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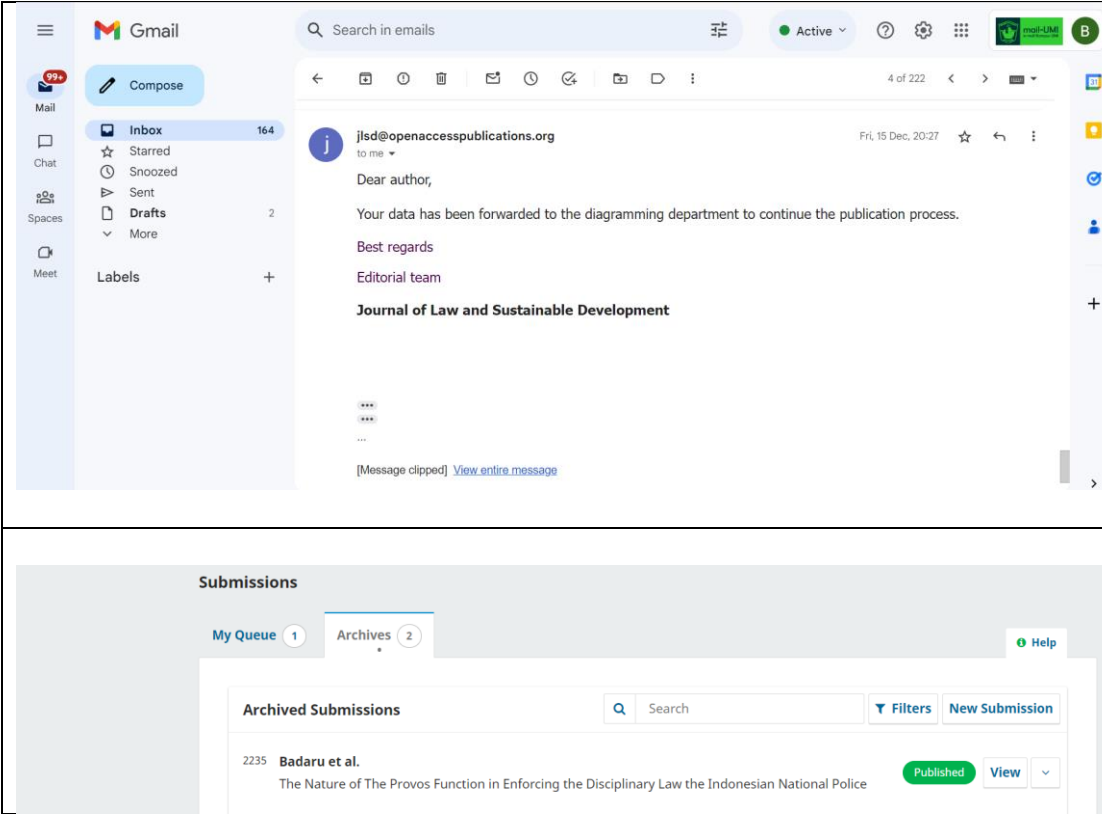
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THE NATURE OF THE PROVOS FUNCTION IN ENFORCING THE DISCIPLINARY LAW THE INDOONESIAN NATIONAL POLICE

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ARTIKEL

**THE NATURE OF THE PROVOS FUNCTION IN ENFORCING THE
DISCIPLINARY LAW THE INDONESIAN
NATIONAL POLICE**

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Abstract

Objective: The study seeks to explore the nature of the provost's role in disciplining Polri members, analyze the compliance of the provost function with Government Regulation Number 2 of 2003, and identify influential factors affecting its effectiveness.

Theoretical Framework: The research engages with Government Regulation Number 2 of 2003, providing the foundation for disciplinary enforcement within the Indonesian State Police. It incorporates theoretical perspectives on legal norms, disciplinary principles, and the pivotal role of the provost within the police structure.

Methodology: Combining qualitative research methods, the study employs sociological empirical analysis and normative research techniques. This approach facilitates a comprehensive examination of the gap between legal ideals and practical implementation within the context of disciplinary enforcement.

Results and Conclusion: Findings indicate intricate enforcement procedures, notably the requirement of Ankum's permission, contributing to inefficiencies in the provost's function. Factors influencing this role include legal substance, structural elements, facilities, cultural nuances, and the characteristics of Polri members. The study concludes by stressing the importance of professionalism within the provost function to ensure effective discipline among Polri members, thereby advocating adherence to regulations for the establishment of a disciplined police force.

Originality/Value: The research's uniqueness lies in its blended methodology, fusing sociological empirical and normative approaches. The study's findings hold significant value in shedding light on the challenges and recommendations for improving disciplinary enforcement mechanisms within the Indonesian State Police.

Keyword: Effectiveness, Republic of Indonesia State Police, Laws and Regulations

RESUMO

Objetivo: O estudo busca explorar a natureza da função do reitor na disciplina dos membros do Polri, analisar a conformidade da função do reitor com a Regulamentação Governamental Número 2 de 2003 e identificar os fatores influentes que afetam sua eficácia.

Estrutura teórica: A pesquisa está relacionada ao Regulamento Governamental Número 2 de 2003, que fornece a base para a aplicação disciplinar dentro da Polícia Estadual da Indonésia. Ela incorpora perspectivas teóricas sobre normas legais, princípios disciplinares e o papel central do inspetor dentro da estrutura policial.

Metodologia: Combinando métodos de pesquisa qualitativa, o estudo emprega análise sociológica empírica e técnicas de pesquisa normativa. Essa abordagem facilita um exame abrangente da lacuna entre os ideais legais e a implementação prática no contexto da aplicação disciplinar.

Resultados e conclusões: Os resultados indicam procedimentos de aplicação intrincados, notadamente a exigência da permissão de Ankum, contribuindo para a ineficiência da função do reitor. Os fatores que influenciam essa função incluem substância legal, elementos estruturais, instalações, nuances culturais e as características dos membros do Polri. O estudo conclui enfatizando a importância do profissionalismo dentro da função de reitor para garantir a disciplina efetiva entre os membros da Polri, defendendo assim a adesão aos regulamentos para o estabelecimento de uma força policial disciplinada.

Originalidade/valor: A singularidade da pesquisa está em sua metodologia combinada, fundindo abordagens sociológicas empíricas e normativas. As conclusões do estudo têm um valor significativo ao esclarecer os desafios e as recomendações para melhorar os mecanismos de aplicação disciplinar dentro da Polícia Estadual da Indonésia.

Palavra-chave: Eficácia, Polícia Estadual da República da Indonésia, Leis e regulamentos

1. Introduction

A punitive measure is imposed by the state or certain groups as a result of offenses committed by individuals or groups. In the criminal law system, there are two types of sanctions that have an important role, namely criminal sanctions and action sanctions. Criminal sanctions are often used to punish individuals who are proven to have committed criminal acts. Prior to the premeditated murder case, the level of public trust in the Police was very high. However, the incident involving Ferdy Sambo drastically reduced public trust to a very low level. The Chief of Police, Sigit, considers this incident a bitter experience and a valuable lesson for the Bhayangkara Corps.

He hoped that this incident would be a driver for improvement and increase the quality of public services from members of the National Police. In addition, Sigit also emphasized the importance of police presence in the community when needed. He said that the resolution of the Ferdy Sambo case took a long time, but afterward, the ranks of the Police had to refocus on other tasks. The Ferdy Sambo case was a premeditated murder case involving a number of perpetrators, and they have been convicted under the applicable law. Law enforcement by the government relies heavily on the role of the police.

The police have the main task of maintaining security and public order, enforcing the law, and providing protection and services to the community. Although the police have tried to perform their duties well, there have been cases of misconduct by members of the police that have created a feeling of dissatisfaction in the community. These include abuse of power, violations of the code of ethics, and inhumane behavior. Although law enforcement efforts have been made, there are still differences in perception in the enforcement of disciplinary regulations of Polri members. The public also often questions the effectiveness of law enforcement against police officers involved in criminal offenses, so there is still room for improvement in this regard.

Deviations in the behavior of Polri members mentioned above are violations of the disciplinary regulations of Polri members as stipulated in Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Disciplinary Regulations for Police Members. However, law enforcement of the disciplinary regulations of Polri members is still far from expectations and has not been able to maximally have a positive impact on the behavior of Polri members, both due to the process of law enforcement and the results of law enforcement of disciplinary regulations, among others, there are still differences in perceptions about the implementation of the disciplinary provisions of Polri members who commit disciplinary violations, even though this has been regulated both by Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members and the provisions of its implementation procedures based on the Decree of the Chief of Police No. Pol. : Kep/43/IX/2004 dated September 30, 2004 on the Settlement of Disciplinary Violations of Members of the National Police, as well as based on National Police Chief Decree No. Kep/97/XII/2003 dated September 30, 2004: Kep/97/XII/2003 dated 31 December 2003 on the Organization and Work Procedures of the Police Progam Division.

The current weakening of discipline and professionalism among police officers has become a common topic of discussion among the public. With frequent news in various mass media regarding disciplinary actions committed by members of the National Police, such as the many cases of misuse of firearms by members of the National Police, the existence of members of the National Police involved in criminal acts, arbitrary actions of members of the National Police, and many other cases that illustrate the lack of discipline of members of the National Police, making their own concerns for the community related to the implementation of the main tasks of the National Police, namely maintaining public security and order, order and law enforcement, the implementation of protection, protection, and services to the community, as well as the fostering of public peace by upholding human rights. Seeing from some of these conditions, it is necessary to deal with it by using the right strategy so that disciplinary law enforcement can run in a conducive atmosphere, smoothly without significant obstacles, which is able to become a means of control, prevention of deviant behavior and fostering disciplinary behavior of Polri members in order to create a good and clean government.

2. Theoretical Framework

2.1. Theory of Legal Effectiveness

In general, the factor that affects the effectiveness of a law is the professional and optimal implementation of the role, authority, and function of law enforcers, both in explaining their duties and in enforcing the legislation.

What is clear is that a person is waiting for the provisions of the legislation because of the fulfillment of an interest by the legislation.¹

Legal effectiveness is an assessment of the extent to which legal rules succeed in achieving their objectives, namely regulating certain attitudes, actions, or behaviors in accordance with their objectives. To ensure that people comply with legal rules, sanctions are often applied, both in the form of negative and positive sanctions. These sanctions aim to provide incentives to prevent people from committing despicable acts and encourage commendable acts. However, the effectiveness of the law also depends on certain conditions that must be met, one of which is the ability to communicate the law to the public.

According to Soerjono Soekanto, the effectiveness of legal implementation is largely determined by the legality of the law. This means that whether the law was formed and implemented by people or bodies that really have authority, namely the power recognized by the community. Argues that legal effectiveness is related to the various answers needed to various questions. For example; factors that cause the effectiveness or ineffectiveness of the law, is it true that the purpose of the law can be deflected so that it results in the ineffectiveness of the law, is it true that in certain circumstances the law creates new complications, how is the role of law enforcement new complications, what is the role of legal communication to make the enactment of the law effective.²

Often we know that in society, the laws that have been made are not effective. According to Syamsuddin Pasamai in his book Sociology and Sociology of Law, the issue of legal effectiveness has a close relationship with the issue of application, implementation and enforcement of law in society in order to create legal objectives. This means that the law really applies philosophically, juridically and sociologically.

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Theory of law enforcement

¹ Achmad Ali (2012 : 379)

² Muhammad Kamal, Vol 5 No 1 (2022): Substantive Justice International Journal of Law, Prospects for the New Capital City Policy in Law and Economic Perspectives, p. 86-108, june,2022.ISSN,2599-0462.

