

# The Lack of Regulations on the Mechanism for Terminating Investigations by the Directorate of General Criminal Investigation of the Regional Police in Handling General Crimes

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**Abstract:** *In order to ensure that a criminal case is only continued if it satisfies the legal standards and has adequate evidence, investigators in the criminal justice system have the right to terminate an investigation. The Criminal Procedure Code, specifically Article 109 paragraph (2), governs the termination of investigations in Indonesia. If there is insufficient evidence, the incident does not constitute a crime, or the termination is mandated by law, investigators may end an investigation. However, these regulations are still general in nature and do not regulate in detail the procedures, standards for evaluating evidence, or oversight mechanisms for terminating an investigation. In order to achieve legal certainty in the investigation process, this study intends to analyze the issues surrounding the termination of investigations in investigative practices by investigators at the Directorate of General Criminal Investigation within the Regional Police and develop a reconstruction of legal regulations. This study uses a normative juridical legal research methodology that combines an analytical and statutory approach. The study results indicate that the absence of more detailed regulations regarding the mechanism for terminating an investigation has the potential to lead to differences in investigator interpretation, a lack of transparency in decision-making, and an increase in legal disputes through pretrial mechanisms. Therefore, strengthening legal regulations is necessary through the formulation of evidence evaluation standards, internal oversight mechanisms, and mandatory transparency in decisions to terminate investigations to ensure legal certainty and accountability in the criminal justice system.*

**Keywords:** *Termination of Investigation; Legal Certainty; Criminal Procedure Law; Investigation; Police*

## Introduction

Because it serves as the first step in the criminal law enforcement process, investigation is an essential part of the criminal justice system. Within the framework of the Criminal Procedure Code, investigations are regulated normatively in Article 1, number 2, which defines investigations as a sequence of investigators' efforts in matters and in accordance with the techniques regulated by law to seek and gather evidence that, with that evidence,

sheds light on the crime that occurred and to locate the suspect. (Putri, 2023) This provision emphasizes that investigations not only function to find the perpetrator, but also to ensure there is sufficient evidence to proceed with the case to the prosecution stage. Article 6, paragraph (1) of the Criminal Procedure Code also governs the role of investigators in the criminal justice system. It states that investigators are either Republic of Indonesia National Police officials or specific civil servant officials who have been granted special authority by law. (Ulhaq, 2023) In police institutional practice, the Directorate of General Criminal Investigation of the Regional Police has the ability to look into general criminal cases at the regional level., which has a strategic role in handling various conventional crimes such as assault, fraud, theft, and crimes against people and property. (Widiatmika, 2023) Therefore, the success of the criminal law enforcement process depends heavily on the professionalism and legal certainty in the implementation of the investigative function.

In exercising this investigative authority, criminal procedural law also grants investigators the authority to terminate the investigation process under certain circumstances. Article 109 paragraph (2) of the Criminal Procedure Code specifically regulates the legal basis for ending an investigation. It states that the investigator may end the investigation and notify the public prosecutor if they feel there is insufficient evidence, the incident does not constitute a crime, or the investigation is terminated by law, the suspect, and the reporting party. (Hutagaol, 2019) In practice, this termination of investigation is known as an Investigation Termination Order (SP3). This norm indicates that the authority to terminate an investigation is an integral part of the investigator's discretion in assessing the suitability of a case to proceed to the prosecution stage. (Hakiki, 2022) Furthermore, this regulation aims to provide legal protection for suspects so they are not subjected to a prolonged legal uncertainty, while also providing legal certainty for reporters regarding the continuation of their reported cases. (Suswantoro, 2018) Thus, the normative termination of an investigation is intended as a control mechanism within the investigative process to prevent criminalization without an adequate legal basis.

