

Procedures for the Control and Use of Firearms for Members of the Police of the Republic of Indonesia

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The police institution serves as the spearhead in realizing the nation's ideals of justice, civility, and peace. This is regulated by Law No. 2 of 2003 concerning the police, where the police institution is one of the government's functions in maintaining security, public order, law enforcement, protection, guidance, and services to the community. To support these functions and duties, police officers are granted the authority to use firearms to achieve the nation's goals. In using firearms, the police institution must comply with applicable regulations and prioritize human rights (HR). This research aims to understand the system of granting possession and use of firearms permits for Indonesian police officers. This study employs normative legal research methods, which focus on the provisions of laws and regulations and their application in legal events. The sources of legal materials used consist of literature and field research. Literature includes legal materials obtained from reading literature and official sources in legal research, while field research is obtained by conducting interviews with informants.

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1. INTRODUCTION

One of the law enforcement bodies/institutions that has attracted a lot of controversy regarding its existence during its development and growth so far is the police agency. The functions and duties of the police as regulated in law number 2 of 2022 concerning the National Police of the Republic of Indonesia, include maintaining security and public order, law enforcement, protection, service and guidance to the community by upholding human rights.(Dudy & Ashady, 2024). Discussions regarding the function and role of the National Police of the Republic of Indonesia have always been a topic from time to time among various groups, from practitioners, academics and even the public, trying to criticize and study the problems faced by police officers. This is based on the love of various parties for the National Police of the Republic of Indonesia and high hopes that their function as law enforcement officers can run as it should.

In carrying out its duties and functions, the National Police must behave professionally. If the Police do not heed their professional attitude as law enforcers, it is undeniable that there will be legal imbalances in the process of seeking justice(Raharjo et al., 2011). As a result, security and order in society will continue to be threatened. The principle of professionalism that should be developed by police officers is to ensure that the police do not become human rights violators, but are at the forefront in fighting for human rights. This principle is very important to determine the effectiveness of police institutions, with positive impacts that can be immediately measured and felt, such as increasing trust and cooperative attitudes of the community, peaceful resolution of conflicts, and the success of the judicial process in court.(Hidayat et al., 2022).

The dynamics of society are changing rapidly, accompanied by social, cultural and technological changes, while on the other hand the development of crime rates is also increasingly complex. This requires the role of the police to address various problems of crime and violations that occur in society so that they can be resolved more effectively. Law enforcement officers should have the ability to be a mirror of changes in social morality. In this way, the presence of police officers can realize the three legal objectives in a balanced manner, namely justice, usefulness and legal certainty (Julyano, et al., 2019).

According to Aristotle, humans are "zoon politicon", namely social creatures whose lives always want to gather with each other (Faisal Salam, 2006). Humans as social creatures certainly have relationships with each other, either between groups or between communities, in order to fulfill the needs of human life and civilization. This interaction does not rule out the possibility of creating a gap, where this gap will foster crime. In order to prevent criminal acts from occurring, four social dimensions are needed, consisting of social order, social system, social control and social institutions, in order to maintain relations smoothly and regularly in an atmosphere of sustainable order.

Police officers are an important pillar in maintaining security and order. Security and order according to Brotodirejo is a condition that is free from damage or destruction that threatens the whole or the individual and provides a sense of freedom from fear and worry, so that there is certainty and a sense of certainty from the guarantee of all interests or a condition that is free from violations of legal norms. (Sadjino, 2010). In providing order and a sense of security, police officers often put themselves in danger, therefore, to support their duties and protect themselves and others, police officers are given the authority to use firearms.

A firearm is defined as any device, whether installed or not, operable or incomplete, designed or modified, or which can be easily altered to discharge projectiles due to the development of gases resulting from the ignition of combustible materials within such equipment, and including additional equipment designed or intended to be installed on such equipment (Nurdianto, 2019).

The use of firearms requires supervision by the state regulated by the police. According to Maringan, supervision is a process where leaders want to know the results of the work carried out by subordinates in accordance with predetermined plans, orders, goals and policies (Nuridanto, 2019).

In terms of using firearms, police officers have their own restrictions and regulations so that a police officer does not use his authority carelessly. Perkap Number 1 of 2009 concerning the Purpose of the Use of Force in Police Actions states in Article 2 that the purpose of the use of force in police actions is to prevent, inhibit or stop the actions of criminals or suspects who are attempting or are carrying out actions that are contrary to the law; prevent criminals or suspects from fleeing or committing acts that endanger POLRI members or the public; protect yourself or the public from the threat of actions by criminals or suspects that could cause serious or fatal injuries; or protecting the honor, morality or property of oneself or society from attacks that violate rights and/or threaten human life (Manuhutu et al., 2023).