In general, enforcement can be defined as all efforts and activities carried out by law enforcers, so that laws and statutory provisions are obeyed by every community in an effort to create security and public order.³

Black's Law Dictionary defines law enforcement as "the act of putting something such as a law into effect; the execution of a law; the carrying out of a mandate or command."⁴ Law enforcement has a very broad meaning covering preventive and repressive aspects, suitable for the conditions of Indonesia whose government elements actively participate in increasing public legal awareness. Conceptually, the core and meaning of law enforcement lies in the activity of harmonizing the relationship of values that are spelled out in stable rules and attitudes of action as a series of final stage value elaboration to create, maintain and maintain peaceful living relationships.⁵

According to Koesnadi Hardjasoemantri, law enforcement does not always have to be carried out through the Court, but can be carried out through various channels with various sanctions, such as administrative sanctions, civil sanctions and criminal sanctions.⁶

Law enforcement is essential in the process of working law in people's lives. Law is a powerful instrument to realize order in the life of society. The essence of law is needed to prevent the emergence of dangers that can unsettle people's lives, so that every member of society feels safe and secure because they get legal protection.⁷

According to Muladi, it can simply be said that law enforcement is an effort to enforce legal norms and rules as well as the values behind them.⁸ Law enforcement officials should really understand the legal spirit underlying the legal regulations that must be enforced, related to the various dynamics that occur in the law making process.

2.2. Theory of The Purpose of Law

Law is universally present in societies, regulates their lives, and aims to ensure order and fulfillment of societal needs. There are various theories of the purpose of law that have been proposed by scholars, reflecting the values and principles underlying a country's legal system. These theories include: First, the ethical theory introduced by Aristotle, who considered that law aims to realize justice by granting each individual his rights according to the ethical beliefs of the society. Second, the utility theory which emphasizes that law aims to produce the maximum benefit for humans, achieving pleasure and happiness by paying attention to aspects of justice. Third, the mixed theory that tries to find a middle ground between ethics and utility, where the law aims to regulate order in society peacefully and fairly by maintaining a balance between individual and community interests. In its context, law also acts as a means of social control and change, with the aim of creating an orderly,

³ Muhammad Kamal, Vol 5 No 1 (2022): Substantive Justice International Journal of Law, Prospects for the New Capital City Policy in Law and Economic Perspectives, p. 86-108, June, 2022. ISSN, 2599-0462.

⁴ (Kunarto, 1999 : 54).

⁵ Henry Campbell (1999 : 578)

⁶ Hardjasoemantri (1992 : 95),

⁷ (Wahyu Affandi, 1994 : 4)

⁸ Nurul Qamar, Farah Syah Rezah, Universitas Muslim Indonesia, The Dichotomy of Approach in the Study of Legal Science: A Critical Review, SIGn Jurnal Hukum, E-ISSN: 2685 – 8606 || P-ISSN: 2685 – 86, Volume 4 Issue 2: October 2022 – March 2023, <https://jurnal.penerbitsign.com/index.php/sjh/article/view/v4n2-3/91>

peaceful, just society supported by legal certainty to protect the interests of individuals and society.

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2.3. Rule Of Law Theory

Plato was the first to introduce the term "rule of law," which was later developed by his student, Aristotle, in the 12th century, although the concept existed before them. The term "rule of law" is often used interchangeably with the concept of "rechtsstaat," and a rule of law is a translation of "rechtsstaat." In a rule of law, the government and all legal officials, including the President, judges, prosecutors, and legislative members, are bound by the law in carrying out their duties, both during and outside of working hours. Being bound by the law means upholding the law and making decisions in their official capacity in accordance with their conscience and in compliance with the law. Historically, the idea of the rule of law can be traced back to the writings of Plato, who introduced the concept of "Nomoi." In Nomoi, Plato argued that good governance is based on good laws. This idea was further reinforced by his student, Aristotle, in his work "Politica." According to Aristotle, a good state is one that is governed by a constitution and the rule of law. Indonesia is a country based on the rule of law, not the rule of power. Therefore, every person living in Indonesia must obey and adhere to the law, and no one is exempt from following the laws of Indonesia. The principle of the rule of law is encapsulated in the Bugis saying "Naia Adek Temmakeana Temmakkeappo," which means "the law does not recognize children or grandchildren." This reflects the idea that the law should be just and impartial, not discriminating based on lineage or ethnicity. Since the birth of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) and after its amendments, Indonesia has been a country based on the rule of law, not the rule of power or absolutism. Therefore, anyone who holds power and governs in Indonesia must submit to and obey the law. Law should be the supreme commander over authority. Hence, anyone who becomes a leader and governs must act as an executor of the law because the law is the fundamental guide in governing. If the law is not upheld in the administration of government and those in power do not adhere to the law, it means that the essence of the rule of law loses its meaning. Such rulers are considered illegitimate because they do not fulfill the trust of governing in accordance with the principles of the rule of law. Recognition of a state as a rule of law (government by law) is crucial because state and political power are not unlimited (not absolute). There must be limitations on the authority and

power of the state and politics to prevent abuse by those in power. In such a rule of law state, limitations on state and political power must be clearly defined and cannot be violated by anyone. This concept is known as "government by law, not by men" in countries with Common Law systems or "Rechtsstaat" in Continental European countries. The core principle in these concepts is the supremacy of the law (supremacy of law). In the modern era, the concept of the rule of law in Continental Europe was developed by philosophers such as Immanuel Kant, Paul Laband, Julius Stahl, and Fichte, using the German term "recht staat." In the Anglo-American tradition, the concept of the rule of law was developed with the leadership of A.V.

Historically, the history of the rule of law can be seen in a brief description in Ridwan HR59's book, that the idea of the rule of law was put forward by Plato, when he introduced the concept of Nomoi. In Nomoi, Plato argued that good state administration is based on good regulation (law). Plato's idea of the rule of law was even more emphatic when supported by his student, Aristotle, who wrote in his book *Politica*. According to Aristotle, a good state is one that is governed by a constitution and has the rule of law.

The provision on Indonesia as a state of law was previously contained in the general explanation of the 1945 Constitution, but after the amendment of the 1945 Constitution, the provision is now regulated in Article 1 paragraph (3) of the 1945 Constitution, which states. "The State of Indonesia is a state of law". In the general explanation of the 1945 Constitution of the Republic of Indonesia before the amendment, it was explicitly stated that the Indonesian state is based on law (*rechts staat*) not based on mere power (*machtstaat*). Government based on the constitutional system (basic law) is not absolutism (unlimited power).⁹

The principle of the rule of law from Nene' Mallomo "Naia Adek Temmakeana Temmakkeappo" (the law does not recognize children and grandchildren), In the context of legal issues, Nene' Mallomo has a principle namely "Ade Temmakeana Temmakkeappo", which means that the law does not recognize children and grandchildren. This shows the justice and firmness of Nene' Mallomo, who was also one of the propagators of Islam in Sidrap.

Recognition of a state as a state of law (government by law) is very important, because state and political power is not unlimited (not absolute). Limitations on the authority and power of the state and politics are needed, to avoid arbitrariness on the part of the authorities. In the rule of law, the restrictions on state and political power must be clear, which cannot be violated by anyone. Thus, the concept of what in countries where Common Law applies is called the system of "government by law, not by men" (government by law, not by men). Or a system of government based on the rule of law, not the rule of men.

Whereas in Continental European countries the concept of "state of law" (*rechtstaat*) is known, as opposed to "state of power" (*machtstaat*). *Rechtsstaat* is a Dutch term that has a meaning that is parallel to the meaning of the rule of law in countries that apply the Anglo Saxon system. In Indonesian, it is often referred to as "state of law", or in German it is also called "Rechtsstaat", in French it is called "Etat de Droit" while in Italian it is called

⁹ Ilham Rasjid, Said Sampara, Nasrullah Arsyad, Efektivitas Peraturan Pemerintah Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil Terhadap Disiplin Pegawai Di Pemerintah Kota Palopo *Journal of Lex Theory (JLT)* Volume 1, Nomor 1, Juni 2020 P-ISSN: 2722-1229, E-ISSN: 2722-1288. <https://pasca-umi.ac.id/index.php/jlt/article/view/42/41>

"Stato di Diritto". In this Continental European version of the concept of the rule of law, the principle of the supremacy of law is the main core.

Although this research does not specifically focus on the topic of "state of law," but since the concept of state of law is the basis for analyzing law enforcement, then in writing the article, we cannot ignore the role of state of law in the implementation of criminal law enforcement in Indonesia. This is because criminal law enforcement must be rooted in a concept that identifies the state as a state of law. Law enforcement is an effort to make the law function concretely as a guide to behavior in all aspects of the life of society and the state. The goal is to guarantee and ensure that the law is strongly enforced, and if necessary, law enforcement officials have the authority to use physical force. In carrying out the duties of government and the state's function as a guide to society, the law must be enforced and act as a guardian of order, provide protection, and ensure justice and welfare for all members of society without exception.

Pengakuan kepada suatu negara sebagai negara hukum (government by law) sangat penting, karena kekuasaan negara dan politik bukanlah tidak terbatas (tidak absolut). Perlu pembatasan-pembatasan terhadap kewenangan dan kekuasaan negara dan politik tersebut, untuk menghindari timbulnya kesewenang-wenangan dari pihak penguasa. Dalam negara hukum tersebut, pembatasan terhadap kekuasaan negara dan politik haruslah dilakukan dengan jelas, yang tidak dapat dilanggar oleh siapapun. Maka terkenallah konsep yang di negara-negara yang berlaku Common Law disebut sistem "pemerintahan berdasarkan hukum, bukan berdasarkan (kehendak) manusia" (government by law, not by men). Atau sistem pemerintahan yang berdasarkan rule of law, bukan rule of men.

Sedangkan di negara-negara Eropa Kontinental dikenal konsep "negara hukum" (rechtstaat), sebagai lawan dari "negara kekuasaan" (machstaat). Rechtstaat ini adalah istilah Bahasa Belanda yang punya pengertian yang sejajar dengan pengertian rule of law di negara-negara yang belaku sistem Anglo Saxon. Dalam Bahasa Indonesia sering disebut sebagai "negara hukum", atau yang dalam Bahasa Jerman disebut juga dengan istilah "Rechtsstaat", dalam bahasa Perancis disebut dengan "Etat de Droit" sedangkan dalam bahasa Italia disebut dengan "Stato di Diritto". Dalam konsep negara hukum versi Eropa Kontinental ini, prinsip supremasi hukum (supremacy of law) merupakan inti utamanya.

3. Discussion

3.1. The Nature of the Provos Function in Enforcing the Discipline Law of the Indonesian National Police

The function of Provos is to maintain discipline and order within the Polri environment. The definition of Provos Polri is also explained in the National Police Chief Regulation Number 2 of 2016 concerning the Settlement of Disciplinary Violations of Polri Members. In the regulation, it is stated that Provos Polri is part of the National Police whose duty is to assist the leadership in fostering and maintaining discipline and order in the lives of Polri members.

Credibility and commitment as law enforcers must be supported by good morals, human resource capabilities, and a high level of discipline. High discipline is expected to improve the performance of Polri members in carrying

out their duties as community servants and security, in accordance with Law No. 2 of 2002 concerning the Indonesian National Police which emphasizes the importance of disciplinary regulations for Polri members to maintain unity, integrity, morale, and work spirit. Discipline at work is very important because it ensures that organizational rules and social norms are followed in earnest. Discipline is a person's awareness and obedience to the disciplinary regulations of members of the Indonesian National Police. Therefore, if members do not follow the rules set out in the organization, disciplinary action and disciplinary punishment may be taken as a last resort to address members who do not meet performance standards or are undisciplined.

Implicitly, Polri is the hope and role model for the nation, as its job is to maintain security and public order. However, the image of Polri as a hope and role model is not a predicate that is simply given to every Polri member. It requires great process, activity and sacrifice. Polri as the hope and example of the nation needs to be realized in the implementation of its duties, not just a symbol.

Discipline at work is very important because with this discipline it is expected that most of the rules are obeyed by members, work according to procedures and so on so that work is completed effectively and efficiently and can increase productivity. Discipline itself according to Hasibuan is a person's awareness and willingness to obey all organizational rules and social norms that apply.¹⁰⁷ Meanwhile, in Government Regulation of the Republic of Indonesia No. 2 of 2003 concerning Police discipline article 1, it is explained that "Discipline is a serious obedience and compliance with the disciplinary rules of members of the Indonesian National Police". Therefore, if members do not use the rules set out in the organization, then disciplinary action and disciplinary punishment are the last steps that can be taken against members whose performance is below standard or who are not disciplined.