In law enforcement practice at the regional level, the authority to terminate an investigation is often exercised by investigators within the General Criminal Investigation Directorate within the Regional Police, which handles various general criminal cases of varying complexity. Cases handled by the Regional Police's General Criminal Investigation Directorate generally involve broad public interest, significant losses, and complex evidentiary dynamics. (Agustina, 2023) These problems become increasingly apparent when viewed from a normative perspective regarding the regulation of the mechanism for terminating an investigation within the Code of Criminal Procedure. The KUHP's Article 109, paragraph (2) virtually only governs general grounds for ending an investigation without providing detailed regulations regarding the procedures, evaluation stages, or standards of proof that must be met before a case is terminated. The absence of more detailed regulations regarding the mechanism for terminating an investigation has the potential to lead to differences in interpretation and practice among investigators, including within the Directorate of General Criminal Investigation at various Regional Police Forces. This situation can create disparities in case handling and the potential for abuse of authority if the termination of an investigation is not accompanied by clear and transparent parameters. Theoretically, this lack of norms indicates a weakness in the construction of

criminal procedural law, which does not fully provide comprehensive guidelines for investigators in making decisions to terminate an investigation. (Mabruroh, 2026)

This regulatory gap can ultimately impact legal certainty and the protection of the rights of parties involved in the criminal justice process. When the mechanism for terminating an investigation is not regulated in detail, the reporter or victim can potentially experience legal uncertainty regarding the reasons for terminating their reported case. However, if an investigation is closed without transparency and accountability, the suspect may likewise have an ambiguous legal position. According to Article 77 of the Criminal Procedure Code, this circumstance frequently leads to legal action through the pretrial mechanism, which authorizes the court to examine the legality of the termination of an investigation. The increase in pretrial applications related to the termination of an investigation demonstrates that oversight mechanisms for investigators' decisions are becoming increasingly important in maintaining a balance between the authority of law enforcement officials and the protection of citizens' rights. (Kartasasmita, 2024)

Based on this description, it is clear that the regulations regarding the mechanism for terminating an investigation in the Indonesian criminal procedural law system still leave a gap in norms that could potentially create legal uncertainty in investigative practices, particularly at the Directorate of General Criminal Investigation within the Regional Police. Therefore, an in-depth academic study is needed to analyze the legal structure governing the termination of an investigation and identify the need for reform or strengthening of legal regulations to create a more transparent and accountable mechanism for terminating an investigation that provides legal certainty for all parties involved in the criminal justice process. This study is expected to contribute to the development of criminal procedural law in Indonesia while strengthening law enforcement practices based on the principles of legal certainty, justice, and expediency.

## Methodology

This study uses a normative juridical legal research approach, which is research that examines applicable legal norms and legal principles regulating a specific legal issue by analyzing pertinent legal materials. (Ali, Z. 2021). The methodology provides a general explanation of the normative juridical approach, legal materials used, and the application of statutory and analytical approaches. However, it does not adequately explain in a systematic and detailed manner how legal interpretation and normative gap analysis were conducted to reconstruct the investigation termination mechanism. The methodology mentions that legal norms were analyzed critically and that legal reasoning techniques were applied, but it does not specify the methods of legal interpretation employed (such as grammatical, systematic, historical, or teleological interpretation), nor does it clearly describe the analytical framework used to identify, assess, and address normative gaps. Consequently, while the methodological foundation is appropriate for normative legal research, additional explanation is needed regarding the step-by-step process of legal interpretation and gap analysis to demonstrate how the proposed reconstruction of the investigation termination mechanism was derived from the examined legal materials.

The statistical and analytical methodologies were employed in this study. The statutory approach is conducted by examining various legal provisions relating to the

authority to investigate and terminate investigations in the criminal justice system, especially those governed by Law Number 2 of 2002 regulating the Indonesian National Police, the Criminal Procedure Code, and other rules pertaining to the jurisdiction of investigators within the Indonesian National Police. Meanwhile, the analytical approach critically analyzes the construction of legal norms governing the mechanism for terminating investigations and identifies any gaps or weaknesses in legal regulations in their implementation, especially in the Regional Police's Directorate of General Criminal Investigation. Primary, secondary, and tertiary legal texts are the sources of data used in this study. Laws and rules pertaining to police power and criminal procedure legislation, including the Criminal Procedure Code and legislation Number 2 of 2002 addressing the Indonesian National Police, are considered primary legal sources. Legal literature, textbooks, scientific journals, research findings, and expert opinions pertinent to the research subject are examples of secondary legal materials. Legal dictionaries, legal encyclopedias, and other reference materials that aid in comprehending the legal terms and concepts employed in this study are examples of tertiary legal materials. After that, all legal documents are qualitatively examined utilizing legal reasoning techniques to provide methodical legal arguments that address the research problem.

