



LAW ENFORCEMENT AGAINST PERPETRATORS OF FRAUD CRIMINAL ACTS WITH USING MOBILE TELEPHONE COMMUNICATION FACILITIES (Study on Medan Area Police Sector)

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ABSTRACT

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Fraud cases continue to recur, and what is happening now is that more and more fraud cases are occurring using various methods or modes. The police have the authority to conduct inquiries and investigations. Investigations into fraudulent acts using mobile telecommunications facilities are carried out by means of obtaining information through evidence and materials, in order to obtain a conviction on the truth of the crime and for the purposes of such proof, it is very necessary to have objects related to a fraudulent act using mobile telecommunications facilities, such as the mobile phone used to commit the fraud

1. Introduction

The Criminal Procedure Code (KUHAP) not only contains provisions on the procedures for criminal proceedings, but also outlines the rights and obligations of the parties involved. The KUHAP also regulates investigations and inquiries.

An investigation begins after a crime has occurred, thus constituting a repressive (criminal) legal action. The emphasis of an investigation is on seeking and gathering evidence to clarify the crime and identify and identify the perpetrator.

These actions are carried out to seek information from anyone who is expected to be able to provide information about what has happened and can reveal who committed or is suspected of committing the crime. These initial actions are followed by other actions deemed necessary, which are essentially





to ensure that people who are truly proven to have committed a crime can be brought to court to be sentenced and then actually serve the sentence imposed. Formally procedurally, an investigation process is said to have begun since the issuance of an investigation order issued by an authorized official at the investigating agency.

Police within the court system act as investigators. In their role, police gather information from various sources and witness statements. A criminal investigation is a series of actions by investigators, within the context and procedures stipulated by law, to seek and collect evidence that sheds light on a crime and helps identify the suspect.

The police are the agency that deals directly with lawbreakers. Article 13 of Law No. 2 of 2002 concerning the Indonesian National Police states that the duties and authorities of the police are to maintain public security and order, enforce the law, and provide protection, assistance, and services to the community. In carrying out its main duties, the police are also tasked with conducting inquiries and investigations into all criminal acts in accordance with criminal procedure law and other laws and regulations, so the police need to have knowledge as investigators and adequate facilities to conduct investigations.

The police, with their significant responsibilities, have a dual duty: to prevent crime by maintaining security and order, and to combat crime through investigations. As stated in Article 1, number 4 of the Criminal Procedure Code, which reads: "Investigators are officers of the Indonesian National Police who are authorized by law to conduct investigations.

Article 1 points 1 and 2 of Law Number 8 of 1981 concerning the Criminal Procedure Code defines the meaning of investigation, which states that investigators are officers of the Republic of Indonesia's national police or certain civil servants who are given special authority by law to conduct investigations.

Investigation means a series of actions carried out by investigative officials in accordance with the methods regulated by law to search for and collect evidence, and with this evidence to make or become clear about the crime that has occurred and at the same time find the suspect or perpetrator of the crime.

2. Research Method

This research is descriptive and analytical in nature. Descriptive research aims to provide the most accurate data possible. The author will describe the crime of fraud using mobile phone communication.



The approaches used were normative and empirical legal methods. The normative legal approach is research conducted by examining secondary data, such as legislation, in the library. The empirical legal research method involves interviews with investigators at the Medan Area Police Sector

3. Results And Discussion

If a fraudulent act using mobile telephone telecommunications is discovered, the police will conduct an investigation. Investigations are regulated in Article 1, point 1, of the Criminal Procedure Code. These investigations are carried out by Indonesian National Police officers or certain civil servants specifically authorized by law to conduct investigations.

Investigation is the initial stage of the criminal law enforcement process, or the working of the Criminal Justice System mechanism. Investigation is a preliminary/initial examination activity that should focus on efforts to seek or collect factual evidence, arrests and searches, and, if necessary, can even be followed by the detention of the suspect and the confiscation of items or materials suspected of being closely related to the crime.

Investigations play a crucial and strategic role in determining the success or failure of subsequent criminal law enforcement. Proper investigations will determine the success of the Public Prosecutor in prosecuting and, in turn, facilitate judges' ability to uncover material truth during examinations and trials.

An investigation is a series of actions involving enforcement/coercive measures, examination, settlement, and submission of case files. This includes the process of preparing a police report, investigation, summons, arrest, detention, search, confiscation, examination, filing, and submission of case files, suspects, and evidence (P-21), ensuring that the investigator/assistant investigator's actions in every effort or step can be carried out effectively and efficiently in the context of law enforcement.

