



Abuse of Firearms Performance by Law Enforcement of the Indonesian Police in the Ferdy Sambo's Case

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Abstract

Ownership and use of firearms by the general public or civilian, cannot be separated from several factors, particularly the security factor. For some people, possession of firearms is used to protect themselves, and for others, it may be used to commit crimes, including in the case of Ferdy Sambo. One of Ferdy Sambo's men who was also the shooting suspect, namely Bharada E, was considered to have possessed a weapon in a way that was not according to procedure, based on testimony at trial by one of the members who handled permits for weapons ownership, the complete documents from Bharada E and also the victim Brigadier J were incomplete, both of them have not taken a psychological test, an introduction to the work unit, and a doctor's certificate. Qualifications of Indonesian Police Number 12, 1951 About Changing "Ordonantietijdelijke Bijzondere Strafbepalingen" (Stblt. 1948 Number 17) and Old Indonesian Law Number 8, 1948. Criminal liability for perpetrators of possession of firearms without a permit according to Indonesian Law Emergency, 1951 about changing "Ordonanantietdelijke Bijzondere Strafbepalingen" (stblt. 1948 Number 17) and Indonesian Law Number 8, 1948 clearly set on Article 1 Whoever, without the right to enter Indonesia, makes, receives, tries, obtains, surrenders or tries to surrender, controls, carries, has in his possession, stores, transports, hides, uses, or takes out from Indonesia firearms, ammunition or anything explosives, is punishable by death penalty or life imprisonment or a maximum term of twenty years' imprisonment.

Keywords: *Abuse; Firearms; Law Enforcer*

Introduction

The success of carrying out the duties of the Indonesian National Police in maintaining public order and security, enforcing the law, and protecting, nurturing and serving the community, in addition to being determined by the high quality of police knowledge and technical skills, is largely determined by the commendable behavior of every member of the Indonesian National Police in the community. In order

to realize these personality traits, every member of the Indonesian National Police in carrying out their duties and authorities is always called upon to live up to and animate the police professional ethics which is reflected in their attitude and behavior, so as to avoid disgraceful acts and abuse of authority. (Suyono, 2013).

Every member of the police as a law enforcement apparatus is required to have determination and enthusiasm in accordance with the ideals, goals, vision and mission of the police profession, therefore all of their actions must be in the same direction and in line with the goals, vision and mission of the institution. Police officers must also have awareness of their professional obligations. Professionalism is a quality and behavior which is a quality characteristic of a professional person. Police professionalism is the attitude, way of thinking, actions and behavior, the implementation of policing is based on police science, devoted to humanity or protecting human dignity as the nation's main asset in the form of maintaining security, order and upholding the law.

To avoid disgraceful acts and abuse of authority, the Police, in carrying out its roles and functions, has member discipline and an organizational structure and work procedures adapted to the interests of carrying out its duties and authorities in order to realize the successful implementation of the Police's own duties. This is regulated in a Government Regulation Number 2, 2003 regarding Disciplinary Regulations for Members of the Police, as well as Presidential Decree No 70, 2002 concerning the Organization and Working Procedures of the Police (Undang-Undang Nomor 2 Tahun 2002 Tentang Kepolisian Republik Indonesia, 2002).

The member's disciplinary regulations contain obligations, prohibitions, sanctions, and settlement of disciplinary violations committed by the police officers themselves. In the disciplinary regulations for members of the police there are officials authorized to impose disciplinary action. These officials are direct superiors, indirect superiors, and members of the provost of the police themselves. Along with the development of the times, problems in people's lives are increasingly complex, especially regarding acts against the law, especially those carried out by the police officers themselves. One of the unlawful acts arising from the use of firearms is the negligence of members of the police which results in wrong shots.

The use of firearms was originally intended for the TNI and Indonesian Police. The use of firearms by the Police is part of the duty to protect citizens from a legal perspective. Weapons are used in forced circumstances that threaten the safety of others. Firearms are paralyzing, not killing, therefore police firearms are aimed at targets in the sense that they are only directed at certain people as legal subjects (Maf'ula, 2020).

The use of firearms in the TNI is directed at enemies coming from other countries, whose essence is to balance forces for defense. Meanwhile, the firearms at the National Police are directed into the territory of the country where the targets are citizens as legal subjects, or other people who are not Indonesian citizens, but are legally present in Indonesian territory and therefore must be protected by Indonesian law. Weapons intended for the National Police, which were originally prepared for law enforcement, are used for security purposes, but firearms are only used to stop acts of violence that threaten the lives of citizens, and are a last resort, because police methods that are more lenient do not bring results.

