



Witness and Victim Protection Agency in Uncovering Criminal Acts of Murder Committed by Police Officers

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Abstract. Disclosure of the unlawful acts of murder performed by police personnel is extremely crucial for the function that witness accounts play in uncovering these criminal events. As a result, the part played by LPSK in the process of offering protection to witnesses and victims is extremely important. (1) What kind of legal repercussions do those who commit the crime of murder while working for the police have to face if they are caught? (2) What kinds of safeguards are in place to protect victims and witnesses when a murder is committed? The normative approach along with the conceptual technique of research was utilized in this study. After a decision has been made that has permanent legal force, members of the police force will be required to carry out a code of ethics trial, which will result in a dishonorable dismissal from the force. This is the legal arrangement for police officers who commit the crime of murder and will be processed in a general court trial. In accordance with the authority that has been delegated to it, LPSK is only able to offer protection in the form of physical protection and legal protection to those who seek it.

Keywords: LPSK · Murder Crime · Legal Protection

1 Introduction

The crime of murder is no longer a new crime in people's lives. Along with the number of murder crimes that have occurred, people are no longer surprised to see, hear or witness it. It does not even rule out that the community itself has been the perpetrator and also the victim of murder. The existence of the crime of murder makes human life priceless, even though the life and death of a person is determined by God, not humans.

Even though it is not very common, the crime of murder, both in its most common form and in its more extreme form of premeditated murder, takes the top spot when considering the seriousness of the legal interests that are compromised. Any act that is done on purpose with the aim to end the life of another person or to take their soul constitutes murder. In addition, the act of murdering another person is regarded as being extremely inhumane. When considered from the perspective of a particular religion, the act of murder is one that is not only strictly condemned but also ought not to be carried out. When committing the act of murder, the offender goes after the very essence of another

person's life, which cannot be replicated by anything else. Regarding the confiscation, Article 28A of the 1945 Constitution of the Republic of Indonesia declares, "Everyone has the right to survive and the right to protect his life and his life." Book II, Chapter XIX of the Criminal Code, which consists of thirteen articles, contains the criminal laws pertaining to offenses against a person's life. These requirements can be found in the portion of the code from Article 338 to Article 350.

Disclosure of criminal acts of murder committed by police officers is very necessary for the role of witness statements to uncover these criminal events. In addition, witness statements are valid evidence as stipulated in Article 184 paragraph (1) of the Criminal Procedure Code. In this article, witness testimony is at the top among other pieces of evidence.

Protection of witnesses against the crime of murder at this time is very urgent to be realized at every level of examination in cases that are considered to require special attention and extra tight guard. Despite the fact that Indonesia has favorable legislation regarding witness protection, most notably the Republic of Indonesia Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning the Protection of Witnesses and Victims, a number of witnesses are still at risk in Indonesia. However, up until this point, it has not performed as expected, particularly at the Protection Agency for Witnesses and Victims (LPSK), which is charged with protecting witnesses and victims. Legal protection for the people is a universal principle, in the sense that it is adopted and implemented by every nation that presents itself as a state of law. However, as Paul Lotulung noted, each country has its own method and process for providing legal protection, as well as its own policy governing the scope of legal protection.

2 Method

In the preparation of this study, the researchers applied normative legal research methods. This is because normative research is a type of research conducted by studying the norms or laws and regulations related to the issues discussed.

3 Result and Discussion

3.1 Criminal Sanctions for Perpetrators of Murder Crimes Committed by Police Officers

Even though the Republic of Indonesia Law No. 31 of 2014 on Amendments to Law No. 13 of 2006 on the Protection of Witnesses and Victims is a significant step forward for witness protection in Indonesia, there is still opportunity for growth and development in this area. The Protection Agency for Witnesses and Victims (LPSK), which is authorized to provide witness and victim protection, has not worked as successfully as hoped up until this point.

People's right to be protected by the law is a universal principle, recognized and applied by any nation that claims to be a state of law; but, as Paul Lotulung pointed out, each country has its own unique means of reaching this goal and deciding the scope to which it applies.

Each National Police officer is tasked with upholding the law and helping the force accomplish its goals. The Police Professional Code of Ethics provides the framework and overarching principle by which all Polri members carry out their duties. Every member of the National Police is obligated to uphold the Police Professional Code of Ethics, which is grounded in both professional needs and normative regulations set forth in Law no. 2 of 2002 concerning the National Police of the Republic of Indonesia and the Regulation of the Chief of the National Police. Norms or rules constituting a unified ethical or philosophical basis for behavior or speech regarding things required, prohibited, appropriate, or inappropriate by the State Police are in effect as of the effective date of the Regulation of the Head of the State Police of the Republic of Indonesia No. 14 of 2011 pertaining to the Professional Code of Ethics of the Indonesian National Police. Individuals serving in the National Police as they carry out their mandates and exercise their authority.

