

## ABSTRACT

Ronny F.Sompie, **POLICE DISCRETION AGAINST CRIMINAL ACTORS BASED ON RESTORATIVE JUSTICE.** This dissertation was supervised by Prof. Dr. Surya Jaya, SH, MH as Main Advisor and Dr. Petrus Pajaitan, SH, MH as the Co-Advisor.

*The Problem* in this dissertation research (a) How does the concept of police discretion against criminals based restorative justice? (b) Why should need the discretion of the police against criminals based restorative justice? (c) How police discretion strategy against criminals based restorative justice?.

*Background*, Public demands that police investigators understand the authority in taking action against perpetrators of criminal acts in the process of investigation based on the principle of justice for realizing the justice (*Pro Justitia*), this is a form of a series of legal proceedings in the criminal justice system. Police investigators as law enforcement not to hesitate to take action are given the authority that are personal, based on Law No. 8 of 1981 on Criminal Procedure Code Article 7 Paragraph (1) point j and Law No. 2 of 2002 on State Police set out in Article 16 paragraph (1) point 1 and Article 18, that authorizes "may take other action", with "certain conditions", which referred to the discretion of the police. In carrying out tasks currently, and the related authority with public demand embodying development of strategic environment restorative justice, as a solution to meet the needs of the community's sense of justice through the criminal justice system, Police investigators need to be realistic to link the act of discretion with restorative justice. Conceptually Restorative Justice is a model of approach in solving criminal cases, which focuses on the direct participation of the offender, victim and community, in a criminal case settlement process. UN referred to basic principles that have been outlined in it is considered that the approach of restorative justice is an approach that can be used in a rational criminal justice system, moreover is a new frameworks that can be used in response to a criminal offense for law enforcement and workers. In Indonesia Police investigators linked pattern of restorative justice only exercise its powers related criminal offense Children under Law No. 3 Year 1997 on Juvenile Justice. On the other hand, the criminal act of a general nature made possible the completion of the restoration.

*The method research*, This research is a case study in Mesuji and Mbah Priok case, Tanjung Priok, North Jakarta. It was a descriptive analytical study. Associated with problem solving, the research carried out by two methods approaches, namely normative juridical and sociological juridical.

*Outcomes research* this is dissertation was found that (a) Troubleshooting this dissertation, it was concluded that the concept of police discretion of the offenses based restorative justice paradigm include making changes to police reform and democratic policing concepts discretion. (b) The need of police discretion of the offenses based restorative justice because there is no legal basis for legislation that



*Hasil penelitian* yang ditemukan disertasi ini, disimpulkan bahwa (a) Konsep diskresi Polri terhadap tindak pidana berdasarkan *restorative justice* diantaranya dengan melakukan perubahan paradigma reformasi Polri serta konsep diskresi Polri yang demokratis. (b) Perlunya diskresi Polri terhadap tindak pidana berdasarkan *restorative justice* dikarenakan tidak ada dasar hukum perundang-undangan yang melegitimasi tindakan hukum diskresi melalui pendekatan *restorative justice*, meskipun memberikan kemanfaatan bagi keadilan masyarakat, diantaranya dengan penanganan konflik kejahatan, pencapaian tujuan restoratif, pengembangan moral dan kekuatan masyarakat serta adanya peran masyarakat. (c) Untuk mencapai pemolisian yang efektif dan fungsional dalam masyarakat, maka dilakukan strategi diskresi Polri dengan menggunakan prinsip pemulihan dan bukan penghukuman. Strategi dengan menggunakan prinsip mendahulukan pemulihan dan penjatuhan sanksi bersifat memulihkan dan menjauhi sanksi pemenjaraan. Untuk hal tersebut, guna mencegah terjadinya penyimpangan dalam melaksanakan diskresi Polri berdasarkan *restorative justice* perlu upaya pengawasan maksimal dalam penerapkannya.