

Police Discretion in Investigating Document Forgery and False Information Cases in Indonesia

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Abstract

Discretion is a form of authority granted to law enforcement officers, including police investigators, to make decisions based on specific judgments to ensure the smooth progression of legal processes. The purpose of this study is to analyze the process of investigation, inquiry, and the determination of suspects in cases of document forgery. The theories utilized in this thesis research include the theory of investigation, the theory of law enforcement, and the theory of discretion. This research employs a normative juridical method, a legal research approach used to analyze and evaluate applicable legal norms and their application in practice. The findings indicate that in cases of document forgery, original evidence must be presented to investigators for subsequent seizure as valid evidence in proving the criminal act of document forgery. Photocopy evidence alone, unsupported by other evidence, is deemed inadmissible. In conclusion, the discretion applied in the investigation process and suspect determination is expected to align with legal principles. Excessive or improper use of discretion can lead to abuse of authority, ultimately undermining public trust in law enforcement institutions.

Keywords: *Police Discretion, Investigation, Document Forgery, False Testimony.*

A. INTRODUCTION

Law Number 2 of 2002 concerning the Police, in Article 18, it has been mentioned about one form of legal authority in the form of police discretion, where the police are authorized to carry out other responsible actions. The Indonesian National Police as an institution has carried out discretion, this is intended so that the police institution can also work professionally as a protector of the community. The authority to act based on the law is essentially considered contradictory to granting discretion to the Police. On the one hand, discretion can be seen as something that has the potential to eliminate legal certainty, but on the other hand it can also be a tool that guarantees justice in situations that are not rigid (Azhari & Hasibuan, 2024; Puspitasari, 2024).

In the criminal justice system in Indonesia, police discretion plays an important role as part of the implementation of investigators' authority, especially in handling criminal acts. Discretion provides investigators with the freedom to determine the steps that are considered most appropriate in law enforcement, including at the stages of investigating certain criminal acts, such as forgery of documents and/or giving false statements under oath (Aristyan & Harahap, 2024; Purba, 2018).

Forgery is a criminal act involving the creation, alteration, or use of an unauthorized document with the intent to defraud or gain an unlawful advantage. In many cases, forgery is done to obtain a seemingly legitimate document, such as a

contract, certificate, or permit, in order to deceive a third party or avoid legal consequences. This practice can have serious consequences for the individuals and institutions that are victimized, as well as undermine the integrity of the legal system and public confidence in official documents (Utomo, 2018).

In this case, Article 263 of the Criminal Code and Article 242 Paragraph (1) of the Criminal Code are the relevant legal basis for prosecuting the perpetrators of the crime. However, the application of discretion by investigators often gives rise to debate, especially regarding the limits of authority and the potential for abuse of authority that can lead to legal injustice.

Discretion is a form of authority given to law enforcement officers, including police investigators, to make decisions based on certain policies in order to ensure the smooth running of the legal process. According to Black's Law Dictionary (1990), discretion is defined as the freedom to act based on personal judgment within the limits determined by law (Haerul & Zainuddin, 2023; Muchsin et al., 2020). Discretion is not only intended to fill legal gaps but also allows investigators to act flexibly to adjust legal actions to the conditions faced. In the context of investigating criminal acts, including forgery of letters and providing false statements under oath as regulated in Article 263 and Article 242 Paragraph (1) of the Criminal Code, investigator discretion is often the subject of legal debate because it is susceptible to abuse.

Article 263 of the Criminal Code stipulates sanctions against anyone who makes a false letter or falsifies a letter that can give rise to certain legal rights or obligations. Likewise, Article 242 Paragraph (1) of the Criminal Code regulates criminal sanctions for anyone who provides false information under oath. These two crimes are often related to legal disputes, both in the civil and criminal realms, involving important legal documents. Investigators at the Criminal Investigation Unit of the Indonesian National Police, as one of the main institutions handling this case, have a strategic role in ensuring that the investigation process runs in accordance with the principles of justice, without discrimination or intervention from any party, in its implementation, various problems have arisen that require more attention (Abdurrachman & Sudewo, 2018; Winata & Nasution, 2024).