A weapon is a tool used to injure, kill or destroy an object. Weapons can be used to attack as well as to defend oneself, as well as to threaten and protect. Anything that can be used to damage (even psychology and the human body) can be considered a weapon. Weapons can be as simple as a club or as complex as a ballistic missile. Firearms are weapons that release one or more projectiles propelled at high velocity by gases produced by the combustion of a propellant (Wartono, 2020).

According to emergency Law No. 12, 1951 State Gazette of Firearms 1951 No. 78, State Gazette Supplement No. 169, The definition of firearms and ammunition includes all goods as explained in article 1 (1) of the Firearms Regulations (*vuurwapenregeling: in, uit, door, voer en lossing*) 1936 (Stbl. 1937 No. 170), which has been modified with *Ordonnantie* on May, 30th 1939 (Stbl. No.278), tetapi tidak termasuk dalam pengertian itu senjata-senjata yang nyata-nyata has a purpose as an ancient item or a magical item (*merkwaardigheid*), nor is it a weapon that remains unusable or made in such a way that it cannot be used (Sumarlan et al., 2019).

The misuse of firearms that has been carried out by members of the Police in the field is very troubling to the community because the community is a direct victim of the misuse of firearms. The National Police is an institution that is a hope and role model for the country because in its duties the National Police has the role of maintaining security and order in society. the function of supervision, guidance and law enforcement authority carried out by the Professional and Security Division of the Indonesian National Police against the misuse of firearms by members of the Indonesian National Police in the process must follow the mechanisms and rules that apply in accordance with their duties and functions. The most dominant inhibiting factor is facilities and infrastructure for bidpropam members to enforce law within the Indonesian Police institution, which are felt to be insufficient to support the effectiveness of law enforcement within the Indonesian Police environment. (Setiawan, 2018).

The rampant ownership of illegal firearms by civil society is quite troubling for the community. This is because it is not impossible that such ownership will be misused for things that are against the law, such as threatening, frightening and even using it to commit crimes. Raids on the circulation of illegal firearms, including homemade firearms, have been carried out by law enforcement officials. The ownership and use of firearms by the general public or civilians cannot be separated from several factors, particularly the security factor. For some people, possession of firearms is used to protect themselves, and for some others, it may be used to carry out their crimes.

The Central Jakarta Resort Police arrested two men, Andika alias Daeng and Iwan Darmawan alias Iwan, who were found to possess an airsoft gun without a permit in the Gambir area, Central Jakarta, Saturday night, August 5th 2017. One of them (Daeng) was found has a revolver type airsoft gun and some buckshot bullets. Based on the interim investigation, Daeng has committed crimes with the airsoft gun twice in July 2017 in Palmerah, West Jakarta. He managed to get a cell phone and two motorbikes from his actions. The proceeds of his crimes in the form of his cell phone were sold for 50,000 rupiahs, while motorbikes were sold for 1 million rupiahs, while Iwan, who was still underage, was sent back to his family (Syahputra, 2019).

In order to anticipate the misuse of firearms and prevent the circulation of illegal firearms, several supporting regulations were made, including laws No. 12/Drt/ 1951 about Changing "*Ordonantie Tijdelijke Bijzondere Strafbepalingen dan*" Law No. 8, 1948 to control the circulation of illegal firearms, Decree of the Chief of Police No.Pol.: Skep/82/II/2004 concerning the manual for the implementation of supervision and control of non-organic TNI/Indonesian Police weapons. These regulations, among other things, contain procedures for civilians outside the TNI / Indonesian Police to be able to own firearms, besides that they also regulate the limitations of a firearm owner in using their firearm.

Inspector General of Police Ferdy Sambo allegedly ordered his men to shoot Brigadier J which left him dead. He also allegedly shot at the wall many times to obscure the facts so that it appeared as if there was a shootout at his house. Regarding the misuse of firearms, Ferdy Sambo's actions in the incident contradicted his statement when he was Head of the Propam Indonesian Police division. On one occasion, Inspector General of Police Ferdy Sambo once reminded members of the Police not to misuse firearms.

To prevent the misuse of guns, said Sambo, the submission of weapons by members must be tightened, including through psychological or psychiatric tests.

Members who carry firearms must also be monitored and checked periodically regarding their mental condition. This is to anticipate when they experience changes in mental condition due to family problems or with their environment. Routine checks regarding gun borrowing permits must also be carried out by each unit leader to its members. Members also have an increased understanding and competency regarding the use of firearms. All members who use that power must understand very well the principle of its use. There shall be no unlawful use of firearms. He said he would not hesitate to take firm action against members who misuse firearms.