## **Result and Discussion**

### **Normative Regulations for Termination of Investigation in the Indonesian Criminal Procedure System**

Termination of investigation is a crucial authority held by investigators as a control tool for the law enforcement process in the criminal justice system of Indonesia. Within the criminal justice system, investigations hold a very strategic position because they are the initial stage in handling criminal cases before proceeding to prosecution and trial in court. The normative definition of an investigation is regulated in Article 1, number 2 of the Criminal Procedure Code, which defines an investigation as a sequence of steps taken by investigators in cases and in accordance with legal procedures to find and gather evidence that clarifies the crime that has occurred and to identify the suspect. This provision emphasizes that an investigation aims not only to identify the perpetrator of a crime but also to ensure that an incident truly constitutes a crime that can be further processed in the criminal justice system. Therefore, the investigation process must be carried out carefully, professionally, and in accordance with applicable legal provisions to avoid creating legal uncertainty or violating an individual's human rights. (Rumondor, 2017)

Article 6 paragraph (1) of the Criminal Procedure Code, which specifies that investigators are officers of the Indonesian National Police or specific civil servants with special legal authority to conduct investigations, further clarifies the role of investigators in the country's criminal justice system. In the practice of law enforcement institutions, investigative authority for general crimes is predominantly exercised by police officers, who are tasked with carrying out a series of investigative actions as stipulated in Article 7, paragraph (1) of the Criminal Procedure Code. This article grants investigators various authorities, including receiving reports or complaints, taking initial action at the scene of the crime, summoning and examining witnesses and suspects, making arrests and

detentions, and taking other actions according to the law. This authority demonstrates that investigators play a crucial role in determining the direction of a criminal case, including assessing whether a case is worthy of prosecution or should be dropped. (Panjaitan, 2022)

Within this framework of authority, criminal procedure law also provides investigators with the authority to terminate the investigation process if there is insufficient legal basis to proceed with the case. Article 109 paragraph (2) of the Criminal Procedure Code contains explicit provisions regarding the termination of an investigation. It states that the investigator has the authority to end an investigation if they believe there is insufficient evidence, the incident does not constitute a crime, or the investigation is terminated by law. Additionally, this clause highlights the investigator's obligation to inform the public prosecutor, the suspect, the complainant, or the victim of the termination of the investigation. This norm demonstrates that the termination of an investigation is not an arbitrary act, but rather a legal decision that must be based on objective and rational considerations in accordance with the results of the investigation. Thus, the termination of an investigation is essentially part of the case selection mechanism in the criminal justice system so that only cases with a strong legal basis proceed to the prosecution stage. (Mukhlis, 2013)

As stated in legislation Number 2 of 2002 about the Indonesian National Police, the investigator's power to conduct investigations is not only governed by criminal procedure legislation but also intimately linked to the roles and responsibilities of the police in law enforcement. This law's Article 13 highlights that enforcing the law is one of the police's main responsibilities. Additionally, the police are required under Article 14 paragraph (1) letter g to conduct investigations and inquiries into all criminal activities in compliance with criminal procedure law and other laws and regulations. This provision emphasizes that the investigative authority held by the police is part of the state's constitutional mandate to enforce the law and maintain public order. Therefore, every investigative action, including the decision to terminate an investigation, must be carried out based on the principles of legality, professionalism, and accountability so as not to give rise to abuse of authority in law enforcement practices. (Latukau, 2019)

