



Handling of Criminal Actions of the 2019 Election and the Criminal Action of Election of Regional Head in 2020 by the Integrated Center of Law Enforcement in the Lima Puluh Kota Regency

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Abstract

General Elections and Regional Head Elections are a political contestation in choosing and determining the leader of a region as well as determining people's representatives based on their electoral area. In the context of holding General Elections and Regional Head Elections every 5 (five) years as part of the democratic system in Indonesia, it is possible that there will be violations related to the General Election and Regional Head Election. Violations that occur can be carried out by the organizers of the General Election and/or Regional Head Election, candidate pairs in the General Election and Regional Head Election as well as a successful team or volunteers from certain pairs of candidates. Criminal violations of the 2019 general election that occurred in the Lima Puluh Kota Regency, Sumatera Barat province, there are 10 (ten) cases. Meanwhile, there are 6 (six) cases of alleged violations of the 2020 regional head elections that occurred in Lima Puluh Kota Regency, which were sourced from the findings of. Based on this, the formulation of the problem in this writing, namely: (1) How is the handling of criminal acts in the 2019 general election by the Integrated Law Enforcement Center in the Lima Puluh Kota Regency; (2) How is the handling of the criminal act of the 2020 Regional Head election by the Integrated Law Enforcement Center in Lima Puluh Kota Regency. The research used in this article is empirical legal research where the data are obtained from the community. From the results of the study, it was concluded that : In terms of handling general election crimes by the Lima Puluh Kota Integrated Law Enforcement Center out of 10 (ten) cases, only 1 (one) case originated from findings that were raised to the stage of investigation until examination by the court where evidence was found. evidence of violations of criminal acts of general election as described in article 516 of Law Number 7 of 2017 concerning general elections, namely by imprisonment for 2 (two) months and a fine of Rp. 5,000,000 (five million rupiah) provided that the fine is not paid is replaced with imprisonment for 2 (two) months. Then, in terms of handling the crime of Regional Head Elections by the Lima Puluh Kota Integrated Law Enforcement Center out of 6 (six) cases, only 1 (one) case stems from findings that are raised to the investigation stage until examination by the court as regulated in the General Election Commission Regulation. Number 11 of 2020 concerning Amendments to General Election Commission Regulation Number 4 of 2017 concerning Election Campaigns for Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors, and General Election Commission Regulation Number 13 of 2020 concerning Second Amendments to Regulations General Election Commission

Number 6 of 2020 concerning Implementation of Elections for Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors Simultaneously Continued in Non-Natural Disaster Conditions Corona Virus Disease (Covid-19). Against this conclusion, the authors suggest that the handling of criminal violations of general elections and regional head elections by the Lima Puluh Kota Integrated Law Enforcement Center has human resources (HR) with educational qualifications in the field of law, so that the stages of handling criminal elections and regional head elections can be carried out, running well as it should.

Keywords: *Crime; General Election; Regional Head Election; Law Enforcement*

Introduction

Democracy is an understanding and political system based on the doctrine of people of the power, namely power from the people, by the people, and for the people. The people are the holders of the highest power in a country that adheres to the democratic system. Simply put, the sovereignty of the state is in the hands of the people. Indonesia adheres to a democratic system which expressly states that sovereignty is in the hands of the people and is implemented according to the Constitution.¹ Along with the times, the strong understanding of democracy has made its concepts become political beliefs of various nations, which have developed into isms (understandings or teachings), and even developed as myths that are seen as bringing blessings to the lives of civilized nations.²

Indonesia's democratic system is guided by the life philosophy of the Indonesian nation and state, namely Pancasila. This is stated clearly in the Preamble to the 1945 Constitution of the Republic of Indonesia in the fourth paragraph, namely:

The Government of the State of Indonesia which protects the entire Indonesian nation and the entire homeland of Indonesia and to promote the general welfare, educate the nation's life, and participate in carrying out world order based on independence, eternal peace and social justice, the Indonesian National Independence is drawn up in a Constitution. The State of Indonesia, which was formed in a structure of the Republic of Indonesia which is sovereign by the people based on the One Godhead, Just and Civilized Humanity, Indonesian Unity and Democracy led by wisdom in Deliberation/Representation, as well as by realizing a social justice for all people of Indonesia.

Furthermore, democracy as described above, by definition can be viewed from the etymological (language) and terminological (term) aspects. Etymologically, democracy consists of 2 (two) Greek words, namely *demos* and *cratein* or *cratos*. *Demos* means people or local residents. While *cratein* or *cratos* is sovereignty or power. Thus, in the language of *demos* and *cratein* or *cratos* is a state condition where the system of government is in the decision of the people, the people in power, government and power by the people.³ Then, in terminology, democracy according to Hendri B. Moyo is a political system which shows that public policies are determined on the basis of the principle of political equality and are carried out in an arrangement that guarantees political freedom.⁴ In line with the above, democracy in Indonesia is implemented by holding direct, general, free, secret, honest and fair elections every 5 (five) years. General elections are held to elect members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council. Participants in the general election to elect members of the People's Representative Council and members of the Regional People's Representative Council are political parties. Participants in the general election to elect members of the Regional Representatives Council are individuals. General elections are held by a

¹ Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

² Samuel P. Huntington, *Gelombang Demokrasi Ketiga*, Jakarta, Grafiti, 1995, p.5.

