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Pre-Trial As Investigation Process Control System

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Abstract

Introduction: Pretrial is the initial thought to carry out supervisory actions against law enforcement officials so that in carrying out or carrying out their duties there is no abuse of authority.
Purposes of the Research: To review and analyze Pre-Trial As Investigation Process Control System.
Methods of the Research: The research method used in this study is Empirical Juridical law research with the reason that the author wants to examine norms related to pretrial and seek information directly about the implementation of pretrial at the Merauke Merauke Police.
Results of the Research: Pretrial is a form of control both from superiors (Vertical) as well as from fellow law enforcers or third parties, namely the attorneys of suspects, suspects and their families (Horizontal) to see that the arrest, detention and determination of suspects are in accordance with applicable rules and pretrial. must have rules regarding inspection techniques so that there is uniformity.

1. INTRODUCTION

The birth of the Criminal Procedure Code is a new breath for the life of Indonesian criminal justice which has provided specialization in the implementation and division of tasks between investigators, public prosecutors and judges in carrying out their duties[1]. existing human rights[2], The birth of the pretrial institution is the initial thought to carry out supervisory actions against law enforcement officers so that in carrying out or carrying out their duties there is no abuse of authority, because it is not enough internal control within the legal apparatus apparatus itself, but there is also a need for cross supervision between fellow enforcement officers. the law so that the supervision provided becomes more objective[3].

[1] Nur Azisa, *Nilai Keadilan Terhadap Jaminan Kompensasi* (Makassar: Pustaka Pena Press, 2016).

[2] Trisapto Nugroho, "Analisis E-Government Terhadap Pelayanan Publik Di Kementerian Hukum Dan Ham (Analysis of E-Government to Public Services in the Ministry of Law and Human Rights)," *Jurnal Ilmiah Kebijakan Hukum* 10, no. 3 (2016): 279–96.

[3] Marwati Riza et al., "The Essence of Fostering Inmates in the Penitentiary System," *Journal of Law, Policy and Globalization* 94, no. 12 (2020): 92–97, https://doi.org/10.7176/jlpg/94-11.

The pretrial directly or indirectly supervises the activities carried out by Polri investigators in the context of investigations and prosecutors' investigators at the prosecution level, considering that the actions of investigators are basically attached to the agency concerned. Through this pretrial institution, it is possible to supervise the police and prosecutors in arrest, detention and investigation[4]

As an institution that does not stand alone, the judicial institution is a sub-division that is attached to its existence with the district court. The beginning of the implementation of the judiciary was filled with optimism that the institution could function as a controller of the implementation of the powers given in the investigation and prosecution stages, but after almost 31 years of implementation, this hope has not materialized. Because the supervisory function of the institution given by this law cannot run properly. Although the purpose of the Criminal Procedure Code in this case is to establish pretrial institutions as a means of control to protect human rights, but in practice the sense of justice and legal certainty is not absolutely felt by pretrial applicants. because from the formulation of Article 1 point 10 in conjunction with Article 77 of the Criminal Procedure Code[5], it can be seen that Pretrial is only an additional authority given to the District Court (only district courts)[6] and the contents contained in Article 77 of the Criminal Procedure Code are:

a) The validity of the arrest, detention, termination of investigation or termination of prosecution.,

b) Compensation and/or rehabilitation for a person whose criminal case is terminated at the level of investigation or at the level of prosecution.

The pretrial is expected to be able to realize the rule of law and the protection of the suspect's human rights at the level of investigation and prosecution[7]. Pretrial functions as a means of controlling investigators so as not to abuse the authority given to them, the control is Vertical Control, namely control carried out from top to bottom and also Horizontal Control, namely side control between investigators and public prosecutors, reciprocal, suspects, families or third party[8] The horizontal control function is the supervision carried out by fellow law enforcement officers in the process of resolving criminal cases. As the name implies, horizontal control supervision, namely supervision that is comparable or at the same level as law enforcers, there are no superiors or subordinates, the position of this institution is equally strong aimed at correcting each other, supervising so that in handling the judicial process from the level of investigation by police investigators to prosecutors In general, there is synchronization in making charges. So that a fair law enforcement process can be created in accordance with the applicable rules in the law, Where there are no law enforcement officers who act in violation of the rules that will harm human rights, especially the rights of suspects or defendants in a criminal case settlement process. This is a bit of a breath of fresh air for the entire Indonesian nation in general and the community seeking

[4] Rosiwa.

