



## THE ROLE OF LEADERSHIP IN THE SECTOR POLICE IN THE SETTLEMENT OF MINOR CRIMES IN THE LEGAL AREA OF THE MANYAR GRESIK POLICE.

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### ABSTRAK

*Tipe penelitian yang digunakan dalam penelitian ini adalah jenis deskriptif kualitatif. Lokasi penelitian dalam penelitian ini adalah di Polsek Manyar Gresik. Teknik pengumpulan data dilakukan dengan wawancara, observasi serta dokumentasi. Hasil penelitian menunjukkan bahwa Peran Kapolsek dalam penyelesaian tindak pidana ringan dalam penyelesaian secara penal adalah melakukan pengawasan melekat dengan memantau, mengamati dan memeriksa pelaksanaan tugas agar berjalan sesuai rencana dan ketentuan yang berlaku.*

**Kata Kunci :** Peran Kepemimpinan, Tindak Pidana Ringan, Manyar

### ABSTRACT

The type of research used in this study is a qualitative descriptive type. The research location in this research is the Manyar Gresik Police. Data collection techniques were carried out by interview, observation and documentation. The results of the study indicate that the role of the Police Chief in resolving minor crimes in penal settlement is to carry out inherent supervision by monitoring, observing and checking the implementation of tasks so that they run according to plans and applicable regulations.

**Keywords:** Leadership Role, Minor Crimes, Manyar

### INTRODUCTION

The researcher's initial observations show that in the jurisdiction of the Manyar Gresik Police, crimes that fall into the category of minor crimes are in the highest number or number in the last two years. Tipiring cases or minor crimes are in the highest number, where in 2018 there were 20 cases and in 2019 it increased to 25 cases. This is supported by the initial interview conducted with the Police Chief of Manyar Gresik and shows that indeed minor crimes have the highest rank in the Manyar Gresik area. The Manyar area of Gresik Regency is an industrial area in Gresik Regency and there are many national and international companies in the area. This condition makes the Manyar Gresik region very fast economically so that it invites criminals to carry out their actions. The forms of minor crimes that often occur in the Manyar Gresik area are minor fraud, minor insults and destruction of goods.

Based on the description above, it is known that minor crimes in the Manyar Gresik area are included in the highest category. The role of the Indonesian National Police as one of the law enforcement institutions is responsible for carrying out law enforcement for minor crimes that occur in the jurisdiction of the Manyar Gresik Police. This is supported by the existence of the main tasks of the National Police which have been regulated in Chapter III Article 13 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, namely maintaining public security and order, enforcing the law, and providing protection, protection and services to the community.

The police, especially the Sector Police at the Manyar Gresik Police, have a very important role in maintaining public security and order as well as law enforcement against minor crimes. This is because minor crimes will disrupt the security of the community and

the surrounding environment because a minor criminal is very detrimental to the community so that people who do not like this behavior will often do their own judgement which will cause conflict, be it social inequality by excluding perpetrators from social status. in society until there is a physical conflict or fight. In this regard, the role of the police chief who is supposed to maintain public order must also place a position as a deterrent to minor crimes.

So, based on this background , it will be limited to problems regarding the role of leadership in the Sector Police in resolving minor crimes in the jurisdiction of the Manyar Gresik Police

## **METHODS**

### **a. Types and Basis of Research The**

type of research used in this study is a qualitative descriptive type. The qualitative descriptive format adheres to a phenomenological understanding, namely examining appearances or phenomena in which phenomena and consciousness are isolated from each other but are always dialectically related.<sup>1</sup>

### **b. Research**

Locations The research location in this research is the Manyar Gresik Police. This is because minor crimes have the highest rank in the Manyar Gresik area.

### **c. Data Collection Techniques Data**

collection is a primary data process for research purposes. Data collection is an important step in the scientific method because in general the data collected must be valid. Valid or not the data collected must go through several methods to help collect complete data so that it can support the theoretical basis. This study uses data collection techniques in the form of:

#### **1. Interview**

Interview is an activity to seek information or information or opinions through questions and answers with informants or research sources.<sup>2</sup>

#### **2. Observation**

Observation is the collection of data through direct observation of the object to be studied.<sup>3</sup>

#### **3. Documentation**

Document is collecting data by flowing or retrieving data from records and administration.<sup>4</sup>

### **d. Research Instruments Research**

instruments in the form of interview guidelines allow researchers to ensure that the data collection is similar from each informant. The interview guide gives the researcher the freedom to ask questions in the interview process and allows the researcher to have more control over the interview process in order to explore the topic and purpose of the research being conducted.<sup>5</sup>

### **e. Data Analysis Techniques The data**

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<sup>1</sup> Conny R Semiawan, *Qualitative Research Methods, Types, Characteristics and Advantages*, Jakarta: Grafindo, 2010, p. 72.

