



Police Discretionary Actions In Cases Of Mild Assault In The Jurisdiction Of The Jambi Police

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ABSTRACT

This study examines the implementation of police discretion in handling minor assault cases within the jurisdiction of the Jambi City Police Resort (Polresta Jambi). Indonesia, as a state based on the rule of law, requires that every law enforcement action be carried out in accordance with applicable legal norms while still considering public interest and justice. In practice, law enforcement officers are often faced with situations where rigid application of legal procedures may not always produce the most effective or equitable outcomes. Therefore, police discretion becomes an important mechanism that allows officers to make decisions based on professional judgment, particularly in dealing with minor criminal offenses such as minor assault. This research aims to analyze the application of police discretion in resolving minor assault cases, identify the obstacles encountered in its implementation, and explore the efforts made by the police to overcome these challenges. The study employs a juridical-empirical approach with descriptive analytical methods. Data were obtained through library research and field research, including analysis of statutory regulations such as the Criminal Procedure Code and Law Number 2 of 2002 concerning the Indonesian National Police, as well as observations of practices within Polresta Jambi. The findings indicate that police discretion is frequently applied in minor assault cases to promote efficiency, reduce case accumulation, and achieve restorative solutions that prioritize social harmony. However, several obstacles remain, including limited understanding of discretionary authority among officers, concerns about public perception, and the need to maintain accountability and compliance with legal standards. From the perspective of Islamic criminal law, minor offenses categorized under ta'zir allow flexible sanctions determined by authorities for the purpose of education and social benefit. Therefore, the appropriate and accountable use of police discretion can contribute to effective law enforcement, promote restorative justice, and maintain social order in society.

Keywords: police discretion, minor assault, law enforcement, restorative justice, Islamic criminal law

INTRODUCTION

Indonesia is a state based on law (*Rechtsstaat*), not power (*Machtsstaat*). This can be seen in the provisions of Article 1 paragraph (3) of the 1945 Constitution after the amendments, which affirms that Indonesia is a state based on law. By emphasizing the principle that Indonesia is a state based on law, the Indonesian constitution has placed law within the Indonesian state system. This constitutional provision also means that in Indonesian state practice, all aspects of life are conducted based on law, and law must be the central point of all activities in social, national, and state life.

As part of the state administration process, the police institution is bound by certain legal regulations and procedures, and is controlled and accountable to the law. The functions and duties of the Indonesian National Police are regulated in several statutory provisions. Law Number 2 of 2002 concerning the Indonesian National Police expands the functions and duties of the police to include maintaining public security and order, law enforcement, protection, and service to the community while upholding Human Rights (HAM). Article 30 paragraph (4) of the amended 1945 Constitution stipulates that the Indonesian National Police must also be viewed within the framework of maintaining domestic security and order.

The position of the Indonesian National Police since the Proclamation of Independence on August 17, 1945, has undergone frequent changes. Therefore, the paradigm of an independent, professional, and people-oriented police force needs to continue to receive constructive and innovative thinking to position the police force appropriately and effectively within the Indonesian constitutional system.

The political dynamics of the reform era have positioned the Indonesian National Police. This is precisely the case within the Indonesian constitutional system, with the enactment of MPR Decree No. VI/MPR/2000, MPR Decree No. VII/MPR/2000, Amendments to Article 30 of the 1945 Constitution, and Law No. 2 of 2002.

In the 1988-1993 Outlines of State Policy, regarding the development of defense and security sectors, point Ia states: The development of public security and public order is aimed at developing a self-sustaining system of public order and security. The Indonesian National Police (Polri) is a state instrument that is skilled, competent, clean, and authoritative. In this regard, prevention and enforcement efforts are prioritized, while fostering public awareness of security and public order is continuously enhanced.

The function and role of the Indonesian National Police have consistently been a topic of discussion among various groups, from legal practitioners and academics to the general public. They generally strive to positively position the position, function, and role of the police. The efforts to address the police's problems stem from the love of the police force from various parties and the high expectations placed on it that its function as a law enforcement agency would

function properly. This focus also extends to institutional changes to the police force, with the police organization's history, from a lower-level civil service institution to the Indonesian Armed Forces (ABRI/Military), and finally its independence, representing a unique history.