Not entering service without permission is one form of violation that exists in the Pondok Cabe Tangerang Air Police environment. There are more than 50 violations recorded in a year, this is very contrary to the regulations governing police discipline related to not entering service without permission. Every Polri law enforcement personnel must be bound by rules or laws as a reference in acting. The rules that bind the Police include Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Police Discipline Regulations. However, the many rules that bind the Police do not guarantee the growth of a professional spirit in some of its members, because there are still many violations of discipline by members of the police. A total of 522 cases of disciplinary violations have occurred throughout 2013, including absenteeism without permission or information. During September alone, 96 disciplinary hearings were conducted against 262 police officers.

Police discipline is an honor that shows credibility and commitment as a member of the National Police. The creation of disciplinary regulations for Polri members aims to improve and maintain credibility and firm commitment. The credibility and commitment of Polri members are as state officials who are given duties and authorities as protectors, protectors and servants of the community, as well as law enforcers and security maintainers.¹¹⁰ Commitment is different from loyalty, because loyalty tends to lead to absolute nature and leads to the tendency of leaders to abuse this loyalty (abuse of power). The

implementation of discipline for Polri members is different from loyalty, because the implementation of discipline is different from loyalty. disciplinary rules are based on awareness rather than fear and are based on commitment rather than loyalty. Polri as an organization absolutely has internal rules in order to improve performance, professionalism, organizational culture and togetherness, honor and credibility of the organization. Disciplinary regulations are also intended to ensure the maintenance of order and the execution of tasks in accordance with the objectives, roles, functions, authorities and responsibilities of the Polri. As a strong organization, Polri must have rules of conduct for working, acting and associating among its members, as well as in associating with the surrounding community.

Police discipline is regulated by Government Regulation No. 3/2003 issued on January 1, 2003, the contents of which have been adjusted to the demands of the duties, authorities and responsibilities of Polri members as civilian police. In addition, the formulation of Polri discipline is adjusted to the context of legal and constitutional developments and the aspirations of the community in accordance with the demands of the times. Police officers will become civilian police officers and serve all people in society from various social strata and ranks in society. Every police officer must remember that there is no more indispensable qualification for a police officer than perfect control of anger or emotional state, not taking to heart any form of abuse, including to the degree of abuse. any form of diatribe, including even the smallest degree of speech or threats that may be made to him.

Police figures are required to be no different in the implementation of their duties and functions according to the law as well as in everyday life. So there is no clear boundary between personal life and life in the performance of work on the part of Polri members. A police officer who is not on duty is still considered a police officer who must always be ready to provide protection to the community. Therefore, the disciplinary regulations for members of the National Police, in addition to regulating life in the performance of duties, also regulate the life of members of the National Police as individuals in social life.

Looking at the various cases of disciplinary violations that have occurred, Polri as a law enforcement agency, especially at Polri Headquarters, should pay special attention to actions aimed at improving the behavior of Polri members. This approach is not only in the form of corrective action by imposing sanctions on police officers who commit disciplinary violations, but also through preventive measures aimed at preventing violations of discipline. This prevention can be carried out through continuous, serious, and regular supervision and guidance of police personnel discipline in accordance with their fields. This will encourage increased discipline and morale, so that police officers are able to provide maximum service to the public.

Disciplinary regulations also contain sanctions imposed on Polri members if they violate prohibitions or regulations. The disciplinary regulations are intended to foster Polri members in a work environment that is full of conflict, tension and uncertainty, as well as to foster the new character and culture of Polri in accordance with the demands of reform as a civilian police force. The disciplinary regulations regulate the procedure for examination, the procedure for imposing disciplinary punishment, and the procedure for filing objections if the Polri member who is sentenced to disciplinary punishment objects to the punishment imposed on him/her. The purpose of imposing disciplinary punishment

The purpose of imposing disciplinary punishment is to correct and educate members of the Polri who commit disciplinary violations so that they change for the better.

Every superior who has the right to impose punishment (Ankum) is obliged to carefully examine the Polri members who commit disciplinary violations before imposing punishment. The disciplinary punishment imposed must be commensurate with the violation of discipline committed so that it can be accepted by a sense of justice. In imposing disciplinary punishment, Ankum should consider the environmental and emotional atmosphere of the Polri member who violated the discipline and also consider the excessive and disproportionate use of authority, which has an impact on the credibility of the Police in general. The successful implementation of disciplinary regulations depends on the commitment of all Polri members to the establishment of discipline with an emphasis on the successful implementation of tasks in accordance with the mandate and expectations of the community.

3.2. Effectiveness of Provos Function in Enforcing Discipline Law According to Government Regulation Number 2 Year 2003

To find out the extent to which the effectiveness of the enforcement of police discipline can be seen from the results of field research by distributing questionnaires and interviews to Provos members as follows:

Table 1
Effectiveness of police discipline enforcement

No.	Statement	Frequency	Persentase%
1	Effective	31	60
2	less Effective	19	40
3	Not Effective	-	-
Amount		50	100

The effectiveness of the enforcement of police discipline in this study based on table 1 above shows that of the 50 members of the South Sulawesi Police, 31 people or 60% gave effective answers while 19 people or 40% gave less effective answers. In table 1 above, the results showed that there were 19 people or 40% who chose the answer less effectively so that in general until now there are still members of the Police at the South Sulawesi Police who feel that the enforcement of provost discipline has been running but there are some weaknesses in its enforcement, especially in sanctions.

As revealed by one of the Police Members in an interview on June 04, 2023 who said that in terms of enforcing discipline to all members of the South Sulawesi Police, we have carried out and imposed sanctions on members who commit violations, both disciplinary violations and serious violations that lead to criminal sanctions.

Efforts to enforce police discipline are needed to realize the implementation of the duties assigned and achieve police professionalism. It is very unlikely that law enforcement can run well, if the law enforcers themselves (Polri) are undisciplined and unprofessional. Police indiscipline and unprofessionalism will have a huge impact in terms of law enforcement or disclosure of crimes that occur in the community. Polri figures are required to be no different in the implementation of their duties and functions according to the law and in everyday life. So there is no clear boundary between personal life and life in the implementation of work on Polri members. A police officer who is not on duty is still considered a police officer who must always be ready to provide protection to the community. Therefore, the disciplinary regulations for members of the National Police, in addition to regulating life in the performance of duties, also regulate the life of members of the National Police as individuals in social life. Police disciplinary regulations contain the main points of obligations and prohibitions and sanctions if the obligations of a member of the Police are not carried out or there is a violation of the prohibition. To find out whether the enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police, we can see from the results of field research by distributing questionnaires and questionnaires.

field research by distributing questionnaires and interviews to Provos members as follows:

Tabel 2
Enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members.

No.	Statement	Frequency	Persentase%
1	Implemented	29	51
2	has not been implemented	21	41
3	Not Implemented	-	-
Amount		50	100

Enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members in this study based on table 2 above shows that of the 50 members of the South Sulawesi Police, 29 people or 59% gave answers that had been carried out while 21 people or 41% gave answers that had not been carried out.

In table 2 above, the results of this study indicate that the enforcement of the discipline of the South Sulawesi Police has been carried

out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members, but there are 21 people or 41% who gave answers have not been carried out which in this case the provision of law enforcement sanctions is still there that has not been maximized in giving sanctions.

This is as revealed by one member of the Police in an interview on June 06, 2023 who said that in terms of enforcing the discipline of members of the Police at the South Sulawesi Police we have carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the Police and we can see the results over the past year many members of the police at the South Sulawesi Police have been processed for violations.

The regulation of Polri discipline with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police issued on January 1, 2003 as in article 22 which confirms that the Provos Polri is authorized to summon and examine, assist the leadership in fostering and enforcing discipline, and maintaining the orderly life of Polri members.

In addition, the formulation of Polri discipline is adjusted to the context of legal and constitutional developments and the aspirations of the community in accordance with the demands of the times. Police members will become civilian police and serve all people from various social strata and ranks in society. Every police officer should bear in mind that there is no more indispensable qualification for a police officer than perfect control of anger or emotion, not taking to heart any form of abuse, including in the least degree any remarks or threats that may be made to him.

In every member of the police force in achieving the goal always animates and colors the attitude, good behavior, so as to form an identity that is embodied in the conception of the police. The existence of police officers in the midst of society is very urgent and crucial, so that the community will make police officers as role models or role models in community behavior. Therefore, every member of the National Police is obliged to comply with the provisions regarding obligations, prohibitions and sanctions stipulated in the disciplinary regulations.

4. Conclusion

The essence of the provost function in enforcing the disciplinary law of the Indonesian National Police is an effort made using a scientific approach to find the truth regarding the application of the norms stipulated in Government Regulation No. 2 of 2003.

However, the effectiveness of the provost function in enforcing disciplinary law in accordance with Government Regulation No. 2 of 2003 is sometimes less effective. This is due to complicated disciplinary law enforcement procedures, including having to ask Ansum for permission, which can hinder the law enforcement process.

Several factors affecting the effectiveness of the provost function in enforcing police disciplinary law include the substance of the underlying law, the existing legal structure, the availability of adequate facilities, the organizational culture that supports or hinders, and the participation of the police officers themselves in carrying out the provost function. In order to improve the effectiveness of the provost function, it is necessary to evaluate and improve the complicated disciplinary law enforcement procedures. In

addition, other factors such as organizational culture and police officers' understanding of the importance of disciplinary law also need to be considered and improved. Thus, disciplinary law enforcement in the Police can run more effectively in accordance with applicable regulations.

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THE NATURE OF THE PROVOS FUNCTION IN ENFORCING THE DISCIPLINARY LAW THE INDONESIAN NATIONAL POLICE

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ABSTRACT

Objective: The study seeks to explore the nature of the provost's role in disciplining Polri members, analyze the compliance of the provost function with Government Regulation Number 2 of 2003, and identify influential factors affecting its effectiveness.

Theoretical Framework: The research engages with Government Regulation Number 2 of 2003, providing the foundation for disciplinary enforcement within the Indonesian State Police. It incorporates theoretical perspectives on legal norms, disciplinary principles, and the pivotal role of the provost within the police structure.

Methodology: Combining qualitative research methods, the study employs sociological empirical analysis and normative research techniques. This approach facilitates a comprehensive examination of the gap between legal ideals and practical implementation within the context of disciplinary enforcement.

Results and Conclusion: Findings indicate intricate enforcement procedures, notably the requirement of Ankum's permission, contributing to inefficiencies in the provost's function. Factors influencing this role include legal substance, structural elements, facilities, cultural nuances, and the characteristics of Polri members. The study concludes by stressing the importance of professionalism within the provost function to ensure effective discipline among Polri members, thereby advocating adherence to regulations for the establishment of a disciplined police force.

Originality/Value: The research's uniqueness lies in its blended methodology, fusing sociological empirical and normative approaches. The study's findings hold significant value in shedding light on the challenges and recommendations for improving disciplinary enforcement mechanisms within the Indonesian State Police.

Keyword: effectiveness, Republic of Indonesia State Police, laws and regulations.

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A NATUREZA DA FUNÇÃO PROVS NA APLICAÇÃO DA LEI DISCIPLINAR O INDONÉSIO POLÍCIA NACIONAL

RESUMO

Objetivo: O estudo busca explorar a natureza da função do reitor na disciplina dos membros do Polri, analisar a conformidade da função do reitor com a Regulamentação Governamental Número 2 de 2003 e identificar os fatores influentes que afetam sua eficácia.

Estrutura teórica: A pesquisa está relacionada ao Regulamento Governamental Número 2 de 2003, que fornece a base para a aplicação disciplinar dentro da Polícia Estadual da Indonésia. Ela incorpora perspectivas teóricas sobre normas legais, princípios disciplinares e o papel central do inspetor dentro da estrutura policial.

Metodologia: Combinando métodos de pesquisa qualitativa, o estudo emprega análise sociológica empírica e técnicas de pesquisa normativa. Essa abordagem facilita um exame abrangente da lacuna entre os ideais legais e a implementação prática no contexto da aplicação disciplinar.