The norms and code of ethics will be enforced, and if broken, there will be consequences. Police personnel who accept disciplinary penalties and sanctions for code infractions are nevertheless subject to criminal prosecution. That's why, even after facing disciplinary and ethical sanctions, police personnel who commit crimes will still be prosecuted legally. Criminal proceedings involving officers of the Indonesian National Police are typically handled in accordance with the relevant public court procedural law. This is regulated under Article 2 of PP 3/2003, an Indonesian government regulation, which establishes technical institutional general courts for members of the Indonesian National Police. The trial for violations of the National Police Professional Code of Ethics committed by members of the National Police was then handled by the Police Code of Ethics Commission Session, as required by Article 1 number 7 of the National Police Chief 14/2011. In addition, a session of the Police Code of Ethics Commission was held to address violations of Article 13 of PP 2/2003.

The implementation of disciplinary sanctions as well as sanctions for violations of the code of ethics does not remove the criminal charges brought against the involved police officer pursuant to Article 12 paragraph (1) of PP 2/2003 and Article 28 paragraph (2) of Perkapolri 14/2011. Regarding disciplinary hearings, there are no provisions that specify whether the disciplinary hearing or the general court trial will occur first. The disciplinary hearing must take place no later than 30 days after Ankum receives the Preliminary Examination List file for disciplinary violations from the provost or other official appointed by Ankum (Article 23 PP 2/2003 and Article 19 paragraph (1) Decree of the Head of the National Police of the Republic of Indonesia No. Pol.: Kep/44/IX/2004 concerning Procedures for Disciplinary Sessions for Members of the Indonesian National Police (Pemprov)) In the meantime, for the Police Code of Ethics Commission Session trial, if the administrative sanction to be imposed on the violator is a recommendation for Disrespectful Dismissal (PTDH), then this is decided through the Session after having proven the criminal violation through the general court process until a court decision has the authority. Permanent law Article 22 paragraph (2) Perkapolri 14/2011). Administrative sanctions in the form of PTDH recommendations are imposed through the Police Code of Ethics Commission Session against "violators who intentionally commit a crime with a penalty of imprisonment for four years or more

and have been decided by a court with permanent legal force and a violation that commits a violation as specified in Article 21 paragraph (3) letters e, g, h, and I.”

Regarding the crime of murder committed by police personnel, if Article 338 of the Criminal Code, in which murder is punishable by a criminal term of 15 years in prison (more than 4 years), is followed, then a general court proceeding must be conducted first. Before the Commission Session on the Police Code of Ethics trial. In addition, the function of the Propam Section, which has the direct responsibility of supervising and prosecuting troublesome members of the Police, can be carried out optimally. Therefore, if the functions and obligations of the National Police Propam are to operate properly and in accordance with expectations, they must be streamlined. By law, the standing of the police and the general populace is same. Therefore, individuals who are found to have committed murder shall receive the same penalties as police officers who have committed murder. Criminal Consequences for Murder under the Criminal Code (KUHP) In the Criminal Code, criminal actions of murder or crimes against life are roughly divided into two classes, the first based on the element of error and the second based on the object.

Any individual who knowingly takes the life of another is subject to a maximum penalty of fifteen years in prison for murder (Article 338 of the Criminal Code). If the murder was premeditated, it is termed premeditated murder and is penalized by a minimum of 20 years in prison or life or death (Article 340 of the Criminal Code).

Article 338 of the Criminal Code:

“Anyone who intentionally takes the life of another person is punished for murder with a maximum imprisonment of 15 years”

Article 340 of the Criminal Code:

“Whoever deliberately and premeditated takes another person’s life, is threatened, because of premeditated murder, with a death penalty or imprisonment for life or for a certain period of time, a maximum of twenty years”

3.2 Protection of Witnesses and Victims Against the Crime of Murder

Crime prevention policy or criminal policy is a rational effort from the community as their reaction to crime. As part of the law enforcement policy, the crime prevention policy must be able to place every component of the legal system in a direction that is conducive and applicable to tackling crime, including improving the legal culture of the community so that they are willing to provide active participation in crime prevention. Therefore, crime prevention policies must be carried out through rational and comprehensive planning as a response to crime.