Investigation is a follow-up to investigative activities with strict requirements and limitations in the use of coercive measures after collecting sufficient initial evidence to clarify an event that is reasonably suspected of being a criminal act.

An investigation is conducted to identify crimes and violations, which is the first action or measure taken by law enforcement officials authorized to do so, carried out after it is known that a crime will occur or is suspected to have occurred. An investigation is an action that can and must be carried out immediately by investigators if a crime occurs or if there is suspicion that a crime has occurred. If there is suspicion that a crime or violation has been committed, efforts must be





made to determine whether this is in accordance with the facts, whether a crime has actually been committed, and if so, who the perpetrator is.

The investigation is conducted to seek and collect evidence that at the first stage must be able to provide confidence, even if only temporarily, to the public prosecutor about what actually happened or about what crime has been committed and who the suspect is. The investigation is conducted in the interests of justice, especially for the interests of prosecution, namely to determine whether or not an action or deed can be prosecuted.

The Criminal Procedure Code further regulates investigators in Article 6, which provides limitations on investigative officials in criminal proceedings. The limitations of officials in the investigation stage are National Police investigators and civil state investigators. A police officer can be given the position of investigator, but must meet the rank requirements as stated in Article 6 paragraph (2) of the Criminal Procedure Code. According to the explanation of Article 6 paragraph 2, the positions and ranks regulated in Government Regulations are aligned and balanced with the positions and ranks of public prosecutors and general court judges. The Government Regulation that regulates the issue of investigator ranks is in the form of PP Number 27 of 1983.

In accordance with Article 7 paragraph (1) of the Criminal Procedure Code, investigators have the authority to:

1. Receive a report or complaint from someone about a criminal act;
2. Take first action at the scene;
3. Ordering a suspect to stop and checking the suspect's identification;
4. Carrying out arrests, detentions, searches and confiscations;
5. Conduct inspection and confiscation of letters;
6. Taking fingerprints and photographing a person;
7. Summoning people to be questioned as suspects or witnesses (Article 7 paragraph (1) in conjunction with Article 112 paragraph (1) of the Criminal Procedure Code);
8. Bringing in the necessary experts in connection with the case examination;
9. Carry out other legally responsible actions;

The starting point of the examination before the investigator is the suspect because from the suspect information is obtained about the criminal incident being examined. Although the suspect is the starting point for the examination, the suspect should not be viewed as an object of examination (inquisitor). The suspect must be placed in the position of a human being who has dignity and respect and must be assessed as a subject, not as an object. The criminal act of the suspect who is the object of examination, according to Article 8 of Law No. 48 of 2009 concerning Judicial Power, the suspect must be considered innocent in



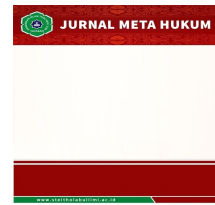
accordance with the legal principle of "presumption of innocence" until a court decision is obtained that has permanent legal force.

The legal provisions for investigating criminal acts are regulated in the Criminal Procedure Code, which stipulates that when examining a suspect, an investigator must pay attention to the applicable information and may not act outside of that information. One of these provisions concerns the suspect's rights during the examination. Articles 14, 15, and 32 of the Criminal Procedure Code contain the words suspect, defendant, and convict in each position of the suspect during the examination process.

Investigators in conducting examinations of suspects have methods that apply according to the Criminal Procedure Code, these procedures are:

1. In accordance with Articles 52 and 117 of the Criminal Procedure Code, the answers or information provided by the suspect to the investigator are given without pressure from anyone and in any form. The suspect in providing information must be free and may not be forced in any way, whether physical pressure with acts of violence and abuse, or by pressure from the investigator or from outside parties. Regarding the guarantee of the implementation of Articles 52 and 117 of the Criminal Procedure Code, there are no sanctions. The only guarantee for the enforcement of the provisions of Articles 52 and 117 of the Criminal Procedure Code is through a Pretrial, in the form of filing a lawsuit for compensation on the grounds that the examinations have been carried out without a reason based on law.
2. The investigator carefully records all of the suspect's statements. The investigator carefully records all of the suspect's statements regarding what he or she has actually done in connection with the criminal act for which he or she is suspected, in accordance with the words used by the suspect. The suspect's statement must be recorded and the suspect's agreement and confirmation regarding the truth and content of the minutes must be sought. If the suspect has agreed, the suspect and the investigator each sign the minutes. If the suspect does not want to sign, the investigator makes a note in the form of an explanation or statement about it and states the reasons why the suspect does not want to sign.
3. Article 119 of the Criminal Procedure Code states that if the suspect to be questioned is located outside the investigator's jurisdiction, the investigator concerned can assign the questioning to the investigator with authority in the suspect's area of residence.
4. If a suspect does not appear before the investigator, then according to the provisions of Article 113 of the Criminal Procedure Code, the examination can be conducted at the suspect's residence by the investigator himself coming to





conduct the examination at the suspect's residence. This is done if the suspect cannot appear at the examination location determined by the investigator for a proper and reasonable reason. A proper and reasonable reason here means there must be a statement from the suspect that he is willing to be examined at his residence, because without a statement of willingness, the assumption arises that the examination is as if coercion. To avoid this, it is better to have a statement of willingness, either stated in writing or verbally, which is conveyed by the suspect to the investigator when the investigator visits the suspect at his residence.