[5] Wulandari Sri, "Efektifitas Sistem Pembinaan Narapidana Di Lembaga Pemasyarakatan Terhadap Tujuan Pemindanaan," *Jurnal Hukum Dan Dinamika Masyarakat* 9, no. 0854 (2017): 131–42.

[6] Made Wire Darme, "KAJIAN PERAN LEMBAGA PRAPERADILAN DALAM PENGAWASAN HORIZONTAL APARAT PENEGAK HUKUM (Studi Kasus Putusan N0.01/Pra/2010/PN.Bi)," *Αγαη* 8, no. 5 (2010): 55.

[7] Handar Subhandi Bakhtiar, Abbas, and Rafika Nur, "Limitation of Harbormaster Responsibility in Ship Accidents," *Academic Journal of Interdisciplinary Studies* 10, no. 3 (2021): 375–83, https://doi.org/10.36941/AJIS-2021-0091.

[8] Sukinta qbal Parikesit *, Eko Soponyono, "TINJAUAN TENTANG OBJEK PRAPERADILAN DALAM SISTEM PERADILAN PIDANA DI INDONESIA" 6, no. 8 (2017): 1–60.

justice, especially members of the public who have the status of suspects or defendants. The pretrial institution is the result of efforts to demand the protection of human rights, especially those involved in criminal cases, but it is very unfortunate that even though the existence of the pretrial institution is more than thirty years old, it turns out that in legal practice so far, citizens of the community seek justice in the form of asking for protection. Most of the laws to pretrial institutions have not achieved satisfaction and are considered far from existing expectations[9]

The authority to submit a pretrial is given to the attorney, the family of the suspect or the suspect himself if you want to test the validity of an arrest or detention, this has been regulated in the Criminal Procedure Code, namely Article 80 of the Criminal Procedure Code, there is even a Constitutional Court Decision Number 21/PUU-XII/2014 which expand the object of pretrial in the Criminal Procedure Code by adding the determination of suspects, searches, and confiscations. Pretrial can function as a control tool against investigators from abuse of authority given to them, in this case it is expected that those in charge of the investigation function can work more professionally in order to avoid wrong procedures and continue to improve investigative abilities.

Investigators in carrying out their duties do not rule out the possibility of violations of human rights. However, the essence of law enforcement is to protect human rights, so it is appropriate that violations of human rights are also sought not to be excessive and carried out proportionally according to the initial purpose of the investigation and the investigation itself. From this, it can be seen the importance of holding a supervision or control over law enforcement officers in carrying out their duties. Actually, automatic supervision or control of each law enforcement officer (judges, prosecutors, police) has been attached to the institution where the law enforcement officers are sheltered. However, this supervision is deemed not strong enough because it really depends on the seriousness and internal will of the institution itself without the possibility of interference from outside parties.

Efforts can be made to eliminate the implementation of detention that is contrary to the applicable legal provisions and which is very detrimental to the suspect/defendant or his family. Most of these efforts are contained and regulated in the Criminal Procedure Code, Indeed, this fact is quite encouraging, thus it is hoped that it will be able to provide guarantees and protection for human rights, such protection of human dignity is something that a state of law must have and this effort is through pretrial [10].

