

Regulatory Use of Firearms by Police: Social Media Education Studies

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Regulatory Use of Firearms by Police: Social Media Education Studies

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Abstract: This study's purpose is based on the incidents of misuse of firearms by police officers in law enforcement efforts that have been rife recently on the pretext of the defence, protection, and safety of officers. This study uses a juridical sociological empirical approach, namely an approach by looking at the realities in the field with the nature of descriptive research that describes the various facts of the symptoms found in social life in depth. Results of a report on the use of weapons at the proper time by police officers in law enforcement under the Legislation of the Chief of Police of the Republic of Indonesia (Pekapolri) Regulation No. 4 of 2007, No. 1 and 8 of 2009, namely in compliance with the values and norms of human rights (HAM) only for the protection of human life and must undergo a periodic psychological examination.

Keywords: Firearms, Law Education, Human Rights, Police.

Introduction

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The State Police of the Republic of Indonesia's duty to uphold the law cannot be isolated from their role in the use of firearms in their enforcement efforts. The police is a government institution that plays an essential role in a country. Mainly for a country based on the law like Indonesia. As mentioned in Article 1(3) of the Constitution of 1945. Life in a legal state is primarily determined by structural factors or traditional institutions, in addition to other factors, such as legal substance factors and legal culture factors.¹

In the news on social media, a police officer was driving a vehicle because he was overtaken by a boxcar who felt annoyed and brandished his gun while cowboy-style on the road. In the case of the misuse of firearms committed by police officers, it was reported that Brigadier Rangga Trianto shot dead Bripka Rahmat Effendy at the Cimanggis Police. The National Police Commission considers that

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¹ Sadjijono, Sadjijono, *Fungsi Kepolisian Dalam Pelaksanaan Good Governance* (Yogyakarta: Laksbang, 2005).

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there needs to be an evaluation regarding the use of firearms.² Even though the case has been legally disclosed by Propam (Professional and Security) and taken firm action against the mistake, many other examples have occurred in the community of similar incidents.

As also recently happened, the shooting of members of the organization of the Islamic Defenders Front (FPI) followers of Habib Rizieq Shihab on the Jakarta-Cikampek Kilo Meter (KM) 50 Karawang, West Java toll road. Police officers act like "cowboys" by pointing their guns in public (on public roads) because they do not accept being overtaken by other drivers.³

Rudy Setiawan also believes that cases of misuse of firearms in the police are increasing. They start from shooting points against civilians, shooting with fellow police officers to shooting themselves. The test of requirements to determine whether a police officer is still appropriate to use a firearm must be carried out periodically so that there is no further misuse of weapons.⁴ According to Ire Saputra, the investigation of guilty police officers (in terms of misuse of firearms) by the police raises concerns that the police will act arbitrarily in conducting studies and not based on the applicable law are considered protecting their members.⁵ This includes dealing with suspected terrorists, who are ordinary civilians using firearms on the pretext of self-protection.⁶

From the above reality, many police officers abuse their duties and roles as law enforcement officers, especially in the misuse of firearms. It is well known and worthy of contemplation by the police

² Matius Alfons, "Tembak Mati Bripka Rahmat Effendy, Brigadir Rangga Tianto Terancam Dipecat," *DetikNews*, 2019, <https://news.detik.com/berita/d-4640264/tembak-mati-bripka-rahmat-effendy-brigadir-rangga-tianto-terancam-dipecat>.

³ Hestiana Dharmastuti, "Heboh Aksi Polisi 'Koboi' Acungkan Pistol Negara Jengkel Disalip," *NewsDetik*, September 2020, <https://news.detik.com/berita/d-5193429/heboh-aksi-polisi-koboi-acungkan-pistol-negara-jengkel-disalip>.