³ Azyumardi Azra, *Demokrasi, HAM, Masyarakat Madani*, Jakarta, ICCE UIN Jakarta, 2000, p.110.

⁴ Mahfud MD, *Demokrasi dan Konstitusi di Indonesia*, Jakarta, Rhineka Cipta, 2003, p.19.

General Election Commission which is national, permanent and independent.⁵ The Regional Head Election System is regulated in Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, namely: Governors, Regents and Mayors respectively as Heads of Provincial, Regency and City Governments who are democratically elected.

The General Election or Regional Head Election above, is a political contestation in choosing and determining the leader of a region as well as determining people's representatives based on their electoral area. By definition, Article 1 point 1 of Law Number 7 of 2017 concerning General Elections states that the General Election is a means of people's sovereignty to elect members of the People's Representative Council, members of the Regional Representatives Council, President and Vice President, and to elect members of the Regional People's Representative Council, which is carried out directly, publicly, freely, confidentially, honestly, and fairly (commonly abbreviated as LUBER and JURDIL) within the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Meanwhile, Regional Head Elections are regulated in Law Number 1 of 2015 concerning Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, Mayors to become Law in conjunction with Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Stipulation of Government Regulations In lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, Mayor Becomes Law in conjunction with Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, Mayors Become Laws in conjunction with Government Regulations Substitute for Law Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to Become Laws.

In the context of holding General Elections and Regional Head Elections every 5 (five) years as part of the democratic system in Indonesia, it is possible that there will be violations related to the General Election and Regional Head Election. Violations that occur can be carried out by the organizers of the General Election and/or Regional Head Election, candidate pairs (paslon) in the General Election and Regional Head Election as well as a successful team or volunteers from certain pairs of candidates. General Election Violations consist of administrative violations, disputes and disputes over the results of the General Election, crimes and codes of ethics as regulated in Article 454 to Article 476 of Law Number 7 of 2017 concerning General Elections. On the other hand, the process of handling violations of the Regional Head Election is based on Article 134 of the Regional Head Election Law. One of the violations that has received enough attention is a criminal offense. Sentencing is a last resort as known as the term *ultimum remidium* in criminal law, namely the principle that criminal law should be used as a last resort in terms of law enforcement.

Election crime is a violation or crime against election provisions.⁶ In order to equalize the understanding and pattern of handling election crimes, the Provincial General Elections Supervisory Board, and/or Regency/Municipal Supervision Committee, Regional Police and/or Resort Police, and the High Prosecutor's Office and/or District Attorney's Office establish an integrated law enforcement center (Gakkumdu).⁷ The integrated law enforcement center is attached to the Central Election Supervisory Agency, the Provincial Election Supervisory Agency, and the Regency/City Supervisory Committee.⁸

⁵ Article 22E of the 1945 Constitution of the Republic of Indonesia.

⁶ Article 145 of Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, Mayors to Become Laws.

⁷ Article 1 number 38 of Law Number 7 of 2017 concerning General Elections jucto Article 152 paragraph (1) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulation in Lieu of Law Number 1 Year 2014 concerning Election of Governors, Regents, Mayors Become Law.

⁸ Article 152 paragraph (2) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, Mayors to become Laws.

Nationally, during the 2019 General Election, there were 548 (five hundred and forty-eight) criminal offenses.⁹ Of the 548 (five hundred forty-eight) cases of general election criminal violations, as many as 345 (three hundred forty-five) cases have been decided, including: Aceh Province with 8 (eight) decisions, North Sumatra 24 (twenty four) decisions, Islands Riau 11 (eleven) decisions, Riau 16 (sixteen) decisions, Jambi 1 (one) decisions, West Sumatra 17 (seventeen) decisions, South Sumatra 1 (one) decisions, Bangka Belitung 3 (three) decisions, Lampung 1 (one) decisions, Bengkulu 4 (four) decisions.¹⁰

Meanwhile, the 2019 general election criminal violations in West Sumatra Province were 33 cases.¹¹ However, only 17 cases were decided. Meanwhile, the 2019 general election criminal offenses that occurred in Lima Puluh Kota District, West Sumatra Province, there were 10 (ten) cases. Of the 10 (ten) suspected criminal cases handled by the General Elections Supervisory Board of Lima Puluh Kota, 9 (nine) cases whose status was not continued to the investigation process. Because based on the results of the second stage of discussion with the Integrated Law Enforcement Center, from the facts found there was not enough evidence so that it did not meet the elements in the alleged criminal article. Meanwhile, 1 (one) case has been decided by the court.¹²

In addition, there are 112 cases of criminal violations in the 2020 regional head elections conducted simultaneously / nationally.¹³ For criminal violations of the 2020 regional head election in West Sumatra Province as many as 5 cases.¹⁴ Meanwhile, there were 6 (six) cases of alleged violations of the 2020 regional head elections that occurred in Lima Puluh Kota District. Of the 6 (six) findings of alleged criminal offenses, the Lima Puluh Kota General Election Supervisory Body is currently processing a case of alleged money politics by the campaign team of one of the pairs of candidates for regent and deputy regent. The process of this case has reached the confirmation stage by the investigator team of the Integrated Law Enforcement Center which is a combination of the General Elections Supervisory Agency, Lima Puluh Kota Police, Payakumbuh Police, and Payakumbuh District Attorney. Since the regional head election campaign in September 2020 until December 2020, the Lima Puluh Kota Integrated Law Enforcement Center handled 8 (eight) cases of alleged general election crimes that occurred in Lima Puluh Kota. Of the 8 (eight) cases, 7 (seven) cases were discontinued due to the non-fulfillment of the formal and material requirements for the general election crime.¹⁵