In the determination of suspects, sometimes the suspects and legal practitioners are considered not in accordance with the mechanism which results in the suspects submitting a pretrial in court, for example the case of Budi Gunawan which at that time there was no decision of the Constitutional Court Number 21/PUU-XII/2014 whose pretrial decision stated that the determination of the suspect is not in accordance with the procedure so that the suspect's status must be revoked. and in several cases of alleged treason which was considered too excessive, the actions of the investigators to determine the suspect were also a public concern regarding the professionalism of the investigators themselves.

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[9] Jekson Sipayung, Dedi Harianto, and Rizkan Zulyadi, "ARBITER : Jurnal Ilmiah Magister Hukum Analisis Terhadap Putusan Hakim Praperadilan Di Pengadilan Negeri Medan Analysis of Decisions of Pretrial Judges in Medan District Court" 1, no. 07 (2019): 175–86.

[10] I Gede Yuliartha, "Lembaga Praperadilan Dalam Perspektif Kini Dan Masa Mendatang Dalam Hubungannya Dengan Hak Asasi Manusia," *Law Reform* 5, no. 1 (2010), https://doi.org/10.14710/lr.v5i1.667.

At the Merauke Police Station (Silambi et al. 2018)[11] for the last 3 years, namely 2017 to 2020, there have been 3 (three) cases that were brought to pre-trial and the last one was the Makar case and the three cases submitted were all rejected by the Merauke District Court.

Table 1 Cases submittedto Pretrial Years 2017-2020

Number	Case	Year	Who filed the Pretrial	Decision
1	Makar	2021	Jurisdiction	Rejected
2	Rape	2019	Jurisdiction	Rejected
3	Persecution	2017	Jurisdiction	Rejected

Data : Polres in Merauke, 2022

From the data available at the Merauke Resort Police (Polres Merauke) it can be seen that all pre-trial cases at the Merauke Court were rejected. From the series of backgrounds that have been presented above, the authors are interested in exploring more deeply related to pretrial relations with investigators in determining suspects in a study by taking the problem, namely How does pretrial function as control investigation at the Merauke Police? And what are the obstacles in the implementation of pretrial in Merauke Regency?

2. METHOD

The type of research used in this study is a combination of normative legal research and empirical legal[12] research with the reason that the author wants to examine norms related to pretrial and seek information directly on the implementation of pretrial at the Merauke Police. The data analysis technique used in this research is qualitative data analysis through reasoning and legal arguments against the material obtained. The data is processed and presented descriptively. The data analysis referred to here is to describe, describe, and explain the existing data so as to answer the problems that exist in this study.

3. RESULTS AND DISCUSSION

3.1 Pretrial as control of the investigation at the Merauke Police

Luhut Pangaribuan in his book states that pretrial is an innovation in the Criminal Procedure Code along with other innovations, such as limiting the process of arrest or detention. [13] Luhut Pangaribuan also wrote the opinion of A. Hamzah as follows:

"According to Dr. A. Hamzah [14], pretrial is a place to complain about violations, violations of human rights because the intention of pretrial is as a "translation" of habeas corpus which is the substance of human rights. Because the drafting of the Criminal Procedure Code is much encouraged by International Human Rights Law which has become International Customary Law."

If "pretrial" is interpreted literally, it can be interpreted as pre means before or precedes. Means "pretrial" is the same as before examination in court. Pretrial is regulated

[11] Erni Dwita Silambi et al., "Legal Testing on Hate Speech Through Social Media 1," *1st International Conference on Social Sciences (ICSS 2018)* 226, no. Icss (2018): 1411–14.

[12] Irwansyah dkk, *Penelitian Hukum Pilihan Metode Dan Praktek Penulisan Artikel* (Yokyakarta: Mitra Buana Media, 2020).

[13] Luhut M.P Pangaribuan, *Hukum Acara Pidana: Surat-Surat Resmi Di Pengadilan Oleh Advokat, Praperadilan, Eksepsi, Pledoi, Duplik, Memori Banding, Kasasi, Peninjauan Kembali / Oleh Luhut M. P. Pangaribuan* (Jakarta: Djambatan, 2005).