⁴ Rudy Setiawan, "SISTEM PENDUKUNG KEPUTUSAN UNTUK MENENTUKAN KELAYAKAN POLISI DALAM MEMEGANG SENJATA API 12. NGGUNAKAN SCORING SYSTEM," *Semantik* 1, no. 1 (2011): 1-6, <http://publikasi.dinus.ac.id/index.php/semantik/article/view/98/63>.

⁵ Ire Saputra, "PENYIDIKAN TINDAK PIDANA PENYALAHGUNAAN SENJATA API YANG DILAKUKAN OLEH ANGGOTA POLISI DI RESERSE KRIMINAL UMUMKEPOLISIAN DAERAH RIAU," *Jurnal Online Mahasiswa (JOM) Bidang Ilmu Hukum* 5, no. 2 (2018): 1-12.

⁶ Anggreany Haryani; Irsan Putri Koesparmono, "POLISI, KEKERASAN DAN SENJATA API," *KRTHA BHAYANGKARA*, no. Vol. 12 No. 1 (2018): 11. THA BHAYANGKARA (2018): 1-24, <http://ejurnal.ubharajaya.ac.id/index.php/KRTHA/article/view/28>.

to act as protectors of citizens. So if the use of weapons that is not by this procedure is not quickly addressed by the Indonesian National Police, in the long term, the people will not trust the performance of the officers. Where the behaviour of the apparatus that over-acts against the power they have will leave an impact on the hearts of the people, give rise to a priori conduct and an equal estimation if all the police act badly, the residents will close their eyes to the fact that there are still many policemen who are well behaved.

Then do the police, as a state instrument in the implementation of security and public order (*kamtibmas*), have the authority to commit acts of violence in the context of organizing *kamtibmas*? In the context of the rule of law, human rights (HAM)⁷, globalization, democratization, decentralization, openness and accountability have given rise to a range of new paradigms in terms of the goals, roles, tasks, powers and obligations of the National Police. This paradigm raises increasing demands, and hopes for implementing *Polri*'s commitments and is more oriented towards the people served and leading to the democratic policing paradigm.⁸

A description of the provisions, principles, principles, and legal doctrine that applies, namely regarding the police's primary duties, is regulated in Article 13. The main responsibilities of the State Police of the Republic of Indonesia according to Law Number 2 of 2002 Article 13 are: (1) Maintaining security and order public; (2) Enforcing the law; and (3) Providing protection, protection and services to the community.⁹ The three main tasks are carried out simultaneously and can be combined. In carrying out this task, it must be based on legal norms, heed religious standards, decency, morals, and uphold human rights.¹⁰ At present, government agencies' issue of actions beyond the limits of their legal authority has become the focus of the general

⁷ Bernhard Ruben Fritz Sumigar, "Pelanggaran Berat HAM Dalam RUU KUHP: Tinjauan Dari Hukum Internasional," *NEGARA HUKUM* 11, no. 2 (2020): 125-44.

⁸ Putri Koesparmono, "POLISI, KEKERASAN DAN SENJATA API."

⁹ Siri Elisabeth Bernssen, "Liability Assessments and Criminal Responsibility in Norwegian Legal History," *Bergen Journal of Criminal Law & Criminal Justice* 5, no. 1 (2017): 59, <https://doi.org/10.15845/bjclcj.v5i1.1353>.

¹⁰ Irina Jugl et al., "Psychosocial Prevention Programs against Radicalization and Extremism: A Meta-Analysis of Outcome Evaluations," *The European Journal of Psychology Applied to Legal Context* 13, no. 1 (2021): 37-46.

public, especially the police, who are supposed to protect and protect the community.¹¹

Based on some of the phenomena above, the authors are interested in studying and researching how to use firearms and when is the right time for police officers to fire as a law enforcement effort to prevent criminal acts by applicable laws and regulations.

