

Research Article

The Dominance of Law Enforcement Authority in the Investigation Stage: A Critical Analysis of Law Enforcement Effectiveness and Abuse of Power

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Abstract: The investigation stage constitutes a crucial phase in the criminal justice system, as it determines the direction and quality of subsequent law enforcement processes. Within the context of Indonesian criminal procedural law, the Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana/KUHAP) grants extensive authority to law enforcement officials, particularly investigators, in order to ensure the effective disclosure of criminal offenses. However, such dominance of authority has the potential to create an imbalance between the interest of law enforcement effectiveness and the protection of human rights, especially when it is not accompanied by adequate mechanisms of limitation and oversight. This study aims to critically analyze the dominance of law enforcement authority at the investigation stage and its implications for law enforcement effectiveness and the potential for abuse of power. The research employs normative legal research using statutory and conceptual approaches, supported by qualitative analysis of legal doctrines, legislation, and relevant academic literature. The findings indicate that while the dominance of investigative authority does contribute to the effectiveness of investigations, it simultaneously creates opportunities for abuse of power due to weak internal and external oversight mechanisms. This condition results in the erosion of the principles of due process of law and the protection of suspects' rights within the criminal justice system. Therefore, this study emphasizes the need to strengthen judicial control mechanisms, enhance the accountability of law enforcement officials, and reform criminal procedural law in order to achieve a balance between effective law enforcement and the protection of human rights within a democratic rule-of-law state.

Keywords: Abuse of Power; Criminal Investigation; Investigators' Authority; Law Enforcement Effectiveness; The Criminal Procedure Code (KUHAP).

1. Introduction

Law enforcement constitutes one of the principal pillars of a democratic system of governance grounded in the rule of law. Within the criminal justice system, the investigation stage plays a pivotal role as the initial "gateway" that determines the direction and quality of all subsequent legal processes. The authority vested in law enforcement officials, particularly investigators, is normatively regulated under the Indonesian Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana/KUHAP), which grants investigators the power to carry out actions such as arrest, search, examination, and seizure of evidence. On the one hand, such authority is intended to ensure effectiveness in uncovering facts and enforcing the law decisively; on the other hand, extensive authority carries the inherent risk of abuse of power if it is not accompanied by adequate mechanisms of control and limitation. This imbalance between effectiveness and oversight has become a central concern in criminal procedural law and human rights discourse.

The effectiveness of investigations as a stage of law enforcement is regarded as crucial, as investigative outcomes form the basis for prosecutorial decisions on whether a case proceeds to court. Such effectiveness requires investigators to be capable of collecting strong

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evidence, ensuring legal certainty, and resolving cases both efficiently and accurately. Empirical research across various contexts indicates that investigative effectiveness is closely linked to the professionalism of law enforcement officials and the clarity of applicable legal procedures (Herly et al., 2023). However, in practice, effectiveness is often tested when investigative authority exceeds the boundaries of the principle of legality, thereby creating opportunities for arbitrary actions that directly contradict the protection of human rights, which is a fundamental value upheld within the criminal justice system.

In the Indonesian legal context, the abuse of power by law enforcement officials has been widely discussed in normative legal studies. Victor I. C. Kalele, in his research, reveals that the element of “interpretive discretion” in investigative practices has opened space for abuse of power, particularly in corruption cases, resulting in legal uncertainty and disparities in the application of the principle of due process of law (Kalele, 2015). This finding underscores that the dominance of investigative authority without effective limitations has the potential to erode the fundamental principles of criminal procedural law.

Abuse of power during the investigation stage may manifest in various forms, including excessive detention without a strong legal basis, arbitrary use of authority during suspect examinations, or manipulation of evidence to strengthen charges (Bambang, 2022). Such practices not only harm individuals subjected to investigation but also undermine public trust in the criminal justice system as a whole. In terms of the anatomy of investigative authority, while KUHAP provides broad discretionary space, the exercise of such discretion must always be constrained by the general principles of good governance and respect for human rights (Kurniawan, 2018).