[14] Prof. Dr. Jur. Andi Hamzah, *Hukum Acara Pidana Indonesia* (Jakarta: Sinar Grafika, 2008).

in Chapter X Part I of the Criminal Procedure Code as one part of the scope of authority to adjudicate District Courts. Pretrial brings certain oversight of the workings of law enforcement officials as well as the possibility to provide rehabilitation and compensation not previously regulated under HIR.

Pretrial aims to monitor the coercive measures taken by investigators or public prosecutors against suspects, so that these actions are actually carried out in accordance with the provisions of the law, and are truly proportional to the legal provisions and do not constitute actions that are contrary to the law. Supervision and assessment of this coercive effort is not found in law enforcement actions in the HIR era. However, the treatment and the method of carrying out the coercive measures carried out by investigators at that time, were all lost by unsupervised and uncontrolled authorities by any agency correction [15].

law enforcement officers can coordinate and control each other. In addition, third parties also need to take part in the supervision so that the supervision becomes more neutral, it is necessary to do a pretrial as a way to control investigators in carrying out their duties as stated by Rizky, SH, one of the judges at the Merauke District Court [16] said that "The function of pretrial is as a control for law enforcement over the law enforcement apparatus itself to protect the rights of suspects or defendants" In practice, the function of the existence of a pretrial institution is as a media of control or as a reminder for law enforcement officers in carrying out their authority so that they do not carry out their duties arbitrarily or outside their arbitrariness. While the role of pretrial is in the context of enforcing existing rules to protect the rights of suspects. Not too different between the functions and roles of pretrial. If the function of pretrial is as a control for law enforcement over the law enforcement apparatus itself to protect the rights of suspects or defendants, the role of pretrial appears in the context of enforcing existing rules to protect the rights of suspects.

Pretrial is a common practice in establishing mutual control between the Police, the Prosecutor's Office and the Suspect through their Legal Counsel or creating mutual control between fellow law enforcers. In a state of law that seeks to uphold the rule of law, it is necessary to have an independent control agency whose duties are to observe/observe the legality of an arrest, detention or legal termination of an investigation or the validity of the reasons for stopping the prosecution of a criminal case, whether it is carried out officially by issuing SP3 or SKPPP (Devonering), especially for cases that have been secretly terminated, In addition, it is also hoped that the Police will be able to control the performance of the Prosecutor's Office whether the cases that have been delegated are actually forwarded to the Court. Likewise, the Prosecutor's Office is expected to be able to control the performance of the Police in the process of handling criminal cases, whether the cases that have been submitted to the SPDP (P.16)[17] to the Prosecutor's Office are finally transferred to the Prosecutor's Office or even stop quietly.

Pretrial is part of the district court that performs a supervisory function, especially in the case of coercive efforts against suspects by investigators or public prosecutors. The supervision in question is the supervision of how a law enforcement officer carries out his

[15] Tumian Lian Daya Purba, "Praperadilan Sebagai Upaya Hukum Bagi Tersangka," *Papua Law Journal* 1, no. 2 (2018): 253–70, https://doi.org/10.31957/plj.v1i2.591.

[16] Erni Dwita Silambi, Marlyn Jane Alputila, and Syahruddin Syahruddin, "Customary Justice Model in Resolving Indigenous Conflicts in Merauke Regency Papua," *Musamus Law Review* 1, no. 1 (2018): 63–72, https://doi.org/10.35724/mularev.v1i1.1079.

[17] Darmawati Darmawati, "Aspek Hukum Pemenuhan Hak Atas Pembebasan Bersyarat Bagi Narapidana Korupsi," *Jurnal Restorative Justice* 3, no. 2 (2019): 108–18.

authority in accordance with the provisions of the existing laws and regulations, so that law enforcement officers are not arbitrary in carrying out their duties. As for the suspect or his family as a result of deviant actions committed by law enforcement officers in carrying out their duties, they are entitled to compensation[18].