<sup>2</sup> Muchson, *Descriptive Statistics*, Media Spacing, 2016, p. 26.

<sup>3</sup> Irwan, *Dynamics and Social Change in Local Communities*, Yogyakarta: Deepublish, 2015, p. 76.

<sup>4</sup> Taufan, *Sociology of Islamic Law: Empirical Studies of the Sempalan Community*, Yogyakarta: Deepublish, 2016, p. 104.

<sup>5</sup> Rendro, *Beyond Borders: Communication Modernity & History The First LSPR Communication Research Conference 2010*, London: STIKOM The London School of Public Relations, 2010, p. 27.

analysis method used in this research is descriptive analysis model.<sup>6</sup>

## RESULTS AND DISCUSSION

### **The Role of the Police Chief in the Penalty Settlement of Tipiring The handling**

of criminal acts, both crimes and violations is part of criminal in general. Criminal politics means holding a selection from the many alternative countermeasures that are most effective in tackling the problem of crime or violations.<sup>7</sup>

According to GP Hoefnagels quoted by Barda Nawawi Arief, crime prevention efforts can be pursued by applying criminal law (*criminal law application*), prevention without punishment (*prevention without punishment*) and influencing public views on crime and sentencing through mass media (*influence views of society on crime and punishment/mass media*).<sup>8</sup> Thus, efforts to tackle crime can be broadly divided into two, namely through the “penal” (criminal) route and through the “non-penal” (not/outside criminal law). In the distribution of GP Hoefnagels, prevention without punishment (*prevention without punishment*) and influencing public views on crime and punishment through mass media (*influencing views of society on crime and punishment/mass media*) can be included in the “non-penal” group of efforts.

In the Police environment, the term countermeasures is defined as one of the efforts, actions and activities to prevent and take action against a crime and violation as well as to maintain and improve the development of security and public order. Countermeasures include two efforts, namely prevention and development efforts, and enforcement efforts. Thus, countermeasures can be intended to carry out all actions and work activities both related to preventive and repressive aspects in an effort to eliminate disturbances to security and public order.<sup>9</sup>

In formal terms, the role of the Police Chief in the event of a tipping is as regulated in Perkap No. 23 of 2010 concerning SOTK at the level of the Resort Police and the Sector Police, in which the Kapolsek acts as a supervisor in controlling the organization. With this supervisory role, the Police Chief controls, supervises and gives direction to the investigation activities that take place at the Polsek regarding the suitability of the investigation process with SOPs and existing formal legal rules so as to provide legal certainty for suspects. According to Handoko, the designed supervisory role of leadership requires an order that has the aim of anticipating problems or deviations from the standards or goals that have been outlined.<sup>10</sup>

In particular, the role of the Police Chief Supervision of his subordinates in conducting investigations is to use inherent supervision. According to the Instruction of the President of the Republic of Indonesia No. 1 of 1989 concerning Inherent Supervision, the definition of inherent supervision is a series of activities that are continuous controls carried out by direct superiors to their subordinates, in a preventive or repressive manner so that the

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<sup>6</sup> Matthew B. Miles and A. Michael Huberman, *Qualitative Data Analysis, A Methods Sourcebook Edition 3*, USA: Sage Publications, 2014, p. 16.

<sup>7</sup> Sudarto, *Criminal Law I*. Semarang: Sudarto Foundation Faculty of Law UNDIP, 1990, p. 114.

<sup>8</sup> Barda Nawawi Arief, *Law Enforcement and Legal Policy Issues. Crime in Crime Prevention*, Jakarta: Kencana, 2008, p. 32.

<sup>9</sup> Nurdjana, *Law and Deviant Schools in Indonesia. Police Role. Bakorpakem and Countermeasures Patterns*. Yogyakarta: Student Library, 2009, p. 29

<sup>10</sup> Handoko T. Hani, *Personnel Management and Human Resources*. Yogyakarta: BPFE, 2003, p. 361

implementation of the duties of the subordinates runs efficiently in accordance with the activity plan and applicable laws and regulations. apply.

Within the Polri institution, there is a general supervisory function which is carried out to ensure that Polri's duties are carried out effectively, economically and efficiently and far from deviations. One of the functions of general supervision is carried out through a pattern of inherent supervision. The targets of the inherent supervision include:

1. Improving the achievement of the task implementation targets.
2. Minimize abuse of authority as little as possible.
3. Improving services to the community.
4. Fixing subordinates to act in accordance with the provisions of the legislation in force.