In academic discourse, the dominance of investigative authority is frequently associated with the potential for human rights violations and the weakness of both internal and external oversight mechanisms. Institutions such as pretrial review (*praperadilan*) are designed to serve as essential oversight tools to maintain a balance between authority and the protection of suspects’ rights. Provisions on pretrial proceedings under Indonesian law function as instruments to filter abuses of authority in the application of coercive measures such as detention and search, thereby reaffirming the principle that power must never be absolute without effective control (KUHAP provisions). Nevertheless, in practice, these oversight mechanisms are often suboptimal due to juridical limitations and insufficient understanding among relevant stakeholders regarding their functions (*Lex Administratum*, 2020).

Another issue arising from the relationship between effectiveness and abuse of power concerns how communication, coordination, and the distribution of authority among law enforcement institutions are normatively regulated. This issue has become a contemporary debate within discussions on the revision of KUHAP in Indonesia. Several academics, legal practitioners, and policymakers have warned that the expansion of authority without balanced oversight mechanisms may increase the risk of abuse of power. Public academic discourse has even emphasized that any revision of the Draft Criminal Procedure Code must ensure that the principles of due process of law and the supremacy of law are preserved at every stage of investigation (Edward Omar Sharif Hiariej, cited in RMOL, 2025). This demonstrates that the dominance of investigative authority must be counterbalanced by clear and effective limitations to prevent violations of justice and fairness.

Another important aspect concerns the relationship between investigators and other institutions, such as the public prosecutor’s office, in controlling the investigative process. In Indonesia, although investigators possess extensive authority, the prosecution plays a supervisory role through mechanisms such as the Notification of Commencement of Investigation (*Surat Pemberitahuan Dimulainya Penyidikan/SPDP*) and other internal regulations to ensure that investigations proceed in accordance with legal provisions (RMOL, 2025). If these mechanisms are optimized, investigative effectiveness can be enhanced without compromising the protection of suspects’ rights. Conversely, if such oversight mechanisms are weak or inconsistently applied, the potential for abuse of power increases, thereby undermining the principles of legality and justice.

Moreover, investigative dynamics are also influenced by public perceptions of law enforcement. Communities that witness abuses of power tend to lose trust in law enforcement institutions. This erosion of trust can negatively affect public participation in legal processes and foster perceptions that the law applies only selectively. Conversely, transparent,

accountable, and human rights-oriented law enforcement practices enhance the legitimacy of the criminal justice system and strengthen public confidence in the overall effectiveness of the law.

On a global scale, issues of abuse of power and investigative effectiveness are not unique to Indonesia but represent common challenges in modern legal systems. Many countries grapple with the same fundamental question: how to equip law enforcement agencies with adequate tools to enforce the law while simultaneously ensuring the protection of individual rights. This principle has long been discussed in international legal literature, which emphasizes that the rule of law is not merely about the capacity to punish offenders, but also about imposing limits on state power to prevent encroachment upon citizens' rights and freedoms.

Accordingly, this study is grounded in the need to conduct a critical analysis of the dominance of law enforcement authority in the investigative process, encompassing not only the normative framework of KUHAP but also practical implications related to effectiveness and the potential for abuse of power. This focus is relevant for enriching academic literature and for providing policy recommendations aimed at strengthening control mechanisms over investigative authority, so that effective law enforcement continues to uphold the principles of legality, justice, and human rights.

2. Preliminaries or Related Work or Literature Review

Investigative Authority within the Indonesian Criminal Justice System

Investigative authority constitutes a fundamental aspect of the Indonesian criminal justice system, as it serves as the normative foundation for investigative actions carried out by law enforcement officials. Within the framework of national criminal procedural law, the scope of investigators' authority is explicitly regulated under Law Number 8 of 1981 on Criminal Procedure (Kitab Undang-Undang Hukum Acara Pidana/KUHAP), encompassing initial actions such as receiving reports or complaints, conducting arrests, searches, detention, and the examination of suspects (Lego, Suaib, & Hakim, 2023). Normative juridical research conducted by Sativa (2024) emphasizes that the provisions of KUHAP grant investigators relatively broad authority to ensure that criminal proceedings can be conducted effectively and that criminal acts can be clarified comprehensively. However, this breadth of authority also presents challenges to legal certainty when such powers are exercised excessively or without adequate control mechanisms.