Resultados e conclusões: Os resultados indicam procedimentos de aplicação intrincados, notadamente a exigência da permissão de Ankum, contribuindo para a ineficiência da função do reitor. Os fatores que influenciam essa função incluem substância legal, elementos estruturais, instalações, nuances culturais e as características dos membros do Polri. O estudo conclui enfatizando a importância do profissionalismo dentro da função de reitor para garantir a disciplina efetiva entre os membros da Polri, defendendo assim a adesão aos regulamentos para o estabelecimento de uma força policial disciplinada.

Originalidade/valor: A singularidade da pesquisa está em sua metodologia combinada, fundindo abordagens sociológicas empíricas e normativas. As conclusões do estudo têm um valor significativo ao esclarecer os desafios e as recomendações para melhorar os mecanismos de aplicação disciplinar dentro da Polícia Estadual da Indonésia.

Palavra-chave: eficácia, Polícia Estadual da República da Indonésia, leis e regulamentos.

1 INTRODUCTION

A punitive measure is imposed by the state or certain groups as a result of offenses committed by individuals or groups. In the criminal law system, there are two types of sanctions that have an important role, namely criminal sanctions and action sanctions. Criminal sanctions are often used to punish individuals who are proven to have committed criminal acts. Prior to the premeditated murder case, the level of public trust in the Police was very high. However, the incident involving Ferdy Sambo drastically reduced public trust to a very low level. The Chief of Police, Sigit, considers this incident a bitter experience and a valuable lesson for the Bhayangkara Corps.

He hoped that this incident would be a driver for improvement and increase the quality of public services from members of the National Police. In addition, Sigit also emphasized the importance of police presence in the community when needed. He said



that the resolution of the Ferdy Sambo case took a long time, but afterward, the ranks of the Police had to refocus on other tasks. The Ferdy Sambo case was a premeditated murder case involving a number of perpetrators, and they have been convicted under the applicable law. Law enforcement by the government relies heavily on the role of the police. The police have the main task of maintaining security and public order, enforcing the law, and providing protection and services to the community. Although the police have tried to perform their duties well, there have been cases of misconduct by members of the police that have created a feeling of dissatisfaction in the community. These include abuse of power, violations of the code of ethics, and inhumane behavior. Although law enforcement efforts have been made, there are still differences in perception in the enforcement of disciplinary regulations of Polri members. The public also often questions the effectiveness of law enforcement against police officers involved in criminal offenses, so there is still room for improvement in this regard.

Deviations in the behavior of Polri members mentioned above are violations of the disciplinary regulations of Polri members as stipulated in Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Disciplinary Regulations for Police Members. However, law enforcement of the disciplinary regulations of Polri members is still far from expectations and has not been able to maximally have a positive impact on the behavior of Polri members, both due to the process of law enforcement and the results of law enforcement of disciplinary regulations, among others, there are still differences in perceptions about the implementation of the disciplinary provisions of Polri members who commit disciplinary violations, even though this has been regulated both by Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members and the provisions of its implementation procedures based on the Decree of the Chief of Police No. Pol. : Kep/43/IX/2004 dated September 30, 2004 on the Settlement of Disciplinary Violations of Members of the National Police, as well as based on National Police Chief Decree No. Kep/97/XII/2003 dated September 30, 2004: Kep/97/XII/2003 dated 31 December 2003 on the Organization and Work Procedures of the Police Program Division.

The current weakening of discipline and professionalism among police officers has become a common topic of discussion among the public. With frequent news in various mass media regarding disciplinary actions committed by members of the National Police, such as the many cases of misuse of firearms by members of the National Police,



the existence of members of the National Police involved in criminal acts, arbitrary actions of members of the National Police, and many other cases that illustrate the lack of discipline of members of the National Police, making their own concerns for the community related to the implementation of the main tasks of the National Police, namely maintaining public security and order, order and law enforcement, the implementation of protection, protection, and services to the community, as well as the fostering of public peace by upholding human rights. Seeing from some of these conditions, it is necessary to deal with it by using the right strategy so that disciplinary law enforcement can run in a conducive atmosphere, smoothly without significant obstacles, which is able to become a means of control, prevention of deviant behavior and fostering disciplinary behavior of Polri members in order to create a good and clean government.

2 THEORETICAL FRAMEWORK

2.1 THEORY OF LEGAL EFFECTIVENESS

In general, the factor that affects the effectiveness of a law is the professional and optimal implementation of the role, authority, and function of law enforcers, both in explaining their duties and in enforcing the legislation. What is clear is that a person is waiting for the provisions of the legislation because of the fulfillment of an interest by the legislation.³

Legal effectiveness is an assessment of the extent to which legal rules succeed in achieving their objectives, namely regulating certain attitudes, actions, or behaviors in accordance with their objectives. To ensure that people comply with legal rules, sanctions are often applied, both in the form of negative and positive sanctions. These sanctions aim to provide incentives to prevent people from committing despicable acts and encourage commendable acts. However, the effectiveness of the law also depends on certain conditions that must be met, one of which is the ability to communicate the law to the public.

According to Soerjono Soekanto, the effectiveness of legal implementation is largely determined by the legality of the law. This means that whether the law was formed and implemented by people or bodies that really have authority, namely the power recognized by the community. Argues that legal effectiveness is related to the various answers needed to various questions. For example; factors that cause the effectiveness or

³ Achmad Ali (2012 : 379)



ineffectiveness of the law, is it true that the purpose of the law can be deflected so that it results in the ineffectiveness of the law, is it true that in certain circumstances the law creates new complications, how is the role of law enforcement new complications, what is the role of legal communication to make the enactment of the law effective.⁴

Often we know that in society, the laws that have been made are not effective. According to Syamsuddin Pasamai in his book *Sociology and Sociology of Law*, the issue of legal effectiveness has a close relationship with the issue of application, implementation and enforcement of law in society in order to create legal objectives. This means that the law really applies philosophically, juridically and sociologically.

According to Soerjono Soekanto, the effectiveness of legal implementation is more or less determined by the legality of the law. This means that whether the law was formed and implemented by people or bodies that really have authority, namely the power recognized by the community.

Argues that legal effectiveness is related to the various answers needed to various questions. For example; factors that cause the effectiveness or ineffectiveness of the law, is it true that the purpose of the law can be deflected so that it results in the ineffectiveness of the law, is it true that in certain circumstances the law creates new complications, how is the role of legal communication to make the law effective? new complications, what is the role of legal communication to make it effective.

2.2 THEORY OF LAW ENFORCEMENT

In general, enforcement can be defined as all efforts and activities carried out by law enforcers, so that laws and statutory provisions are obeyed by every community in an effort to create security and public order.⁵

Black's Law Dictionary defines law enforcement as "the act of putting something such as a law into effect; the execution of a law; the carrying out of a mandate or command."⁶ Law enforcement has a very broad meaning covering preventive and repressive aspects, suitable for the conditions of Indonesia whose government elements actively participate in increasing public legal awareness. Conceptually, the core and meaning of law enforcement lies in the activity of harmonizing the relationship of values

⁴ Muhammad Kamal, Vol 5 No 1 (2022): Substantive Justice International Journal of Law, Prospects for the New Capital City Policy in Law and Economic Perspectives, p. 86-108, June, 2022. ISSN, 2599-0462.

⁵ Muhammad Kamal, Vol 5 No 1 (2022): Substantive Justice International Journal of Law, Prospects for the New Capital City Policy in Law and Economic Perspectives, p. 86-108, June, 2022. ISSN, 2599-0462.

⁶ (Kunarto, 1999 : 54).



that are spelled out in stable rules and attitudes of action as a series of final stage value elaboration to create, maintain and maintain peaceful living relationships.⁷

According to Koesnadi Hardjasoemantri, law enforcement does not always have to be carried out through the Court, but can be carried out through various channels with various sanctions, such as administrative sanctions, civil sanctions and criminal sanctions.⁸

Law enforcement is essential in the process of working law in people's lives. Law is a powerful instrument to realize order in the life of society. The essence of law is needed to prevent the emergence of dangers that can unsettle people's lives, so that every member of society feels safe and secure because they get legal protection.⁹

According to Muladi, it can simply be said that law enforcement is an effort to enforce legal norms and rules as well as the values behind them.¹⁰ Law enforcement officials should really understand the legal spirit underlying the legal regulations that must be enforced, related to the various dynamics that occur in the law making process.

2.3 THEORY OF THE PURPOSE OF LAW

Law is universally present in societies, regulates their lives, and aims to ensure order and fulfillment of societal needs. There are various theories of the purpose of law that have been proposed by scholars, reflecting the values and principles underlying a country's legal system. These theories include: First, the ethical theory introduced by Aristotle, who considered that law aims to realize justice by granting each individual his rights according to the ethical beliefs of the society. Second, the utility theory which emphasizes that law aims to produce the maximum benefit for humans, achieving pleasure and happiness by paying attention to aspects of justice. Third, the mixed theory that tries to find a middle ground between ethics and utility, where the law aims to regulate order in society peacefully and fairly by maintaining a balance between individual and community interests. In its context, law also acts as a means of social control and change, with the aim of creating an orderly, peaceful, just society supported by legal certainty to protect the interests of individuals and society.

⁷ Henry Campbell (1999 : 578)

⁸ Hardjasoemantri (1992 : 95),

⁹ (Wahyu Affandi, 1994 : 4)

¹⁰ Nurul Qamar, Farah Syah Rezah, Universitas Muslim Indonesia, The Dichotomy of Approach in the Study of Legal Science: A Critical Review, SIGn Jurnal Hukum, E-ISSN: 2685 – 8606 || P-ISSN: 2685 – 86, Volume 4 Issue 2: October 2022 – March 2023, <https://jurnal.penerbitsign.com/index.php/sjh/article/view/v4n2-3/91>



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2.4 RULE OF LAW THEORY

Plato was the first to introduce the term "rule of law," which was later developed by his student, Aristotle, in the 12th century, although the concept existed before them. The term "rule of law" is often used interchangeably with the concept of "rechtsstaat," and a rule of law is a translation of "rechtsstaat." In a rule of law, the government and all legal officials, including the President, judges, prosecutors, and legislative members, are bound by the law in carrying out their duties, both during and outside of working hours. Being bound by the law means upholding the law and making decisions in their official capacity in accordance with their conscience and in compliance with the law. Historically, the idea of the rule of law can be traced back to the writings of Plato, who introduced the concept of "Nomoi." In Nomoi, Plato argued that good governance is based on good laws. This idea was further reinforced by his student, Aristotle, in his work "Politica." According to Aristotle, a good state is one that is governed by a constitution and the rule of law. Indonesia is a country based on the rule of law, not the rule of power. Therefore, every person living in Indonesia must obey and adhere to the law, and no one is exempt from following the laws of Indonesia. The principle of the rule of law is encapsulated in the Bugis saying "Naia Adek Temmakeana Temmakkeappo," which means "the law does not recognize children or grandchildren." This reflects the idea that the law should be just and impartial, not discriminating based on lineage or ethnicity. Since the birth of the 1945



Constitution of the Republic of Indonesia (UUD NRI 1945) and after its amendments, Indonesia has been a country based on the rule of law, not the rule of power or absolutism. Therefore, anyone who holds power and governs in Indonesia must submit to and obey the law. Law should be the supreme commander over authority. Hence, anyone who becomes a leader and governs must act as an executor of the law because the law is the fundamental guide in governing. If the law is not upheld in the administration of government and those in power do not adhere to the law, it means that the essence of the rule of law loses its meaning. Such rulers are considered illegitimate because they do not fulfill the trust of governing in accordance with the principles of the rule of law. Recognition of a state as a rule of law (government by law) is crucial because state and political power are not unlimited (not absolute). There must be limitations on the authority and power of the state and politics to prevent abuse by those in power. In such a rule of law state, limitations on state and political power must be clearly defined and cannot be violated by anyone. This concept is known as "government by law, not by men" in countries with Common Law systems or "Rechtsstaat" in Continental European countries. The core principle in these concepts is the supremacy of the law (supremacy of law). In the modern era, the concept of the rule of law in Continental Europe was developed by philosophers such as Immanuel Kant, Paul Laband, Julius Stahl, and Fichte, using the German term "recht staat." In the Anglo-American tradition, the concept of the rule of law was developed with the leadership of A.V.