The methods of carrying out inherent supervision are:

1. Creating work facilities and systems based on the authority possessed so that the implementation of tasks runs according to the plans or applicable regulations.
2. Monitor, observe and check the implementation of tasks so that they run according to the plans and applicable regulations so that they are efficient and effective.
3. Identify and analyze the symptoms and deviations and errors that occur in order to determine the causes and effects and how to overcome them.
4. Formulate follow-up and take appropriate steps in accordance with the authority by taking into account the authority of the officials/agencies concerned.
5. Fostering subordinates so that they can carry out their duties according to the applicable rules.

As for its implementation, if the Tipiring case occurs on a penal basis, the Kapolsek will also carry out supervision by:

1. Ensuring that the investigation is in accordance with the SOP starting from the preparation, implementation and termination stages.
2. Ensure that it is true that the crime committed by a minor suspect is a case that is punishable by imprisonment or imprisonment for a maximum of three months as stipulated in Article 205 of the Criminal Code.
3. Ensure that for cases of minor theft under nominal Rp. 2,500,000 were not detained as stipulated in the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2012 concerning Adjustment of the Limits of Minor Crimes and the Amount of Fines in the Criminal Code.

As for the repressive/penal actions carried out by the police in eradicating Tipiring, if it is associated with the role of the Kapolsek, it can be analyzed in handling the following cases:

### **The role of the Kapolsek in the Settlement of Tipiring Through a Non-Penal Approach.**

*Restorative justice* is a court that emphasizes repair of losses caused or related to criminal act. Restorative justice is carried out through a cooperative process that involves all parties (stakeholders).<sup>11</sup> It is also stated in the journal that: *Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by criminal behavior. It is best accomplished through cooperative processes that include all stakeholders.* (Restorative justice is a theory of justice that emphasizes repairing the damage caused or expressed by

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<sup>11</sup> Darrell Fox, *Social Welfare and Restorative Justice*, Journal of Criminologija Socijalna Integracija Year 2009 Vol 17 Issue 1 Pagesrecord No. 55-68, 2009, London Metropolitan University Department of Applied Social Sciences, p. 56

criminal behavior. Best achieved through a collaborative process that includes all stakeholders)<sup>12</sup>

The definition put forward by Dignan is as follows: "*Restorative justice is a valued-based approach to responding to wrongdoing and conflict, with a balanced focus on the person harmed, the person causing the harm, and the affected community.*" (Restorative justice is a values-based approach to responding to wrongdoing and conflict, with a balanced focus on the people who are harmed, the people who cause harm, and the communities affected)<sup>13</sup>

One form of non-penal criminal policy is mediation which is an alternative dispute resolution outside the court or also known as non-penal mediation. The non-penal mediation developed was based on the following ideas and *working principles*:<sup>14</sup>

a) (*Conflict Handling* ).

The task of the mediator is to make the parties forget the legal framework and to encourage them to be involved in the communication process. It is based on the idea that crime has created interpersonal conflict. That conflict is aimed at by the mediation process.

b) Oriented to the process (*Process Orientation; Prozessorientierung*).

Penal mediation is more oriented to the quality of the process than the results, namely making the perpetrators of criminal acts aware of their mistakes, solving conflict needs, calming victims from fear and so on.

c) Informal process (*Informal Proceeding - Informaliffit*).

Penal mediation is an informal process, not bureaucratic in nature, avoiding strict legal procedures.

d) There is active and autonomous participation of the parties (*Active and Autonomous Participation - Partelaautonomie/ Subjectivierung*).

The parties (perpetrators and victims) are not seen as objects of criminal law procedures, but rather as subjects who have personal responsibility and the ability to act. They are expected to act of their own free will.

Non-penal mediation is basically included in *Community panels or courts* or programs to divert criminal cases from prosecution or trial to more flexible and informal community procedures and often involve elements of mediation or negotiation as described above. In the realm of criminal proceedings, this kind of "case deflection" is only known in Law no. 11 of 2012 concerning the Juvenile Criminal Justice System, by requiring diversion at the level of investigation, prosecution and examination of children's cases in the District Court specifically for child crimes that are punishable by imprisonment for under 7 (seven) years and not a repetition of a crime (recidivist). ). Another criminal case that can be done by non-penal mediation is punishment in the Copyright case as regulated in Article 95 paragraph (4) of Law no. 28 of 2014 concerning Copyright and Penalty in Patents as regulated in Article 154 of Law no. 13 of 2016 concerning Patents.

Juridically in the criminal law enforcement system in Indonesia, in fact law enforcers have been given certain powers by law to override criminal cases or settle cases without forwarding them to court (non-penal means). Like the police, as regulated in Article 18 of Law Number 2 of 2002 concerning the National Police, has given the police

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<sup>12</sup> Strong Puji Prayitno, *Restorative Justice for Judiciary in Indonesia* (Philosophical Juridical Perspective on Law Enforcement In Concreto), Journal of Legal Dynamics Vol. 12 No. 3, Faculty of Law, Jenderal Sudirman University, September 2012, p. 409.

