
Juridical Review of Efforts to Prevent Misuse of Firearms Against Police Officers

Diva Fadllan Nur Setiawan
Universitas Muhammadiyah Purwokerto

ARTICLE INFO

Article history:

DOI:
[10.30595/pssh.v14i.1029](https://doi.org/10.30595/pssh.v14i.1029)

Submitted:
June 08, 2023

Accepted:
September 29, 2023

Published:
November 16, 2023

Keywords:

Firearms, Police, Misuse

ABSTRACT

Lately there have been many police cases, especially violations in the field of firearms abuse. This situation is very regrettable where the misuse of firearms is carried out by the police officers themselves who are supposed to protect the community. This proves the increasingly poor image of the Police in the midst of society. The purpose of this research is to find out the factors causing the misuse of firearms committed by law enforcement officials, especially police officers. The research method used in this research is the literature method, which is normative juridical, meaning that the approach taken by examining the approach of theories, concepts, examining the legislation concerned with the opinions of scholars. The results of this study are factors that cause firearm abuse, namely: Psychological Factors and Economic Factors. Unstable psychological (emotional) factors from police officers, stress due to family problems or other personal problems so that abuse is very easy to occur. While the economic factor is the lack of welfare of the members themselves which then makes a police officer with short thinking do things that are actually very prohibited and have been listed in the law as dangerous criminal acts. Repressively, namely by examining the psychological aspects of the applicant (member), periodically and conducting coaching and training for members who have permission to hold firearms. Repressively is by providing action or punishment in accordance with what is done in accordance with applicable legislation.

This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).



Corresponding Author:

Diva Fadllan Nur Setiawan

Faculty of Law, Universitas Muhammadiyah Purwokerto
Jl. KH. Ahmad Dahlan, Kembaran, Banyumas, Jawa Tengah 53182, Indonesia

I. INTRODUCTION

Based on National Police Chief Regulation Number 1 Year 2022 on Licensing, Supervision, and Control of Firearms, a firearm is a firearm that is partly or entirely made of metal that has mechanical components or devices such as a barrel, trigger, trigger, spring, and bullet chamber that can eject bullets or gas through the barrel with explosives. According to the Implementation Guideline for the Supervision and Control of TNI/Polri Non-Organic Firearms, a firearm is a weapon capable of releasing one or more projectiles with the help of explosives. National Police Chief Regulation No. 18/2015 regulates the Licensing, Supervision and Control of Non-Organic Firearms for Self-Defense Purposes. This regulation explains that holders of non-organic firearms for the purposes of self-defense from threats that endanger the safety of life, property, and honor.²

Problems regarding the misuse of firearms that often occur in the midst of society. Firearms are important objects for members of the police as well as members of the military who are used to maintain the security of Indonesia. But in reality, these firearms are misused by many parties including members of the

police. Police officers must fulfill the requirements set by the law to obtain a license.

Normatively, the current application of rules regarding the ownership of weapons by members of the police is quite strict. The handling of firearms ownership without property rights has been regulated in the Law. The legal basis for the use of firearms for members of the police is regulated in the Chief of Police Regulation No. 1 of 2009 concerning the Use of Force in Police Actions. Matters such as the investigation of criminal acts of weapons, types, ownership procedures and even the causes and consequences of weapons are the role of the police.

Indonesia is actually one of the strictest countries in terms of gun ownership regulations. There are a large number of laws that regulate this, starting from the level of the law, namely emergency law no. 12 of 1951, and perpu no. 20 of 1960. The rest are regulations issued by the police, such as the Police Chief's Decree No. 82 of 2004 on the implementation of the supervision and control of non-organic weapons. The penalties for unauthorized possession of firearms are also quite severe. The emergency law no 12 of 1951 states that the maximum penalty for possession of firearms without a license is the death penalty, life imprisonment and 20 years imprisonment.³

The difference between previous researchers and current researchers, previous research discusses how the court's decision on the misuse of firearms by civilian actors while the author's research, discusses the factors that cause misuse of firearms by the police. The difference between previous research and the author's research, previous research discussed the procedures and mechanism of the firearms licensing process, while the researcher discussed how efforts to overcome the misuse of firearms by the police.⁴

II. RESEARCH PROBLEMS

1. What are the factors that lead to misuse of firearms by the police?
2. What are the efforts to overcome the misuse of firearms committed by members of the police?