Historically, the history of the rule of law can be seen in a brief description in Ridwan HR59's book, that the idea of the rule of law was put forward by Plato, when he introduced the concept of Nomoi. In Nomoi, Plato argued that good state administration is based on good regulation (law). Plato's idea of the rule of law was even more emphatic when supported by his student, Aristotle, who wrote in his book *Politica*. According to Aristotle, a good state is one that is governed by a constitution and has the rule of law.

The provision on Indonesia as a state of law was previously contained in the general explanation of the 1945 Constitution, but after the amendment of the 1945 Constitution, the provision is now regulated in Article 1 paragraph (3) of the 1945 Constitution, which states. "The State of Indonesia is a state of law". In the general explanation of the 1945 Constitution of the Republic of Indonesia before the amendment, it was explicitly stated that the Indonesian state is based on law (rechts staat) not based



on mere power (*machtstaat*). Government based on the constitutional system (basic law) is not absolutism (unlimited power).¹¹

The principle of the rule of law from Nene' Mallomo "Naia Adek Temmakeana Temmakkeappo" (the law does not recognize children and grandchildren), In the context of legal issues, Nene' Mallomo has a principle namely "Ade Temmakkeana Temmakkeappo", which means that the law does not recognize children and grandchildren. This shows the justice and firmness of Nene' Mallomo, who was also one of the propagators of Islam in Sidrap.

Recognition of a state as a state of law (government by law) is very important, because state and political power is not unlimited (not absolute). Limitations on the authority and power of the state and politics are needed, to avoid arbitrariness on the part of the authorities. In the rule of law, the restrictions on state and political power must be clear, which cannot be violated by anyone. Thus, the concept of what in countries where Common Law applies is called the system of "government by law, not by men" (government by law, not by men). Or a system of government based on the rule of law, not the rule of men.

Whereas in Continental European countries the concept of "state of law" (*rechtstaat*) is known, as opposed to "state of power" (*machtstaat*). *Rechtsstaat* is a Dutch term that has a meaning that is parallel to the meaning of the rule of law in countries that apply the Anglo Saxon system. In Indonesian, it is often referred to as "state of law", or in German it is also called "*Rechtsstaat*", in French it is called "*Etat de Droit*" while in Italian it is called "*Stato di Diritto*". In this Continental European version of the concept of the rule of law, the principle of the supremacy of law is the main core.

Although this research does not specifically focus on the topic of "state of law," but since the concept of state of law is the basis for analyzing law enforcement, then in writing the article, we cannot ignore the role of state of law in the implementation of criminal law enforcement in Indonesia. This is because criminal law enforcement must be rooted in a concept that identifies the state as a state of law. Law enforcement is an effort to make the law function concretely as a guide to behavior in all aspects of the life of society and the state. The goal is to guarantee and ensure that the law is strongly

¹¹ Ilham Rasjid, Said Sampara, Nasrullah Arsyad, Efektivitas Peraturan Pemerintah Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil Terhadap Disiplin Pegawai Di Pemerintah Kota Palopo Journal of Lex Theory (JLT) Volume 1, Nomor 1, Juni 2020 P-ISSN: 2722-1229, E-ISSN: 2722-1288. <https://pasca-umi.ac.id/index.php/jlt/article/view/42/41>



enforced, and if necessary, law enforcement officials have the authority to use physical force. In carrying out the duties of government and the state's function as a guide to society, the law must be enforced and act as a guardian of order, provide protection, and ensure justice and welfare for all members of society without exception.

Pengakuan kepada suatu negara sebagai negara hukum (government by law) sangat penting, karena kekuasaan negara dan politik bukanlah tidak terbatas (tidak absolut). Perlu pembatasan-pembatasan terhadap kewenangan dan kekuasaan negara dan politik tersebut, untuk menghindari timbulnya kesewenang-wenangan dari pihak penguasa. Dalam negara hukum tersebut, pembatasan terhadap kekuasaan negara dan politik haruslah dilakukan dengan jelas, yang tidak dapat dilanggar oleh siapapun. Maka terkenallah konsep yang di negara-negara yang berlaku Common Law disebut sistem “pemerintahan berdasarkan hukum, bukan berdasarkan (kehendak) manusia” (government by law, not by men). Atau sistem pemerintahan yang berdasarkan rule of law, bukan rule of men.

Sedangkan di negara-negara Eropa Kontinental dikenal konsep "negara hukum" (rechtstaat), sebagai lawan dari “negara kekuasaan” (machstaat). Rechstaat ini adalah istilah Bahasa Belanda yang punya pengertian yang sejajar dengan pengertian rule of law di negara-negara yang belaku sistem Anglo Saxon. Dalam Bahasa Indonesia sering disebut sebagai “negara hukum”, atau yang dalam Bahasa Jerman disebut juga dengan istilah “Rechtsstaat”, dalam bahasa Perancis disebut dengan “Etat de Droit” sedangkan dalam bahasa Italia disebut dengan “Stato di Diritto”. Dalam konsep negara hukum versi Eropa Kontinental ini, prinsip supremasi hukum (supremacy of law) merupakan inti utamanya.

3 DISCUSSION

3.1 THE NATURE OF THE PROVOS FUNCTION IN ENFORCING THE DISCIPLINE LAW OF THE INDONESIAN NATIONAL POLICE

The function of Provos is to maintain discipline and order within the Polri environment. The definition of Provos Polri is also explained in the National Police Chief Regulation Number 2 of 2016 concerning the Settlement of Disciplinary Violations of Polri Members. In the regulation, it is stated that Provos Polri is part of the National Police whose duty is to assist the leadership in fostering and maintaining discipline and order in the lives of Polri members.



Credibility and commitment as law enforcers must be supported by good morals, human resource capabilities, and a high level of discipline. High discipline is expected to improve the performance of Polri members in carrying out their duties as community servants and security, in accordance with Law No. 2 of 2002 concerning the Indonesian National Police which emphasizes the importance of disciplinary regulations for Polri members to maintain unity, integrity, morale, and work spirit. Discipline at work is very important because it ensures that organizational rules and social norms are followed in earnest. Discipline is a person's awareness and obedience to the disciplinary regulations of members of the Indonesian National Police. Therefore, if members do not follow the rules set out in the organization, disciplinary action and disciplinary punishment may be taken as a last resort to address members who do not meet performance standards or are undisciplined.

Implicitly, Polri is the hope and role model for the nation, as its job is to maintain security and public order. However, the image of Polri as a hope and role model is not a predicate that is simply given to every Polri member. It requires great process, activity and sacrifice. Polri as the hope and example of the nation needs to be realized in the implementation of its duties, not just a symbol.

Discipline at work is very important because with this discipline it is expected that most of the rules are obeyed by members, work according to procedures and so on so that work is completed effectively and efficiently and can increase productivity. Discipline itself according to Hasibuan is a person's awareness and willingness to obey all organizational rules and social norms that apply.¹⁰⁷ Meanwhile, in Government Regulation of the Republic of Indonesia No. 2 of 2003 concerning Police discipline article 1, it is explained that "Discipline is a serious obedience and compliance with the disciplinary rules of members of the Indonesian National Police". Therefore, if members do not use the rules set out in the organization, then disciplinary action and disciplinary punishment are the last steps that can be taken against members whose performance is below standard or who are not disciplined.

Not entering service without permission is one form of violation that exists in the Pondok Cabe Tangerang Air Police environment. There are more than 50 violations recorded in a year, this is very contrary to the regulations governing police discipline related to not entering service without permission. Every Polri law enforcement personnel must be bound by rules or laws as a reference in acting. The rules that bind the Police



include Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Police Discipline Regulations. However, the many rules that bind the Police do not guarantee the growth of a professional spirit in some of its members, because there are still many violations of discipline by members of the police. A total of 522 cases of disciplinary violations have occurred throughout 2013, including absenteeism without permission or information. During September alone, 96 disciplinary hearings were conducted against 262 police officers.

Police discipline is an honor that shows credibility and commitment as a member of the National Police. The creation of disciplinary regulations for Polri members aims to improve and maintain credibility and firm commitment. The credibility and commitment of Polri members are as state officials who are given duties and authorities as protectors, protectors and servants of the community, as well as law enforcers and security maintainers.¹¹⁰ Commitment is different from loyalty, because loyalty tends to lead to absolute nature and leads to the tendency of leaders to abuse this loyalty (abuse of power). The implementation of discipline for Polri members is different from loyalty, because the implementation of discipline is different from loyalty. disciplinary rules are based on awareness rather than fear and are based on commitment rather than loyalty. Polri as an organization absolutely has internal rules in order to improve performance, professionalism, organizational culture and togetherness, honor and credibility of the organization. Disciplinary regulations are also intended to ensure the maintenance of order and the execution of tasks in accordance with the objectives, roles, functions, authorities and responsibilities of the Polri. As a strong organization, Polri must have rules of conduct for working, acting and associating among its members, as well as in associating with the surrounding community.

Police discipline is regulated by Government Regulation No. 3/2003 issued on January 1, 2003, the contents of which have been adjusted to the demands of the duties, authorities and responsibilities of Polri members as civilian police. In addition, the formulation of Polri discipline is adjusted to the context of legal and constitutional developments and the aspirations of the community in accordance with the demands of the times. Police officers will become civilian police officers and serve all people in society from various social strata and ranks in society. Every police officer must remember that there is no more indispensable qualification for a police officer than perfect control of anger or emotional state, not taking to heart any form of abuse,



including to the degree of abuse. any form of diatribe, including even the smallest degree of speech or threats that may be made to him.

Police figures are required to be no different in the implementation of their duties and functions according to the law as well as in everyday life. So there is no clear boundary between personal life and life in the performance of work on the part of Polri members. A police officer who is not on duty is still considered a police officer who must always be ready to provide protection to the community. Therefore, the disciplinary regulations for members of the National Police, in addition to regulating life in the performance of duties, also regulate the life of members of the National Police as individuals in social life.

Looking at the various cases of disciplinary violations that have occurred, Polri as a law enforcement agency, especially at Polri Headquarters, should pay special attention to actions aimed at improving the behavior of Polri members. This approach is not only in the form of corrective action by imposing sanctions on police officers who commit disciplinary violations, but also through preventive measures aimed at preventing violations of discipline. This prevention can be carried out through continuous, serious, and regular supervision and guidance of police personnel discipline in accordance with their fields. This will encourage increased discipline and morale, so that police officers are able to provide maximum service to the public.

Disciplinary regulations also contain sanctions imposed on Polri members if they violate prohibitions or regulations. The disciplinary regulations are intended to foster Polri members in a work environment that is full of conflict, tension and uncertainty, as well as to foster the new character and culture of Polri in accordance with the demands of reform as a civilian police force. The disciplinary regulations regulate the procedure for examination, the procedure for imposing disciplinary punishment, and the procedure for filing objections if the Polri member who is sentenced to disciplinary punishment objects to the punishment imposed on him/her. The purpose of imposing disciplinary punishment

The purpose of imposing disciplinary punishment is to correct and educate members of the Polri who commit disciplinary violations so that they change for the better.

Every superior who has the right to impose punishment (Ankum) is obliged to carefully examine the Polri members who commit disciplinary violations before



imposing punishment. The disciplinary punishment imposed must be commensurate with the violation of discipline committed so that it can be accepted by a sense of justice. In imposing disciplinary punishment, Ankum should consider the environmental and emotional atmosphere of the Polri member who violated the discipline and also consider the excessive and disproportionate use of authority, which has an impact on the credibility of the Police in general. The successful implementation of disciplinary regulations depends on the commitment of all Polri members to the establishment of discipline with an emphasis on the successful implementation of tasks in accordance with the mandate and expectations of the community.