Considering that firearms are dangerous tools, authorization for their control and use must be issued with standard procedures and certain conditions. This means that not all police officers can be said to be qualified to control and use firearms. These requirements and procedures are a reflection of the police institution's principle of caution so as not to make mistakes when using firearms, because if an error occurs relating to someone's safety it will give rise to public stigma which tends to weaken the authority of the police and diminish trust in the police apparatus. The public always assumes that the police institution is an institution that prioritizes discipline and professionalism so that every behavior and attitude carried out by police officers in uniform is considered to be the result of education obtained through training that prioritizes discipline and professionalism. From the background description above, this research aims to determine the legal basis for granting permits to control and use firearms as well as procedures for granting permits and use of firearms for Indonesian police officers.

2. RESEARCH METHOD

This research uses normative legal research methods, namely research whose object is the study propped up by law as a building system of norms. The norm system in question is about principles, norms, rules of statutory regulations, court decisions, agreements and doctrines/teachings (Fajar, 2010). The approaches used are the statutory approach, the conceptual approach. The statutory approach is used as a research study in analyzing relevant legal products, while the conceptual approach is used to study legal concepts, such as legal sources, legal functions and legal institutions (Nasution, 2008).

Sources of legal materials used consist of literature and the field. Literature is legal material obtained by reading literature and official sources in legal research, while the field is obtained by conducting interviews with informants.

3. RESEARCH RESULTS AND DISCUSSION

Police officers must follow strict rules when using firearms, so they cannot be careless. Firearms are dangerous tools, therefore, the authority to use them and mastery must be given according to certain procedures and conditions. The system for granting permits to control and use firearms for police officers in Indonesia is regulated in several regulations.

3.1. Legal Basis for Control and Use of Firearms

According to article 30 paragraph (4) of the 1945 Constitution The National Police of the Republic of Indonesia as a state tool for maintaining security and public order is tasked with protecting, protecting, serving the community and enforcing the law, as the duties of the police as regulated in Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, which include maintaining public security and order, enforcing the law and provide protection, protection and service to the community. As protectors and guardians of society, firearms are a necessity for police officers to carry out their duties and functions. In carrying out these duties and functions, police officers who use firearms have a big responsibility because every impact resulting from these firearms can affect the image of the police institution. Therefore, to hold a firearm, a police officer must undergo a long procedure so that the firearm can be held and used professionally.

Regulation of the Head of the National Police of the Republic of Indonesia Number 1 of 2009 concerning the use of force in police actions aims to provide guidelines for members of the National Police in carrying out police actions that require the use of force, so as to avoid excessive or irresponsible use of force. Article 1 paragraph (3) of the Regulation of the Chief of the National Police of the Republic of Indonesia Number 1 of 2009 defines the use of force as any use/deployment of the potential or ability of members of the National Police into carry out police actions. In article 5 paragraph (1) police actions consist of:

- a) A force that has a deterrent or preventive effect
- b) Carrying out verbal commands
- c) Performs soft empty hand control
- d) Exercising hard empty hand control
- e) Performs control of blunt weapons
- f) Exercising control using weapons

Apart from the regulations above, there are other regulations that regulate the ownership and use of firearms, namely; Law Number 20 of 1960 concerning Licensing Authority Granted Under the Firearms Law. These are licensing provisions regarding firearms, explosive drugs, missiles and so on. The Minister/Head of the State Police or an official authorized to do so to issue and/or reject a permit application, except for military service purposes which are managed by each military department itself then Government Regulation Number 56 of 1996 concerning

Service Firearms of the Directorate General Customs and Excises. It is a regulation regarding the Director General's official battery weapons and was also formed to support the implementation of the duties and functions within his authority to safeguard the rights of the state and comply with provisions in the field of customs and excise. Bearing in mind that law enforcement duties and the use of patrol vessels may face dangers that threaten life or safety, taking into account the applicable provisions.