III. RESEARCH METHODS

The research method used in this research uses normative juridical methods and the data sources in this research use secondary data which uses library data sourced from law books, legal journals, views of experts, legal research result, legal dictionaries and legal encyclopedias. Data sources for normative juridical research methods are primary legal materials consisting of laws and regulations, court decisions and official State documents. Secondary legal materials consisting of law books, legal journals containing basic principles (legal principles), views of legal experts (doctrine), legal research results, legal dictionaries. Data collection techniques for legal materials in normative legal research are carried out by literature study of legal materials, both primary legal materials, secondary legal materials, and tertiary materials. Searching for legal materials can be done by searching for legal materials through internet media or websites. This research was analyzed using the literature study method analyzed qualitatively in order to make conclusions on the subject matter submitted in an analytical descriptive manner based on applicable laws and regulations.⁵

IV. RESULT AND DISCUSSION

1. What are the factors that lead to misuse of firearms by the police?

In every society, problems between individuals or groups can be triggered by various factors. In every society, problems between people or groups can be triggered by various factors. This is caused by There are different views between individuals with one another or groups, so that then make weapons as a defensive and offensive tool carried out. The police are indeed equipped with firearms to support their duties, but they still have to follow the applicable procedures. The rampant misuse of firearms by members of the National Police needs to be a concern so that it can be known exactly the cause of the emergence of these criminal acts. There are a number of legal bases that regulate this misuse, starting from Law Number 12 of 1951, Law Number 8 of 1948 and PERPU Number 20 of 1960 as well as Chief of Police Decree Number Skep/244/II/1999 and Chief of Police Decree Number 82 of 2004 concerning the implementation of Supervision and Control of Firearms. Police members are allowed to use firearms if the member has passed or has been declared in accordance with police regulations. And to be able to use firearms there are things that must be considered such as when the situation is urgent or when the member is in a dangerous situation that can injure or threaten his life. This has been regulated in Article 47 of Perkapolri Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Implementation of the Duties of the Indonesian National Police. The use of firearms has been regulated regarding the correct procedure for members of the National Police, namely first when authorized or permitted by superiors, or the actions of criminals or suspects can immediately cause serious injury or death to members of the National Police or the public or in an urgent situation. The factors that later became the basis for the criminal offense by the

police are as follows as follows:

1. Psychological factors

Psychological tests are used to find out the emotions of police officers who hold guns. holding guns, it is also necessary to impose physical tests on members who hold guns and carry them home. The police officer holding the weapon must be physically fit and physically healthy. This test should be conducted continuously every six months. The police are required to protect, serve and enforce the law in the community. Therefore, patience, policy and a wise attitude are required in the line of duty. Law enforcers need to have a firm, consistent and ethical attitude in behavior because the object at hand is the community. faced is the community. The criteria that need to be owned according to what was conveyed were having a consistent attitude, not easily emotional, and educated. The dominant factor in the occurrence of persecution is the unstable emotions of police officers, stress due to family problems or other personal problems so that persecution is very easy to occur. Based on the cases previously described, police officers tend to get angry and emotional easily when disciplining residents or making decisions, as a result, missteps occur which then create unrest felt by local residents who should feel safe and protected by the police officers themselves, but instead are nurtured by the police officers themselves.

2. Economic factors/police welfare

The limited operational budget and salary of a policeman means that support for his operations also needs to be considered, sometimes even the police get donations from the public known as nonbudgetary funds intended for institutions that can be accounted for. As a condition for the creation of good police is good selection, good education, good training, good equipment and good welfare are also important conditions for the creation of this. The rapid development of technology and the dynamics of societal change that also increasingly demand a level of welfare also have an impact on the high role of the police in every existing offense. Police are often required to work loyalty and serve no longer to one official but in supporting the quality of life of the community.

2. What are the efforts to overcome the misuse of firearms committed by members of the police?

1. Preventive Measures

Tighten the requirements for applicants who wish to apply for a firearm ownership license by requiring them to be physically fit and have no physical disabilities. This is necessary so as not to reduce the skill of carrying and using firearms. Then the applicant is required to have normal eyesight which is included with examination results from a hospital or doctor. Psychologically, the police must not have mental disorders, either from the lowest level (phobia) to the middle (maniac) to the highest level (psychopath). The intent and purpose is none other than to avoid things beyond the will that can harm the surrounding people and themselves. This is because many cases that befall members of the police force are based on psychological and emotional factors. Another preventive effort is to conduct periodic psychological tests for firearms holders as well as periodic training and coaching to remind them of the functions and duties of the police and in what cases firearms can be used. This preventive effort can be done starting from the selection of police recruits, or can be done from periodic psychological tests conducted every 6 months to determine the emotional or psychiatric conditions of members who have permission to hold firearms. In addition, guidance and training must be given to every police officer until the license is granted as well as guidance on the duties and authorities of police officers that are good and correct in accordance with what is stated in the laws and regulations.

2. Repressive Measures

Crime prevention efforts in taking action against the perpetrators in accordance with their actions and providing opportunities to improve themselves so that they realize the actions they have committed so that they will not repeat them again. The repressive efforts carried out in terms of criminal acts of misuse of firearms are as follows:

a. Investigation

Investigation in article 1 point 5 of the Criminal Procedure Code explains that a series of investigator actions to search for and find an event suspected of being a criminal offense in order to determine whether or not an investigation can be carried out according to the methods regulated in the Law. manner provided for in the Law. Meanwhile, Investigators are State Police Officers of the Republic of Indonesia who are given special authority by law to investigate crimes. (Article 1 point 4 of the Criminal Code) that every police officer is an investigator. Police officers are investigators.

