

ABSTRACT

Investigations conducted by the Police Investigators are specifically regulated in the Indonesian Criminal Procedure Code, Police Act and various police regulations as the legal basis thereof. The establishment of law through or as contained in the relevant regulations are very important and strategic for examination in the perspective of the regulations establishment characteristics being submitted to or adopted. In the practice thereof, the review of the legal interpretation characteristics being submitted to or adopted in legal discoveries by the Police Investigators while making a decision in the investigation of criminal cases. The relevant legal reasoning activity shall be related to the effected legal philosophy ideology. In the investigation conducted by the Police Investigators, there often to be existed or found a discrepancy between the regulations establishment characteristic with the legal interpretation characteristic. The legal interpretation characteristic may also be different and even contrary to that of during the regulations establishment characteristic.

The research approach being conducted shall be a normative juridical as to the legal interpretation characteristics attributed to the its regulations establishment characteristic during the investigation by the Police Investigators, adopting such methods as the regulations, cases, conceptual and comparative criminal law, with deductive and inductive logic. The steps taken during the research shall be logico-hypothetico-verify. The documentation study was conducted on the recent secondary data and criminal cases with full of information for purposes of in-depth study, as well as interviews which were well structured, free and thoroughly conducted with key informants. The qualitative and juridical data analysis was compiled in the sentences adopting descriptive, conceptual, normative, interpretation and comparative description.

The regulations establishment characteristic shall be based on Legal Positivism pursuant to legalistic understanding or legal certainty principles. According to the theory of Development Law, the laws and legislations on investigation has yet been effectuated as a means for changes or improvement to the Police Investigators and as a means of improvement for the society and criminal justice bureaucracy for lack of concrete/operational legal certainty for the Police Investigators to accommodate the demands of the society and for the interests of men/humanity in accordance with the Sociological Jurisprudence or Progressive Law theory. In addition, they have yet been able to prevent the abuse of power or distortion by the police. Associated with legal interpretation by police investigators, in relation to the legal discoveries by the Police Investigators, the Legal Positivism or legalistic trend shall be the primary and dominant characteristic, which however, may create injustice in the practice. The Police Investigators also adopted the legal interpretation characteristic of Sociological Jurisprudence or Progressive Law, such as the application of alternative dispute resolution on criminal cases or the concept of restorative justice.