Along with the changes in political policy mentioned above, the image of the police persists, both positive and negative. As the executor of government law enforcement, the Indonesian National Police (Polri) is tasked with combating various behaviors that disrupt public order.

Rapidly changing societal dynamics, accompanied by socio-cultural and technological changes, while increasingly complex welfare levels demand a greater role for the police in addressing various legal violations committed by both the public and police officers themselves.

One such violation is assault. Based on preliminary data from researchers on assault cases at the Jambi Police, the number of minor assaults has increased. This can be seen in 2010, with 50 cases of assault, of which 28 were resolved through discretion. In 2011, minor crimes rose to 70 cases, with 40 cases resolved through discretion. Then, in 2012, cases of minor assault again increased to 80 cases, while 50 cases were successfully resolved through discretion. The role of the police in resolving assault cases through discretion is crucial, as it concerns public order, security, and comfort, the public interest, and the protection of other human rights resulting from legal violations in a region, particularly in Jambi City.

The police's role in resolving legal violations requires the authority of the Indonesian National Police (POLRI) through two options: First, coercive measures, including arrest, detention, search, and seizure, until the case file, along with the suspect and evidence, is transferred to the public prosecutor in accordance with the legal process stipulated in Law Number 8 of 1981 concerning Criminal Procedure. Second, actions based on considerations or beliefs that emphasize personal moral integrity and legal obligations, and are in accordance with the objectives of the law. Such actions can also be carried out through legal processes, even with legal procedures established by Law Number 8 of 1981 concerning Criminal Procedure Law and also protected by other laws and regulations, namely Law Number 2 of 2002 concerning the Indonesian National Police. In carrying out its duties and authorities, the Indonesian National Police can carry out these actions to maintain order in society, the nation, and the Republic of Indonesia.

METHODOLOGY

Based on the formulation of the problem and research objectives, the approach taken in this study is Empirical Jurisprudential. This research refers to legal norms contained in applicable laws and regulations, related to their application in society.

This research is descriptive and analytical in nature, where the author intends to provide an overview and description of Police Discretionary Actions in Cases of Minor Assault in the Jambi Police Department's jurisdiction.

In an effort to obtain the information and data necessary for the preparation of this thesis, data sources were obtained from: Library Research, and Field Research.

RESULT AND DISCUSSION

The Application of Discretion in a Case of Minor Assault at the Jambi Police Department.

The current role of the police is to maintain public order and security (Kamtibmas) and to enforce the law in criminal proceedings. Police are street-level law enforcement officers who directly interact with the public and criminals. Article 2 of Law Number 2 of 2002 concerning the Indonesian National Police states, "The function of the police is one of the functions of state government in the field of maintaining public security and order, law enforcement, protection, patronage, and service to the community." Article 4 of Law Number 2 of 2002 also states, "The Indonesian National Police aims to realize domestic security, which includes maintaining public security and order, orderliness and upholding the law, providing protection, patronage, and service to the community, and fostering public peace by upholding human rights."

In carrying out their duties as servants of the law, the police always respect the law and human rights. The implementation of police functions is a profession, meaning that in carrying out their duties, a member of the Indonesian National Police utilizes their professional abilities, particularly expertise in police technical matters. Therefore, in carrying out their profession, every police officer is subject to a professional code of ethics as a moral foundation.

The Indonesian National Police (Polri) Code of Professional Ethics encompasses behavioral and moral norms that serve as guidelines, motivating and guiding the conscience of every member, ensuring the restoration of the police profession and its implementation in accordance with the demands and expectations of society. Therefore, the police must truly be protectors, guardians, and servants of the community, as well as enforcers of the law, ensuring clean governance and good governance.

Police professional ethics are the crystallization of values grounded in and inspired by Pancasila and reflect the identity of every member of the Indonesian National Police (Polri) through a moral commitment encompassing service, institutional, and statehood. These are further formalized in the Indonesian National Police Code of Professional Ethics. Police professional ethics consist of:

- a. The ethics of service is the moral commitment of every member of the Indonesian National Police to their profession as maintainers of public order and security, law enforcers, and protectors, guardians, and servants of the

- community.
- b. Institutional ethics is the moral commitment of every member of the Indonesian National Police to their institution, which serves as a vessel of devotion worthy of upholding, as a physical and spiritual bond between all Bhayangkara personnel and all their dignity and honor.
 - c. State ethics is the moral commitment of every member of the Indonesian National Police and its institution to always be neutral, independent, and unaffected by political or group interests in order to uphold the law of the Unitary State of the Republic of Indonesia.