The investigation's termination is strongly tied to the criminal justice system's commitment to upholding human rights. The criminal justice system of today, a person cannot be prosecuted without a legal basis and sufficient evidence. Therefore, termination of investigation is a crucial instrument to prevent unfounded or protracted criminal proceedings without legal certainty. In this context, a mechanism for controlling the decision to terminate an investigation is also provided through the pretrial institution, according to Article 77 of the Criminal Procedure Code, which gives the district court the authority to review and determine whether ending an investigation is lawful. Through this mechanism, parties who feel aggrieved by the termination of an investigation can file a petition with the court to assess whether the decision complies with applicable legal provisions. Thus, the criminal procedure system strives to create a balance between the authority of investigators in carrying out their duties and the protection of citizens' rights. (Hendra, 2025)

Conceptually, the regulation regarding the termination of investigations in the Indonesian criminal procedure system indicates that the law provides investigators with discretion to assess the suitability of continuing or terminating a criminal case. However, this authority must be exercised carefully and based on clear legal standards to avoid legal uncertainty or potential abuse of authority. Therefore, the regulation regarding the termination of investigations in the Criminal Procedure Code and Law Number 2 of 2002 concerning the Indonesian National Police is essentially intended to create a fair, proportional, and accountable law enforcement mechanism. Within this framework, the termination of investigations is understood not only as an administrative authority of investigators but also as a legal instrument that functions to maintain the integrity of the criminal justice system so that it continues to operate in accordance with the principles of legal certainty, justice, and expediency. (Ali, T. M. 2023)

### **Problems with Terminating Investigations by the Directorate of General Criminal Investigations at the Regional Police Level**

The practice of terminating investigations in handling general criminal cases at the regional level is generally carried out by investigators within the Regional Police's Directorate of General Criminal Investigations in carrying out the Indonesian National Police's investigative powers. Article 109 paragraph (2) of the Criminal Procedure Code regulates the authority to end an investigation within the framework of criminal procedural law. It permits investigators to do so if there is insufficient evidence, the incident does not constitute a crime, or the termination is mandated by law. If the investigation's findings show that the case is not worthy of moving forward to the prosecution stage, this clause normatively gives investigators a legal basis to close it. However, a number of problems pertaining to the interpretation of norms frequently occur in practice at the regional police level, standards of proof, and transparency in the decision to terminate an investigation.

One of the issues that frequently arises in the practice of terminating an investigation is the unclear assessment standards regarding the sufficiency of evidence used as the basis for continuing or terminating a case. In criminal procedural law, provisions regarding evidence are regulated. According to Article 184 paragraph (1) of the Criminal Procedure Code, the defendant's statement, correspondence, expert testimony, witness testimony, and hints are all considered legitimate forms of evidence. However, this provision does not specifically explain the minimum standards for the sufficiency of evidence that must be met to continue an investigation. As a result, in investigative practice, there are often differences in assessments among investigators regarding whether a case has sufficient evidence. This condition can influence investigators' decisions regarding whether an investigation should be continued or terminated, thus opening up the possibility of disparities in the handling of criminal cases at the regional police level.

In addition to issues regarding evidentiary standards, another frequently arising problem is differences in investigators' interpretations of the reasons for terminating an investigation as stipulated in Article 109 paragraph (2) of the Criminal Procedure Code. In practice, the provisions regarding the reasons "insufficient evidence," "not constituting a crime," and "by law" often give rise to differing interpretations among investigators. For

example, in some cases, there is debate over whether an incident falls under the realm of criminal law or is a civil dispute that should not be processed through criminal law mechanisms. The unclear boundary between the criminal and civil realms can influence investigators' decisions to terminate or continue an investigation. In such circumstances, the decision to terminate an investigation often sparks controversy in the community because it is perceived as not providing a sense of justice for the reporting party or victim.