Cases related to criminal acts of forgery of documents and giving false statements under oath often involve parties with certain influences or interests, which allows for intervention in the legal process. Investigators at the Criminal Investigation Unit of the Indonesian National Police, as one of the law enforcement units that handles cases with high complexity, are often in a dilemma (Riyadi et al., 2020; Susetyo et al., 2024). On the one hand, investigators are required to act quickly and effectively to ensure justice for victims and the community (Budianto, 2018; Ersanda & Suwaryono, 2023). However, on the other hand, the use of discretion must still refer to the principles of legality, accountability, and transparency in accordance with the standard operating procedures applicable in the police institution.

Especially in the application of Article 263 of the Criminal Code concerning the crime of forgery of documents and Article 242 Paragraph (1) of the Criminal Code

concerning the provision of false information under oath, the investigator's discretion is often in the public spotlight. Several cases show that discretion is used to delay or stop the investigation process without clear reasons, thus raising doubts about the integrity of law enforcement institutions. In addition, the unclear procedures in the implementation of discretion can lead to deviations, such as different treatment of suspects based on social status or certain powers (Roeslan Saleh, 1980).

In the case that the author handled himself when he was an Investigator at the Criminal Investigation Unit of the National Police Headquarters, it was a criminal act of forgery of letters as regulated in Chapter XII Book II of the Criminal Code concerning forgery of letters, with the chronology that PT. SST was established on December 14, 1991 according to the Deed of Establishment of the Limited Liability Company PT. "SST" No. 57 as the main director was the suspect H A, but on October 23, 2000 (deed number 3 of Notary BES, SH) concerning the minutes of the meeting of the Limited Liability Company PT. SST, the suspect H A no longer served as the Main Director of the company, and then the company was dissolved since December 26, 2006.

It is known that the Radar Tasikmalaya newspaper has published an announcement by the Pangandaran BPN office about the loss of SHGB no. 2/Cikembulan (remaining) covering an area of 305,620M² which has been reported lost by the Suspect in the name of the director of PT. "SST (published on February 11, 2017) based on the Suspect's letter and the Suspect's oath H A to the Pangandaran Regency BPN official before the announcement was made in the RADAR TASIKMALAYA newspaper, with the aim of reissuing SHGB No. 2/Cikembulan covering an area of 305,620 m² but in fact the SHGB No. 2 has never been lost and has been divided into 4 SHGB (SHGB No. 3, SHGB No. 4, SHGB No. 5 and SHGB No. 6) in the name of PT. "STARSTRUST (according to BPN Ciamis data).

That the land area of 305,620 M² (in accordance with SHGB No. 6) reported by the Suspect to the BPN of Pangandaran Regency has been sold by the reporter (as director) as stated in the Deed of Sale and Purchase Number 15 of 2006 made by and before Notary/PPAT RAK, SH, Notary/PPAT Ciamis, and registered at the Ciamis Land Office on June 2, 2006 and the land certificate has changed to the name of PS, so it is suspected that a criminal act has occurred in the form of Alleged Criminal Act of Forgery of Letters and/or false statements under oath which is suspected to have been committed by the Suspect HA as referred to in Article 263 of the Criminal Code and/or 242 of the Criminal Code paragraph 1.

The perpetrator is imposed or subject to a criminal sanction for forgery of a letter, Article 263 Paragraph (1) of the Criminal Code "Anyone who makes a fake letter or falsifies a letter that can give rise to a right, obligation or release of debt, or which is intended as evidence of something with the intention of using or ordering someone else to use the letter as if the contents were true and not forged, is threatened if the use can cause a loss, due to forgery of the letter, with a maximum imprisonment of six years." And Article 242 Paragraph (1): "Anyone who in a situation where the law determines that they must give information under oath, gives false information, is

threatened with a maximum imprisonment of seven years". The reason investigators use this article is because the perpetrator purely made and falsified the letter without any interference from authorized parties or officials, such as PPAT officials.

Based on the background of the problem above, the aim of this study is to find out how discretion is exercised in the investigation process to the investigation and determination of suspects in criminal acts of forgery of letters and false oaths using photocopy evidence.