3.2 EFFECTIVENESS OF PROVOS FUNCTION IN ENFORCING DISCIPLINE LAW ACCORDING TO GOVERNMENT REGULATION NUMBER 2 YEAR 2003

To find out the extent to which the effectiveness of the enforcement of police discipline can be seen from the results of field research by distributing questionnaires and interviews to Provos members as follows:

Table 1: Effectiveness of police discipline enforcement

No.	Statement	Frequency	Persentase%
1	Effective	31	60
2	less Effective	19	40
3	Not Effective	-	-
Amount		50	100

The effectiveness of the enforcement of police discipline in this study based on table 1 above shows that of the 50 members of the South Sulawesi Police, 31 people or 60% gave effective answers while 19 people or 40% gave less effective answers. In table 1 above, the results showed that there were 19 people or 40% who chose the answer less effectively so that in general until now there are still members of the Police at the South Sulawesi Police who feel that the enforcement of provost discipline has been running but there are some weaknesses in its enforcement, especially in sanctions.

As revealed by one of the Police Members in an interview on June 04, 2023 who said that in terms of enforcing discipline to all members of the South Sulawesi Police, we have carried out and imposed sanctions on members who commit violations, both disciplinary violations and serious violations that lead to criminal sanctions.

Efforts to enforce police discipline are needed to realize the implementation of the duties assigned and achieve police professionalism. It is very unlikely that law



enforcement can run well, if the law enforcers themselves (Polri) are undisciplined and unprofessional. Police indiscipline and unprofessionalism will have a huge impact in terms of law enforcement or disclosure of crimes that occur in the community. Polri figures are required to be no different in the implementation of their duties and functions according to the law and in everyday life. So there is no clear boundary between personal life and life in the implementation of work on Polri members. A police officer who is not on duty is still considered a police officer who must always be ready to provide protection to the community. Therefore, the disciplinary regulations for members of the National Police, in addition to regulating life in the performance of duties, also regulate the life of members of the National Police as individuals in social life. Police disciplinary regulations contain the main points of obligations and prohibitions and sanctions if the obligations of a member of the Police are not carried out or there is a violation of the prohibition. To find out whether the enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police, we can see from the results of field research by distributing questionnaires and questionnaires.

field research by distributing questionnaires and interviews to Provos members as follows:

Tabel 2: Enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members.

No.	Statement	Frequency	Persentase%
1	Implemented	29	51
2	has not been implemented	21	41
3	Not Implemented	-	-
Amount		50	100

Enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members in this study based on table 2 above shows that of the 50 members of the South Sulawesi Police, 29 people or 59% gave answers that had been carried out while 21 people or 41% gave answers that had not been carried out.

In table 2 above, the results of this study indicate that the enforcement of the discipline of the South Sulawesi Police has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members, but there are 21 people or 41% who gave answers have not been carried out



which in this case the provision of law enforcement sanctions is still there that has not been maximized in giving sanctions.

This is as revealed by one member of the Police in an interview on June 06, 2023 who said that in terms of enforcing the discipline of members of the Police at the South Sulawesi Police we have carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the Police and we can see the results over the past year many members of the police at the South Sulawesi Police have been processed for violations.

The regulation of Polri discipline with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police issued on January 1, 2003 as in article 22 which confirms that the Provos Polri is authorized to summon and examine, assist the leadership in fostering and enforcing discipline, and maintaining the orderly life of Polri members.

In addition, the formulation of Polri discipline is adjusted to the context of legal and constitutional developments and the aspirations of the community in accordance with the demands of the times. Police members will become civilian police and serve all people from various social strata and ranks in society. Every police officer should bear in mind that there is no more indispensable qualification for a police officer than perfect control of anger or emotion, not taking to heart any form of abuse, including in the least degree any remarks or threats that may be made to him.

In every member of the police force in achieving the goal always animates and colors the attitude, good behavior, so as to form an identity that is embodied in the conception of the police. The existence of police officers in the midst of society is very urgent and crucial, so that the community will make police officers as role models or role models in community behavior. Therefore, every member of the National Police is obliged to comply with the provisions regarding obligations, prohibitions and sanctions stipulated in the disciplinary regulations.

4 CONCLUSION

The essence of the provost function in enforcing the disciplinary law of the Indonesian National Police is an effort made using a scientific approach to find the truth regarding the application of the norms stipulated in Government Regulation No. 2 of 2003.



However, the effectiveness of the provost function in enforcing disciplinary law in accordance with Government Regulation No. 2 of 2003 is sometimes less effective. This is due to complicated disciplinary law enforcement procedures, including having to ask Ansum for permission, which can hinder the law enforcement process.

Several factors affecting the effectiveness of the provost function in enforcing police disciplinary law include the substance of the underlying law, the existing legal structure, the availability of adequate facilities, the organizational culture that supports or hinders, and the participation of the police officers themselves in carrying out the provost function. In order to improve the effectiveness of the provost function, it is necessary to evaluate and improve the complicated disciplinary law enforcement procedures. In addition, other factors such as organizational culture and police officers' understanding of the importance of disciplinary law also need to be considered and improved. Thus, disciplinary law enforcement in the Police can run more effectively in accordance with applicable regulations.



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THE NATURE OF THE PROVOS FUNCTION IN ENFORCING THE DISCIPLINARY LAW THE INDONESIAN NATIONAL POLICE

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THE NATURE OF THE PROVOS FUNCTION IN ENFORCING THE DISCIPLINARY LAW THE INDONESIAN NATIONAL POLICE

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ABSTRACT

Objective: The study seeks to explore the nature of the provost's role in disciplining Polri members, analyze the compliance of the provost function with Government Regulation Number 2 of 2003, and identify influential factors affecting its effectiveness.

Theoretical Framework: The research engages with Government Regulation Number 2 of 2003, providing the foundation for disciplinary enforcement within the Indonesian State Police. It incorporates theoretical perspectives on legal norms, disciplinary principles, and the pivotal role of the provost within the police structure.

Methodology: Combining qualitative research methods, the study employs sociological empirical analysis and normative research techniques. This approach facilitates a comprehensive examination of the gap between legal ideals and practical implementation within the context of disciplinary enforcement.

Results and Conclusion: Findings indicate intricate enforcement procedures, notably the requirement of Ankum's permission, contributing to inefficiencies in the provost's function. Factors influencing this role include legal substance, structural elements, facilities, cultural nuances, and the characteristics of Polri members. The study concludes by stressing the importance of professionalism within the provost function to ensure effective discipline among Polri members, thereby advocating adherence to regulations for the establishment of a disciplined police force.

Originality/Value: The research's uniqueness lies in its blended methodology, fusing sociological empirical and normative approaches. The study's findings hold significant value in shedding light on the challenges and recommendations for improving disciplinary enforcement mechanisms within the Indonesian State Police.

Keyword: effectiveness, Republic of Indonesia State Police, laws and regulations.

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A NATUREZA DA FUNÇÃO PROVS NA APLICAÇÃO DA LEI DISCIPLINAR O INDONÉSIO POLÍCIA NACIONAL

RESUMO

Objetivo: O estudo busca explorar a natureza da função do reitor na disciplina dos membros do Polri, analisar a conformidade da função do reitor com a Regulamentação Governamental Número 2 de 2003 e identificar os fatores influentes que afetam sua eficácia.

Estrutura teórica: A pesquisa está relacionada ao Regulamento Governamental Número 2 de 2003, que fornece a base para a aplicação disciplinar dentro da Polícia Estadual da Indonésia. Ela incorpora perspectivas teóricas sobre normas legais, princípios disciplinares e o papel central do inspetor dentro da estrutura policial.

Metodologia: Combinando métodos de pesquisa qualitativa, o estudo emprega análise sociológica empírica e técnicas de pesquisa normativa. Essa abordagem facilita um exame abrangente da lacuna entre os ideais legais e a implementação prática no contexto da aplicação disciplinar.

Resultados e conclusões: Os resultados indicam procedimentos de aplicação intrincados, notadamente a exigência da permissão de Ankum, contribuindo para a ineficiência da função do reitor. Os fatores que influenciam essa função incluem substância legal, elementos estruturais, instalações, nuances culturais e as características dos membros do Polri. O estudo conclui enfatizando a importância do profissionalismo dentro da função de reitor para garantir a disciplina efetiva entre os membros da Polri, defendendo assim a adesão aos regulamentos para o estabelecimento de uma força policial disciplinada.

Originalidade/valor: A singularidade da pesquisa está em sua metodologia combinada, fundindo abordagens sociológicas empíricas e normativas. As conclusões do estudo têm um valor significativo ao esclarecer os desafios e as recomendações para melhorar os mecanismos de aplicação disciplinar dentro da Polícia Estadual da Indonésia.

Palavra-chave: eficácia, Polícia Estadual da República da Indonésia, leis e regulamentos.

1 INTRODUCTION

A punitive measure is imposed by the state or certain groups as a result of offenses committed by individuals or groups. In the criminal law system, there are two types of sanctions that have an important role, namely criminal sanctions and action sanctions. Criminal sanctions are often used to punish individuals who are proven to have committed criminal acts. Prior to the premeditated murder case, the level of public trust in the Police was very high. However, the incident involving Ferdy Sambo drastically reduced public trust to a very low level. The Chief of Police, Sigit, considers this incident a bitter experience and a valuable lesson for the Bhayangkara Corps.

He hoped that this incident would be a driver for improvement and increase the quality of public services from members of the National Police. In addition, Sigit also emphasized the importance of police presence in the community when needed. He said

that the resolution of the Ferdy Sambo case took a long time, but afterward, the ranks of the Police had to refocus on other tasks. The Ferdy Sambo case was a premeditated murder case involving a number of perpetrators, and they have been convicted under the applicable law. Law enforcement by the government relies heavily on the role of the police. The police have the main task of maintaining security and public order, enforcing the law, and providing protection and services to the community. Although the police have tried to perform their duties well, there have been cases of misconduct by members of the police that have created a feeling of dissatisfaction in the community. These include abuse of power, violations of the code of ethics, and inhumane behavior. Although law enforcement efforts have been made, there are still differences in perception in the enforcement of disciplinary regulations of Polri members. The public also often questions the effectiveness of law enforcement against police officers involved in criminal offenses, so there is still room for improvement in this regard.

Deviations in the behavior of Polri members mentioned above are violations of the disciplinary regulations of Polri members as stipulated in Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Disciplinary Regulations for Police Members. However, law enforcement of the disciplinary regulations of Polri members is still far from expectations and has not been able to maximally have a positive impact on the behavior of Polri members, both due to the process of law enforcement and the results of law enforcement of disciplinary regulations, among others, there are still differences in perceptions about the implementation of the disciplinary provisions of Polri members who commit disciplinary violations, even though this has been regulated both by Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members and the provisions of its implementation procedures based on the Decree of the Chief of Police No. Pol. : Kep/43/IX/2004 dated September 30, 2004 on the Settlement of Disciplinary Violations of Members of the National Police, as well as based on National Police Chief Decree No. Kep/97/XII/2003 dated September 30, 2004: Kep/97/XII/2003 dated 31 December 2003 on the Organization and Work Procedures of the Police Proqram Division.

The current weakening of discipline and professionalism among police officers has become a common topic of discussion among the public. With frequent news in various mass media regarding disciplinary actions committed by members of the National Police, such as the many cases of misuse of firearms by members of the National Police,

the existence of members of the National Police involved in criminal acts, arbitrary actions of members of the National Police, and many other cases that illustrate the lack of discipline of members of the National Police, making their own concerns for the community related to the implementation of the main tasks of the National Police, namely maintaining public security and order, order and law enforcement, the implementation of protection, protection, and services to the community, as well as the fostering of public peace by upholding human rights. Seeing from some of these conditions, it is necessary to deal with it by using the right strategy so that disciplinary law enforcement can run in a conducive atmosphere, smoothly without significant obstacles, which is able to become a means of control, prevention of deviant behavior and fostering disciplinary behavior of Polri members in order to create a good and clean government.

2 THEORETICAL FRAMEWORK

2.1 THEORY OF LEGAL EFFECTIVENESS

In general, the factor that affects the effectiveness of a law is the professional and optimal implementation of the role, authority, and function of law enforcers, both in explaining their duties and in enforcing the legislation. What is clear is that a person is waiting for the provisions of the legislation because of the fulfillment of an interest by the legislation.³

Legal effectiveness is an assessment of the extent to which legal rules succeed in achieving their objectives, namely regulating certain attitudes, actions, or behaviors in accordance with their objectives. To ensure that people comply with legal rules, sanctions are often applied, both in the form of negative and positive sanctions. These sanctions aim to provide incentives to prevent people from committing despicable acts and encourage commendable acts. However, the effectiveness of the law also depends on certain conditions that must be met, one of which is the ability to communicate the law to the public.