Departing from the descriptions above, the author is interested in researching and studying further in the form of an article entitled "HANDLING OF THE CRIMINAL ACTION OF ELECTION IN 2019 AND THE CRIMINAL ACTION OF THE ELECTION OF REGIONAL HEAD OF 2020 BY THE CENTER OF INTEGRATED LAW ENFORCEMENT IN THE DISTRICT OF LIMA PULUH KOTA".

There are several theories that the author uses in writing this article, namely: Law Enforcement Theory and Justice Theory. Soerjono Soekanto said that law enforcement is an activity to harmonize the relationship of values that are spelled out in solid and embodied values/views of values and attitudes of action as a series of value elaboration at the final stage to create social engineering, maintain and maintain social control of peace (life association).¹⁶ Justice here is something that must be fought for or a need that

⁹<https://nasional.kompas.com/read/2019/04/09/18190341/bawaslu-temukan-548-pelanggaran-pidana-pemilu-ini-paparannya>, accessed March 30, 2021.

¹⁰<https://www.bawaslu.go.id/id/hasil-pengawasan-pemilu/update-data-pelanggaran-pemilu-tahun-2019-4-november-2019>, accessed 26 April 2021.

¹¹ <https://langgam.id/bawaslu-proses-57-kasus-pelanggaran-pemilu-terbanyak-pidana/>, accessed March 30, 2021.

¹² <http://50kota.bawaslu.go.id/berita/bawaslu-lima-puluh-kota-tangani-enam-kasus-dugaan-pelanggaran-pidana-pemilu>, accessed on February 8, 2021.

¹³<https://www.bawaslu.go.id/id/berita/dari-3814-dugaan-pelanggaran-pilkada-112-dugaan-tindak-pidana-masuk-tahap-penyidikan>, accessed March 30, 2021.

¹⁴ <https://www.republika.co.id/berita/qqbeua428/bawaslu-sumbar-catat-5-kasus-pidana-pilkada-2020>, accessed March 30, 2021.

¹⁵ <https://padek.jawapos.com/sumbar/Lima-Puluh-kota/03/12/2020/bawaslu-proses-dugaan-politik-uang/>, accessed January 23, 2021.

¹⁶ Ridwan HR, *Hukum Administrasi Negara, Edisi Revisi*, Jakarta, Rajawali Pres, 2011, p.291.

has not been fulfilled for one reason or another.¹⁷ Aristotle puts justice into 4 (four) parts. First, justice in the distribution of public office and property; second, justice in terms of buying and selling; third, justice as arithmetic equality in the private or public sphere; and fourth, justice in the interpretation of law.¹⁸

Based on information and literature search, research with the title “HANDLING OF THE CRIMINAL ACTION OF ELECTION IN 2019 AND THE CRIMINAL ACTION OF THE ELECTION OF REGIONAL HEAD OF 2020 BY THE CENTER OF INTEGRATED LAW ENFORCEMENT IN THE DISTRICT OF LIMA PULUH KOTA”, there are no scientific papers that have the overall similarity with the title to be studied. However, it is possible that the same research has been conducted, both at state universities and at private universities. However, there are differences, especially the problems that have been formulated, the discussion and the theoretical framework used.

The formulation of the problem in this writing, namely:

1. How is the handling of criminal acts in the 2019 general election by the Integrated Law Enforcement Center (Gakkumdu) in Lima Puluh Kota Regency ?
2. How is the handling of the criminal act of the 2020 Regional Head election by the Integrated Law Enforcement Center (Gakkumdu) in Lima Puluh Kota Regency ?

Research Methods

The type of research used in this article is empirical legal research, which is research that obtains data from primary data or data obtained directly from the community.¹⁹ Based on the type of research above, the authors choose empirical legal research with field studies of primary data in the form of interviews and secondary data consisting of primary legal materials and secondary legal materials. The processing method is carried out by collecting data sources, both primary data and secondary data, which then examines these data sources, classifies data, and analyzes data to find answers to answer the formulation of the problem under study. Furthermore, the data analysis method was carried out by qualitative descriptive, namely the data obtained were qualified according to the research problem and then described by analyzing the data obtained from the research results that had been systematically arranged to provide a clear and complete picture so as to produce a conclusion that can be used. to answer the formulation of the problem in research.²⁰

Results and Discussion

1. Handling of General Election Crimes by the 2019 Integrated Law Enforcement Center in Lima Puluh Kota Regency.

A. Stage of Acceptance of Findings and Reports

The beginning of the handling of general election crimes is marked by the findings or reports received by Bawaslu. Based on the findings or reports of alleged violations of general election crimes, investigators and prosecutors accompany Bawaslu, Provincial Bawaslu, Regency/Municipal Bawaslu, and Overseas Panwaslu in receiving findings or reports of election crimes. Technically, the assistance uses the format for the completeness of the findings or reports of alleged criminal acts in the general election. Assistance to identify, verify, and consult on findings or reports of alleged criminal acts in the general election. In the event that the findings or reports are received, the General Election Supervisor prepares

¹⁷ Hyronimus Rhati, *Filsafat Hukum Edisi Lengkap*, Yogyakarta, Universitas Atma Jaya Yogyakarta, 2011, p.238.