Method

This study uses a descriptive method with a qualitative approach, namely by looking for a cause that causes a legal event to occur which contains an explanation or discussion of the study of the use of firearms by the police in law enforcement efforts carried out by applicable regulations. In this research, a constructivist paradigm is used to see a social reality is not something natural, but the result of construction. The focus of building here is how the analysis can find a real event that occurs so that it can see the extent to which the situation is by the reality of an incident on social media, in this case, the use of firearms by the police illegally and out of the appropriate rules. As reported on social media, police officers have violated procedures and have led to criminal acts using inappropriate weapons. This requires a more in-depth study so that the author can find out and collect data related to the problem being studied how the laws and regulations apply.

Secondary data sources are from interviews with the Head of the Professional and Security (Propam) Sector Police Resort (*Polres*) Cirebon and primary data sources from literature and documents, books, scientific papers, articles, as well as laws and regulations and closely related written materials with the object of the author's study: Law Number 2 of 2002 concerning the Indonesian National Police; Emergency Law Number 12 the Year 1951 concerning Firearms; Regulation of the Chief of Police of the Republic of Indonesia (*Kapolri*) Number 1 of 2009 concerning the Use of Force in Police Actions; Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Implementation of Police Duties.

The data analysis technique is processed qualitatively, a research procedure that produces descriptive data, namely about what

¹¹ Warsito Hadi Utomo, *Hukum Kepolisian Di Indonesia* (Jakarta: Prestasi Pustaka, 2005).

respondents said verbally, in writing, and real behaviour. In this study, the authors conclude using deductive thinking methods, namely analyzing problems from general forms to particular forms.

Findings and Discussion

The use of firearms by the police to enforce the law by applicable regulations

In using firearms, the necessary regulations in the Head of Police of the Republic of Indonesia Number 8 of 2009 contain the implementation of human rights principles and standards in carrying out the duties of the Indonesian National Police as well as in Perkapolri Number 1 of 2009 concerning how to use measurable force in police action. Based on article 47 of the National Police Regulation 8 of 2009, it is stated that using firearms can only be used if it is genuinely intended to protect human life in paragraph 1. In section 2, these firearms for officers can only be used to face extraordinary circumstances defending themselves from the threat of death and defending others against death threats.¹² Preventing severe crimes from occurring, restraining, preventing stopping someone who is or will be committing an act that is very life-threatening and dealing with life-threatening situations where preliminary steps are taken.¹³

Thus, in this discussion, the study results show that in principle, using firearms is a last resort by the police or officers to stop a criminal or suspect's actions by Article 8 paragraph 2 of the Police Regulation No.1 of 2009. Referring to Article 49(1) of the KUHP (Criminal Law Book) Regulations Forced Defense (Noodweer) which states "Whoever is obliged to act for defence because there is an attack or threat of attack when it is against the law, against himself and others, on the grounds of his or her integrity, property or other persons, shall not be penalized."¹⁴

By the activities that have taken place in the documentation of the appropriateness of the laws for the use of weapons, he has, of

¹² Dani Budi Satria, Putu Tuni Cakabawa Landra, and I Made Budi Arsika, "Legalitas Pengancaman Dan Penggunaan Senjata Nuklir Oleh Negara Dalam Hukum Internasional," *Kertha Negara Journal Ilmu Hukum* 4, no. 2 (2016): 1-5.

¹³ Septyana Yundri, "Implementasi Bahasa Jurnal Pada Pemberitaan Hukum Dan Kriminal Portal Berita Www.Goriau.Com," *Jurnal Online Mahasiswa Fakultas Ilmu Sosial Dan Ilmu Politik Universitas Riau* 5, no. 1 (2018): 1-7, <https://jom.unri.ac.id/index.php/JOMFSIP/article/view/17228>.

