Handover Of Pre-Prosecution Case Files Based On Contante Justitie Under The New Criminal Procedure Code

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Abstract

Legal issues arising in connection with the pre-prosecution phase include the absence of limits on the number of times a case file may be returned to investigators, as well as the absence of sanctions if a case file is not eventually closed or transferred to court. Criminal cases in which investigations are shuttled back and forth between investigators and prosecutors indefinitely result in procedural injustice. The need for legal certainty is a fundamental right of every person to clarity regarding their guilt or innocence in accordance with the principle of the presumption of innocence. This study analyzes the implementation of pre-prosecution procedures in the handling of criminal cases and a progressive pre-prosecution model that emphasizes collaboration and synergy between investigators and public prosecutors. The research was conducted at the Banyumas City Police Headquarters, the Pemalang City Police Headquarters, and the Central Java High Prosecutor's Office. It is hoped that the implementation of a progressive pre-prosecution model will reduce the frequency of case files being shuttled back and forth.

Keywords: Contante Justitie; Criminal Case Files; Pre-trial proceedings; Progressive; presumption of innocence.

I. INTRODUCTION

Law enforcement must always be grounded in the concept of human rights as a key factor in achieving a humanistic, certain, and just system of law enforcement without exception in criminal procedure. This is in accordance with the ancient Roman adage litis finiri oportet, which means that every case must come to an end, whether the outcome is favorable or unfavorable. It is also consistent with the purpose of law, which is to provide justice, benefit, and certainty in its regulation and application (Ali, 2023). As a country governed by the rule of law, Indonesia has an obligation to ensure justice for its citizens (Muntoha, 2013). According to Frederich Julius Stahl, the concept of the rule of law is characterized by key elements, including the recognition and protection of human rights, and governance based on the law (wetmatig bestuur). Stahl's view implies that, within the concept of the rule of law, human rights and legal certainty are essential principles that every state must uphold; it can be said that a state is truly relevant and ideal when all of its governmental activities are based on clear and definitive legal mechanisms.(Simamora, 2014)

Human rights and legal certainty serve as instruments to protect every citizen from actions that could diminish their dignity and worth as human beings (Abdul Aziz Nasihuddin, 2024). Criminal law is a special branch of law; its distinctive nature lies in its penalties (criminal sanctions). It is precisely this nature of criminal law that necessitates the protection of human rights and legal certainty. The protection of human rights and legal certainty are not only necessary to ensure that the enforcement of criminal law prevents the conviction of the innocent and prevents the guilty from evading criminal liability, but also to safeguard the fundamental rights of suspects who, as human beings, must be treated as presumed innocent until a court decision becomes final and binding (Presumption of Innocence). In the enforcement of criminal law as substantive criminal law a specific method of enforcement is required, known as criminal procedure law, as regulated in Law No. 8 of 1981 on the Code of Criminal Procedure, commonly abbreviated as KUHAP. In the enforcement of criminal procedure, there are also safeguards for the rights of suspects, which are often ignored because they carry no penalties, yet have significant implications for a suspect. Even a person believed to be the perpetrator of a criminal act and who is certain to be proven guilty in court based on more than sufficient evidence, or even a sincere confession from the suspect is still obligated to uphold the principles of due process. swift, inexpensive, and simple (Constante Justitie), while heeding and bearing in mind Cicero's adage that states, "Summum ius, summa iniura," meaning that absolute legal certainty is the greatest injustice. The criminal justice system is not limited to how criminals are prosecuted. Criminal procedure law also governs the rights of suspects or defendants as parties whose rights must be protected and fulfilled throughout every legal process they undergo, including legal certainty regarding the status of their case during the investigation stage through the role of the prosecutor reviewing case files via the pre-indictment process (Sumaryanto, 2024).

The effectiveness of criminal law enforcement depends heavily on an integrated and optimally functioning criminal justice system, from the investigation stage, through prosecution and trial, to the enforcement of judgments. The criminal justice mechanism is, in fact, the way in which the components of the criminal justice system work together to achieve their objectives, therefore, legal regulations are needed that serve not only to define the specific authorities that the components of the criminal justice system may exercise, but also to establish the prohibitions and requirements that must be adhered to in order to protect citizens, particularly those involved in the criminal justice process.(Situmeang, 2020) The criminal justice system itself is, by its very nature, a process

of enforcing criminal law; therefore, the criminal justice system is closely linked to criminal legislation both substantive criminal law and criminal procedure law because criminal legislation is, in essence, the enforcement of criminal law "in abstracto," which is realized through the enforcement of the law "in concreto."(Sumaryanto, 2024)