¹⁸ *Ibid*, p.242.

¹⁹ Mukti Fajar ND, *Dualisme Penelitian Hukum Normatif dan Empiris*, Yogyakarta, Pustaka Pelajar, 2013, p.154.

²⁰ Zainuddin Ali, *Metode Penelitian Hukum*, Jakarta, Sinar Grafika, 2009, p.107.

and fills out the format of the findings or reports as well as assigns a number and provides a letter of receipt of the report to the reporter. After the findings or reports are received, the general election supervisor is accompanied by members of Gakkumdu according to their level to clarify the complainants and witnesses present. The Gakkumdu Coordinator according to level issues an Investigation Order after the findings or reports are received by the Election Supervisor. The Investigator conducts an Investigation based on an Investigation Warrant.²¹

The findings and reports handled by the Lima Puluh Kota Gakkumdu Center were 10 (ten) cases of alleged criminal violations of the 2019 general election, including:²²

1) Finding Number: 001/TM/PL/Kab/03/10/I/2019

That the Suliki Sub-district Panwaslu found that there were findings of alleged violations of general election crimes, namely, the distribution of goods in the form of wall clocks to campaign participants as many as 6 (six) pieces carried out by Candidates for Members of the Regional People's Representative Council (DPRD) of West Sumatra Province from the National Mandate Party (PAN).) Electoral District V Serial Number 4 on behalf of Prof. Dr. Erman Mawardi in Jorong Limbanang Baruah, Nagari Limbanang, Suliki District.

The case of alleged criminal violations of the general election was taken over by the Lima Puluh Kota Regency Bawaslu by registering the findings on January 11, 2019 with Register Number: 001/TM/PL/Kab/03.10/I/2019. Furthermore, the first stage of discussion was carried out with the Center for Gakkumdu, Regency of Lima Puluh Kota, the results obtained to be followed up by conducting a study by the Lima Puluh Kota Bawaslu. Investigation by the Lima Puluh Kota Resort Police who are members of the Gakkumdu Center, Lima Puluh Kota District.

Then the process of compiling a study in the form of clarification and investigation of the reported and the witnesses from January 14 to January 22 2019. This is in accordance with the provisions of Article 20 of Bawaslu Regulation Number 31 of 2018 concerning Integrated Law Enforcement Centers. However, the obstacle faced was the difficulty of presenting witnesses for questioning for various reasons.

2) Finding Number :002/TM/PL/Kab/03.10/II/2019

This finding originated from a report received by the Regency Lima Puluh Kota Bawaslu on Monday, February 4, 2019, but it was not registered because it did not meet material requirements. Furthermore, the Regency Bawaslu Lima Puluh Kota used the findings as initial information for an investigation. Then the findings were registered on 18 February 2021 for alleged violations of the participation of the State Civil Apparatus (ASN) in the campaign as referred to in Article 280 in conjunction with Article 521 of Law Number 7 of 2017 concerning General Elections conducted by the reported party on behalf of Hj. Nevi Zuairina, a candidate for Member of the DPR RI from the Prosperous Justice Party (PKS) for the Electoral District of West Sumatra with Serial Number 2. The Gakkumdu Center conducted the first discussion of the findings and agreed to follow up with a study by the Regency Bawaslu Lima Puluh Kota and the Resort Police Lima Puluh Kota.

3) Finding Number: 003/TM/PL/Kab/03.10/III/2019

The Panwaslu of Gunuang Omeh Subdistrict found an alleged violation of a general election crime of giving and/or promising money or other materials in the form of goods, namely bicycles, play cabinets, fans, brooms and other gifts to campaign participants in the Minang Rhythm Arts (KIM) activity

²¹ Article 19 Election Supervisory Body Regulation Number 31 of 2018 concerning Integrated Law Enforcement Centers.

²² Interview with Ms. Zumaira, Law Enforcement Division of Bawaslu Regency Lima Puluh Kota, West Sumatra Province, on August 20, 2021.

in Nagari. Koto Tinggi on March 9, 2019 which was carried out by Candidates for Members of the Indonesian House of Representatives on behalf of Catur Virgo.

The Lima Puluh Kota Regency Bawaslu registered the findings on March 19, 2019 for alleged violations of general election crimes as referred to in Article 521 in conjunction with Article 280 of Law Number 7 of 2017 concerning Elections. After the findings are registered, the Lima Puluh Kota District Gakkumdu Center will conduct the first phase of discussion on March 20, 2021. Then the results of the first discussion are mutually agreed upon to proceed to the process of compiling studies and investigations.