B. LITERATURE REVIEW

1. Investigation Theory

According to Budianto (2018) and Sitorus & Amal (2022), formally procedurally, an investigation process is said to have begun since the issuance of an Investigation Order issued by an authorized official at the investigative agency, after the police receive a report or information about a criminal act, or find out for themselves about an event that is suspected of being a criminal act. This is in addition to preventing abuse of authority by the police, the existence of the Investigation Order is a guarantee of the protection of the rights owned by the suspect (Harun, 1991).

Article 1 paragraph (2) of the Regulation of the Chief of the Republic of Indonesia National Police Concerning the Management of Criminal Investigations, defines investigation as "A series of investigative actions in the case and according to the methods regulated in this law to seek and collect evidence with which to shed light on the criminal acts that have occurred and to find the suspect."

According to de Pinto, investigating (opsporing) means an initial examination by officials who are appointed by law immediately after they hear news that is reasonable that there has been a violation of the law (Tresna, 2000). The basic understanding of investigation or commonly called investigation in foreign terms is called "osporing" in Dutch is the preparation of equipment to carry out a prosecution (Verpolging) in other words it is the basis for carrying out a prosecution. Therefore, a prosecution cannot be carried out before the investigation or investigation is carried out. The act of investigating or investigating is an effort and action to seek and find the truth about whether a crime has really occurred, who committed the act. An investigation or investigation ends with a conclusion that a prosecution will be held for the case or not (Watjik Saleh, 1997).

According to (Hasibuan et al., 2022) an investigation is a process or initial step which is a process of resolving a crime that needs to be investigated and investigated thoroughly in the criminal justice system. Strengthened by R. Soesilo, he also put forward the definition of investigation reviewed from the following word perspective: Investigation comes from the word "sidik" which means "bright". So investigation means making clear or obvious. "Sidik" also means "marks" so investigating means looking for traces, in this case traces of a crime, which means that after the traces are found and collected, the crime becomes clear. Based on the two words "bright" and "marks" from the meaning of the word sidik, investigation means "making clear a crime" (Hamzah, 2005).

2. Discretion Theory

According to the Republic of Indonesia Law Number 30 of 2014, discretion is a decision and/or action that is determined and/or carried out by government officials to overcome concrete problems faced in the implementation of government in terms of laws and regulations that provide choices, do not regulate, are incomplete or unclear, and/or there is government stagnation (Hamzah, 2010; Hutahaean & Indarti, 2020).

Police discretion in Indonesia is legally regulated in Article 18 (1) of Law Number 2 of 2002, namely, "in the public interest, officials of the Republic of Indonesia National Police in carrying out their duties and authorities can act according to their own judgment", continued with Article 18 paragraph (2) "Implementation of the provisions as in paragraph (1) can only be carried out in circumstances that are very necessary by paying attention to statutory regulations and the code of ethics of the Republic of Indonesia National Police profession. In the explanation of Article 18 (1) of Law No. 2 of 2002 it is explained that acting according to one's own judgment is an action that can be carried out by members of the Police who in acting must consider the benefits and risks and their actions and are truly in the public interest.

Discretion is the authority of the police to make decisions or choose various actions in resolving legal violations or criminal cases they handle. According to (Setiawan et al., 2023) "Police discretion is maybe defined as the capacity of police officers to select from among a number of legal and illegal courses of action or inaction while performing their duties" (Police discretion can be interpreted as the authority of police officers to choose to act or not act legally or illegally in carrying out their duties). Walker (1992) explains that "discretion is free to make choice among possible courses of action or inaction" (freedom to choose various steps of action) (Dwilaksana Cryshnanda, 2009).

C. METHOD

1. Nature and Types of Research

The nature of this research is descriptive analysis, descriptive analysis means that from this research it is expected to obtain a detailed and systematic picture of the problems to be studied. The analysis is intended to be based on the description, the facts obtained will be analyzed carefully to answer the problems. The type of research used is normative legal research (normative juridical), namely legal research that uses secondary data that begins with an analysis of legal problems that come from literature and legislation.

2. Source of Legal Material

The sources of legal materials used in this research are secondary data through document studies, to obtain data taken from library materials, including:

- a. Primary Legal Materials, namely legal materials that have binding force as the main basis used in the framework of this research, including the Civil Code,

Criminal Code, Criminal Procedure Code, Law Number 2 of 2002 concerning the Indonesian National Police, Regulation of the Chief of Police No. 1 of 2009 (PERKAP) Concerning the Use of Force in Police Actions.