Mardjono Reksodiputro stated that the criminal justice system is a system designed to control crime, comprising the police, the public prosecutor's office, the courts, correctional institutions, and attorneysc (Shafira, Maya, 2022). These five institutions are collectively known as the "Panca Wangsa" law enforcement agencies. The investigative phase conducted by the police and the prosecution phase carried out by the Attorney General's Office play a central role in the criminal justice system. The quality of the investigation will significantly influence the prosecution process and the trial proceedings. Conversely, the effectiveness of the prosecution will provide valuable feedback for the investigation (Amin, 2020). One of the key aspects in the chain of investigation and prosecution is the handover of case files from the investigator to the public prosecutor. The handover of case files is a crucial milestone that marks the transfer of responsibility for handling the case from the police to the prosecutor's office. At this stage, the Public Prosecutor will review the case file to determine whether it meets the formal and substantive requirements for submission to court.

Regulations regarding the submission of criminal case files are set forth in Law No. 8 of 1981 on the Code of Criminal Procedure (KUHAP). Article 8(3) of the KUHAP states that the submission of case files is carried out in two stages: in the first stage, the investigator submits the case file for review; and in the second stage, the investigator transfers responsibility for the suspect and the evidence to the Public Prosecutor once the investigation is deemed complete. Furthermore, Article 110(1) of the KUHAP requires the Investigator to immediately submit the case file to the Public Prosecutor once the investigation is complete. This is to uphold the principles of a swift, simple, and cost-effective judicial process (Constante Justitie) (Aria Zurnetti, Fitri Wahyuni, 2021).

Investigators submit the case file to the Public Prosecutor for review. If the Public Prosecutor determines that the results of the investigation are still incomplete, the Public Prosecutor immediately returns the case file to the Investigator along with instructions for completion, until the Public Prosecutor refers the criminal case to court by filing charges.

In practice, the process of submitting case files often faces various obstacles and problems, including the protracted nature of the investigation due to the lack of a

specified deadline for submitting the case file after the investigator notifies the Public Prosecutor of the commencement of the investigation, as well as repeated notifications by the investigator to the Public Prosecutor regarding the start of the investigation because they are not accompanied by the submission of the investigation results or case files. The time-consuming process of transferring case files from investigators to public prosecutors is inconsistent with the principles of swift, simple, and cost-effective justice; furthermore, the absence of clear and explicit time limits for the transfer of case files from investigators to public prosecutors means that there is currently no guarantee that the objective of criminal law enforcement namely, the establishment of legal certainty will be achieved.

In addition to issues related to the uncertainty of the substantive procedural law in the process of transferring case files from investigators to public prosecutors, another problem concerns coordination between investigators and public prosecutors. A lack of effective communication and coordination can lead to differing interpretations of evidence, the provisions violated, or even prosecution strategies. This can impact the quality of prosecution and court proceedings.

The principles of speedy, simple, and affordable justice in the enforcement of criminal law are an increasingly urgent demand in this modern era. The ideal law enforcement system is one that upholds sound values namely, the harmonization of values with legal principles and with actual human behavior (Miftakhul Khobid, Gunarto, 2018). The public expects criminal proceedings to proceed swiftly, fairly, and at a reasonable cost. Delays in handling criminal cases not only harm victims and suspects but can also erode public trust in the criminal justice system. Furthermore, the enforcement of criminal law must uphold the principles of legal certainty and justice. Legal certainty means that everyone must be treated equally before the law, and every case must be processed in accordance with clear and definitive legal rules. Justice means that everyone is entitled to fair and proportionate treatment, and every court decision must be based on accurate facts and evidence.

In the context of case file submission, legal certainty requires clear and measurable regulations regarding procedures, timeframes, and requirements for submitting case files. Justice requires that the case file submission process be conducted transparently and accountably, and that it provide equal opportunities to all relevant parties to express their opinions and views. Based on the above discussion, this study aims to reconstruct the regulations governing the transfer of criminal case files from

investigators to public prosecutors in order to improve the efficiency of criminal law enforcement in accordance with the principles of swift, simple, and cost-effective justice (Constante Justitie). This study will comprehensively examine current regulations, identify the problems and challenges encountered in practice, formulate a regulatory model that is more effective and responsive to the needs and expectations of the public, capable of realizing efficient, fair, and legal certainty, and to protect the rights of suspects or defendants as parties whose rights must be protected and fulfilled in every legal process they undergo including legal certainty regarding the status of their case during the investigation stage through the function of the Prosecutor reviewing case files via the pre-indictment institution.