3.2.Procedure for Granting Firearms Ownership Permits for POLRI Members

POLRI members who hold firearms must go through strict selection, according to the results of an interview with Mr. Suwanto as KABID PROPAM NTB POLDA on April 14 2011. To hold a firearm (SENPI) police members must go through several stages, namely:

- a) Health test, in this health test the police officer will be assessed from a physical and psychological perspective from the eyes to the heart to the feet.
- b) Shooting ability test (certified), in this test police officers will be tested for their proficiency in using firearms, because firearms are dangerous tools, it is necessary to provide good weapons for weapon holders.
- c) Psychological tests, these tests are given to support the use of firearms for police officers and measure the thinking intelligence and emotional level of police officers who hold firearms, because the use of firearms is only carried out in emergencies and requires quick and precise thinking in using them. However, a psychological test is not a guarantee for a police officer to be fit to hold or use a firearm because during the psychological test process he may be said to be fit to use one, but this condition can change while in the field.
- d) Permission from the head of the work unit (kasatker)/superior who has the right to punish (ANKUM), the police officer asks permission from Ankum and Ankum will make a request to the Regional Police Chief, to be given an inventory of these weapons, Ankum must go through 3 supervisors as a filter, whether the member is entitled or not The police were given a weapons inventory, namely:
 - 1) Bureau of Human Resources. The human resources bureau considers by looking at the police officers' field work whether the police officers need firearms to carry out their duties
 - 2) The Regional Supervisory Inspectorate (IRWASDA), is looking at whether the firearms given to police officers can support their duties in the field as guards and maintaining security in the community.
 - 3) Head of professional and security division (KABID PROPAM). When granting a permit to hold a firearm, the police officer's behavioral record is assessed, whether he or she has ever committed a criminal act or other mistake and this applies retroactively. Propam is the final filter in applications for granting firearms permits to POLRI members.
- e) Facilities and Infrastructure Bureau (SARPRAS Bureau). After obtaining permission, the facilities and infrastructure bureau will make it happen to Ankum, then Ankum will ask the Regional Police Chief to issue a weapon holder card.

POLRI members who hold handheld weapons are required to take a psychologist's test to renew their permit to hold weapons every 6 (six) months. Meanwhile, members of the National Police who hold long-barreled weapons and snipers are required to take a psychologist's test to renew their permit to hold weapons once every 1 (one) year.

Having a firearms permit card for members of the National Police is mandatory. as stated in article 1 paragraph (1) of emergency law number 12 of 1951 concerning Amending the "Ordonnantie Tijdelijke Bijzondere Strafbepalingen" (stbl. 1948 NO.17) and LAW OF THE PRIOR RI NR 8 OF 1948 that every member of the POLRI has the

right possessing a firearm is a member of the POLRI who has the right to own a firearm or a member of the POLRI who already has or has obtained a permit to own a firearm.

3.3.Procedures for Using Firearms for Police Members

When using firearms, police officers must maintain and uphold ethics, where the use of firearms is carried out to control emergency criminal acts. However, because police officers are ordinary people, errors or mistakes can occur excessively so that they cannot be accounted for and can damage the reputation of the institution, therefore there is a need for control and procedures in their use.

The principles of the use of force with firearms by the Police are basically included in the UN basic principles on the use of force and firearms by law enforcement officers and were adopted from the 8th UN Congress on the protection of crime and the treatment of lawbreakers in Havana Cuba. In the police human rights manual, the UN basic principles regarding the use of violence and firearms by law enforcers are: (a) Non-violent methods must be attempted first, (b) violence should only be used when absolutely necessary, (c) Violence is only used for legitimate law enforcement purposes, (d) There are no exceptions for any reason that is permitted to use violence that is not based on law. (e) The use of force must always be proportional to the objective, (f) There must be limitations in the use of force, (g) Damage and injuries must be reduced, (h) There must be various types of tools used in the use of violence, (i)) All officers must be trained in the use of a variety of equipment used in various uses of force, and (j) All officers must be trained in the use of non-violent methods.

The UN basic principles regarding the use of violence and firearms by law enforcement officers, are contained in Article 45 of the Regulation of the Chief of the Indonesian National Police Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in carrying out the Duties of the Indonesian National Police, namely: "Every POLRI officer in taking action using force/harsh action must consider the following:

- a. Non-violent actions and methods must be attempted first
- b. Strong measures are only implemented when absolutely necessary
- c. Harsh measures are only implemented for legitimate law enforcement purposes
- d. There are no exceptions or reasons for the use of unlawful force
- e. The use of force and the application of harsh measures must be carried out in proportion to the objectives and in accordance with
- f. The use of weapons or tools in implementing harsh measures must be balanced with the threat being faced
- g. There must be restrictions on the use of weapons or tools in the application of collar measures, and
- h. damage and injuries resulting from the use of force must be minimal.

In article 47 paragraph (2) of the Regulation of the Chief of the Indonesian National Police Number 8 of 2009 concerning the implementation of Human Rights Principles and Standards in Carrying out the Duties of the Indonesian National Police, firearms for the National Police of the Republic of Indonesia may only be used in the face of extraordinary circumstances, to defend themselves. from the threat of death and/or serious injury. Defending other people from the threat of death and/or serious injury. Preventing serious crimes from occurring or threatening people's lives. Detaining or preventing or stopping someone who is or will commit an act that is very life-threatening and Handling life-threatening situations where softer measures are not enough.