The main aims and objectives to be enforced and protected in the pretrial process are upholding the law and protecting the human rights of suspects at the level of investigation and prosecution. According to the Head of the Merauke Police, Untung Sumaji, SH that "control of investigators must be carried out both horizontally and vertically because the investigators at the Merauke Police are still young, so sometimes in carrying out their duties they are still influenced by their young soul which is sometimes still emotional but I always remind that in dealing with a problem one should not get carried away with feelings but still be guided by the existing rules"

The number of investigators at the Merauke Police can be seen in the following table:

Table 2. Number of Investigators, Gender, Age and last Education of Investigators Merauke Police

No	Gender		Age			Last Education		
	Female	Boys	20-25	26-30	31-35	SMA	S1	S2
1	6	26	3	20	9	19	12	1
	Amount				32			

Data : Merauke Police

One of the cases that was submitted to pretrial at the Merauke Police was the case of treason that occurred in 2020. The alleged treason involved 13 activists of the West Papua National Committee (KNPB). The Coalition of Non-Governmental Organizations or NGOs in Papua has pre-trialized the police for allegedly naming 13 KNPB activists in Merauke as suspects, without following procedures and also the occurrence of acts of violence against these activists and the destruction of the KNPB office.

But then the panel of judges rejected the applicant's application in its entirety and charged the applicant zero case fees because based on the legal facts revealed at the trial, it turned out that the Merauke Police's determination of the suspect against 13 KNPB activists had been carried out based on 2 pieces of evidence supported by evidence and carried out through the litigation mechanism.

Based on the evidence of letters P11 and P16, the respondent has also held 2 cases. In accordance with the evidence in P10 and P15 and the evidence in the leaflet "Trikora Is the Beginning of the Killing of Papuans" and complemented by other evidence, such as several boards with a picture of the Morning Star," based on these considerations, the judge is of the opinion that the determination of the suspect to the applicant is appropriate and legal according to law. Because it is based on proper reasons and a clear list of laws.

The example above is one form of control carried out by a third party if it is considered that the procedures carried out by law enforcement violate the rules or are far from their authority. As stated by Untung Sumaji, the head of the Merauke Police, that: "There are cases that are pretrial, then this is a positive thing because the community is considered

[18] Mochamad Faisal Salam, *Hukum Acara Pidana Dalam Teori Dan Praktek* (Bandung: Bandar Maju, 2001).

sensitive to existing cases, meaning that the community can carry out its function as supervision of the implementation of the legal process that occurs".

The Supreme Court is authorized to exercise the highest supervision over the administration of justice in all judicial environments in exercising judicial power, including Pretrial in accordance with the Regulation of the Supreme Court of the Republic of Indonesia Number 4 of 2016 concerning the Prohibition of Reviewing Pretrial Decisions.

a) Supervise the behavior and actions of judges in carrying out pretrial duties;
b) Requesting information on the technical pretrial examination; and
c) Giving instructions, warnings or warnings that are deemed necessary to pretrial decisions that save fundamentally.

3.2 Barriers to the Implementation of Pretrial in Merauke District

Of the three cases submitted to the Pre-Trial that occurred at the Merauke Police[19], all three were rejected because in the trial it was not proven that the procedures carried out by investigators violated the rules and also violated human rights[2021]. Procedures for arrest and detention are in accordance with the Criminal Procedure Code. According to judge Rizky, SH that "so far there have been no obstacles and obstacles in carrying out pre-trial, only sometimes we are chased by time because this pre-trial demands to be resolved quickly but for the implementation and procedures there are no obstacles if the file has been submitted then we are from the Court no later than 3 (three) after the file has been submitted, the time for the trial must have been set, everything must be fast-paced because the Head of the District Court must also appoint a single judge in carrying out the examination.