Based on the background description above, the author formulates the following issues:

1. How is the legal protection of a suspect's rights ensured when case files are returned by the public prosecutor to the investigator more than once?
2. What are the weaknesses in the transfer of criminal case files from investigators to public prosecutors in the enforcement of criminal law that do not yet adhere to the principle of "Constante Justitie" under the New Criminal Procedure Code?

The specific objectives of this study are as follows:

1. To identify and analyze the legal protections afforded to suspects as a result of the public prosecutor returning case files to investigators on more than one occasion;
2. To identify and analyze the weaknesses in the transfer of criminal case files from investigators to public prosecutors in the enforcement of criminal law, which is not yet based on the principle of Constante Justitie

The urgency (primacy) of this research is to demonstrate that implementing a progressive pre-prosecution process can reduce the rate of case file returns in the five pilot work units using three (3) indicators: case files declared complete (P.21) without detention extensions (T4); case files declared complete (P.21) without the case file being returned (No P.18/19); and case files declared complete (P.21) that were returned only once.

II. METHOD

Research Steps

1. Preparation & Approach

a) Using a sociological-legal research approach to construct law as a reflection of social life (a manifestation of the symbolic meanings of social actors) (Mustafa, 2024).
b) Establishing descriptive specifications to depict social phenomena in detail based on written and oral data, as well as actual behavior, without statistical formulas.

2. Location and Informant Selection Phase
   a) Identified three main locations: the Banyumas City Police Headquarters, the Pemalang City Police Headquarters, and the Central Java High Prosecutor's Office.
   b) Recruited initial informants (investigators and prosecutors) using purposive sampling, then expanded the sample to include other supporting informants using snowball sampling.
3. Data Collection Phase
   a) Primary Data: Conducting direct interviews and non-participant observation to record the informants' actual attitudes and behaviors.
   b) Secondary Data: Conducting a documentary study of library materials and written documents.
4. Data Credibility Testing Phase

   The validity of the collected data was tested using source triangulation as a comparative method to ensure objective data accuracy (Sigit Sapto Nugroho, Anik Tri Haryani, 2020).
5. Data Processing Stage
   a) Data Reduction: Eliminating unnecessary data and sharpening the focus of the study.
   b) Data Display: Organizing relevant data in a well-structured manner.
   c) Data Categorization: Sorting data into groups that share common meanings.
6. Data Analysis Stage
   a) Analyzing the content of communication messages using the Content Analysis Method.
   b) Comparing phenomena and regulations using the Constant Comparative Analysis Method based on legal norms, doctrines, and related theories (Widiarty, 2024).
7. Data Presentation Stage

   Compiling the final results systematically, logically, and rationally in the form of a Narrative Text (correlating primary data with secondary data) and supported by Tables.

III. RESULTS AND DISCUSSIONS

A. Result

A.1. **Legal protection of a suspect's rights resulting from the public prosecutor's return of the case file to the investigating officer on more than one occasion.**

Data Triangulation Method

	Klaster 1: Ardi Kurniawan, Head of the Criminal Investigation Unit at the Banyumas City Police Department, and Wildan Umar Rela, Head of the Criminal Investigation Unit at the Pemalang City Police Department	Klaster 2: Indah Laila, Assistant for General Criminal Cases (Aspidum) at the Central Java High Prosecutor's Office	Klaster 3: Medi Santoni, Head of the General Criminal Cases Section (Kasi Pidum) at the Purwokerto District Attorney's Office	Researcher's Analysis (Synthesis & Legal Theory)
Key Legal Issues				
Factors Causing Files to Be Sent Back and Forth (>1 Time)	The challenge of obtaining the formal evidence requested by the prosecutor; 14 days is too short a timeframe.	Investigators were not thorough enough in meeting the substantive requirements for the admissibility of charges in court.	The existence of sectoral self-interest and differences in standards of proof among agencies.	Analysis using the Theory of Legal Systems (Lawrence Friedman) or the principle of legal certainty.
Impact on Human Rights and the Detention of Suspects	A suspect is released by operation of law when the detention period expires, but the status of suspect remains in effect.	Release by operation of law is a legal risk, but the prosecutor cannot accept a case file that is legally flawed.	A clear violation of the right to a "speedy trial" and the creation of the status of "perpetual suspect."	The analysis relates to the principle of the presumption of innocence and human rights (the Human Rights Act and the Criminal Procedure Code).
The Current Effectiveness of Pretrial Institutions	A pretrial hearing examines only formal administrative aspects, not undue delay in the proceedings.	A pretrial hearing has no authority to intervene in the substance of P-19, which is within the prosecutor's exclusive jurisdiction.	Preliminary hearings have failed to protect suspects in cases involving the back-and-forth transfer of case files due to limited authority.	An Analysis of Legal Vacuum (Rechtsvacuüm) in Instruments for the Protection of Suspects' Rights.
Solutions & Regulatory Recommendations (New Criminal Procedure Code)	There is a need for the digitization of case files (e-Berpadu) and a shared understanding from the outset of the investigation.	The maximum time limit for returning documents is explicitly stipulated in the law.	Strict limitations (maximum of twice the limit); if these are not met, the investigation must be terminated by law (SP3).	A summary of the future direction of legal policy (the politics of law) regarding the protection of suspects' rights.