According to Soerjono Soekanto, the effectiveness of legal implementation is largely determined by the legality of the law. This means that whether the law was formed and implemented by people or bodies that really have authority, namely the power recognized by the community. Argues that legal effectiveness is related to the various answers needed to various questions. For example; factors that cause the effectiveness or

³ Achmad Ali (2012 : 379)

ineffectiveness of the law, is it true that the purpose of the law can be deflected so that it results in the ineffectiveness of the law, is it true that in certain circumstances the law creates new complications, how is the role of law enforcement new complications, what is the role of legal communication to make the enactment of the law effective.⁴

Often we know that in society, the laws that have been made are not effective. According to Syamsuddin Pasamai in his book Sociology and Sociology of Law, the issue of legal effectiveness has a close relationship with the issue of application, implementation and enforcement of law in society in order to create legal objectives. This means that the law really applies philosophically, juridically and sociologically.

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2.2 THEORY OF LAW ENFORCEMENT

In general, enforcement can be defined as all efforts and activities carried out by law enforcers, so that laws and statutory provisions are obeyed by every community in an effort to create security and public order.⁵

Black's Law Dictionary defines law enforcement as "the act of putting something such as a law into effect; the execution of a law; the carrying out of a mandate or command."⁶ Law enforcement has a very broad meaning covering preventive and repressive aspects, suitable for the conditions of Indonesia whose government elements actively participate in increasing public legal awareness. Conceptually, the core and meaning of law enforcement lies in the activity of harmonizing the relationship of values

⁴ Muhammad Kamal, Vol 5 No 1 (2022): Substantive Justice International Journal of Law, Prospects for the New Capital City Policy in Law and Economic Perspectives, p. 86-108, June 2022. ISSN.2599-0462.

⁵ Muhammad Kamal, Vol 5 No 1 (2022): Substantive Justice International Journal of Law, Prospects for the New Capital City Policy in Law and Economic Perspectives, p. 86-108, June 2022. ISSN.2599-0462.

⁶ (Kunarto, 1999 : 54).

that are spelled out in stable ¹³ rules and attitudes of action as a series of final stage value elaboration to create, maintain and maintain peaceful living relationships.⁷

According ¹⁰ to Koesnadi Hardjasoemantri, law enforcement does not always have to be carried out through the Court, but can be carried out through various channels with various sanctions, such as administrative sanctions, civil sanctions and criminal sanctions.⁸

Law enforcement is essential in the process of working law in people's lives. Law is a powerful instrument to realize order in the life of society. The essence of law is needed ¹³ to prevent the emergence of dangers that can unsettle people's lives, so that every member of society feels safe and secure because they get legal protection.⁹

According ¹ to Muladi, it can simply be said that law enforcement is an effort to enforce legal norms and rules as well as the values behind them.¹⁰ Law enforcement officials should really understand the legal spirit underlying the legal regulations that must be enforced, related to the various dynamics that occur in the law making process.

2.3 THEORY OF THE PURPOSE OF LAW

Law is universally present in societies, regulates their lives, and aims to ensure order and fulfillment of societal needs. There are various theories of the purpose of law that have been proposed by scholars, reflecting the values and principles underlying a country's legal system. These theories include: First, the ethical theory introduced by Aristotle, who considered that law aims to realize justice by granting each individual his rights according to the ethical beliefs of the society. Second, the utility theory which emphasizes that ¹ law aims to produce the maximum benefit for humans, achieving pleasure and happiness by paying attention to aspects of justice. Third, the mixed theory that tries to find a middle ground between ethics and utility, where the law aims to regulate order in society peacefully and fairly by maintaining a balance between individual and community interests. In its context, law also acts ¹ as a means of social control and change, with the aim of creating an orderly, peaceful, just society supported by legal certainty to protect the interests of individuals and society.

⁷ Henry Campbell (1999 : 578)

⁸ Hardjasoemantri (1992 : 95),

⁹ Wahyu Affandi, 1994 : 4)

¹⁰ Nurul Qamar, Farah Syah Rezah, Universitas Muslim Indonesia, The Dichotomy of Approach in the Study of Legal Science: A Critical Review, SIGn Jurnal Hukum, E-ISSN: 2685 – 8606 || P-ISSN: 2685 – 86, Volume 4 Issue 2: October 2022 – March 2023, <https://jurnal.penerbitsign.com/index.php/sjh/article/view/v4n2-3/91>

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2.4 RULE OF LAW THEORY

Plato was the first to introduce the term "rule of law," which was later developed by his student, Aristotle, in the 12th century, although the concept existed before them. The term "rule of law" is often used interchangeably with the concept of "rechtsstaat," and a rule of law is a translation of "rechtsstaat." In a rule of law, the government and all legal officials, including the President, judges, prosecutors, and legislative members, are bound by the law in carrying out their duties, both during and outside of working hours. Being bound by the law means upholding the law and making decisions in their official capacity in accordance with their conscience and in compliance with the law. Historically, the idea of the rule of law can be traced back to the writings of Plato, who introduced the concept of "Nomoi." In Nomoi, Plato argued that good governance is based on good laws. This idea was further reinforced by his student, Aristotle, in his work "Politica." According to Aristotle, a good state is one that is governed by a constitution and the rule of law. Indonesia is a country based on the rule of law, not the rule of power. Therefore, every person living in Indonesia must obey and adhere to the law, and no one is exempt from following the laws of Indonesia. The principle of the rule of law is encapsulated in the Bugis saying "Naia Adek Temmakeana Temmakkeappo," which means "the law does not recognize children or grandchildren." This reflects the idea that the law should be just and impartial, not discriminating based on lineage or ethnicity. Since the birth of the 1945

Constitution of the Republic of Indonesia (UUD NRI 1945) and after its amendments, Indonesia has been a country based on the rule of law, not the rule of power or absolutism. Therefore, anyone who holds power and governs in Indonesia must submit to and obey the law. Law should be the supreme commander over authority. Hence, anyone who becomes a leader and governs must act as an executor of the law because the law is the fundamental guide in governing. If the law is not upheld in the administration of government and those in power do not adhere to the law, it means that the essence of the rule of law loses its meaning. Such rulers are considered illegitimate because they do not fulfill the trust of governing in accordance with the principles of the rule of law. Recognition of a state as a rule of law (government by law) is crucial because state and political power are not unlimited (not absolute). There must be limitations on the authority and power of the state and politics to prevent abuse by those in power. In such a rule of law state, limitations on state and political power must be clearly defined and cannot be violated by anyone. This concept is known as "government by law, not by men" in countries with Common Law systems or "Rechtsstaat" in Continental European countries. The core principle in these concepts is the supremacy of the law (supremacy of law). In the modern era, the concept of the rule of law in Continental Europe was developed by philosophers such as Immanuel Kant, Paul Laband, Julius Stahl, and Fichte, using the German term "recht staat." In the Anglo-American tradition, the concept of the rule of law was developed with the leadership of A.V.

Historically, the history of the rule of law can be seen in a brief description in Ridwan HR59's book, that the idea of the rule of law was put forward by Plato, when he introduced the concept of Nomoi. In Nomoi, Plato argued that good state administration is based on good regulation (law). Plato's idea of the rule of law was even more emphatic when supported by his student, Aristotle, who wrote in his book Politica. According to Aristotle, a good state is one that is governed by a constitution and has the rule of law.

The provision on Indonesia as a state of law was previously contained in the general explanation of the 1945 Constitution, but after the amendment of the 1945 Constitution, the provision is now regulated in Article 1 paragraph (3) of the 1945 Constitution, which states. "The State of Indonesia is a state of law". In the general explanation of the 1945 Constitution of the Republic of Indonesia before the amendment, it was explicitly stated that the Indonesian state is based on law (rechts staat) not based

on mere power (*machtstaat*). Government based on the constitutional system (basic law) is not absolutism (unlimited power).¹¹

The principle of the rule of law from Nene' Mallomo "Naia Adek Temmakeana Temmakkeappo" (the law does not recognize children and grandchildren), In the context of legal issues, Nene' Mallomo has a principle namely "Ade Temmakkeana Temmakkeappo", which means that the law does not recognize children and grandchildren. This shows the justice and firmness of Nene' Mallomo, who was also one of the propagators of Islam in Sidrap.

Recognition of a state as a state of law (government by law) is very important, because state and political power is not unlimited (not absolute). Limitations on the authority and power of the state and politics are needed, to avoid arbitrariness on the part of the authorities. In the rule of law, the restrictions on state and political power must be clear, which cannot be violated by anyone. Thus, the concept of what in countries where Common Law applies is called the system of "government by law, not by men" (government by law, not by men). Or a system of government based on the rule of law, not the rule of men.

Whereas in Continental European countries the concept of "state of law" (*rechtstaat*) is known, as opposed to "state of power" (*machtstaat*). *Rechtsstaat* is a Dutch term that has a meaning that is parallel to the meaning of the rule of law in countries that apply the Anglo Saxon system. In Indonesian, it is often referred to as "state of law", or in German it is also called "*Rechtsstaat*", in French it is called "*Etat de Droit*" while in Italian it is called "*Stato di Diritto*". In this Continental European version of the concept of the rule of law, the principle of the supremacy of law is the main core.

Although this research does not specifically focus on the topic of "state of law," but since the concept of state of law is the basis for analyzing law enforcement, then in writing the article, we cannot ignore the role of state of law in the implementation of criminal law enforcement in Indonesia. This is because criminal law enforcement must be rooted in a concept that identifies the state as a state of law. Law enforcement is an effort to make the law function concretely as a guide to behavior in all aspects of the life of society and the state. The goal is to guarantee and ensure that the law is strongly

¹¹ Ilham Rasjid, Said Sampara, Nasrullah Arsyad, Efektivitas Peraturan Pemerintah Nomor 11 Tahun 2017 Tentang Manajemen Pegawai Negeri Sipil Terhadap Disiplin Pegawai Di Pemerintah Kota Palopo Journal of Lex Theory (JLT) Volume 1, Nomor 1, Juni 2020 P-ISSN: 2722-1229, E-ISSN: 2722-1288. <https://pasca-umi.ac.id/index.php/jlt/article/view/42/41>

enforced, and ¹if necessary, law enforcement officials have the authority to use physical force. In carrying out the duties of government and the state's function as a guide to society, the law must be enforced and act as a guardian of order, provide protection, and ensure justice and welfare for all members of society without exception.

⁹Pengakuan kepada suatu negara sebagai negara hukum (government by law) sangat penting, karena kekuasaan negara dan politik bukanlah tidak terbatas (tidak absolut). Perlu pembatasan-pembatasan terhadap kewenangan dan kekuasaan negara dan politik tersebut, untuk menghindari timbulnya kesewenang-wenangan dari pihak penguasa. Dalam negara hukum tersebut, pembatasan terhadap kekuasaan negara dan politik haruslah dilakukan dengan jelas, yang tidak dapat dilanggar oleh siapapun. Maka ⁵terkenallah konsep yang di negara-negara yang berlaku Common Law disebut sistem "pemerintahan berdasarkan hukum, bukan berdasarkan (kehendak) manusia" (government by law, not by men). Atau sistem pemerintahan yang berdasarkan rule of law, bukan rule of men.

Sedangkan di negara-negara Eropa Kontinental dikenal konsep "negara hukum" (rechtstaat), sebagai lawan dari "negara kekuasaan" (machstaat). Rechstaat ini adalah istilah Bahasa Belanda yang punya pengertian yang sejajar dengan pengertian rule of law di negara-negara yang belaku sistem Anglo Saxon. Dalam Bahasa Indonesia sering disebut sebagai "negara hukum", atau yang dalam Bahasa Jerman disebut juga dengan istilah "Rechtsstaat", dalam bahasa Perancis disebut dengan "Etat de Droit" sedangkan dalam bahasa Italia disebut dengan "Stato di Diritto". Dalam konsep negara hukum versi Eropa Kontinental ini, prinsip supremasi hukum (supremacy of law) merupakan inti utamanya.