4) Finding Number: 005/TM/PL/Kab/03.10/V/2019

The Panwaslu of Gunung Omeh Sub-district also found findings on allegations of violations of general election crimes, that it was found that there were voters who made elections more than 1 (one) time at the Polling Station (TPS) against Candidates for Members of the DPR RI from the Golkar Party (Golkar) in the Electoral District. 5 with Serial Number 1 on behalf of Yeni Zafitri who made the election at TPS 18 Nagari Koto Tinggi using form C6 and registered as DPT at TPS 17 Nagari Koto Tinggi using form 4A.

Based on these findings, the Lima Puluh Kota Regency Bawaslu took over the handling of allegations of violations of the General Election crime by registering the findings on April 29, 2019, which was then carried out in the first stage of discussion by the Gakkumdu Center on April 30, 2021. After undergoing the process of discussing the first stage, the Gakkumdu Center of the Regency of Lima Puluh Kota agreed that the findings should be immediately followed up in the second discussion as stipulated in the provisions for handling criminal acts in General Elections in Bawaslu Regulation Number: 31 of 2018 concerning Integrated Law Enforcement Centers.

Then, not only the findings received by the Lima Puluh Kota Gakkumdu Center, reports on alleged election criminal violations were also received by the Lima Puluh Kota Bawaslu as many as 6 (six) reports, namely :²³

1. Report Number: 001/LP/PL/Kab/03.10/XII/2018

Panwascam Akabiluru received a report on an alleged crime in the General Election in the form of vandalizing Campaign Props (APK) which was reported by Ahmad Huzil to the reported party on behalf of Belmon Julvan on December 13, 2019.

In this case the Lima Puluh Kota Regency Bawaslu took over the report on December 13, 2019 and has registered it. Then on December 14, 2019, the first stage of discussion was carried out on reports of alleged violations of general election crimes. In the discussion of the first phase, the material and formal requirements have been met for a study and investigation in the second phase by the Gakkumdu Center, Lima Puluh Kota Regency.

2. Report Number: 001/LP/PL/Kab/03.10/III/2019

The report was received by the Lima Puluh Kota Regency Bawaslu on March 14, 2019 and has been registered for alleged violations of the general election crime of carrying or using image marks and/or other party attributes in a campaign using the APK installation campaign method as regulated in Article 280 paragraph (1) letter i in conjunction with Article 521 of Law Number 7 of 2017 concerning General Elections.

²³ Interview with Ms. Zumaira, Law Enforcement Division of Bawaslu Regency Lima Puluh Kota, West Sumatra Province, on August 20, 2021.

On March 18, 2019, the Center for Gakkumdu, Regency of Lima Puluh Kota agreed to follow up on the report at the first discussion stage because the report met the formal and material requirements.

3. Report Number: 003/LP/PL/Kab.03.10/IV/2019

The report was received by the Lima Puluh Kota Regency Bawaslu on April 29, 2019 and registered on suspicion of money politics during the quiet period as regulated in Article 523 in conjunction with Article 278 in conjunction with Article 280 of Law Number 7 of 2017 concerning General Elections. Furthermore, on April 29, 2019, the first discussion was held by the Gakkumdu Center of the Regency of Lima Puluh Kota over the allegation of money politics that was carried out during a calm period by the success team/winning team Gusti Randa, a candidate for Member of the Lima Puluh Kota Regency DPRD from the Hanura Party, Electoral District 2, Serial Number 1.

4. Report Number: 001/LP.Berkas/PL/Kab/03.10/II/2019

The report was received by the Lima Puluh Kota Regency Bawaslu on February 4, 2019, which was submitted by Aspon Dedi. Based on the Bawaslu study, the report could not be registered because it did not fulfill the material requirements in the form of witnesses. The Bawaslu of Lima Puluh Kota Regency has given the complainant 3 (three) days to complete the formal and material requirements, but the material requirements for the alleged election crime are not fulfilled.

5. Report Number: 003/LP.Berkas/PL/Kab/03.10/IV/2019

The report was received by the Lima Puluh Kota Bawaslu on April 22, 2019 which was submitted by M. Ridha Illahi, S.Pt and based on an initial study, Bawaslu did not register the report because it was not a general election crime and the report did not meet the formal and material requirements.

6. Report Number: 007/LP.Berkas/PL/Kab/03.10/VII/2019

The report received by the Lima Puluh Kota Bawaslu on July 1, 2019 submitted by Zulfahmi, based on an initial study by Bawaslu, the report could not be registered for follow-up because the time limit (expired) had passed. This is in accordance with the provisions of Article 454 paragraph (6) of Law Number 7 of 2017 concerning General Elections which states that reports of violations of the General Election as referred to in paragraph (4) must be submitted no later than 7 (seven) working days after the alleged violation of the General Election is discovered.

The description of findings and reports of alleged violations of General Election criminal acts as described above, not all of them can be processed or followed up to the next stages. Because the conditions so that the findings and reports can be followed up must meet 2 requirements, namely formal requirements and material requirements as the basis for handling criminal acts in the General Election by the Gakkumdu Center.

The handling of general election crimes by the Gakkumdu Lima Puluh Kota Center is in accordance with the SOP (Standard Operational Procedure) regulated in the Election Supervisory Body Regulation Number: 31 of 2018 concerning the Integrated Law Enforcement Center. Based on the findings and reports of alleged criminal violations of the General Election handled by the Center of Gakkumdu Lima Puluh Kota, most of the criminal violations that occurred during the campaign were carried out by the participants of the General Election (Prospective Members of the DPRD/DPR RI) and the Success Teams of each candidate.