These findings are significant in demonstrating that although KUHAP is designed to equip investigators with strong legal instruments, its practical implementation may give rise to substantial challenges concerning legal certainty and institutional accountability (Sativa, 2024). Further studies by Assa (2024) similarly note that in handling criminal cases particularly corruption cases the role of investigators is decisive in shaping the direction of law enforcement. Nevertheless, the complexity of cases and overlapping statutory regulations may result in ambiguity regarding the limits of authority and investigative practices. Moreover, investigative authority in specific contexts, such as narcotics and corruption offenses, often refers to sectoral regulations that further expand investigative powers without being accompanied by optimal independent oversight mechanisms (Perangin-Angin et al., 2023; Sekarsari, Sugiarta, & Widyantara, 2025). This condition indicates that the openness and breadth of investigative authority must be balanced by clear limitations to ensure that mechanisms of accountability remain effective.

Investigative Effectiveness as a Component of Law Enforcement

Investigative effectiveness is a crucial indicator of the quality of law enforcement, as this stage determines whether a case can be processed further in a fair and appropriate manner before the courts. Effectiveness in the investigative process is not measured solely by the ability of law enforcement officials to collect evidence, but also by the quality of investigations that ensure legal certainty for all parties involved, including suspects and victims. Empirical research conducted in the context of corruption offenses related to the misuse of village fund allocations indicates that investigations have not been fully effective due to limitations in resources, investigative skills, and the insufficient number of personnel required to handle complex cases (Herly et al., 2023). These constraints result in a decline in investigative quality, which in turn affects the overall effectiveness of law enforcement and creates opportunities

for procedural deviations during the investigative process. From a slightly different perspective, Abdul Muis et al. (2023) argue that investigative effectiveness in cases of unlawful land occupation remains heavily dependent on field-level procedural implementation and the behavior of investigators, who tend to prioritize advancing cases to the prosecution stage rather than considering alternative approaches that may be more appropriate. These findings underscore that investigative effectiveness is closely linked to the institutional capacity of investigators, the internal integrity of law enforcement institutions, and the overall support of the legal system (Muis et al., 2023). Furthermore, the lack of adequate oversight mechanisms over investigative processes both internal and external is frequently identified as a factor contributing to decreased investigative effectiveness and an increased risk of procedural violations and abuse of authority. Oversight thus becomes a key element in ensuring that every investigative action is constrained by a clear legal framework and conducted in an accountable manner.

Abuse of Power in the Investigation Process

Abuse of power refers to situations in which law enforcement officials exercise the authority granted to them beyond its proper limits, for purposes that are unlawful or detrimental to other parties. In the context of criminal investigations, abuse of power may manifest in various forms, including arbitrary actions such as arrests without sufficient legal grounds, excessive use of force, coercion of confessions, and manipulation of evidence. Conceptually, abuse of power is defined as the unlawful or excessive use of authority that exceeds official mandates and contradicts the principles of justice and legality in criminal law (Wikipedia, 2025). Within the Indonesian law enforcement environment, practices of abuse of authority have frequently attracted public attention due to their potential to harm individuals subjected to investigation and to generate injustice within the legal process. Research by Pande (2024) highlights that in the context of criminal investigations, investigative practices that are overly aggressive in the pursuit of legal certainty may lead to unjust outcomes, particularly when investigators disregard fundamental aspects such as the protection of suspects' rights. Instances of abuse of authority are also evident in studies on investigative oversight within the police, where the absence of effective supervision has contributed to deviant investigative behavior, resulting in public harm and injustice (Panjaitan, 2018). The conferral of broad authority without sufficient oversight further facilitates the occurrence of abuse of power, as investigators may perceive their discretionary space as unchecked, especially in complex cases such as narcotics and corruption offenses (Kurniawan, 2018). In line with this, a study by Weisburd et al. (2001) demonstrates that abuse of police authority tends to occur when professional norms are not adhered to and internal oversight mechanisms are weak, ultimately leading to conduct that violates ethical standards and fundamental human rights.