Friction between one another's interests is often prone to causing conflict, things like those that lead to crimes and deviations in social life, including the misuse of firearms. Members of the police themselves actually have to undergo several tests before they can hold their own weapons, let alone something like that, in the series of acceptance tests for members of the Indonesian National Police, each candidate member takes several series of tests, be they physical, psychological and spiritual tests. as well as psychological tests. In terms of holding weapons for official purposes, as well as for security purposes, there are actually tests to see or measure the emotional and intelligence levels of members. This series of test activities also aims to see the character of the members and how they are responsible for the weapons they will use or borrow. from headquarters.

The author will try to highlight a number of incidents involving the use of firearms, both of which were carried out by civil society, or especially by unscrupulous members of the police, this is important as a reflection and benchmark on how to further use firearms in Indonesia, whether laws the existing laws are not strong enough, or the existence of related laws and regulations is ignored by the perpetrators, because often it is human error that is the factor in the occurrence of criminal acts.

Apart from the case of Ferdy Sambo which the author has alluded to in the previous section, there were several other violations related to the misuse of weapons which resulted in fatalities, ironically this case occurred between members of the police, the term circulating in society is "police shooting police" just like the previous Ferdy Sambo case that occurs between members. Last 2019, a member named Rahmat Efendy who held the rank of Bripka, conducted a patrol and arrested one of the perpetrators of a brawl, after carrying out the interrogation process at the Cimanggis Police it was found that the perpetrator was a family member of the National Police named Brigadier Rangga Tianto, not long after Brigadier Rangga went to the Sector Police with the intention of asking that the perpetrators not be punished or taken further action, but Bripka Rahmat Efendy ignored this.

The discussion did not reach a middle ground, and the tension that started to rise made Brigadier Rangga get emotional and he drew the weapon he had, no less than seven shots landed on Bripka Rahmat Efendy's body which made him fall down and died instantly, for his crazy actions, Brigadier Rangga Tianto immediately brought to Polda Metro Jaya for further processing.

By looking at what has been explained above, the author provides the formulation that there is a need for an in-depth study related to the misuse of firearms which makes the special rights carried out by the Indonesian National Police in the case of Ferdy Sambo.

Research Method

The research used in this research process uses a type of normative legal research (Soekanto & Mamudji, 2015). By using library materials or secondary materials that have been collected. Legal research is also a process to determine legal rules, legal principles, and legal doctrines in order to answer the legal issues faced.

Result and Discussion

The author is a little backwards on the Ferdy Sambo case, which until the time this writing was written is still in the court process, in this case one of Ferdy Sambo's men who was also the shooting suspect, namely Bharada E, was considered to have possessed a weapon in a way that was not according to procedure, based on testimony at trial by one of the members who handles permits to own weapons, the complete documents from Bharada E and also the victim Brigadier J are incomplete, both of them have not taken a psychological test, an introduction to the work unit, and a doctor's certificate.

The reduction in the license for weapons for the two of them was none other than an order from Ferdy Sambo, this was of course an act of abuse of authority by Ferdy Sambo, and also violated procedures. In this regard, Law number 1 of 2022 stipulates sanctions against gun holders, namely revocation of permits and warehousing (taken/confiscated) by the Regional Police, and if necessary investigations and investigations can be carried out in accordance with the provisions of the applicable law.

Members of the police force using firearms cannot be separated from acts against the law. These unlawful acts can be classified as criminal acts and disciplinary violations. Criminal acts committed by members of the police related to firearms can be in the form of shooting fellow colleagues, shooting civilians. The criminal act committed by a member of the police is the judicial process carried out in a general court according to the applicable criminal procedure law. In the context of examining members of the police for investigations carried out by police officers with regard to rank as stipulated in Article 5 Government Regulation Number 3 of 2003 concerning Implementation of General Court Institutional Techniques for Members of the State Gazette Police 2003 No. 3, those are (Ke et al., 2019):

- a) Enlisted persons are examined by members of the police with the lowest rank of Non-commissioned Officer;
- b) Non-commissioned Officers are examined by members of the police with the lowest rank of non-commissioned officer;
- c) The first officer is examined by a member of the police with the lowest rank of non-commissioned officer;
- d) Intermediate Officers are examined by members of the police with the lowest rank First Officer;
- e) Senior Officers are examined by members of the police with the lowest possible rank Middle Officers.

The investigation was carried out by the Criminal Investigation unit to investigate general criminal acts. While the prosecution of accused members of the police in the general court environment is carried out by the Public Prosecutor in accordance with the applicable laws and regulations. In Article 12 of Government Regulation Number 3 of 2003 concerning Technical Implementation of General Judicial Institutions for Members of the Police, State Gazette of 2003 Number 3: Examination before a court session is carried out by a General Court Judge in accordance with the procedural law and applicable laws and regulations.