Data sources based on interviews with the following sources:

1. AKP M. Wildan Umar Rela, S.TrK., S.I.K., M.Si., Head of the Criminal Investigation Unit at the Pemalang Police Station, on Friday, June 5, 2026
2. AKP Ardi Kurniawan, SIK., MA, Head of the Criminal Investigation Unit at the Banyumas City Police Department, on Wednesday, June 17, 2026
3. Dr. Indah Laila, S.H., M.H., Assistant for General Criminal Cases (Aspidum) at the Central Java High Prosecutor's Office, on Monday, July 6, 2026
4. Medi Santoni, S.H., M.H., as Head of the General Criminal Division (Kasi Pidum) at the Purwokerto District Attorney's Office, on Wednesday, June 17, 2026

A.2. **Shortcomings in the transfer of criminal case files from investigators to public prosecutors in the enforcement of criminal law, which is not yet based on the principle of "Constante Justitie" under the New Criminal Procedure Code.**

Data Triangulation Method

Indikator Analisis Asas *Constante Justitie*	Klaster 1: Penyidik (Polri/PPNS)	Klaster 2: Penuntut Umum (Jaksa)	Klaster 3: Praktisi / Akademisi Hukum	Analisis Yuridis Peneliti (Sintesis Teori Hukum)
Kelemahan Substansi Hukum (Kelemahan Regulasi & Celah KUHAP Baru)	*Contoh: Batas waktu pemenuhan P-19 masih sering berbenturan dengan waktu pengumpulan alat bukti yang rumit.*	*Contoh: Belum adanya sanksi materiil atau akibat hukum yang tegas jika berkas melampaui batas pengembalian tertentu.*	*Contoh: Norma pembatasan bolak-balik berkas di KUHAP Baru belum sepenuhnya memutus rantai "tersangka abadi".*	*Menganalisis inkonsistensi norma hukum positif dengan cita hukum (Rechtsidee) asas peradilan cepat.*
Kelemahan Struktur Hukum (Kelembagaan & Mekanisme Koordinasi)	*Contoh: Sistem koordinasi prapenuntutan (seperti e-Berpadu) belum optimal menyatukan persepsi hukum di awal.*	*Contoh: Jaksa menghadapi risiko kegagalan penuntutan (Dominus Litis) jika menerima berkas yang dipaksakan cepat.*	*Contoh: Lembaga kontrol (seperti Praperadilan) belum diberikan kewenangan menguji kelambatan proses (Undue Delay).*	*Menyoroti disfungsi kelembagaan dalam Integrated Criminal Justice System (ICJS) [2].*
Kelemahan Kultur Hukum (Ego Sektoral & Kebiasaan Aparat)	*Contoh: Adanya tekanan target penyelesaian perkara (P-21) yang tidak sejalan dengan waktu yang tersedia.*	*Contoh: Sikap perfeksionis dalam pemenuhan berkas demi mengamankan dakwaan di persidangan nanti.*	*Contoh: Budaya hukum aparat yang masih melihat bolak-balik berkas sebagai hal administratif biasa, bukan pelanggaran hak.*	*Mengevaluasi paradigma penegak hukum yang belum sepenuhnya berorientasi pada HAM tersangka.*
Dampak terhadap Asas *Constante Justitie*	*Contoh: Menguras waktu dan energi penyidikan, memperpanjang ketidakpastian status penahanan.*	*Contoh: Memperlama proses pelimpahan perkara ke pengadilan, bertentangan dengan asas efisiensi.*	*Contoh: Pembengkakan biaya perkara bagi tersangka dan pelanggaran nyata atas hak segera diadili.*	*Menilai tingkat deviasi/penyimpangan praktik lapangan terhadap asas Constante Justitie.*