Of the 10 (ten) suspected criminal cases handled by the Lima Puluh Kota Bawaslu, 9 (nine) cases whose status was not continued to the investigation process, because based on the results of the second stage of discussion by the Gakkumdu Center based on the facts found that they did not have enough

evidence so they did not meet the elements on the alleged criminal article. While 1 (one) case has permanent legal force based on the High Court Decision in Padang.

B. Study and Investigation Stage

This stage departs after the initial evidence in the form of findings or reports received by Bawaslu in alleged violations of general election crimes. This second stage of discussion is about discussing the study of the General Elections Supervisor and the report on the results of the investigation. Results of the discussion to conclude that the findings or reports constitute a general election crime or not a general election crime. If the findings or reports of alleged criminal acts of General Election are based on conclusions, the discussion is declared that there are allegations of criminal acts of General Elections, the General Election Supervisor will continue to handle the alleged criminal acts of General Elections to Investigators. If the findings or reports of alleged criminal acts in the General Election based on the discussion are stated that there are no elements of criminal acts in the General Election, the General Election Supervisor shall stop handling the findings or reports. The results of the second discussion are stated in the Minutes of Discussion II which are signed by the General Election Supervisor, Investigators and Prosecutors.²⁴

After the second discussion, the General Election Supervisory Plenary Meeting was continued. The General Elections Supervisor conducts a plenary meeting to decide whether the findings or reports are upgraded to the investigation stage or terminated. In the event that the plenary meeting decides that the findings or reports on handling violations of the General Election are terminated, the General Elections Supervisor announces the status of the findings or reports accompanied by reasons for termination and notifies the reporting parties. In the event that the plenary meeting decides that the alleged violation of the General Election is increased at the Investigation stage, the General Election supervisor shall forward the findings or reports to the Investigator and issue an assignment order to carry out the Investigation.²⁵

Based on the findings of alleged violations of the General Election crime, from the 4 (four) cases, the second stage of discussion was continued. The findings were continued to the second discussion stage with the following results including :²⁶

1. Finding Number: 001/TM/PL/Kab/03.10/I/2019. These findings are stated in the Minutes of the Second Discussion Number 007/SG/Kab/03.10/I/2019. In the second discussion, the Gakkumdu Center consisting of the Lima Puluh Kota Regency Bawaslu, Lima Puluh Kota Resort Police, Payakumbuh District Attorney agreed not to continue the findings to the third discussion stage or the next stage because of the alleged elements of a general election crime violation as referred to in Article 280 paragraph (1) in conjunction with Article 521 in conjunction with Article 523 of Law Number 7 of 2017 concerning general elections is not fulfilled;
2. Finding Number: 002/TM/PL/Kab/03.10/II/2019. These findings are stated in the Minutes of the Second Discussion Number 013/SG/Kab/03.10/III/2019. The results or conclusions of the second discussion on the findings of alleged criminal acts of general election as referred to in Article 280 paragraph (1) letter h in conjunction with Article 521 and Article 547 of Law Number 7 of 2017 concerning general elections were not fulfilled. However, the alleged violation of the neutrality of the State Civil Apparatus (ASN) as many as 7 (seven) people within the West Sumatra Provincial Government has been forwarded to the State Civil Apparatus Commission (KASN) for further action.

²⁴ Article 23 Election Supervisory Body Regulation Number 31 of 2018 concerning Integrated Law Enforcement Centers.

²⁵ Article 24 Election Supervisory Body Regulation Number 31 of 2018 concerning Integrated Law Enforcement Centers.

²⁶ Interview with Mr. Muhammad Rosidi, S.IK, SH., Head of Criminal Investigation Unit of the Fifty Cities Police on August 18, 2021.

3. Finding Number: 003/TM/PL/Kab/03.10/II/2019. The results of these findings are stated in the Minutes of the Second Discussion Number: 015/SG/Kab/03.10/III/2019 and it has been agreed by the Lima Puluh Kota Gakkumdu Center that the findings of alleged violations of general election crimes as referred to in Article 280 paragraph (1) letter j in conjunction with Article 521 juncto Article 523 of Law Number 7 of 2017 concerning general elections is not fulfilled so that it cannot proceed to the third stage.
4. Finding Number: 005/TM/PL/Kab/03.10/IV/2019. These findings are stated in the Minutes of the Second Discussion Number: 019/SG/Kab/03.10/IV/2019 which was agreed by the Gakkumdu Center for a third discussion in the form of an investigation into alleged violations of general election crimes that have fulfilled the elements of Article 516 of Law Number 7 Year 2017 regarding general elections which are forwarded to investigators of the Lima Puluh Kota Police Resort.