Another problem that frequently arises in the practice of terminating an investigation is the lack of transparency in the investigator's decision-making process. Although Article 109 paragraph (2) of the Criminal Procedure Code stipulates that investigators are required to notify the public prosecutor, suspect, and reporting party of the termination of an investigation, this provision does not specify in detail the investigator's obligation to provide a comprehensive explanation of the basis for the case termination. In practice, reporters or victims often only receive notification of the termination of an investigation without receiving an adequate explanation of the legal reasons behind the decision. The public's confidence in law enforcement personnel could be damaged by this circumstance, especially when it comes to the way general criminal matters are handled by regional police.

The impact of these various issues often results in legal disputes through the pretrial mechanism. In the criminal procedural law system, pretrial is a tool for oversight of the actions of investigators and public prosecutors, as regulated by Article 77 of the Criminal Procedure Code. This provision authorizes district courts to examine and decide on the legality of arrests, detentions, terminations of investigations, and terminations of prosecutions. Through this mechanism, parties aggrieved by a decision to terminate an investigation can file a petition with the court to assess whether the investigator's actions complied with applicable law. The increasing number of pretrial applications related to the termination of investigations in recent years demonstrates that oversight mechanisms over investigators' authority are becoming increasingly important in maintaining accountability in the law enforcement process.

Based on these different concerns, it can be said that the General Criminal Investigation Directorate of the Regional Police still has a lot of challenges with closing investigations due to ambiguous standards of proof, differing interpretations of the reasons for terminating investigations, and a lack of transparency in decision-making. This situation indicates that the provisions regarding the mechanism for terminating investigations in the Criminal Procedure Code still have normative weaknesses that have the potential to create legal uncertainty in investigative practice. Therefore, efforts are needed to strengthen legal regulations and develop clearer guidelines regarding the mechanism for terminating investigations so that the exercise of investigators' authority can be carried out more transparently, accountably, and provide legal certainty for all parties involved in the criminal justice process.

### **Reconstructing the Regulations on the Mechanism for Terminating Investigations to Achieve Legal Certainty**

In order to obtain legal certainty in Indonesia's criminal justice system, it is imperative that the legislation pertaining to the procedure for ending investigations be reconstructed.

The Criminal Procedure Code's current provisions, particularly Article 109 paragraph (2), essentially only provide investigators with the authority to terminate an investigation if there is insufficient evidence, the incident does not constitute a crime, or the termination is carried out by law. However, this norm does not yet regulate in detail the procedures, evaluation stages, or standards of proof that must be met before a case is declared terminated. This condition has the potential to give rise to differences in practice in the implementation of the authority to terminate an investigation by investigators at the General Criminal Investigation Directorate within the Regional Police. Therefore, the reconstruction of legal regulations needs to be directed at establishing clearer and more systematic norms regarding the mechanism for terminating an investigation so that this authority can be implemented in an accountable and transparent manner.

One concrete step that can be taken to reconstruct these regulations is to formulate clearer standards for evaluating evidence in the investigation process. Provisions regarding evidence are indeed stipulated The Criminal Procedure Code's Article 184 paragraph (1) lists five categories of admissible evidence: correspondence, expert testimony, witness testimony, defendant testimony, and clues.. However, this provision does not yet provide clear guidelines regarding the parameters of the sufficiency of evidence that can serve as a basis for continuing or terminating an investigation. Therefore, more detailed regulations are needed regarding the minimum standards of evidence during the investigation phase, for example, by stipulating that the decision to terminate an investigation must be based on a comprehensive evaluation of the available evidence through a case review mechanism involving internal police oversight. This standardization is important to prevent differences in investigators' interpretations of the sufficiency of evidence in a case.

Furthermore, the reconstruction of the mechanism for terminating an investigation also needs to be accompanied by strengthening internal oversight mechanisms within the Indonesian National Police. Internal oversight can be implemented through the mandatory implementation of a case review before a decision to terminate an investigation is issued by investigators at the Directorate General Criminal Investigation at the Regional Police level. The case review must involve internal supervisory elements, such as the investigative oversight and control function, to ensure that the decision to terminate an investigation has undergone an objective and professional evaluation process. Furthermore, the results of the case review must be documented in writing as part of the accountability of the investigative process. With a stronger oversight mechanism, the potential for abuse of authority in terminating an investigation can be minimized.