Procedurally, there are no problems or obstacles faced by judges when carrying out their duties in a pretrial lawsuit, but according to the results of interviews with judges, the problems faced are: First, regarding the problem of the grace period because this pretrial is a quick and no later than seven examinations day, the judge must have rendered a decision on this matter in accordance with article 82 paragraph (1) point C of the Criminal Procedure Code. So like it or not, the judge must be firm and committed to both the applicant and the respondent within 7 days, it must be completed and there must be a decision. Second, the space for judges is limited because this pretrial was formed only as a forum for parties who feel that their interests have been harmed by other parties, so that parties who feel aggrieved then file a pretrial application, and it is certain that there are parties who are satisfied with this institution and there are also those who are dissatisfied, because some applications are accepted and fall but most of the requests fall Judges are guided or referred to the rules of the Act, namely Articles 77-83 of the Criminal Procedure Code. Here the space for judges is in accordance with the contents of Article 82 of the Criminal Procedure Code which regulates how judges must act. Moreover, Article 82 paragraph (1) letter d, "in a case that has begun to be examined by a district court, while the examination of a request to a pretrial has not been completed, then the request is void" Here lies the weakness of this pretrial, there is a loophole that does not give full rights to the filing of a pretrial lawsuit. Third, this

[19] Marlyn Jane Alputila Erni Dwita Silambi, "Efektivitas Pembinaan Narapidana Di Lembaga Pemasyarakatan Kelas IIB Merauke." 4, no. 1 (2015): 81–97.

[20] Osgar S Matompo, "Restrictions on Human Rights in an Emergency Perspective," *Media Hukum* 21, no. 1 (2014): 57–72.

[21] Veronica Agnes et al., "TINJAUAN YURIDIS PERLINDUNGAN HUKUM HAK ASASI MANUSIA TENTANG ORGANISASI KEMASYARAKATAN THE JURIDICAL REVIEW OF HUMAN RIGHTS LAW PROTECTION IN LAW NUMBER 17 YEAR 2013 ABOUT COMMUNITY ORGANIZATION Pendahuluan," *Lentera Hukum* 1, no. 1 (2017): 66–77.

pretrial case is a sissy case because this case is indeed a criminal case, but in the proceedings it is like a civil case, because in the proceedings there is an application, the respondent's answer, a replica and duplicate. This shows that this case is the same as a civil procedure process, and the decision is also in the form of a determination. [22].

The same thing about the three points above was also confirmed by Sombo, SH, MH, a prosecutor at the Merauke Prosecutor's Office who said that "the obstacle that occurred in the pre-trial is that a case has already begun to be examined by the district court while the examination of the request to the pretrial has not been completed, then the request is rejected later in the examination will only focus more on the examination process on documentary evidence, which is then used as a reference to assess whether the actions of law enforcement officers in the investigation and prosecution stage are legal or not according to the legal form. Examination in this case is also known as a brief examination.

In the practice of pretrial examination so far, it turns out that judges pay more attention to whether or not the formal requirements for arrest and detention are fulfilled, or whether there is an order for detention and do not examine and evaluate the material requirements at all. In fact, according to the researcher, to determine whether the process involved a violation or coercion by the investigator, the judge should also look at the existing material requirements. [23], In Article 82 of the Criminal Procedure Code, it is stated that judges in examining pretrial cases have been given the authority to hear statements from both the suspect or the applicant as well as from the competent authority. Considering that the pretrial case examination process is a short event, So, to prove the argument that it is necessary or not for someone to be named a suspect, the judge can only examine two formal pieces of evidence that form the basis for determining someone to be a suspect. This is in line with what is contained in article 2 of the Supreme Court Regulation Number 4 of 2016 (PERMA 4/2016) concerning the Prohibition of Reviewing Pretrial Decisions.

According to a study by the National Legal Development Agency (BPHN), in every implementation of forced efforts there is always a seizure of human rights, even though the essence of law enforcement is to protect human rights. Therefore, coercive measures should be sought so as not to be excessive and carried out proportionately according to the original purpose of coercive measures. While the pretrial examination which was intended as a control over the coercive measure, was only carried out after the coercion was completed and before the commencement of the examination on the subject matter of the case. Thus, according to BPHN, pretrial is a more "repressive" supervision, not preventive. The pretrial examination does not care whether the investigator or the prosecutor who has detained him has fulfilled all the material requirements. Whether or not there is sufficient preliminary evidence, in practice the pretrial judges have never questioned it, because generally they consider it not their duty and authority, but have entered the case examination material which is the authority of the District Court judge.