To be able to use these firearms, a police officer must be guided by the principles and procedures for using firearms. Regulation of the Chief of the National Police of the Republic of Indonesia Number 1 of 2009 concerning the use of force in police actions regulates several principles for the use of force in police actions including: (1) The Principle of Legality, which means that all human rights police actions are in accordance with applicable law. (2) The principle

of necessity, which means that the use of force can be carried out if it is necessary and cannot be avoided based on the situation at hand. (3) The principle of proportionality, which means that the use of force must be carried out in a balanced manner between the threat faced and the level of force or response of POLRI members so that it does not cause excessive loss or suffering to victims. (4) The principle of general obligation, which means that POLRI members are given the authority to act or not act according to their own judgment to maintain order and guarantee public safety. (5) Preventive Principle, which means that police actions prioritize prevention. (6) Reasonable, which means that police action is taken by logically considering the situation and conditions of the criminal's threats or resistance to officers or the danger to the community.

The stages of use of violence and firearms by law enforcement officers according to the UN basic principles contained in the human rights guidebook for POLRI members are divided into 6 stages, namely:

- a. Police presence, the presence of police in uniform is considered a crime prevention measure.
- b. Negotiation, a police officer must be able to communicate his intentions effectively and be aware of his interests, the ability to listen to what the person being served has to say. communication can be an effective level of violence so the language and tone used is important because it reflects the seriousness of the intervention and the level of education of the police. The use of non-violent methods includes negotiation, mediation and conflict resolution.
- c. The use of bare hands requires police officers to be physically fit so they are able to stop suspects or intervene in risky situations
- d. Use of paralyzing techniques. includes the use of batons commonly used by police or other methods of shield batons and others that are most appropriate to the circumstances. they should only be used when non-violent techniques have proven ineffective in the situation taking into account the principles of our Messa legality and proportion.
- e. The use of chemicals, namely tear gas, smoke bombs and the like can be used if the situation is anarchic or brutal and uncontrolled while still considering the basic principles of law enforcement.
- f. The use of deadly force, firearms or other equipment can be used only to protect human life, including the lives of victims of citizens or police spectators as well as law violators or criminals themselves. When using a firearm the police must, Declare his identity, State his intentions clearly when it comes to the use of the firearm and Allow sufficient time for warnings to be heeded unless it is clear that the circumstances compel him to take other action.

Meanwhile, the procedure for using firearms according to the Regulation of the Chief of the Indonesian National Police Number 1 of 2009 concerning the use of force in police actions, article 5, the use of force in police actions, consists of 6 stages, namely; The first stage is the use of force that has a deterrent or preventive effect; The second stage is that the police officer must give verbal orders; The third stage is the application of soft empty hand control; The fourth stage uses hard empty hand control; The fifth stage is to control the use of blunt weapons, chemical weapons including tear gas, chili spray or other tools according to POLRI standards; The sixth stage is control by using firearms or other tools that stop the actions or behavior of criminals or suspects that could cause serious injury or death to POLRI members or members of the public.

In detail the procedures for using firearms for police officers are contained in the Human Rights Handbook for POLRI Members, namely, (a) Officers must identify themselves as members of the police; The officer must give a clear warning, (b) The officer must allow sufficient time for the levels to be complied with, (c) This does not need to be done if delaying the time will result in death or serious injury to the officer or another person or if it is clearly impossible postponed in that situation. Then, in the case of police action after using a firearm,

they are obliged to provide medical assistance to every injured person (victim and attacker who requires medical treatment), notify the victim's family or relatives as a result of the use of a firearm, an investigation must be permitted if requested or necessary, guard the place incident for further investigation and make a detailed and complete report regarding the use of firearms.

4. CONCLUSION

That members of the Indonesian National Police have the right to control and use firearms to support the need to realize their duties in maintaining order and security professionally. The control and use of firearms by police officers is regulated in several laws and regulations in force in the Republic of Indonesia, namely, (a). Law number 12 of 1951 concerning weapons, (b) Law number 20 of 1960 concerning licensing authority granted according to the firearms law. (c). National Police Chief Regulation Number 1 of 2009 concerning the use of force in police actions.

Police officers who are permitted to use firearms must meet health requirements, shooting skills (certified), psychological tests, and obtain permission from superiors through a strict selection process. The basic principles emphasize that the use of firearms is a last resort, meaning it should only be used if absolutely necessary and must be proportionate to the threat faced. Police are expected to always look for non-violent methods first and maintain ethics in the use of firearms.

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