Data sources based on interviews with the following sources:

1. AKP M. Wildan Umar Rela, S.TrK., S.I.K., M.Si., Head of the Criminal Investigation Unit at the Pemalang Police Station, on Friday, June 5, 2026
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B. Discussion

B.1. Legal protection of a suspect's rights resulting from the public prosecutor's return of the case file to the investigating officer on more than one occasion

Law enforcement must always be based on the concept of human rights as a determining factor in achieving humane, certain, and fair law enforcement without exception in criminal procedure. This is in line with the ancient Roman proverb "litis finiri oported," which means that every case must come to an end, whether the outcome is favorable or unfavorable. This is also in line with the purpose of the law, which is to provide justice, benefit, and certainty in its regulation and application (Utama, 2021). As a state based on the rule of law, Indonesia has an obligation to guarantee justice for its citizens (Muntoha, 2013). According to Frederich Julius Stahl, the concept of the rule of law is characterized by key elements, including the recognition and protection of human rights, and governance based on the law (wetmatig bestuur). Stahl's opinion implies that in the concept of the rule of law, human rights and legal certainty are postulates that must be possessed by every state, it can be said that it is a very relevant and ideal state if then all its state activities are based on a clear and firm legal mechanism (Simamora, 2014).

According to Wildan Umar Kasat Reskrim Pemalang Police and Ardi Kurniawan Kasat Reskrim Banyumas Police, submitted that human rights and legal certainty as instruments used to protect every citizen from actions that can reduce his dignity and worth as a human being. Criminal law as a privileged law, the privileged nature of criminal law lies in its punishments (criminal sanctions). It is this nature of criminal law that demands the existence of human rights protection and legal certainty. The protection of human rights and the certainty of the law are not only needed so that in the enforcement of the criminal law it can prevent the innocent from being convicted and prevent the guilty from going free criminal accountability but prevents the suspect's human rights as a human being who deserves to be treated as an innocent human being before the verdict of a court of permanent legal force (presumption of innocent). In the enforcement of criminal law as a material criminal law is required a way of enforcing it known as the law of criminal events as prescribed in Law Number 20 of 2025 on the Law Book of Criminal Events or commonly abbreviated KUHAP. In criminal law enforcement there are also signs of protection of the rights of suspects, which are often overlooked because they are not sanctioned, yet impactful for a suspect. Someone who is believed to be guilty of a crime and is assured that it will be proven in court on the basis of more than sufficient evidence even if there has been

an honest confession of the suspect remains obliged to uphold speedy, cheap, and simple justice (constante justitie) by paying attention to and remembering Cicero's adagium that states Summum ius summa iniura which means absolute injustice.

Indah Laila Assistant General Criminal Prosecutor (Aspidum) at the Central Java High Prosecutor's Office and Medi Santoni Head of the Public Criminal Prosecution Section (Kasi Pidum) at the Purwokerto State Prosecutor's Office, submitted that, in the prosecution's perspective, the back and forth of files occurred due to differences in assessment formal requirements and evidentiary material requirements. However, the New Penal Code imposes strict limitations on the Prosecutor not to suspend legal status, After receiving the file from the Satreskrim, the Prosecutor is only given a maximum of 7 (seven) Days to scrutinize the completeness of the case file, If it is judged to be incomplete, the Prosecutor returns the file to the investigator. However, these returns must be accompanied by clear written instructions regarding the aspects to be completed. If the file is returned again by the investigator after rectification, and the Prosecutor still considers the results of the additional investigation to remain incomplete, the Prosecutor cannot simply return the file unilaterally again.