- b. Secondary Legal Materials, namely materials that are closely related to primary legal materials and can help analyze and understand primary legal materials, such as books related to research, research results, seminar results, works from legal circles and literature.
- c. Tertiary Legal Materials, namely materials that provide guidance or explanations for primary legal materials and secondary legal materials. The materials used in this research are legal dictionaries, newspapers, encyclopedias, papers related to the object of research.

3. Legal Material Collection Techniques

The technique of collecting legal materials is carried out using literature studies, namely collecting legal materials from the results of searching for library materials or secondary data which include primary legal materials, secondary legal materials and tertiary legal materials. To obtain these materials, document/library study research or library research will be used, namely by collecting all laws and regulations, legal documents and books related to the formulation of research problems. This research is carried out by conducting document studies, document studies are carried out by reading, studying, and analyzing literature books, laws and regulations, and other sources,

4. Legal Material Analysis

Legal material analysis is very necessary in a study, it is useful to provide answers to the problems being studied. Data analysis in this study uses qualitative methods. Research using qualitative methods is based on assumptions about complex social realities or phenomena. In it there are certain regularities or patterns, but full of variations (diversity). Then conclusions are drawn deductively, namely from general things to specific things.

D. RESULT AND DISCUSSION

1. The Investigation Process Until the Investigation and Determination of Suspects in the Crime of Forgery of Documents Using Photocopy Evidence

In cases of forgery of letters with photocopy evidence, although the photocopy is not an original document, a forged or used photocopy to deceive can be valid evidence in an investigation, depending on further examination of the authenticity and intention of the party using the photocopy. Investigators can assess whether the photocopy was used with the aim of deceiving or obtaining illegal benefits. If there is a malicious intent (mens rea) and sufficient evidence is found, investigators have the right to use discretion to upgrade the status of the case to an investigation.

Determination of a suspect is an important step in the law enforcement process that requires careful consideration, especially in cases of forgery of letters and perjury

using photocopies. Determination of a suspect can only be done if the investigator has sufficient evidence and there is a strong indication that someone is involved in the crime in question. In this case, the investigator's discretion plays a role in assessing how relevant and strong the evidence is, including the photocopies used in the crime. Investigators can determine someone as a suspect if there is sufficient preliminary evidence, such as witnesses who saw the forgery, expert analysis results on the authenticity of the photocopies, or if there is other evidence that shows malicious intent or a desire to deceive (Idy, 2022; Prasetyo, 2021).

The process of investigation to the investigation and determination of suspects in the crime of forgery of letters is a series of legal actions taken by law enforcement to investigate, collect evidence, and determine the perpetrators responsible for the crime. The crime of forgery of letters is regulated in Article 263 of the Criminal Code which states that forgery of letters, either with the intention of causing harm to others or with the intention of using or ordering others to use forged letters as if the contents were true, can be punished with a maximum of six years in prison.

a. **Investigation**

This process begins with a report or complaint from the victim or injured party. In cases of forgery of documents, the reporter is usually required to submit the original letter that is suspected of being forged as evidence. The original letter is needed to prove the existence of elements of forgery, because photocopies or copies are often not clear enough to show important elements in the document, such as signatures, official stamps, or other physical characteristics. Investigators will also ask for information from the reporter and witnesses related to this case. The investigation aims to find initial facts that indicate whether or not there are elements of a crime.

b. **Investigation**

If the initial investigation finds strong indications of a criminal act of forgery, the case will move to the investigation stage. The investigation is carried out by investigators (either police or certain civil servant investigators), whose job is to collect more evidence and facts to clarify the case. In cases of forgery, investigators will look for other evidence such as physical examination of the letter, examination of witnesses, and may also involve forensic experts who can analyze the authenticity of the document. Document forensics is used to determine whether the signature, stamp, or other parts of the letter are genuine or manipulated. At this stage, investigators can also summon the reported party or parties suspected of being involved to ask for further information.

c. **Determination of Suspect**

After the investigation process produces sufficient evidence, the investigator can determine a suspect. The determination of a suspect is based on at least two valid pieces of evidence in accordance with Article 184 of the Criminal Procedure Code, which include witness statements, expert statements, letters, clues, and statements from the defendant. In cases of forgery of documents, evidence of original letters, statements from witnesses who witnessed the

process of making or using forged letters, and the results of forensic expert analysis of documents are usually a strong basis for determining someone as a suspect.