Problems in the Application of Discretion in Minor Assault Cases in the Jambi Police Department's Jurisdiction

Judging from the Jambi Police Department's success in resolving minor assault cases, as described above, of the 222 cases of minor assault received over the past three years, from 2023 to 2026, the Jambi Police Department successfully exercised discretion in 152 cases. Of these, 70 were followed up with the prosecutor's office and subsequently transferred to court. Based on this data, it is clear that the Jambi Police Department has successfully exercised police discretion in resolving minor crimes. However, it cannot be denied that problems persist.

In the assault case discussed in this article, it can be argued that the assault case should have been pursued through the courts, even though it was resolved amicably by the victim and the suspect. However, this is not sufficient because, based on the complaint from the reporting party, it is clear that the suspect assaulted the victim, resulting in injuries. Therefore, the suspect can be charged under Article 351 of the Criminal Code.

In the resolution of minor assaults that frequently occur in the Jambi Police jurisdiction, the perpetrator, victim, and their family often resolve their problems amicably. The police simply mediate. This is as acknowledged by one of the perpetrators of the assault, who explained: "It's true that last month I had an argument with one of my neighbors. Due to a mistake, the victim was hit, causing bruises. My family and I continued to try to reach out to the victim to reconcile and withdraw the complaint. These efforts were successful. And I promise not to do it again. All the victim's treatment is my responsibility."

Furthermore, in an interview with one of the victims of minor assault who reported the incident to the Jambi Police, the author explained: "It's true that I was hit by a perpetrator named Asnawi. The incident began with a traffic accident where I was hit from behind by a motorcycle, resulting in an argument. My face was hit, causing swelling. I reported this case to the authorities, and the perpetrator was arrested. A few days later, the perpetrator's wife came to my house, crying and carrying her child, and apologized. Finally, I couldn't bear it, so I dropped the case."

Looking at the first case, the Statements made by both parties actually focused more on the civil issue, specifically medical expenses. The criminal case, however,

can still proceed to court by conducting further investigations, gathering evidence, and providing testimony from witnesses who witnessed the incident.

Therefore, the question now arises: Why did the police no longer investigate or even stop the investigation into the assault case, based on the statements made by the parties? Were the police unable to find sufficient evidence against the suspect? Many questions arise, but this is indeed the case and continues. For each party, the most important thing is to accept the mutually agreed agreement. To ensure its legal validity, the parties drafted a written statement on sealed paper.

Based on the statement, signed by both parties and the witnesses, the assault case was resolved amicably, with both parties agreeing to apologize and forgive. The perpetrator provided financial assistance, the victim accepted the assistance, and both parties promised not to repeat the offense.

This is why the police did not investigate further. The most important reason is that the victim accepted the suspect's offer of reconciliation and stated that the assault case had been resolved amicably between the parties. Therefore, the issue is deemed non-existent based on the statement. Furthermore, the victim agreed, and the witnesses witnessed the case. Moreover, Indonesian culture tends to prioritize harmony, alignment, and harmony, and is less willing and able to see a conflict in its natural reality.

CONCLUSION

Based on the descriptions presented in the previous chapters, several conclusions can be drawn, including the following: 1. The application of discretion in cases of minor assault at the Jambi Police Headquarters has been effective. This is evident from the 222 cases of minor assault received by the Jambi Police Headquarters, of which 152 were resolved through discretion. Furthermore, 70 cases were followed up with the prosecutor's office and subsequently transferred to the courts. However, it cannot be denied that issues with discretion still arise. 3. Problems encountered in the application of discretion in cases of assault at the Jambi Police Headquarters include interference by third parties, which hinders the reconciliation between victims and perpetrators. Furthermore, there is a tendency to profit from the disputes. These issues are often used for extortion, such as when the perpetrator pays a settlement fee determined by a third party, only to have the case dropped or otherwise forced to continue. Sometimes the perpetrator cannot fulfill the money requested because economically the perpetrator is truly unable to afford it, this is a problem that is often encountered.

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