<sup>13</sup> *Ibid.*

<sup>14</sup> Barda Nawai Arief, *Op.Cit.*, p. 5



(investigators) the authority to exercise discretion, namely the right not to process the law against criminal acts as long as it is in the public interest and morals. because discretion is essentially between law and morals.

Article 18 paragraph (1) of Law Number 2 of 2002 concerning the National Police states that "in the public interest, officers of the Indonesian National Police in carrying out their duties and authorities may act according to their own judgment". Furthermore, in paragraph (2) it is stated that "the implementation of the provisions as referred to in paragraph (1) can only be carried out in very necessary circumstances by taking into account the laws and regulations, as well as the Police Professional Code of Ethics". In the elucidation of Article 18 of this Law, it provides an understanding of "acting according to self-assessment" as an action that can be taken by members of the National Police who in acting must consider the benefits and risks as well as the costs and benefits of their actions that are truly for the benefit of the people. public interest. If it is related to Article 18 of Law Number 2 of 2002 above, in Article 5 paragraph (1) letter a number 4 and Article 7 paragraph (1) letter j of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP) states that the police as investigators and investigators have the authority to take other actions according to responsible law. What is meant by "other actions" in the explanation of these two articles is an action by the police (investigator/investigator) for the purpose of investigation/investigation provided that: (a) it does not conflict with a legal rule, (b) is in line with legal obligations that require an official action to be taken. , (c) the action must be appropriate and reasonable and included in the environment of his office, (d) with proper consideration based on compelling circumstances, and (e) respecting human rights.

Basically, penal mediation can be done if the victim and perpetrator both agree to resolve it medially. Here the role of the Police Chief is as a facilitator who facilitates the holding of the mediation. Regarding the technical implementation of penal mediation carried out by the Manyar Gresik Police in resolving the Tipiring case, it was carried out with the following mechanisms:

- 1) bringing together the parties (witnesses, victims and suspects and the families of victims/suspects);
- 2) If the tipiring case is a type of light theft then the parties will witness the return of the goods stolen by the perpetrator or other compensation;
- 3) helping to make a letter of agreement with the parties (witnesses, victims and suspects);
- 4) receive a letter of revocation of the case (police report);
- 5) the investigator conducts a case against the case to determine the resolution.

If the suspect is a minor, then his parents must accompany him. This is done to maintain the psychological or mental health of the child. Because basically a child has a weak psychological side and sometimes he does not know what he is doing is right or against the applicable rules. Of the entire penal mediation process carried out by the Manyar Gresik Police, the most important thing and must be considered is the existence of an agreement. This is because the agreement (the parties) is a joint commitment to carry out a peaceful process in ways that are justified by law as outlined in an official letter signed by the parties.

Mediation in criminal cases can be done in a direct or indirect form, namely by bringing together the parties (victim and perpetrator) together or mediation is carried out by a mediator separately (both parties are not met directly). This can be done by a professional mediator or a trained volunteer. Mediation can be carried out under the supervision of an independent criminal justice institution or community-based organization and subsequently the results of the penal mediation are reported to the criminal justice authorities.

The implementation of non-penal mediation by the Manyar Gresik Police is carried out in a direct form, namely by bringing together the parties (victims and perpetrators) together, where the Manyar Gresik Police investigator acts as a mediator. In this case, the Manyar Police, namely sometimes the Police Chief himself acts as a mediator, will be neutral and will accommodate the interests of the parties. With the settlement of cases outside the court (at the police level), the case is considered complete. Then the investigator makes a SP2HP (Letter of Notification of the Progress of Investigation Results) to the reporting witness that the reported case has been completed amicably so that the investigator will follow up the investigation process again. Thus, there is legal certainty and the community is satisfied with the services of police officers.

For the Tipiring case with underage perpetrators as well as cases in which the perpetrator and the victim agreed to conduct non-penal mediation, it is certain that the investigator who handles based on the direction of the Sector Police will immediately continue the case with a non-penal mediation process. Furthermore, here the author will explain further which in practice the tipping cases which based on the initiative of the Sector Police must be resolved through non-penal mediation. These cases include cases with potential conflicts involving large numbers of people and cases in which the community has traditionally had a resolution mechanism.

## CONCLUSION

In relation to the police chief who acts as a mediator and facilitator, the first role of the police chief in handling mediated cases is to ensure that the tipping case is worthy of mediation. Cases that deserve mediation are cases involving children as the perpetrators and cases where the perpetrators and victims mutually agree to conduct non-penal mediation. Non-penal mediation is also carried out based on the initiative of the Sector Police if they see a large potential for conflict in the community if the tipping case is continued.

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