3 DISCUSSION

3.1 THE NATURE OF THE PROVOS FUNCTION IN ENFORCING THE DISCIPLINE LAW OF THE INDONESIAN NATIONAL POLICE ³

The function of Provos is to maintain discipline and order within the Polri environment. The definition of Provos Polri is also explained in the National Police Chief ¹Regulation Number 2 of 2016 concerning the Settlement of Disciplinary Violations of Polri Members. In the regulation, it is stated that Provos Polri is part of the National Police whose duty is to assist the leadership in fostering and maintaining discipline and order in the lives of Polri members.

Credibility and commitment as law enforcers must be supported by good morals, human resource capabilities, and a high level of discipline. High discipline is expected to improve the performance of Polri members in carrying out their duties as community servants and security, in accordance with Law No. 2 of 2002 concerning the Indonesian National Police which emphasizes the importance of disciplinary regulations for Polri members to maintain unity, integrity, morale, and work spirit. Discipline at work is very important because it ensures that organizational rules and social norms are followed in earnest. Discipline is a person's awareness and obedience to the disciplinary regulations of members of the Indonesian National Police. Therefore, if members do not follow the rules set out in the organization, disciplinary action and disciplinary punishment may be taken as a last resort to address members who do not meet performance standards or are undisciplined.

Implicitly, Polri is the hope and role model for the nation, as its job is to maintain security and public order. However, the image of Polri as a hope and role model is not a predicate that is simply given to every Polri member. It requires great process, activity and sacrifice. Polri as the hope and example of the nation needs to be realized in the implementation of its duties, not just a symbol.

Discipline at work is very important because with this discipline it is expected that most of the rules are obeyed by members, work according to procedures and so on so that work is completed effectively and efficiently and can increase productivity. Discipline itself according to Hasibuan is a person's awareness and willingness to obey all organizational rules and social norms that apply.¹⁰⁷ Meanwhile, in Government Regulation of the Republic of Indonesia No. 2 of 2003 concerning Police discipline article 1, it is explained that "Discipline is a serious obedience and compliance with the disciplinary rules of members of the Indonesian National Police". Therefore, if members do not use the rules set out in the organization, then disciplinary action and disciplinary punishment are the last steps that can be taken against members whose performance is below standard or who are not disciplined.

Not entering service without permission is one form of violation that exists in the Pondok Cabe Tangerang Air Police environment. There are more than 50 violations recorded in a year, this is very contrary to the regulations governing police discipline related to not entering service without permission. Every Polri law enforcement personnel must be bound by rules or laws as a reference in acting. The rules that bind the Police

include Government Regulation of the Republic of Indonesia Number 2 of 2003 concerning Police Discipline Regulations. However, the many rules that bind the Police do not guarantee the growth of a professional spirit in some of its members, because there are still many violations of discipline by members of the police. A total of 522 cases of disciplinary violations have occurred throughout 2013, including absenteeism without permission or information. During September alone, 96 disciplinary hearings were conducted against 262 police officers.

Police discipline is an honor that shows credibility and commitment as a member of the National Police. The creation of disciplinary regulations for Polri members aims to improve and maintain credibility and firm commitment. The credibility and commitment of Polri members are as state officials who are given duties and authorities as protectors, protectors and servants of the community, as well as law enforcers and security maintainers. Commitment is different from loyalty, because loyalty tends to lead to absolute nature and leads to the tendency of leaders to abuse this loyalty (abuse of power). The implementation of discipline for Polri members is different from loyalty, because the implementation of discipline is different from loyalty. disciplinary rules are based on awareness rather than fear and are based on commitment rather than loyalty. Polri as an organization absolutely has internal rules in order to improve performance, professionalism, organizational culture and togetherness, honor and credibility of the organization. Disciplinary regulations are also intended to ensure the maintenance of order and the execution of tasks in accordance with the objectives, roles, functions, authorities and responsibilities of the Polri. As a strong organization, Polri must have rules of conduct for working, acting and associating among its members, as well as in associating with the surrounding community.

Police discipline is regulated by Government Regulation No. 3/2003 issued on January 1, 2003, the contents of which have been adjusted to the demands of the duties, authorities and responsibilities of Polri members as civilian police. In addition, the formulation of Polri discipline is adjusted to the context of legal and constitutional developments and the aspirations of the community in accordance with the demands of the times. Police officers will become civilian police officers and serve all people in society from various social strata and ranks in society. Every police officer must remember that there is no more indispensable qualification for a police officer than perfect control of anger or emotional state, not taking to heart any form of abuse,

including to the degree of abuse. any form of diatribe, including even the smallest degree of speech or threats that may be made to him.

Police figures are required to be no different in the implementation of their duties and functions according to the law as well as in everyday life. So there is no clear boundary between personal life and life in the performance of work on the part of Polri members. A police officer who is not on duty is still considered a police officer who must always be ready to provide protection to the community. Therefore, the disciplinary regulations for members of the National Police, in addition to regulating life in the performance of duties, also regulate the life of members of the National Police as individuals in social life.

Looking at the various cases of disciplinary violations that have occurred, Polri as a law enforcement agency, especially at Polri Headquarters, should pay special attention to actions aimed at improving the behavior of Polri members. This approach is not only in the form of corrective action by imposing sanctions on police officers who commit disciplinary violations, but also through preventive measures aimed at preventing violations of discipline. This prevention can be carried out through continuous, serious, and regular supervision and guidance of police personnel discipline in accordance with their fields. This will encourage increased discipline and morale, so that police officers are able to provide maximum service to the public.

Disciplinary regulations also contain sanctions imposed on Polri members if they violate prohibitions or regulations. The disciplinary regulations are intended to foster Polri members in a work environment that is full of conflict, tension and uncertainty, as well as to foster the new character and culture of Polri in accordance with the demands of reform as a civilian police force. The disciplinary regulations regulate the procedure for examination, the procedure for imposing disciplinary punishment, and the procedure for filing objections if the Polri member who is sentenced to disciplinary punishment objects to the punishment imposed on him/her. The purpose of imposing disciplinary punishment

The purpose of imposing disciplinary punishment is to correct and educate members of the Polri who commit disciplinary violations so that they change for the better.

Every superior who has the right to impose punishment (Ankum) is obliged to carefully examine the Polri members who commit disciplinary violations before

imposing punishment. The disciplinary punishment imposed must be commensurate with the violation of discipline committed so that it can be accepted by a sense of justice. In imposing disciplinary punishment, Ankum should consider the environmental and emotional atmosphere of the Polri member who violated the discipline and also consider the excessive and disproportionate use of authority, which has an impact on the credibility of the Police in general. The successful implementation of disciplinary regulations depends on the commitment of all Polri members to the establishment of discipline with an emphasis on the successful implementation of tasks in accordance with the mandate and expectations of the community.

3.2 EFFECTIVENESS OF PROVOS FUNCTION IN ENFORCING DISCIPLINE LAW ACCORDING TO GOVERNMENT REGULATION NUMBER 2 YEAR 2003

To find out the extent to which the effectiveness of the enforcement of police discipline can be seen from the results of field research by distributing questionnaires and interviews to Provos members as follows:

Table 1: Effectiveness of police discipline enforcement

No.	Statement	Frequency	Persentase %
1	Effective	31	60
2	less Effective	19	40
3	Not Effective	-	-
Amount		50	100

The effectiveness of the enforcement of police discipline in this study based on table 1 above shows that of the 50 members of the South Sulawesi Police, 31 people or 60% gave effective answers while 19 people or 40% gave less effective answers. In table 1 above, the results showed that there were 19 people or 40% who chose the answer less effectively so that in general until now there are still members of the Police at the South Sulawesi Police who feel that the enforcement of provost discipline has been running but there are some weaknesses in its enforcement, especially in sanctions.

As revealed by one of the Police Members in an interview on June 04, 2023 who said that in terms of enforcing discipline to all members of the South Sulawesi Police, we have carried out and imposed sanctions on members who commit violations, both disciplinary violations and serious violations that lead to criminal sanctions.

Efforts to enforce police discipline are needed to realize the implementation of the duties assigned and achieve police professionalism. It is very unlikely that law

enforcement can run well, if the law enforcers themselves (Polri) are undisciplined and unprofessional. Police indiscipline and unprofessionalism will have a huge impact in terms of law enforcement or disclosure of crimes that occur in the community. Polri figures are required to be no different in the implementation of their duties and functions according to the law and in everyday life. So there is no clear boundary between personal life and life in the implementation of work on Polri members. A police officer who is not on duty is still considered a police officer who must always be ready to provide protection to the community. Therefore, the disciplinary regulations for members of the National Police, in addition to regulating life in the performance of duties, also regulate the life of members of the National Police as individuals in social life. Police disciplinary regulations contain the main points of obligations and prohibitions and sanctions if the obligations of a member of the Police are not carried out or there is a violation of the prohibition. To find out whether the enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police, we can see from the results of field research by distributing questionnaires and questionnaires.

field research by distributing questionnaires and interviews to Provos members as follows:

Tabel 2: Enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members.

No.	Statement	Frequency	Persentase %
1	Implemented	29	51
2	has not been implemented	21	41
3	Not Implemented	-	-
Amount		50	100

Enforcement of police discipline has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members in this study based on table 2 above shows that of the 50 members of the South Sulawesi Police, 29 people or 59% gave answers that had been carried out while 21 people or 41% gave answers that had not been carried out.

In table 2 above, the results of this study indicate that the enforcement of the discipline of the South Sulawesi Police has been carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Police Members, but there are 21 people or 41% who gave answers have not been carried out

which in this case the provision of law enforcement sanctions is still there that has not been maximized in giving sanctions.

This is as revealed by one member of the Police in an interview on June 06, 2023 who said that in terms of enforcing the discipline of members of the Police at the South Sulawesi Police we have carried out in accordance with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the Police and we can see the results over the past year many members of the police at the South Sulawesi Police have been processed for violations.

The regulation of Polri discipline with Government Regulation No. 2 of 2003 concerning Disciplinary Regulations for Members of the National Police issued on January 1, 2003 as in article 22 which confirms that the Provos Polri is authorized to summon and examine, assist the leadership in fostering and enforcing discipline, and maintaining the orderly life of Polri members.

In addition, the formulation of Polri discipline is adjusted to the context of legal and constitutional developments and the aspirations of the community in accordance with the demands of the times. Police members will become civilian police and serve all people from various social strata and ranks in society. Every police officer should bear in mind that there is no more indispensable qualification for a police officer than perfect control of anger or emotion, not taking to heart any form of abuse, including in the least degree any remarks or threats that may be made to him.

In every member of the police force in achieving the goal always animates and colors the attitude, good behavior, so as to form an identity that is embodied in the conception of the police. The existence of police officers in the midst of society is very urgent and crucial, so that the community will make police officers as role models or role models in community behavior. Therefore, every member of the National Police is obliged to comply with the provisions regarding obligations, prohibitions and sanctions stipulated in the disciplinary regulations.

4 CONCLUSION

The essence of the provost function in enforcing the disciplinary law of the Indonesian National Police is an effort made using a scientific approach to find the truth regarding the application of the norms stipulated in Government Regulation No. 2 of 2003.

However, the effectiveness of the provost function in enforcing disciplinary law in accordance with Government Regulation No. 2 of 2003 is sometimes less effective. This is due to complicated disciplinary law enforcement procedures, including having to ask Ansum for permission, which can hinder the law enforcement process.

Several factors affecting the effectiveness of the provost function in enforcing police disciplinary law include the substance of the underlying law, the existing legal structure, the availability of adequate facilities, the organizational culture that supports or hinders, and the participation of the police officers themselves in carrying out the provost function. ¹⁵ In order to improve the effectiveness of the provost function, it is necessary to evaluate and improve the complicated disciplinary law enforcement procedures. In addition, other factors such as organizational culture and police officers' understanding of the importance of disciplinary law also need to be considered and improved. Thus, disciplinary law enforcement in the Police can run more effectively in accordance with applicable regulations.

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