The forms of legal protection for witnesses to the crime of murder are:

1. Forms of Threats and Protection

The forms of threats experienced by Witnesses who receive protection include:

- a) Psychologically, he is afraid and anxious about the reports/information he has made;

- b) Experiencing indirect intimidation from other parties or the reported party to withdraw the report;
- c) Directly or indirectly get terror/disruption to physical, property, or work;
- d) Will be reported back by the reported party or other parties;
- e) Followed/supervised/snooped by the reported party or other parties related to the report;
- f) Indirect threats that can endanger life;
- g) Forced either directly or indirectly to do or not to do something;
- h) Threatened to directly endanger his life and property;
- i) Getting physically disturbed that can endanger life and property.

2. The forms of protection that can be given to Witnesses are:

a) Physical Protection, such as:

- Supervision and control;
- Provision of body security equipment;
- Providing medical and psychological services;
- Reimbursement of living expenses during the period of protection;
- Reimbursement of transportation and accommodation costs while in protection;
- Safe house protection;
- Relocation and new identity.

b) Legal Protection, such as:

1. Receive updates on the status of the case or the court's decision about the submitted testimony report, so long as they do not clash with internal policies, laws, and regulations.
2. The Witness and Victim Protection Agency (LPSK), as the agency with the best potential and authority to provide protection based on the needs of witnesses and victims (Article 12 of Law Number 31 of 2014 Concerning Witness and Victim Protection Institutions, 2014), is not ideal and there are still many flaws, both with the LPSK and the laws that govern it. The LPSK cannot function independently of the several existing law enforcement agencies. Art and the capacity to successfully immerse oneself in that position are required from a political stance. Given that it is required under the PSK Law to function as an autonomous institution, and that it must also execute programs that require the cooperation of relevant authorities, which in practice will lead to authority connections, LPSK must clearly clarify its institutional position. For instance:
 - a) There is no definition of the reporter, whistleblower and justice collaborator (witness to the perpetrator who cooperates);
 - b) There is no guarantee of protection and reward or appreciation for whistleblowers and justice collaborators;

- c) There is no regulation regarding the protection of expert witnesses;
- d) Institutional provisions for the Witness and Victim Protection Agency (LPSK) which are still weak regarding the secretariat, organization, and organizational structure of LPSK;
- e) There is no further regulation regarding the provisions for the establishment of LPSK in the regions;
- f) The existence of LPSK and Law 13/2006 is still not understood and known by law enforcement officers in the regions;
- g) Legal guarantees for the provision of assistance, restitution, and compensation which are currently not strong enough because the procedural law is still regulated in government regulations, not at the level of the law.

4 Conclusion

The crime of murder committed by an individual member of the police force is governed by the Criminal Code (KUHP). If the police officer commits the crime of ordinary murder, he or she may be subject to Article 338 of the Criminal Code, which has a maximum term of 15 years in prison. Article 340 of the Criminal Code may inflict the death penalty or life imprisonment if the police officer commits premeditated murder. The police officer was subjected to a trial of the National Police Professional Code of Ethics after receiving a criminal conviction from a court of broad jurisdiction with permanent legal force. In addition, the Propam Section's direct responsibility for supervision and enforcement can be properly carried out against troublesome Polri members. Therefore, if the functions and obligations of the National Police Propam are to operate properly and in accordance with expectations, they must be streamlined. By law, the standing of the police and the general populace is same.

As a result, the punishments that are given to people who are found guilty of murder will be the same as those that are given to police officers who are found guilty of the same conduct. Legal protection for witnesses and victims of homicide consists of supervision and escort, the provision of body security equipment, the provision of medical and psychiatric assistance, compensation of living expenses during the term of protection, reimbursement of transportation and lodging costs while in protection, protection in a safe house, relocation, and a new identity, and physical protection consists of supervision and escort. Homicide victims and witnesses are entitled to legal protection in the form of supervision and escort. Due to the significance of the witness's evidence in determining the perpetrator's punishment, the offender may act irrationally toward the witness. People are less aware of whether or not their rights have been enforced due to a lack of community-owned legal information and a lack of public attention to monitoring or the surrounding environment. Moreover, there is a dearth of legal information.

The norms of the police and the police code of ethics, as well as the rules of police discipline, must be observed by law enforcement authorities so that members maintain the police's dignity and always comply with the regulations imposed by Law No. 2 of 2002. To the broader populace If a police officer commits a crime, there must be severe repercussions so as not to disturb the surrounding community and to retain public

faith in the police. And it is essential to strengthen the Witness and Victim Protection Agency's ability to provide legal protection for Whistleblowers and Justice Collaborators, as both groups will make it easier to reveal criminal activities because they consider their positions as witness evidence.

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