This process must also fulfill the principle of due process of law, namely that the suspect has the right to provide a defense or further information in the legal process. The determination of the suspect must be accompanied by a letter of determination of the suspect, and the suspect has the right to be accompanied by a legal advisor. If proven, the suspect can be continued to the prosecution stage by the prosecutor, and then will be tried in court.

Proving in cases of criminal acts of forgery of documents regulated in Article 263 of the Criminal Code requires a careful process because it involves documents or letters that are suspected of being forged. This proof process aims to ensure whether forgery really occurred, who did it, and whether the elements in Article 263 of the Criminal Code are fulfilled. The following are the stages of the method of proof in this case:

a. Document or Letter Examination

Documents or letters suspected of being forged are the main evidence in this case. To prove that a letter has been forged, the original document must be examined and compared with the allegedly forged version. Some aspects that are usually examined are: a) Authenticity of the signature: Is the signature on the letter genuine or a forgery; b) Seal or stamp: Official seals are often used in important letters, and this examination includes verifying the authenticity of the stamp; c) Material and ink: Document forensic experts can examine the type of paper, ink, or printing method used to determine whether the letter is forged.

b. Witness Statement

Witness testimony is a very important evidence in proving the crime of forgery of documents. Relevant witnesses can consist of: a) The party who made or received the original document: They can testify about the process of making the original document and can help confirm whether the document is forged; and b) Witnesses who know the forgery process: Witnesses who are involved or know about the making of the forged document can provide important information about who is involved in the forgery and how the process is carried out.

c. Expert Statement

In cases of forgery of letters, it is often necessary to seek the assistance of a document forensic expert to ensure the validity of the letter. Forensic experts can examine: a) Signature: Through forensic techniques, experts can analyze whether the signature on the letter was made by a real person or was imitated/forged; b) Paper and ink: Experts can perform microscopic or chemical analysis to determine whether there is a discrepancy between the materials used and the time or condition that should have been; and c) Forgery technique:

Experts can also determine what techniques were used to forge the document, such as scanning, reprinting, or manual changes to the document.

d. Suspect's Statement

The statement from the suspect is also very important in proving a forgery case. If the suspect admits his actions or provides information that strengthens the suspicion of his involvement in the forgery, this can be used as evidence. However, if the suspect denies it, the investigator must compare the suspect's statement with other evidence, such as original letters, witnesses, and expert testimony.

e. Other Evidence

In addition to the original document, other evidence that can be used includes items used in the forgery process, such as computer equipment, printing equipment, or other materials that support the suspicion that the letter has been forged. These items can be confiscated by investigators and used as additional evidence.

f. Motives and Purposes of Forgery

Proof also involves revealing the motive and purpose behind the forgery of the letter. Article 263 of the Criminal Code states that the crime of forgery is committed with the aim of causing harm to another person or with the intention that the forged letter is considered an original letter. Therefore, the prosecutor must prove that the perpetrator had a certain intention or purpose when committing the forgery, such as financial gain, legal manipulation, or other purposes that are detrimental to other parties.

g. Two Valid Pieces of Evidence

According to Article 184 of the Criminal Procedure Code, proof in criminal law must be based on at least two valid pieces of evidence. Valid pieces of evidence include witness statements, expert statements, letters, clues, and statements from the defendant. In cases of forgery of letters, at least two of these pieces of evidence must be able to prove that a criminal act has occurred, and that the suspect was indeed involved in the forgery.

h. Elements in Article 263 of the Criminal Code

In order to achieve complete evidence, the prosecutor must ensure that all elements in Article 263 of the Criminal Code are met. These elements are: a) Act of falsifying a letter: The act of changing, imitating, or making a fake letter that is considered genuine; b) Intent of falsification: Forgery is carried out with the intention of using the letter or for someone else to use it, as if the letter were genuine and not falsified; and c) Intent of causing harm: Forgery is carried out with the intention of causing harm to another party.