According to Wildan Umar Kasat Reskrim Pemalang Police and Ardi Kurniawan Kasat Reskrim Banyumas Police, conveyed that From the side of Satreskrim, the main challenge is the speed in fulfilling the coordination instructions (formerly known as P-19) so as not to violate the rights of suspects detained, Satreskrim must complete the coordination case within the time frame / prosecutor at the latest 14 (fourteen) Days from the date of receipt of the return of the file, If the file has been completed within 14 days but the completeness is still disputed, the Satreskrim is obliged to invite the Public Prosecution to conduct a joint case title, Presence of Related Parties in the Title of the Case: includes : a). Investigator Satrescrim, b). Investigator Supervisor (Wassidik), c). Public Prosecutor, d). Superintendent of Public Prosecutions, e). Expert (if needed). The New KUHAP provides a firm way out. If in the outcome of such joint case title it is decided that the status of the case is insufficiently evidential or cannot be completed, the Satreskrim Investigator is obliged to issue a Decree of Suspension of Investigation (SP3) and notify the same to the Public Prosecutor. Through the construction of Law no. 20 Year 2025, legal protection for suspects is realized by forcing both agencies to sit

together in one case title forum to take final decisions, so that cases are not suspended without legal certainty.

The law of criminal events regulates how the judicial bodies carry out their functions enforcing criminal law materiil, where the downstream process of criminal law is in the hands of judges namely how judges carry out their functions of receiving, adjudicating and deciding cases, which the Public Prosecutor entrusts to examine and adjudicate. Upstream of the legal process lies the investigative process where there has been a lot of contact with many parties especially suspects and witnesses as well as experts and third parties associated with the investigative process whose rights must be observed and respected. The principle of Constante Justitie (principle of speedy, cheap and simple justice) in Law number 4 of 2004 On the power of the Judiciary as a judicial principle that must be applied, not only applies and is binding on judges but also applies and is binding on investigators and public prosecutors in the investigation (pre-prosecution) stage. The number of investigations marked with SPDP (Letter of Notice of Commencement of Investigation) that entered the Prosecutor's Office, should be equal to the number of cases submitted to the court by the Public Prosecution, but there are various reasons according to the law so that not all people who have been suspected to the judicial stage expiry and due to insufficiency of evidential tools as provided in Section 109 of the Penal Code. For the last reason i.e. the reason of insufficiency of evidential tools becomes a subjective reason for both the Investigator and the Public Prosecution so that it is in this stage known as pre-prosecution that there is a lot of legal uncertainty which has the potential to violate the fundamental rights of the suspect and the concerned parties. It is in this pre-prosecution stage that there is often a back and forth between the investigation and the prosecution for months or even years without any certainty whether the case will be conducted (Aria Zurnetti, Fitri Wahyuni, 2021).

In formal criminal law, it has been set about how a state through its instruments exercises its right to punish and prosecute crimes. The entire instrument of criminal law enforcement is a unit of system known as the Criminal Justice System.

In the Criminal Justice System there are not only limitations on how to criminalize offenders. However the law of criminal events also regulates the rights of the suspect or accused as a party who must be protected and fulfilled his rights on each legal process undergone including the legal certainty of the status of the handling of the investigation stage through the function of the Investigating Prosecutor of the case

file through the pre-prosecution agency. Based on the provisions of the Explanation of Article 30 paragraph (1) letter a of Law No. 16 of 2004 on the Prosecutor's Office of the Republic of Indonesia as last amended by Law No. 11 of 2021 states that:

> "Pre-prosecution is the act of the prosecutor to monitor the progress of the investigation after receiving the notice of commencement of the investigation from the investigator, study or scrutinize the completeness of the case file of the results of the investigation received from the investigator as well as give instructions to be completed by the investigator in order to determine whether the case file can be placed at the stage of prosecution or prosecution."

Pre-prosecution can be defined as the return of the case file by the Public Prosecutor to the investigator accompanied by instructions on the matter to be completed. In the Public Prosecution contends that the case file cannot be turned over to the court owing to because the case file does not constitute a criminal act, then the Public Prosecution should have categorically ordered not to proceed with the investigation or the case should be stayed for the sake of law based on Section 108 IPC. It is in practice this pre-prosecution process that which is often imprecisely conducted thus creating a back and forth of the case file thus legal uncertainty. Another legal issue that arises in relation to pre-prosecution is the absence of a limit on how many times the direction to return the case file (P18/P19). To prevent protracted enforcement and lack of legal certainty as well as deviating from the principle of contante justitie (swift, simple, and light-cost trial). This legal uncertainty at preprosecution is also influenced by the reluctance to coordinate (silo mentality) between Investigators with Public Prosecutors.

The absence of legal certainty for suspects in pretrial proceedings is a tangible form of infringement on fundamental rights. Equitable certainty of law for every citizen When it has been normed in the constitution then the right becomes a constitutional right of the citizen. The legal implication is that the state through its complementary instruments is given the responsibility to address this issue. The absence of law cannot be used as a reason whereby the constitutional rights of citizens are reduced.