Disciplinary violations committed by members of the police relating to firearms in the form of negligence by members of the police causing wrong shots, negligence by members causing missing firearms and/or bullets, lending firearms and bullets to other people (Rafidah Dahari et al., 2019). The disciplinary violations committed by members of the police were resolved in a disciplinary hearing by members of the police which was held on orders from Ankum. Investigation and examination of cases of disciplinary violations by members of the police are carried out by the Provos function unit. Based on Article 16 (1) Government Regulation No. 2 of 2003 regarding Disciplinary Regulations for Police Members, Officials authorized to impose disciplinary punishment are Ankum, and/or Ankum's Superiors.

The most basic thing about owning firearms is a permit, because this is related to various factors. Before getting a permit, there are a series of documents and tests that must be completed by every citizen, especially in this case a member of the police. Based on what is regulated by UU No.8/1948 At that time, the regulation of firearms only went as far as registration. All firearms in circulation had to be registered no later than 30 days after this law was enacted.

If the law orders the registration of firearms in circulation, then a number of regulations are issued through the National Police regulations and the Indonesian National Police regulations, even though it takes a very long time, at least this gives a sign of change. three (3) regulations, all of which explain the permits and requirements for weapons ownership, as follows:

- a) Possession of weapons for self-defense, this regulation refers to civil society who wish to hold non-organic firearms, in this rule a person who wishes to own non-organic firearms or weapons that resemble firearms must be at least 24 years old as evidenced by a deed birth, other self-document in the form of KTP, and SKCK, besides that you must have a physical and mental health certificate that comes only from a Indonesian Police doctor, pass an interview in the form of a questionnaire by Ditintelkam Indonesian Police, and one of the most important instruments is passing a psychological test and having a skills certificate shooting issued by the State Police School (SPN) or the National Police Education Center (Pusdik).
- b) Ownership of weapons for carrying out other police functions, in this rule, the authority to own weapons is given to those who help maintain security or support the duties and functions of the police such as Polsus, PPNS, Satpam, and Satpol PP. This law provides conditions that are not too different from the needs of self-defense, but what is an additional requirement is a letter of recommendation from an authorized superior such as the president director for security guards, and regional heads for municipal police officers, in addition to location data where the weapons are used. application letter, as well as identity data indicating that the applicant is indeed a member of the Satpam, Pol PP, as well as the Police
- c) Possession of weapons by Indonesian Police members, as law enforcers, it is very natural for Indonesian Police members to own firearms in carrying out their duties in the field, for police officers themselves there are only three main requirements that are mandatory in owning firearms, namely direct recommendations from superiors, having a certificate of passing the Police psychological test, and have a health certificate from a Police doctor. For police officers, there may only be three main requirements. If you look closely, this is of course very reasonable, because police officers themselves have passed a series of tests before becoming members, training, as well as all documents related to personal data, which have been completed when registering to become members, because Those three conditions should be enough to screen a member to be responsible for the firearm he holds.

Cases related to the misuse of weapons by both civil society and by unscrupulous members of the National Police still occur frequently, this is of course caused by the human factor itself (HR), there are still many who do not have a sense of responsibility towards themselves and especially towards other

people in around them, for this reason changes in regulations related to firearms must continue to be developed, this must continue to be a subject of attention by all levels of society, especially the National Police. If the owner of a firearm permitted by Polda Metro Jaya commits a violation of possession of a firearm, confiscation will be carried out and the owner of the firearm will be questioned.

Conclusion

The most basic thing about owning firearms is a permit, because this is related to various factors. Before getting a permit, there are a series of documents and tests that must be completed by every citizen, especially in this case a member of the police. Based on what was regulated by Law No.8/1948 at that time the regulation of firearms only went as far as registration, all firearms in circulation had to be registered no later than 30 days after this law was enacted, the penalty given at that time was confiscation of weapons that were not registered, imprisonment for 3 months, as well as a fine.

The case of Ferdy Sambo, which until the time of this writing was still in court process, in this case one of Ferdy Sambo's men who was also the shooting suspect, namely Bharada E, was considered to have possessed a weapon in a way that was not according to procedure, based on testimony at trial by one of the members who dealing with permits to own weapons, the complete documents from Bharada E and also the victim Brigadier J were incomplete, both of them had not taken a psychological test, an introduction to the work unit, and a doctor's certificate. In the case of Ferdy Sambo, it was emphasized again that members of the police force using firearms could not be separated from acts against the law. These unlawful acts can be classified as criminal acts and disciplinary violations. Criminal acts committed by members of the police related to firearms can be in the form of shooting fellow colleagues, shooting civilians. The criminal act committed by a member of the police is the judicial process carried out in a general court according to the applicable criminal procedure law. In the context of examining members of the police for investigations carried out by police officers with regard to rank as stipulated in Article 5 of Government Regulation Number 3 of 2003 concerning Technical Implementation of Institutional General Courts for Members of the Police, State Gazette of 2003.

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