Not much different from proving forgery of a letter, proving in a case of perjury involves a complex legal process, because this case is related to the pronouncement of an oath that is considered false before a legal authority. Perjury itself is a criminal act regulated in Article 242 of the Criminal Code (KUHP), which

states that anyone who gives false information under oath before a court or other competent authority can be subject to criminal penalties.

a. Elements of the Crime of Perjury

Proof in cases of perjury must focus on fulfilling the elements stipulated in Article 242 of the Criminal Code. These elements include:

- 1). A person gives a statement under oath: The statement must be given under oath or affirmation before a court, panel of judges, or other authorized legal authority.
- 2). The statement is given consciously: The defendant consciously gives a statement, either orally or in writing, knowing that the oath is legally binding.
- 3). The statement is given falsely: The statement given by the defendant does not correspond to the truth or existing facts.
- 4). Before an authorized authority: The statement must be given before an authorized legal authority, such as a court, investigator, or institution designated by law.

b. Witness Statement

Witness testimony is an important piece of evidence in proving a perjury case. Witnesses who can provide testimony in this case include:

- 1). Witnesses who heard the oath: Witnesses who were present when the oath was taken can provide information regarding the context and content of the oath given by the accused.
- 2). Witnesses who know the actual facts: Witnesses who know the actual facts that contradict the statement given by the accused can provide information that the oath is false. For example, witnesses who know the details of the incident that the accused denied under oath.
- 3). Expert witnesses: In some cases, expert witnesses can be asked to provide analysis regarding the differences between the accused's statement and the available evidence.

c. Documents and Written Evidence

Written documents, whether in the form of letters, notes, or other relevant documents, can be strong evidence in proving perjury. For example, if the defendant testifies under oath that he never signed an agreement, but a document with his signature is found, the document can be used to prove that his oath was false.

d. Expert Statement

Legal experts or forensic experts may be involved in perjury cases to examine the validity of documents or other relevant information. Forensic experts may be asked to:

- 1). Verifying signatures or documents: Forensic experts can determine whether a sworn document is fake or genuine by comparing the signature or document with the original.

2). Psychological or linguistic analysis: In some cases, a linguist or psychologist may be asked to analyze the way the accused gives his testimony to determine if there is any indication of lying or bad intent.

e. Contradiction between Oath and Fact

Proof of perjury is centered on the contradiction between the testimony given by the defendant under oath and the actual facts. Therefore, the court needs to assess:

- 1). Is the information provided by the defendant in accordance with other available evidence? If not, then there is an indication of perjury.
- 2). Is the defendant aware that the information he/she provided under oath is not in accordance with the truth. This is important because the defendant must be proven to have intentionally provided information that is contrary to the facts.

f. Motives and Intentions of the Suspect

The prosecutor or investigator must also prove that there was an intention or motivation to provide false testimony under oath. This is important because not all errors in providing testimony under oath can be considered perjury. It is possible that the defendant accidentally provided inaccurate testimony due to other factors, such as forgetfulness or human error. Therefore, the intention to mislead or deceive legal authorities is an important element in the proof.

g. Examination of Suspect's Statement

The testimony of the accused or suspect is an important part of the evidence process. If the accused admits that he gave false testimony under oath, this can be significant evidence. However, if the accused denies the accusation, the prosecutor must prove through other evidence that the accused has consciously given a statement that is not in accordance with the truth.

Police discretion is a form of policy inherent in law enforcement officers, especially in the implementation of daily tasks by police officers. Discretion can be interpreted as the freedom to make decisions according to existing situations and conditions, especially when written laws do not provide adequate solutions or existing rules are considered unable to accommodate justice as a whole.

Forgery of documents is a criminal act regulated in Article 263 of the Criminal Code, which includes the act of making a fake document or falsifying a document with the intention of using it as valid evidence and can cause harm. Meanwhile, giving false testimony under oath is regulated in Article 242 of the Criminal Code, which punishes anyone who intentionally gives false testimony under oath in a trial process. Both are very serious crimes because they involve the integrity of the legal system itself. This is where the investigator's discretion is very important, because they must determine whether there are sufficient criminal elements to continue the investigation and whether further legal action should be taken.