Then, based on reports of alleged violations of general election crimes, from the 6 (six) cases, it was continued to the second stage of discussion. The findings and reports were continued to the second discussion stage with the following results, including : ²⁷

1. Report Number: 001/LP/PL/Kab/03.10/XII/2019. The results of this report are stated in the Minutes of the Second Discussion Number: 001/SG/Kab/03.10/I/2019 with the result or conclusion that the alleged violation of the General Election crime as referred to in Article 280 paragraph (1) in conjunction with Article 521 of Law Number 7 of 2017 regarding the General Election is not fulfilled.
2. Report Number: 001/LP/PL/Kab/03.10/III/2019. The results of the second discussion report are stated in the Minutes of the Second Discussion Number: 016/SG/Kab/03.10/IV/2019 which has been agreed by the Gakkumdu Center that the report cannot be continued because it does not meet the criminal element as stipulated in Article 280 paragraph (1) letter i in conjunction with article 521 Law Number 7 of 2017 concerning General Elections.
3. Report Number: 003/LP/PL/Kab.03.10/IV/2019. The results of this report are stated in the Minutes of the Second Discussion Number 021/SG/Kab/03.110/V/2019 which has been agreed by the Gakkumdu Center to stop the process of handling criminal acts in the General Election because it does not meet the elements of Article 523 paragraph (1) and paragraph (2) in conjunction with Article 278 paragraph (2) letter j in conjunction with Article 280 paragraph (1) letter j of Law Number 7 of 2017 concerning General Elections.
4. Report Number: 001/LP.Berkas/PL/Kab/03.10/II/2019. The second discussion of this report cannot be carried out because the report does not meet material requirements (there are no witnesses). Meanwhile, the Bawaslu Lima Puluh Kota has given a time limit of 3 (three) days to complete the material requirements, but after 3 (three) days the witnesses in the reports received by the Bawaslu Lima Puluh Kota have not been fulfilled.
5. Report Number: 003/LP.Berkas/PL/Kab/03.10/IV/2019. This report was received by the Bawaslu Lima Puluh Kota for alleged violations of a general election crime, but the formal and material requirements of the report were not met so that the Gakkumdu Sentra could not continue or follow up on the report.
6. Report Number: 007/LP.Berkas/PL/Kab/03.10/VII/2019. This report could not be followed up by the Bawaslu Lima Puluh Kota because the time limit (expired) had passed. The specified time

²⁷ Interview with Mr. Muhammad Rosidi, S.IK, SH., Head of Criminal Investigation Unit of the Fifty Cities Police on August 18, 2021.

limit is 7 (seven) working days since the report is known. So it does not meet the formal requirements and is declared unregistered.

From a total of 10 (ten) cases consisting of findings and reports of alleged violations of the General Election criminal offenses above, there is 1 (one) case that was followed up at the stage of submitting the results of the study by the Gakkumdu Center of the Regency of Lima Puluh Kota, namely Finding Number: 005/TM /PL/Kab.03.10/IV/2019. This finding fulfills the formal and material requirements for alleged violations of a general election crime to proceed to the investigation stage.

Furthermore, normatively investigators conduct investigations after the issuance of an Investigation Order by the Gakkumdu Coordinator from the National Police. Issuance of an Investigation Order at the same time as the issuance of a Notice of Commencement of Investigation. The investigator submits a notification letter for the commencement of the investigation to the prosecutor. Investigators carry out investigations no later than 14 (fourteen) days as from the report on alleged criminal acts in the General Election which is forwarded from the General Elections Supervisor while the Prosecutor provides assistance and monitoring of the Investigation process.

In the study and investigation stage, there was indeed a debate in the formulation of the articles alleged to the reported parties in accordance with the facts of the findings and reports received by the Gakkumdu Center of Lima Puluh Kota District, given the limited human resources (HR) of the Gakkumdu Center of the Lima Puluh Kota District do not have an educational background in the field of law, but this can be overcome by referring to the provisions of Law Number 7 of 2017 concerning Elections, Law Number 10 of 2016 concerning Second Amendment to Law Number 1 of 2015 concerning Stipulation Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, Mayors into Law, Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, Law Number 23 of 2014 concerning Regional Government, Bawaslu Regulation Number 31 of 2018 concerning Integrated Law Enforcement Centers, Joint Regulations of the Chairperson of Bawaslu The Republic of Indonesia, the Head of the Indonesian National Police and the Attorney General's Office of the Republic of Indonesia Number 5 of 2020, Number 1 of 2020, Number 14 of 2020 concerning Integrated Law Enforcement Centers in the Election of Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors.

C. Stages of Submission of Investigation Study Results

In terms of handling election crimes by the Lima Puluh Kota Gakkumdu Center out of 10 (ten) cases, only 1 (one) case stems from findings that are raised to the investigation stage. As explained above, the findings from the Panwaslu of Gunuang Omeh Sub-district which was later taken over by the Bawaslu Lima Puluh Kota with Number: 005/TM/PL/03.10/IV/2019 on behalf of the reported Yeni Zafitri who voted more than 1 (one) time at TPS 18 Nagari Koto Tinggi with form C6 and TPS 17 Nagari Koto Tinggi with form 4A. Furthermore, based on the results of the discussion at the stage of submitting the study, all elements of the Gakkumdu Lima Puluh Kota Center agreed to be raised to the investigation stage as stated in the Minutes of the Third Discussion Number: 022/SG/Kab/03.10/V/2019 dated 22 May 2019. In the investigation process This was carried out by the Lima Puluh Kota Resort Police as stated in the Police Report Number: LP/K/48/V/2019/SPKT/RES-LPK found evidence of violations of election crimes as described in Article 516 of Law Number 7 Year 2017 on Elections. Then the results of the investigation by the Lima Puluh Kota Police were transferred to the Payakumbuh District Attorney for the process of examining case files and prosecuting alleged violations of election crimes. The delegation of case files by the Lima Puluh Kota Resor Police has been received by the Payakumbuh District Attorney and the file is declared complete (P-21). The delegation of the file is to carry out the next legal process,

namely in the preparation of the indictment which will be read out in the trial at the Tanjung Pati District Court.²⁸