3. Research Method

This study employs a normative legal research method using conceptual and statutory approaches, enriched by qualitative analysis of law enforcement practices. The normative method is chosen because the primary focus of the research is to examine the dominance of law enforcement authority during the investigation stage based on prevailing positive legal norms, particularly the Indonesian Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana/KUHAP), as well as the principles of the rule of law, due process of law, and the protection of human rights. The statutory approach is applied to systematically analyze legal provisions governing investigators' authority, the limits on the use of coercive measures, and oversight mechanisms for investigative actions, including pretrial proceedings (praperadilan) and institutional controls. Meanwhile, the conceptual approach is utilized to examine the concepts of dominance of authority, law enforcement effectiveness, and abuse of power as developed in legal doctrine and academic literature.

The legal materials used in this research consist of primary, secondary, and tertiary legal sources. Primary legal materials include relevant legislation, such as KUHAP, laws concerning judicial power, and court decisions particularly pretrial rulings and decisions of the Constitutional Court related to investigators' authority. Secondary legal materials comprise criminal procedural law textbooks, national and international academic journals, prior research findings, and publications from credible institutions addressing law enforcement and

human rights issues. Tertiary legal materials serve a supporting function and include legal dictionaries and legal encyclopedias used to clarify concepts and terminology.

Data analysis is conducted qualitatively using a descriptive-analytical method, by systematically elaborating legal provisions and scholarly opinions and linking them to investigative practices and issues of abuse of authority. This analysis is directed at assessing the extent to which the dominance of law enforcement authority can be justified in the interest of effective law enforcement, and at identifying the point at which such dominance potentially conflicts with the principles of legality and the protection of human rights. The results of the analysis are then used to draw deductive conclusions and to formulate normative recommendations aimed at strengthening the balance between investigative effectiveness and the prevention of abuse of power within the criminal justice system.

4. Results and Discussion

The Dominance of Investigators' Authority Ensures Investigative Effectiveness but Creates Normative Challenges

Investigators' authority during the investigation stage is intended to ensure the effectiveness of law enforcement, as investigators possess a clear statutory basis to undertake various actions necessary for uncovering criminal offenses. According to Sativa (2024), Article 7 of the Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana/KUHAP) grants investigators broad authority, including actions such as arrest, examination, seizure, and termination of investigations, all of which are aimed at facilitating an effective evidentiary process to provide legal certainty and substantively resolve criminal cases. However, this normative study also identifies that although such authority is designed to enhance law enforcement effectiveness, its practical implementation often encounters challenges due to the absence of effective internal oversight mechanisms and the lack of clarity regarding the limits of authority, which in turn creates opportunities for dominance. Sativa notes that the primary challenge arises when authority intended for investigative purposes is exercised excessively, such as in cases of detention and arrest carried out without adequate temporal and procedural limitations, ultimately leading to a decline in investigators' accountability in the performance of their duties (Sativa, 2024).

These findings are consistent with the analysis of Rusmana, Widyantara, and Suryani (2023), who observe a dualism of authority among various law enforcement institutions such as the Police, the Public Prosecutor's Office, and the Corruption Eradication Commission (KPK) in handling corruption cases. This dualism contributes to ambiguity of authority and inconsistency in investigative practices. Such inconsistency does not stem solely from the text of KUHAP, but also from other sectoral regulations that confer investigative powers on specific institutions, thereby rendering what should be a measurable dominance of authority relatively unclear in practice within the national legal framework (Rusmana, Widyantara, & Suryani, 2023). According to their study, this condition gives rise to potential inter-agency conflicts that may ultimately hinder overall law enforcement effectiveness due to four main issues: overlapping authority, lack of coordination, divergent operational standards, and unclear boundaries of authority within a multi-agency context. From a normative perspective, this research emphasizes that KUHAP, as the principal instrument of criminal procedural law, must be harmonized with other regulations so that the dominance of investigators' authority is genuinely oriented toward the principles of a just rule-of-law state rather than mere operational effectiveness. These findings reflect that the dominance of investigators' authority under KUHAP, if not accompanied by strong limiting and oversight mechanisms, may instead produce an imbalance between the objective of effectiveness and the principle of human rights protection in the investigative process.