In handling cases of forgery of documents and/or giving false statements under oath, investigators from the Criminal Investigation Unit of the Indonesian National Police are often faced with complex situations, especially because the nature of this

crime often involves administrative evidence, legal documents, or testimonies that must be verified in depth. Investigators must use discretionary authority in assessing whether an action can be categorized as a crime or merely an administrative violation that can be resolved outside the criminal process. This discretion also provides room for investigators to consider other factors such as social impact, the wishes of the victim, and the possibility of alternative resolutions through non-litigation mechanisms such as mediation or restorative justice (Adawiyah & Fatmawati, 2024; Asba & Wahyu, 2023).

Investigator discretion can also play a role in determining how far a case will go. For example, in cases of perjury, investigators must conduct a thorough analysis of the perpetrator's motives, the harm caused, and the public interest violated. In some cases, investigators may decide that the case is best resolved through the courts, while in other cases, they may decide not to pursue the case if there is insufficient evidence or there is the potential for other more beneficial resolutions.

Although police discretion provides flexibility, its use must still be based on the principles of accountability, transparency, and legal certainty. Discretion that is used disproportionately or excessively can lead to injustice, especially if investigators act beyond their authority or act on non-objective considerations. Therefore, it is important for investigators at the Criminal Investigation Unit of the Indonesian National Police to always consider the principles of legality, proportionality, and justice when using discretion, especially in cases involving forgery of documents and giving false statements under oath.

As a law enforcement agency with broad authority, the Criminal Investigation Unit of the Indonesian National Police has a great responsibility to ensure that the use of discretion is not abused. In order to minimize the potential for abuse of discretion, there must be strict supervision both internally and externally. Investigators must have a strong understanding of the law, as well as consider operational and ethical guidelines in every investigative action. Thus, discretion in the investigation of criminal acts of forgery of documents and giving false statements under oath at the Criminal Investigation Unit of the Indonesian National Police is a very crucial aspect. In its use, investigators must ensure that every action taken is based on objective, legal, and fair considerations, while maintaining the integrity of the legal process and public trust in the police institution.

The theory of investigation explains that investigation is a series of actions by investigators to seek and collect evidence to explain a crime. In the case of a crime of forgery of documents and/or giving false statements under oath, investigators are faced with the task of ensuring that these actions meet the elements stipulated in Article 263 of the Criminal Code (forgery of documents) or Article 242 of the Criminal Code (giving false statements). Investigators need to identify evidence that supports the alleged crime, starting from examining documents suspected of being forged to analyzing statements given under oath.

Discretion in the context of investigation arises because not all crimes can be resolved with a rigid formalistic approach. In the case of forgery, for example,

investigators must decide whether a document that is suspected of being forged has significant legal implications or is simply an administrative error. Investigation theory emphasizes the importance of the initial stage in the investigation process, namely when investigators determine whether a report or information received is sufficient to be used as a basis for further investigation. At this stage, investigators' discretion becomes essential because they must make an initial assessment of whether there is a suspicion of a crime based on the available evidence.

In the process of investigating forgery of documents, investigators are also faced with the fact that many forgery cases involve technical matters, such as agreement documents, deeds, or official letters. Here, investigators must use their expertise to analyze the authenticity of the documents and whether the forgery can be proven legally. Police discretion allows investigators to consider whether a case is worthy of further processing or can be resolved through other means, such as mediation or civil legal efforts. This is related to the purpose of the investigation which is not only to punish the perpetrator, but also to protect the public interest and provide justice in general.

In cases of giving false testimony under oath, investigators must consider various aspects, including the motivation of the suspect, the impact of the false testimony on the judicial process, and the extent to which the false testimony affects justice for the injured party. If the investigator considers that the false testimony given is material and has a direct impact on the outcome of the trial or other legal process, then further legal action may be considered proportionate and necessary. However, police discretion also requires clear limits so as not to lead to abuse of authority.

In investigating cases of forgery of letters and/or giving false statements under oath, investigators from the Criminal Investigation Unit of the Indonesian National Police must also consider various external factors that can influence the investigation process. One important factor is pressure from interested parties, whether from victims, suspects, or the general public. The discretion applied must be free from unauthorized intervention or influence. In the theory of investigation, the independence of investigators is highly emphasized so that they can make objective and fair decisions.