Before an investigation is conducted, an inquiry must first be conducted, which is a process or initial step that determines the entire process of resolving a criminal act that needs to be thoroughly investigated and investigated. Efforts to investigate and investigate a crime in concrete terms can be said to be an investigation assessed after the crime has occurred to obtain information about:

1. What crime has been committed?
2. When was the crime committed?
3. Where the crime was committed
4. With what the crime was committed
5. How the crime was committed
6. Why the crime was committed and,
7. Who is the creator or who committed the crime.

The series of investigative actions are all actions in the name of law carried out by Indonesian National Police investigators, starting from summons, examination, arrest, detention, confiscation and other actions regulated in legal provisions and applicable legislation until the investigation process is declared complete.

Investigations can begin to be carried out since the issuance of the Investigation Commencement Order issued by the authorized official in the investigative agency, where the investigator has received a report regarding the occurrence of a criminal act. Then based on the order, the investigator can carry out his duties and authorities by using investigative tactics and techniques based on the Criminal Procedure Code so that the investigation can run smoothly and the necessary evidence can be collected and if the investigation process has begun, the investigator must immediately notify the public prosecutor that the investigation has begun.

The importance of case investigation in the implementation of criminal procedure can be seen in its relationship to the provisions of the Criminal Procedure Code concerning investigation, prosecution, and trial of cases. An





investigator must conduct an orderly investigation and must always pay attention to the evidence available in the field.

An investigator must pay attention and investigate every fact in the field, no matter how small, because in line with the objectives of criminal procedural law, the task of investigating a case is to "seek material truth." Indeed, in investigating a criminal case, absolute material truth can never be obtained 100% because only God knows. However, by paying attention to every argument and fact, no matter how small, evidence related to a criminal case can be sought as much as possible so that an investigation can approach the truth that a crime has been committed and who the perpetrators are.

The starting point of the examination before the investigator is the suspect because from the suspect information is obtained about the criminal incident being investigated. Even though the suspect is the starting point of the examination, the suspect should not be viewed as an object of examination (inquisitor). The suspect must be placed in the position of a human being who has dignity and must be assessed as a subject, not as an object. The criminal act of the suspect that is the object of examination, according to Article 8 of Law Number 48 of 2009 concerning Judicial Power states that the suspect must be considered innocent in accordance with the legal principle of the presumption of innocence until a court decision is obtained that has permanent legal force.

The examination process at the investigation stage in the case of fraud using mobile phone telecommunications facilities for oil on the road begins by asking about the physical and mental condition of the person being examined and his/her willingness to be questioned at that time, after the person being examined states that he/she is physically and mentally healthy and willing to be examined at that time, then the police who arrested him/her are asked when and where the arrest was made, what the suspect did, and who his/her friends were who participated in the arrest, then the question continues about who the suspect is and what evidence was obtained from the suspect. Then it continues about how the investigator knows the suspect

4. Conclusion

Investigation of criminal acts of fraud using mobile telephone telecommunications facilities is done by means of efforts to obtain information through evidence and items of evidence, in order to obtain a conviction as to whether or not the criminal act is true and for the purposes of such proof, it is very necessary to have objects related to a criminal act of fraud using mobile telephone telecommunications facilities, such as the mobile telephone used to





commit the fraud. The form of criminal fraud using mobile telephone telecommunications facilities is carried out by the perpetrator claiming to be a member of the police and the Medan Area Police Chief and saying he is handling a gambling case, then calling the family of the suspect in the gambling case and asking the victim to transfer a sum of money.

Obstacles in the process of investigating fraud crimes using mobile telephone telecommunications facilities are experiencing obstacles caused by one of them is the legal awareness of fraud victims to report is still very low due to the understanding that if they report, the costs will be higher than the amount of losses experienced. The police's efforts to overcome obstacles in the investigation process are by socializing to the public if there is a call claiming to ask for money on the grounds that their family members have been arrested to immediately provide information or report to the police

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