¹⁴ DPM. Sitompul, *Beberapa Tugas Dan Wewenang Polri* (Jakarta: Tp, 2004).

course, broken the rules and obtained penalties from Propam for his conduct, because the authorities did not carry out his actions.¹⁵

Based on the findings of interviews with police officers at the Cirebon City Police, concerning the use of firearms:

*"Every officer is obliged to take a compulsory psychological test for candidates or those who already have a firearm. Psychological tests are carried out as a requirement for police personnel to use official firearms. The test results will determine whether the personnel are fit to hold firearms or not so that all police members can pass the test and are eligible to be recommended as organic police officers to support the implementation of their duties".*¹⁶

The statement above is by the documentation data of *Perkapolri* Number 4 of 2007 concerning psychological examination procedures for prospective police organic firearms holders.¹⁷ Head of the Public Information Division (*Kabag Penum*) of the Public Relations Division of the Police Headquarters, Kombes Asep Adi Saputra also said that firearms owners must undergo psychological examinations every six months. Six steps must be taken and those taken into account by the National Police for weapon holders must be taken into account: (1) The National Police shall investigate the interests of the officers holding weapons, (2) they shall take a recommendation from their leadership which explains that someone is fit or should not have a gun, (3) the member shall pass a psychological test, (4) the member shall also pass a medical examination, (5) the member shall pass a shooting test, (6) the member shall have to see his record.¹⁸

If a police officer proves to have abused the firearm authority as mentioned in the introduction, there are still those of the Criminal Investigation Agency (*Reskrim*) themselves. They tend to cover up and shield their fellow members from legal traps in the event of misuse of

¹⁵ Ana M. Martín, Federica Padrón, and Santiago Redondo, "Early Narratives of Desistance from Crime in Different Prison Regimes," *European Journal of Psychology Applied to Legal Context* 11, no. 2 (2019): 71-79, <https://doi.org/10.5093/EJPALC2019A2>.

¹⁶ Suwirno, "Wawancara Kepala Propam Polres Cirebon" (Cirebon, 2020).

¹⁷ Kapolri, "Perkapolri No.4" (2007).

¹⁸ Tim CNN, "Polri Sebut Pemilik Senjata Api Harus Jalani Psikotes Berkala," *CNN Indonesia*, 2019, <https://www.cnnindonesia.com/nasional/20190726181751-12415909/polri-sebut-pemilik-senjata-api-harus-jalani-psikotes-berkala>.

firearms, as Ire Saputra told the Riau Sumatra Regional Police (Polda).¹⁹

The author criticizes that in carrying out investigations against police officers, it should no longer be carried out by members of the police themselves so that the study's implementation can run according to applicable procedures and prevent irregularities in the investigation process. No more police hide cases of criminal acts committed by their colleagues.

The police's right time to carry out the shooting to prevent a criminal act is through prevailing laws and regulations.

The use of force must be carried out in a balanced manner between the risks faced and the degree of intensity or response of the National Police members not to cause losses, victims or suffering that exceed the limits. Where and how a member of the police knows whether to fire or not, or whether it is too late, a member of the law may have been the shooting target. To prevent misinterpretation of the field, the reference is the Chief of Police Regulation No.1 of 2009 concerning the Use of Force in Police Action and becomes a study in this regard.

The regulation discusses technical directions and procedural steps for *Polri* members in carrying out police duties, including shootings which are the final stages required. In various circumstances, the police carrying out their duties do not always need strength. The law is given all the powers necessary to carry out these functions which are not granted to any other agency.

The act of forgetting the perpetrator and releasing the victim into a dangerous threat is not easy, as everyone imagines, so there are several alternatives for the actions of members of the police, namely: first, the use of forced defence, shooting the perpetrator at the risk of allegedly violating human rights (HAM)²⁰. Second, allowing the incident, at the risk of not protecting the community. Third, he was the victim of the shooting.

When officers wish to fire, of course, before shooting, they must, with caution, give warning shots in the air or on the ground to reduce

¹⁹ Saputra, "PENYIDIKAN TINDAK PIDANA PENYALAHGUNAAN SENJATA API YANG DILAKUKAN OLEH ANGGOTA POLISI DI RESERSE KRIMINAL UMUMKEPOLISIAN DAERAH RIAU."