As part of the discretion, investigators also have the authority to decide the most appropriate investigation method. This includes determining the investigation strategy, whether to conduct a search, seize documents, or examine witnesses and experts. Investigation theory suggests that these methods should be chosen based on the objective of collecting sufficient evidence to prove the crime committed. In cases of forgery of documents, investigators must be very thorough in analyzing forensic evidence related to the forged documents, while in cases of providing false information, investigators need to dig deeper into the motives and context of the information provided.

In the theory of discretion, there is an acknowledgement that written law cannot always cover all possible situations that occur in legal practice. For example, in the investigation of criminal acts of forgery of letters and/or giving false statements

under oath, investigators are often faced with the fact that not all elements of the case can be clearly regulated by criminal law. Forgery of letters regulated in Article 263 of the Criminal Code and giving false statements regulated in Article 242 of the Criminal Code, although having clear elements, are often connected to a broader context such as social impact, the perpetrator's intentions, and the consequences of the action. Investigators use discretion to comprehensively assess whether an action should be continued as a criminal case or resolved with another approach.

Discretion theory asserts that law enforcement officers, in this case investigators, are given the freedom to make decisions that are considered most appropriate in each particular situation. However, this freedom is not without limits. The discretion exercised must remain based on the principle of legality, which means that every action taken must be based on the applicable legal framework. In the investigation of a criminal act of forgery of documents, for example, investigators need to ensure that the actions taken by the perpetrator fulfill the elements of a criminal act as regulated by law. The use of discretion must not violate applicable law, but rather how investigators apply the law by considering the special conditions in the case.

One important aspect of the theory of discretion is proportionality. The discretion exercised by the investigator must be proportionate to the level of violation that occurred. In the case of forgery of documents, sometimes the forgery is done with the intention to deceive and significantly harm the other party, while in other cases, the forgery may simply be an administrative error without malicious intent. The investigator must use discretion to assess the extent of the impact of the forgery on the injured party and on the public interest. If the losses incurred are large and have a wide impact, the investigator may decide to take the case to court. However, if the losses are minimal and can be resolved through other means, the investigator may decide to take lighter action, such as issuing a warning or encouraging a settlement through mediation (Manik et al., 2017; Sutarman & Purnomo, 2023).

Discretionary theory also emphasizes the importance of moral and ethical considerations in the use of this freedom. Investigators are expected to act not only based on existing laws, but also consider the moral dimensions of every decision taken. In the context of giving false testimony under oath, investigators must consider the impact of the false testimony on justice for the parties involved. False testimony under oath can damage the integrity of the judicial process and lead to unfair decisions for victims. In such situations, investigators use discretion to determine whether the action should be followed up legally or whether there are more appropriate alternative steps, such as giving the perpetrators an opportunity to correct their mistakes.

Discretion theory also considers the importance of transparency in every decision taken by investigators. This transparency aims to maintain public trust in the law enforcement process. Investigators at the Criminal Investigation Unit of the Indonesian National Police, as a law enforcement agency that has an important role, must provide a clear explanation to the parties involved regarding the reasons underlying the use of discretion. This transparency is also important to avoid the

emergence of the perception that investigators are acting arbitrarily or are influenced by external factors that are not legitimate.

E. CONCLUSION

The investigation process up to the investigation and determination of suspects in the crime of forgery of letters and perjury using photocopies as evidence involves the use of very important discretion from the investigator. At the investigation stage, the investigator is given the freedom to assess whether the photocopy can be sufficient evidence to continue the case. Although the photocopy is not an original document, if it is used for the purpose of forgery or fraud, the investigator has the right to investigate it further by asking an expert or collecting other supporting evidence. At the investigation stage, the investigator's discretion is again used to verify evidence, collect witness statements, and check the authenticity of the original forged document. The investigator must ensure that the photocopy is indeed used for the purpose of harming or manipulating facts, which is the main element in the crime of forgery and perjury.

At the suspect determination stage, the investigator's decision to determine someone as a suspect must be based on sufficient evidence, including the perpetrator's malicious intent (*mens rea*) in using photocopies to deceive or falsify documents. Thus, although photocopies cannot be used as the only evidence, if supported by other relevant evidence, it can be a legitimate basis for determining someone as a suspect in the crime of forgery of documents and perjury. This entire process emphasizes that the investigator's discretion at every stage is very important to ensure that the law is enforced fairly, transparently, and accountably.

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