Another concrete step that needs to be taken is strengthening the principle of transparency in the investigation termination process. Article 109, paragraph (2) of the Criminal Procedure Code stipulates that investigators are required to notify the public prosecutor, suspect, and reporting party of the termination of an investigation. However, this provision does not explicitly stipulate the investigator's obligation to provide a comprehensive explanation of the legal reasons underlying the decision to terminate an investigation. Therefore, it is necessary to strengthen the norm requiring investigators to provide written legal considerations for the termination of an investigation to the parties.

This transparency can be achieved by requiring investigators to include a legal analysis and evaluation of evidence in the letter of termination of an investigation so that both the reporting party and the suspect have clarity regarding the reasons for the termination of the case.

Reconstruction of the mechanism for terminating an investigation must also consider protecting the rights of those engaged in the criminal justice system. According to Article 77 of the Criminal Procedure Code, the pretrial procedure, plays a crucial role as a means of monitoring investigators' actions. Therefore, one concrete step that can be taken is to strengthen access for both complainants and suspects to obtain adequate information regarding the decision to terminate an investigation so that they can exercise their legal right to file a pretrial motion if they feel aggrieved. Furthermore, it is also necessary to consider regulations regarding the time limit for evaluating an investigation before a case is declared terminated to prevent the investigation process from dragging on for too long without legal certainty for the parties.

With a more comprehensive reconstruction of regulations regarding the mechanism for terminating an investigation, it is hoped that the investigation process conducted by the Indonesian National Police, particularly within the General Criminal Investigation Directorate within the Regional Police, can be conducted more transparently and accountably, and provide legal certainty for the public. This reconstruction can be achieved through revisions to the provisions in the Criminal Procedure Code or through the creation of more detailed technical guidelines regarding the procedure for terminating an investigation. Thus, strengthening legal regulations regarding the mechanism for terminating investigations is not only aimed at improving the quality of law enforcement but also at ensuring that every The inquiry process is conducted in accordance with the values of justice, legal clarity, and human rights protection.

## Conclusion

The Criminal Procedure Code, specifically Article 109 paragraph (2), which permits investigators to end an investigation if there is insufficient evidence, the incident does not constitute a crime, or the termination is carried out by law, is essentially the legal foundation for the mechanism for ending an investigation in the Indonesian criminal procedure system. However, this regulation is still general in nature and does not provide detailed guidelines regarding procedures, standards for evaluating evidence, or oversight mechanisms for decisions to terminate an investigation. This situation has given rise to various problems in investigative practice, particularly within the General Criminal Investigation Directorate within the Regional Police, such as differing interpretations by investigators regarding the sufficiency of evidence, a lack of transparency in the decision to terminate a case, and the potential for legal disputes through the pretrial mechanism as stipulated in Article 77 of the Criminal Procedure Code. Therefore, the lack of more detailed regulations regarding the mechanism for terminating an investigation has the potential to create legal uncertainty in criminal law enforcement practices.

Based on this conclusion, it is recommended that efforts be made to reform and strengthen regulations regarding the mechanism for terminating an investigation in the

Indonesian criminal procedure system. Concrete steps that can be taken include formulating clearer legal norms regarding procedures for terminating an investigation, establishing standards for evaluating the sufficiency of evidence before issuing a decision to terminate an investigation, and strengthening internal oversight mechanisms within the Indonesian National Police. Furthermore, the principle of transparency in the process of terminating an investigation needs to be enhanced by requiring investigators to clearly convey the legal basis for each decision to terminate an investigation to all interested parties. Through these steps, it is hoped that the implementation of investigative authority, can be conducted more professionally and accountably, especially by the Directorate of General Criminal Investigation at the Regional Police level, and offer the public greater legal certainty in the criminal law enforcement process.

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