The Potential for Abuse of Power in Investigations and Its Legal Implications

The dominance of investigators' authority may evolve into abuse of power if it is not counterbalanced by effective normative limitations and accountable oversight mechanisms. Research by Pande (2023), in *Abuse of Police Authority in Criminal Investigations under KUHAP*, reveals that the Indonesian criminal justice system operates as an interconnected network involving legal substance, structure, and culture. Consequently, when investigators' authority is exercised excessively in pursuit of legal certainty without due consideration for suspects' rights or human rights protection, it creates a risk of substantive injustice within the

investigative process. Pande notes that abuse of authority may occur when investigators disregard the principle of proportionality in the use of investigative measures, such as detention or search conducted without sufficient legal grounds and without adequate external oversight from institutions such as pretrial courts.

These findings are further supported by other scholarly analyses that define abuse of power as the exercise of authority not for the purpose of ensuring legal certainty, but for interests that exceed the boundaries of legality, including personal or institutional interests (Khairunas, cited in Yuriska, 2023). From a criminal law perspective, such abuse of authority not only violates the principle of legality but may also result in infringements of constitutionally guaranteed human rights, such as the right to personal liberty and the right to equal and fair treatment before the law. Similar studies focusing on corruption offenses emphasize the lack of clarity in defining and regulating the concept of abuse of authority, leading to divergent interpretations of power in practice among law enforcement agencies and courts.

For instance, Wibowo (2025), in his study on the criteria for the element of abuse of authority in corruption cases, finds that judicial panels often differ in determining when this element is satisfied, reflecting normative inconsistency in protecting against abuse of power. Furthermore, within the context of administrative law, the relationship between administrative abuse of authority and criminal liability in corruption offenses has become increasingly complex due to contradictions between administrative law and criminal law, which in turn affect how investigators act in practice (Alya & Kresnha, 2021). These findings underscore that the dominance of investigators' authority, if not governed by clear limitations and effective oversight mechanisms, is highly susceptible to abuse of power. Accordingly, the research recommends strengthening control instruments such as pretrial review, independent audits of investigators' actions, and harmonization among sectoral regulations that confer investigative authority, in order to reduce the potential for abuse of power without undermining law enforcement effectiveness.

Weak Oversight Mechanisms as a Reinforcing Factor of Dominance and Abuse of Investigative Authority

Weak internal and external oversight mechanisms constitute a primary factor reinforcing the dominance of law enforcement authority in the investigative process. Normatively, the Indonesian legal system has provided oversight instruments such as pretrial proceedings, prosecutorial supervision through the Notification of Commencement of Investigation (Surat Pemberitahuan Dimulainya Penyidikan/SPDP), and internal supervision within the police institution. However, numerous academic studies indicate that these mechanisms have not functioned optimally in restraining investigators' authority. Harahap (2016) asserts that pretrial review under KUHAP was originally designed as a check-and-balance mechanism to assess the legality of investigative actions, yet its limited scope and formalistic judicial practices often render it ineffective as a substantive control instrument. This observation is reinforced by Kalele's (2015) research, which argues that oversight of investigative actions tends to be reactive and dependent on the willingness of suspects or their legal counsel to pursue legal remedies, resulting in many instances of abuse of authority never being judicially reviewed.

Moreover, reports and studies from judicial monitoring institutions demonstrate that internal oversight within law enforcement agencies is frequently constrained by organizational culture emphasizing esprit de corps, whereby procedural violations during investigations are more often resolved internally without adequate public accountability (Institute for Criminal Justice Reform [ICJR], 2021). In this context, the dominance of investigators' authority becomes increasingly entrenched because procedural violations do not entail significant legal risks. This study also finds that weak oversight directly affects the quality of human rights protection, particularly the rights to personal liberty and a fair trial. When actions such as arrest and detention are conducted without effective oversight, the principle of due process of law loses its practical significance and is reduced to a mere formal norm. Accordingly, these findings confirm that the dominance of investigators' authority arises not only from the breadth of normative powers granted, but also from the absence of strong, independent, and accessible oversight mechanisms, thereby amplifying the potential for abuse of authority in the investigative process.