The legal choice to be taken to protect the constitutional rights of the citizens if indeed the criminal act that the suspect has committed does not meet the elements as well as legal basis to be transferred to the court for trial (Nurani, 2020). Therefore both the investigator and the prosecution should be prudent by restoring all rights of the suspect by issuing a Stop Investigation Order (SP3). SP3 is not a form of

failure for law enforcement, because the duty of law enforcement is not to punish, but rather to enforce the values of justice and truth in the exercise of duties and authority. The task of investigators and public prosecutors is not merely merely to establish suspects, prosecute and bring the accused to justice, but most importantly is to prevent the innocent from being convicted and the guilty from being free from criminal accountability. Such is the primary duty of law enforcement.

B.2 **Shortcomings in the transfer of criminal case files from investigators to public prosecutors in the enforcement of criminal law, which is not yet based on the principle of "Constante Justitie" under the New Criminal Procedure Code.**

The criminal justice system in Indonesia is currently in a very crucial transition period with the ratification of the New Criminal Law Code (KUHP) as well as the rolling out of various plans to update the criminal event law (New KUHAP). One of the most vulnerable points in the criminal law enforcement process is the pre-prosecution phase, specifically during the handover of the case file (stage I) from the Police investigator to the Public Prosecution. The process of going back and forth between case files between investigators and prosecutors is often time-consuming and protracted. This phenomenon shows that the current Indonesian criminal justice system has not fully integrated the principle of Constante Justitie, namely the principle of fast, simple, and low-cost justice which is one of the main pillars in the update of the New Criminal Code. Low efficiency at this stage not only hurts suspects' rights, but also lowers public confidence in law enforcement.

The principle of Constante Justitie is the embodiment of the principles of speedy, simple, and low-cost justice. In the context of the update of the criminal events law (New Penal Code), this tenet demands the existence of a synergistic and integrated functional differentiation between law enforcement agencies, rather than a rigid sectoral ego. The New Criminal Procedure Code mandates that the handover of case files should no longer be a bureaucracy of formality that extends the period of one's detention without legal certainty. In contrast, this principle emphasizes the importance of time efficiency, early coordination (early coordination), and limitation of file returns in order to prevent endless back-and-forth.

According to Indah Laila, Assistant Public Prosecutor (Aspidum) at the Central Java High Prosecutor's Office and Medi Santoni, Head of the Public Prosecutor's Office (Kasi Pidum) at the Purwokerto State Prosecutor's Office, the

prosecutor assesses that Satreskrim investigators sometimes only pursue the formalities of the 14-day deadline for returning substantive evidence or evidence. the additional examination requested by the prosecution has not been thoroughly fulfilled, when the immature case file is compelled to be declared complete (P-21), the heavy burden shifts to the Prosecution at the trial. If the indictment is weak as a result of an initial file going back and forth of poor quality, the Prosecutor faces a high risk of the accused being ruled acquitted (vrijspraak) by the Judge. To cut through the bureaucracy of prosecution and avoid the accumulation of dead files, the Prosecutor can apply the following strategies :

a) **Application of the Pre-Assessment System (48-Hour Initial Screening)**

   As soon as the Phase I file of Satreskrim was received, the Public Prosecutor's Office (PPP) immediately did a quick identification within 2x24 hours to map out the crucial deficiencies. If deficiencies are minor, do not immediately return the file formally (P-19), but resolve it through informal communication or direct coordination.

b) **Standardization of the Consolidated (One-Door) P-19 Instruction Formula**

   Prosecutors are prohibited from giving directions in installments or in stages. The entire formal and materiel requirement fulfillment instructions must be poured comprehensively, firmly, and thoroughly in one go of the P-19 document.

c) **Optimization of Investigating Prosecutor Since SPDP (Letter of Notice of Commencement of Investigation)**

   The JPU appointed since receiving the SPDP should take a proactive approach monitoring the progress of the investigation, rather than passively waiting for files to arrive. Prosecutors can provide early legal consultation to investigators regarding the direction of proof before official files are sent.