²⁰ Aula Nurfaza, Afiful Ikhwani, and Nuraini, "The Leadership Role of the Principal as Supervisor in Conflict Management at Muhammadiyah 2 Madiun," *Alhayat: Journal of Islamic Education* 4, no. 1 (2020): 90–105.

the mind of the suspect and also provide a warning before the picture is aimed at the perpetrator of the crime under Article 15 of Police Headquarters No. Except if there is a very urgent situation in the Police Headquarters Rules, Article 48, letter c, there are exceptions, namely where the issue is very urgent where the delay in time is thought to result in the death of officers or those around them so that the alert is not required.²¹

What if there are objections to the actions taken by police officers in the field using firearms. The Police Headquarters shall provide that if someone felt aggrieved or objected to using a gun, the officer who did so, namely the police, shall be obliged to give a clear explanation and shall also be followed by the reasons for the use of the weapon and the actions taken and the implications of the stories he had made, as set out in Article 49, paragraph 2, of the letter chapter *Kapolri* No. 8 of 2009

After carrying out the use of firearms, the police must make a detailed report regarding gun use evaluation. The information is by Article 14, paragraph 2 of the Police Regulation No.1 / 2009, which includes the date and place of the incident and how it describes the crime or the suspect's adventure. To ensure that the police's intervention is taken that is observable and confirmed by motives and factors in the use of force, how the details of the energy used and the effects of the use of force are measured.²²

The Indonesian National Police (*Polri*) regulates the mechanisms and standards for the use of force in police action through the Chief of Police Regulation (*Perkap*) No. 1/2009 which divides the six stages of the use of force, namely (1) power that has a preventive effect, (2) verbal orders, (3) soft hand control, (4) rigid hand control, (5) control of blunt weapons or weapons chemistry, and (6) control using firearms, which means that police action is taken with a logical consideration of the situation and conditions of the threat or resistance of the perpetrator to the officer or the danger to society.

The use of firearms must be compassionate and selective, not in every condition handling crime. The police must show, point, and

²¹ Laura Tammenlehto, "Analysis f from the Perspective of the Principle of Legality," *Bergen Journal of Criminal Law & Criminal Justice* 8, no. 1 (2020): 30, <https://doi.org/10.15845/bjclcj.v8i1.3187>.

²² Ton Liefwaard, "Child-Friendly Justice and Procedural Safeguards For Children in Criminal Proceedings: New Momentum for Children in Conflict with the Law?," *Bergen Journal of Criminal Law & Criminal Justice* 8, no. 1 (2020): 17, <https://doi.org/10.15845/bjclcj.v8i1.3188>.

even fire their weapons. In *Perkapolri* No.1 of 2009 article 2: the objectives of using force in police actions are: to prevent, obstruct, or stop the activities of the perpetrators of crimes or suspects who are trying or are committing acts that are against the law; avoid the perpetrator of the crime or the suspect from escaping or committing acts that endanger members of the National Police or the public; protect themselves or the public from threats of actions or actions of the perpetrators or suspects that can cause severe or deadly injuries, or preserve the dignity or property of oneself or society from attacks that violate rights or threaten human life.

From this report, as material for legal responsibility in the application of the use of firearms by the police as material for a legal defence in the event of a lawsuit against criminal or civil action related to the use of force by the police officer concerned, this is stated in article 14 paragraph 2 letter e and F *Perkapolri* No. 1 of 2009.

Conclusion

The use of firearms by police officers on duty in the field must be by procedures such as: paying attention to Human Rights (HAM), only to protect human lives (both civilians and related officers), by giving warning shots first to lower the mentality of the perpetrator criminals, are allowed to open fire without warning but except facing a situation that is genuinely precarious and has the potential to kill officers or civilians who cause serious injuries, using measured force (not blindly what else like a cowboy). Suppose it is done not by the procedure and detrimental to other parties. In that case, it is obligatory to take responsibility for it and get sanctions for all actions that violate the policy.

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