The Impact of Investigative Authority Dominance on Human Rights Protection and the Principle of Due Process of Law

The dominance of law enforcement authority in investigations has direct implications for the protection of human rights, particularly the rights of suspects within the criminal justice system. In modern criminal law theory, the balance between law enforcement effectiveness and human rights protection is a fundamental and non-negotiable principle. Packer (1968), through his crime control model and due process model, emphasizes that a criminal justice system that places excessive emphasis on effectiveness risks sacrificing individual rights. Investigative practices in Indonesia remain largely oriented toward the crime control model, in which investigative success is measured by the speed of case handling and the number of cases forwarded to prosecution, rather than by the quality of protection afforded to suspects' rights. Empirical studies conducted by ICJR (2020) demonstrate that violations of suspects' rights during the investigation stage such as restricted access to legal counsel and the use of detention as a means of pressure remain prevalent and are rarely subject to legal accountability.

Furthermore, Muladi (2005) argues that human rights violations within the criminal justice system often stem from an imbalance of power between law enforcement authorities and citizens, in which the state occupies a highly dominant position. This research shows that the dominance of investigators' authority exacerbates this imbalance, rendering suspects particularly vulnerable to arbitrary actions. When procedural rights are not respected from the investigation stage onward, subsequent judicial processes tend to lose both moral and legal legitimacy. Within the framework of a rule-of-law state, such conditions are fundamentally inconsistent with the principle of equality before the law and the presumption of innocence.

The Need for Criminal Procedural Law Reform to Balance Effectiveness and the Limitation of Power

The dominance of law enforcement authority in investigations highlights the urgency of criminal procedural law reform, particularly in relation to the revision of KUHAP. Numerous academic studies suggest that the current KUHAP continues to reflect an outdated paradigm that positions law enforcement officials as primary actors with extensive authority, while the status of suspects and oversight mechanisms remains relatively weak. Hiariej (2022) asserts that reform of KUHAP should not focus solely on procedural efficiency, but must also emphasize strengthening accountability principles and limiting state power in the investigative process.

Without structural reform, the dominance of investigators' authority will continue to be reproduced through legal norms and institutional practices. Comparative experiences from other jurisdictions demonstrate that limiting investigative authority can be achieved through strengthening the role of investigating judges or enhancing judicial control over the use of coercive measures, as implemented in several European countries (Ashworth & Redmayne, 2010). In addition, procedural transparency and the obligation of investigators to provide public accountability constitute essential elements in reducing the potential for abuse of power. This study concludes that criminal procedural law reform must be directed toward establishing a new balance between effectiveness and rights protection, situating the dominance of investigators' authority within the framework of a democratic rule-of-law state. Without such reform, any effectiveness achieved in law enforcement remains illusory, as it is attained at the cost of weakened human rights protection and declining public trust in law enforcement institutions.

5. Conclusion

This study concludes that the dominance of law enforcement authority, particularly that of investigators during the investigation stage, is a consequence of the normative design of the Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana/KUHAP), which provides broad discretionary space in order to ensure the effectiveness of law enforcement. Such authority is, in principle, necessary to enable investigators to uncover criminal offenses efficiently and accurately, as well as to ensure the availability of sufficient evidence for prosecution and judicial examination. Nevertheless, the dominance of authority that is not accompanied by effective limitations and oversight mechanisms has the potential

to create an imbalance between the objective of law enforcement effectiveness and the protection of human rights.

The analysis demonstrates that the dominance of investigative authority frequently transforms into abuse of power, particularly in the practical use of coercive measures such as arrest, detention, search, and seizure. Such abuses not only contravene the principle of legality and the principle of proportionality, but also have serious implications for the protection of suspects' rights and the application of the principle of due process of law. Weak internal and external oversight mechanisms including the limited effectiveness of pretrial review and institutional cultures that insufficiently support accountability further reinforce the dominant position of investigators and increase the risk of arbitrary actions in the investigative process.

The dominance of investigators' authority has a direct impact on the quality of human rights protection and on the legitimacy of the criminal justice system. When investigative effectiveness is prioritized over respect for procedural rights, the judicial process risks losing substantive justice and public trust. From the perspective of a democratic rule-of-law state, the effectiveness of law enforcement cannot be separated from the state's obligation to limit its own power through transparent, independent, and accountable control mechanisms.

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