Likewise, in detention, the judge does not see whether the suspect or defendant is strongly suspected of committing a crime based on sufficient evidence, or whether there are concrete and real reasons that raise concerns that the person concerned will run away, lose evidence or repeat his actions. Pretrial judges generally accept that concerns are a matter of subjective judgment on the part of the investigator or prosecutor. In other words, the judge handed it over to the investigators and the public prosecutor. The authority of the pretrial

[22] Prof. Dr. Jur. Andi Hamzah, *Hukum Acara Pidana Indonesia*.

[23] Djauhari Dodik hartanto, Maryanto, "Peranan Dan Fungsi Praperadilan Dalam Penegakan Hukum Pidana Di Polda Jateng Dodik," *Jurnal Daulat Hukum* 1, no. 1 (2018): 53–64.

institution is to examine the process of investi gating and prosecuting criminal cases and to determine rehabilitation and compensation for illegal coercion efforts which later this authority with the birth of the pretrial decision 04/ Pid /Prap /2015 / PN. JKT. SEL in the case of Budi Gunawan and Decision of the Constitutional Court (MK) 21/ PUU-IV / 2014. The decision essentially states that the authority of the pretrial institution is also in terms of examining whether or not the determination of a person's suspect is legal.

With the possibility of a pretrial, it is hoped that this can be a tool of control for judges to see law enforcement actions, in this case, investigations and prosecutions have been carried out with the correct procedures based on the law or there has been arbitrariness, but judges may not exercise control that exceeds their authority in accordance with the law. - The law, moreover, has to create new norms, new norms that are also contrary to the relevant legal rules such as the Criminal Procedure Code. In order for the pretrial to run according to expectations, a legal rule that regulates in detail about pretrial, especially relating to technical procedural law in terms of pretrial case examination is needed because this regulation will be a guide for uniformity in conducting pretrial examinations because currently it is already many cases are submitted to the pre-trial and there are judges who only carry out formal examinations but some have been included in the main material of the case concerned so that according to this writing, uniformity is needed so as not to harm other parties or avoid problems that occur in the case if pretrial was rejected.

The obligation to show two pieces of evidence before a pretrial judge is also an obstacle because this is a "reversal of evidence processing", which is firmly and clearly contrary to criminal proceedings which can only be tested or investigated for evidence before a judge at an examination. the main/material case because this will be risky and endanger law enforcement related (suspects/witnesses) to disguise the evidence, either by eliminating, obscuring or intentionally damaging the existing evidence.

So far, pretrial is in fact a right exercised by the suspect or the suspect's family through their legal counsel by conducting a Pretrial Lawsuit against the Police or against the Prosecutor's Office to the local District Court, the substance of which is the question of whether or not an arrest or detention is legal or whether or not an investigation is terminated. or prosecution. We have never heard that the Police pretrial the Prosecutor's Office regarding the validity of the termination of prosecution against the suspect/defendant, or vice versa, the Prosecutor's Office pre-trials the Police regarding the validity of the termination of the investigation.

4. CONCLUSION

Pre-trial is a form of control both from superiors (Vertical) as well as from fellow law enforcers or third parties, namely the legal counsel of the suspect, suspect and his family (Horizontal) to see that the arrest, detention and determination of suspects are in accordance with established procedures. By law and there are no human rights violations and are not carried out arbitrarily by investigators. Pretrial is a fast trial, namely seven days there must be a decision so that the judge seems to be in a hurry in handling cases that are included in the pretrial and if the case with the subject matter has started to be tried, the pre-trial process automatically becomes invalid.

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