitude agree or reject termination prosecution based on Justice Restorative in a way written with accompanying consideration in a maximum of 3 (three) days since request accepted .
 29. In case certain ones get it attention special from leader , Head The High Prosecutor's Office requested agreement to the Attorney General permanently notice the time .
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30. In terms of Head The High Court agreed termination prosecution based on Justice Restorative , Head of the District Prosecutor's Office Branch or Head State Attorney as The Public Prosecutor issued a Decision Letter Termination Prosecution in a maximum of 2 (two) days since agreement accepted .
31. Letter of Determination Termination Prosecution load reason termination prosecution based on Justice Restorative at a time determine the status of goods proof in case follow criminal meant .
32. Determining the status of goods proof held according to criteria regulation legislation .
33. Letter of Determination Termination Prosecution noted in the Prosecution Stage Case Register and Termination Register Prosecution and Waiver Cases in the Public Interest .
34. In terms of Head The High Prosecutor's Office refused termination prosecution based on Justice Restorative , the Public Prosecutor delegated file case to court .
35. In terms of effort peace or peace process there is pressure , coercion and intimidation from the Victim, Suspect , and/ or party otherwise , the Public Prosecutor stopped effort peace or peace process .
36. Termination effort peace or peace process done Public Prosecutor with:
 - a. pouring No achieved effort peace or peace process in News ;
 - b. make a note of opinion that case delegated to court by mentioning the reason ; And
 - c. bestow file case to court .
37. In terms of agreement peace made in stages investigation can made consideration Public Prosecutor for stop prosecution based on Justice Restorative by fulfilling terms and procedures peace as arranged in regulation This .

Agreement peace on stage investigation possible need a long time and face nature problems complicated technical . Based on matter that is very possible agreement peace initiated at the stage investigation No can implemented up to the matter in question delegated to party prosecutor's office (stage two). If matter the happens , then the peace process the can be " continued " at a level prosecutor's office to do so because he stopped prosecution based on justice restorative .

Although thereby matter the will difficult happen Because condition implementation justice restorative in level police more loose compared to the terms implementation justice restorative in level attorney .

Condition formal implementation justice restorative as intended by Article 6 of the Regulations Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative is as outlined under This .

1. Peace from second split parties , except For Act Criminal Drugs .

Based on provision the actually in a way formal all follow criminal , except criminal narcotics , yes done peace in frame implementation justice restorative in level police . That matter can done during condition material implementation justice restorative is also fulfilled .

The role of investigators / investigators in the peace process No mentioned in a way clear . But can confirmed that Investigator / Investigator No the party doing it initiative or become facilitator peace in question .

In order not to become part from parties interested in holding it peace in question , the " neutral " position of the Investigator / Investigator important For still guarded . Although thereby in limited level , party police Still can role in the peace process can taken by the parties . For example ; tell to interested parties that at the level investigation / investigation at the police there is mechanism solution case through implementation justice restorative as intended by the Regulations Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative .

That matter still Enough important done because it's very possible parties involved in police cases Not yet know exists mechanism solution dispute through implementation justice restorative . In terms of This party the police are in charge case in a way No direct carry out role legal counseling to public .
2. Fulfillment victims' rights and responsibilities answer perpetrator , except For Act Criminal Drugs . Based on provision the required perpetrator For in a way responsible fulfil the rights of the victim, or in other words the perpetrator do effort election to losses suffered by the victim.

- Election efforts carried out by the perpetrator the on agreement from that victim Alone . In terms of This party who can say Already fulfilled victims' rights and responsibilities perpetrator are victims and perpetrators That Alone .
3. Peace proven by letter agreement peace and signed by the parties . Basically agreement peace made in form written , at least is agreement under hand , signed by the parties .
What is meant by the parties here is No only victims and perpetrators , but also signed by the parties involved others , for example ; regional government representatives , figures community , investigators / investigators , and others in its capacity as witnesses .
 4. Fulfillment victims' rights and responsibilities answer perpetrator can in the form of :
 - a. return goods ;
 - b. replace loss ;
 - c. replace costs incurred from consequence Act Criminal ; and/ or
 - d. replace damage caused consequence Act Criminal
 5. Fulfillment The victim's rights are proven by a letter statement in accordance with the agreement signed by the victim . Based on matter the can is known that towards the fulfillment process victims' rights must be made information he wrote in form letter statement in essence state that the victim has accept his rights from perpetrator so that perpetrator Already carry out his responsibility.
Form or type the victims ' rights must mentioned in a way clear and firm inside agreement peace agreement signed by the victim and the perpetrator.
 6. Letter format agreement peace and letters statement listed in an ampire which is part No inseparable from Regulation Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative . For give convenience and availability legal certainty real can help victims and perpetrators to do so go through mechanism implementation justice restorative in level police , then the letter format agreement peace and letters statement made in form standard .

Based on description on can is known that in a way formal solution case through implementation justice restorative in level attorney more *rigid* compared to at level police . That matter in a way direct can “ more makes it difficult ” for the victim and the perpetrator For carry out the implementation process justice restorative in level attorney . That matter can seen as something normal thing Because actually implementation justice restorative can done at the level police , with conditions more material and formal loose , and chance the No utilized as best as possible by victims and perpetrators . In terms of This chance second for victims and perpetrators For finish case through implementation justice restorative No more easy compared to chance the first one he got .

Based on description on can understood that different condition formal implementation justice restorative in level prosecutor's office with at level police can justified Because its implementation based on regulation different legislation . Therefore so No unreasonable and inappropriate if difference condition formal related to implementation justice available restorative the settings are inside Regulation Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative and inside Regulation attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice Restorative perceived as contradictory or not each other support . Precisely difference the must interpreted as one of the possible efforts carried out by the government For give understanding and learning law to public that solution case follow criminal through implementation justice restorative more Good done on occasion first , namely at level police Because matter the become part from a simple , fast and cost -effective judicial process light .

CONCLUSION

Consequences of the law of difference arrangement condition material implementation justice restorative in Regulation Republic of Indonesia State Police Number 8 of 2021 Concerning Handling Act Criminal Based on Justice Restorative compared to the Regulations attorney Republic of Indonesia Number 15 of 2020 Concerning Termination Prosecution Based on Justice

Restorative , for certainty in criminal law enforcement is ; that kinds and types follow possible punishment resolved through implementation justice restorative in level police more Lots or more wide compared to at level attorney . That matter caused Because condition material implementation justice restorative in level police more loose the conditions compared to at level more prosecutors strict the conditions . Something follow possible punishment resolved through implementation justice restorative in level police Not yet Of course can implemented implementation justice the restorative level attorney .

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