Wildan Umar Pemalang Police Criminal Case and Ardi Kurniawan Banyumas Police Criminal Case, submitted that Investigators often complained of P-19 instructions from the Prosecutor given in installments. After the first clue is met, a new clue appears on the next file return. This slows down the legal process and takes away from the principle of speedy trial. Satreskrim is facing immense pressure regarding the deadline for the suspect's detention. The phenomenon of files wandering back and forth without limits on frequency makes the period of custody expire for the sake of the law, so that investigators are forced to release suspects from custody before the case goes to court. When files are returned multiple times to add witness

statements, investigators have difficulty in the field because witnesses often have become uncooperative, moved domicile, or refused to be Re-examined. To expedite the fulfillment of the file without violating the suspect's right to detention, Satreskrim can implement the following operational measures:

a) **Forming a Case Management Unit (CMU) at Internal Satreskrim**

   This special unit serves to control the compliance of the timeline of the investigation. The CMU is in charge of reminding investigators on the 7th day after receiving the P-19 to keep evidence fulfillment progress on target before the 14-day limit expires.

b) **Digitization of Administration and Coordination of Case Files**

   Optimal use of information technology-based case handling systems to submit draft documents (softcopies) promptly before physical documents are submitted. This cuts down on file delivery time between offices.

c) **Compilation of Standard Evidence Tool Checklist Based on Case Typology**

   Before turning over the file to the Prosecution, the Recrimination Unit is required to attach a minimum evidentiary suitability checklist sheet. If the checklist has not been met 100%, the file should not be sent to the Prosecutor's Office to minimize rejection

More Indah Laila Assistant Public Prosecutor (Aspidum) at the High Prosecutor's Office of Central Java said that the absence of the Sectoral Ego Limitation Forum before the implementation of the joint case title system in the New Penal Code, the Prosecutor does not have a strong instrument to "force" investigators to equalize the perception of written correspondence between institutions, becoming ineffective and waste of time, if both parties (Investigators and Public Prosecutors) persist on sectoral ego without referring to the Integrated Criminal Justice System in the New Penal Code, the emerging weaknesses include:

1. **Legal Uncertainty for Suspects**

   The legal status is suspended indefinitely.

2. **No. Wastage of the State Budget**

   The operational costs of investigation and handling matters swell as a result of repetitive processes, contrary to the principle of efficiency.

3. **Decline in Public Trust**

   The law enforcement agencies (LAEs) are judged to be unprofessional and throw the responsibility of the matter on each other.

In order to demolish the sectoral egos fueling the back and forth of files, both agencies (Investigators and Public Prosecutors) at the regional level need to agree on a Joint mechanism, through:

1. **Pre-Phase I Coordination Table (Pre-Consultation Forum)**

   Before Satreskrim formally submitted the Phase I physical file, the investigator and the JPU held an informal meeting to discuss the construction of the article and the available evidentiary tools. If the file draft is judged to be mature, then the formal physical handover takes place.

2. **Title of Instant Instance Joint Matter**

   If the file is returned and after re-examination there is still a cross-opinion regarding the sufficiency of the evidence, the local Police and Prosecutor's Office immediately convene a joint case within a maximum of 3 working days. This forum is used to make a final decision: the matter proceeds to trial or is stayed (SP3) for the sake of legal certainty.

3. **Expedited Case Handling MoU for Mild/Easy**

   Criminal Offenses Agreed on a classification of cases that do not require lengthy coordination (e.g. ordinary theft with obvious evidentiary items, or cases directed to Restorative Justice), so that their handling can be immediately declared complete (P-21) in less than 3 days.

The process of handing over criminal case files from investigators to public prosecutors is currently still colored by various bureaucratic weaknesses, such as the phenomenon of back and forth of case files, minimal initial coordination, and sectoral egos. These weaknesses arise because the running system has not fully adopted the Constante Justitie principle aspired to in the New Penal Code. Consequently, the tenets of speedy, simple, and light-cost trials fail to materialize at the pre-prosecution level.

IV. CONCLUSION

Legal protection for a suspect's rights against the consequences of repeated case file returns is now strictly guaranteed under the New Criminal Procedure Code (Law No. 20 of 2025), which limits the return of files to a single instance. This mechanism provides concrete legal certainty, puts an end to a state of legal limbo, and restores the suspect's rights to a speedy trial and the presumption of innocence. A fundamental weakness in the case file submission process-stemming from a failure to uphold the principle of constante justitie (expeditious justice) is the emergence of an indefinite "ping-pong" phenomenon where files are repeatedly shuttled back and forth. This is caused by poor horizontal

coordination between investigators and public prosecutors, as well as the absence of strict legal sanctions. The implications include systemic violations of the suspect's human rights, prolonged legal uncertainty, and bureaucratic inefficiencies within the judicial system that undermine the principles of a speedy, simple, and low-cost trial.

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