b. Investigation

In the process of investigating a criminal offense of misuse, an investigation must be immediately carried out in accordance with Article 7 paragraph (1) KHUAP. This investigation process is carried out together with the Intelkam Unit in identifying the type of weapon. This information is to be able to provide

additional information on how to use and so on. The investigation process is carried out against the perpetrator until the case file is declared complete by the public prosecutor and delegation is made to the public prosecutor of the investigation. The misuse of this weapon, the perpetrator will be subject to multiple articles based on the Criminal Code.

c. Arrest

Article 1 point 20 of the KHUP states that arrest is an investigator's action in the form of temporary restraint of the freedom of a suspect or defendant if there is sufficient evidence for the purpose of investigation or prosecution or examination in court as regulated in this Law. An arrest order is based on sufficient preliminary evidence. The execution of the arrest duty with an arrest warrant stating the identity, reason for arrest and description of the alleged criminal offense as well as the place of examination. A copy of the arrest warrant must also be notified to the family after the arrest is made.⁷

V. CONCLUSION

In short, a firearm is a device partly or wholly made of metal that has mechanical components or devices using gunpowder. In Indonesia, there are many cases of police officers misusing firearms, such as shooting at family members, fellow members or the community. Various factors that cause the misuse of firearms such as psychological arising from the lack of ability to restrain themselves due to family or environmental pressure so that they create stress and, economic difficulties stemming from large economic demands but the income earned is not commensurate with the duties assigned during duty, are the main causes of crimes using firearms by the police that disturb the community. The efforts made by the Police in tackling the factors that cause firearms crimes are preventive and repressive tasks. Police officers have taken the right steps in accordance with their duties and authority in the duties that have been regulated in Law Number 2 of 2002 concerning the Indonesian National Police in tackling crimes with firearms.

REFERENCES

- Muhaimin, *Metode Penelitian Hukum*, Nusa Tenggara Barat: Mataram University Press, 2020
- Kepolisian, Anggota, Studi Di, and Polrestabes Semarang, “UPAYA PENCEGAHAN PENYALAHGUNAAN SENJATA API OLEH ANGGOTA KEPOLISIAN”, 2021
- Kepala Kepolisian Negara Republik Indonesia, „Peraturan Kepolisian Negara Republik Indonesia Nomor 1 Tahun 2022 Tentang Perizinan, Pengawasan, Dan Pengendalian Senjata Api Standar Kepolisian Negara Republik Indonesia, Senjata Api Non Organik Kepolisian Negara Republik Indonesia/Tentara Nasional Indonesia’, *Berita Negara Republik Indonesia Tahun 2022 Nomor 139*, 139 (2022), 1–157
- Mathematics, Applied, *Faktor Penyebab Penyalahgunaan Senjata Api*, 2016, 1–23
- Kepolisian, Anggota, Studi Semarang, Polrestabes „UPAYA PENCEGAHAN PENYALAHGUNAAN SENJATA API OLEH ANGGOTA KEPOLISIAN”, 11.2013 (2016), 1–23
- Pantas, Monica Olivia, „PENYALAHGUNAAN PENGGUNAAN SENJATA API OLEH ANGGOTA KEPOLISIAN”, I.3 (2013)
- Primananda, Danang, „Penyalahgunaan Senjata Api Oleh Oknum Kepolisian’, *Penyalahgunaan Senjata Api Oleh Oknum Aparat Kepolisian Berdasarkan Perkapolri No. 1 Tahun 2009 Tentang Penggunaan Kekuatan Dalam Tindakan Kepolisian Dalam Perkara*, 147.March (2016), 11–40
- Kepala Kepolisian Negara Republik Indonesia, „Peraturan Kepolisian Negara Republik Indonesia Nomor 1 Tahun 2022 Tentang Perizinan, Pengawasan, Dan Pengendalian Senjata Api Standar Kepolisian Negara Republik Indonesia, Senjata Api Non Organik Kepolisian Negara Republik Indonesia/Tentara Nasional Indonesia’, *Berita Negara Republik Indonesia Tahun 2022 Nomor 139*, 139 (2022), 1–157
- Raharjo, Agus *Cybercrime: Pemahaman dan upaya pencegahan kejahatan berteknologi*, Bandung: Citra Aditya Bakti, 2002
- Sulistiyono, Adi dan Rustamaji, Muhammad, *Hukum Ekonomi Sebagai Panglima*, Sidoarjo: Masmedia Buana Pustaka, 2009
- Crenshaw, Kimberle, Neil Gotanda, Gary Peller, and Kendall Thomas, eds. *Critical Race Theory: The Key Writings that Formed the Movement*. New York: New Press, 1995.
- Yusuf Saefudin, Agus Raharjo, Budiyo, “Urgency of Integrated Assessment on Drugs Crime (a Study in Purbalingga Regency)”, *Jurnal Dinamika Hukum* 17, No. 1 (2017): 40-52

Diana Kusumasari, Penyalahgunaan Narkotika dan Prekursor Narkotika, dikutip dari laman: <https://www.hukumonline.com/klinik/detail/ulasan/lt4dc0cc5c25228/penyalahgunaan-narkotika-dan-prekursor-narkotika/> ; diakses pada 20 Januari 2020