D. Stages of Court Examination

During the examination in the trial, evidence was found for the defendant 1 (one) attachment C6 on behalf of Hj. Yeni Safitri (registered as a permanent voter list at TPS 18, Gunung Omeh District); 1 (one) attachment C7 (list of attendance at TPS 18); the evidence has been confiscated in accordance with the provisions of the applicable legislation. The Public Prosecutor has made a single indictment, therefore the Panel of Judges will immediately consider Article 516 of Law Number 7 of 2017 concerning General Elections, the elements of which are as follows:

1. Everyone ; What is meant by everyone is a person who is the subject of a criminal act or who is accused of committing a crime as stated in the indictment of the Public Prosecutor. Based on the statements of the witnesses (charge and A de charge) in front of the Tanjung Pati District Court Class IIB, the defendant's statement, that what was being tried before the Tanjung Pati Class II District Court trial was in fact the defendant named Hj. Yeni Zafitri Call. Yeni who is physically and mentally healthy, it is clear that the notion of "everyone" who is a legal subject in this case is the defendant Hj. Yeni Zafitri Call. Yeni who was brought before the Tanjung Pati District Court Class II trial and there were no errors in persona. Based on the considerations above, the element of each person is legally fulfilled according to the law.
2. Deliberately at the time of voting, casts their vote more than once at one or more TPS/TPSLN: what is meant by intention is that the perpetrator is aware and knows that the act committed is against the law/against the law, but the perpetrator still intends to do so. In the doctrine of criminal law, there are 3 (three) types of willfulness, namely: (1) intentional intent, namely the intentional intent to cause certain consequences; (2) intentionality as certainty, namely being aware of necessity or certainty which means that the intention is carried out by knowing that (primarily) unwanted consequences must occur; (3) intentionality as a possibility, namely conditional intentionality (possibility);

In accordance with the facts revealed at the trial that the Defendant knew that he was registered with the DPT at TPS 18 by bringing the C6 model and the Defendant had exercised his voting rights at TPS 18 by filling out the C7 attendance list and signing it but the Defendant also exercised his voting rights at TPS 17 without bringing A5 who had previously been registered using an Identity Card in 2009 and in accordance with A5 of the Defendant who had been taken care of by the Defendant's husband in Padang according to the Defendant's current KTP at Pondok Indah Pratama Housing Block A Number 8 RT 002 RW 009 Jati, Padang Timur City of Padang and E- The Defendant's ID card is valid until 04 June 2017. The defendant exercised his voting rights more than once, namely voting on Wednesday 17 April 2019 at 09.30 WIB at TPS 18 using form C6 on behalf of Hj. Yeni Sapitri with serial number DPT 280 which determined in Tanjung Pati on April 2, 2019 by the Lima Puluh Kota Regency General Election Commission with NIK 1307084406679001 where Witness Fahrur Rozi as Chair of KPPS at TPS 18 Jorong Sungai Dadok Kenagarian Koto Tinggi, Gunung Omeh District, Lima Puluh Kota District summoned the Defendant and the Defendant signed the attendance list (C7). Then, the Defendant cast 5 (five) ballot papers in the voting booth, then the Defendant dipped his finger in the election ink as proof that he had cast his ballot. On the basis of the considerations above, the element of Deliberately at the time of voting, casts its vote more than once at one TPS or more legally fulfilled according to law.

Thus, all elements in Article 516 of Law Number 7 of 2017 concerning General Elections have been fulfilled, then the Defendant must be declared to have been legally and convincingly proven to have committed a criminal act "Intentionally, at the time of the voting, the voter casts his vote more than once at one or more polling stations. ". During the trial, the Panel of Judges did not find any justification for the

²⁸ Interview with Mr. Muhammad Afdal, SH., Functional Prosecutor of the Payakumbuh District Attorney on August 21, 2021.

defendant's actions or excuses for the defendant which could eliminate the unlawful nature of the defendant's actions and the defendant was physically and mentally healthy so that he could be held accountable for the actions he was accused of. Therefore, the defendant must be sentenced to a punishment commensurate with his actions as referred to in Article 193 paragraph (1) of the Criminal Procedure Code.

The Tanjung Pati District Court Judges read out their verdict as follows:

1. Defendant Hj. Yeni Zafitri, who was summoned by Yeni, was legally and convincingly proven guilty of committing the crime of "Intentionally casting their vote more than once at one or more polling stations" as stated in the single indictment;
2. Sentencing the defendant with a sentence of imprisonment for 2 (two) months and a fine of Rp. 5,000,000 (five million rupiah) with the condition that if the fine is not paid, it is replaced with imprisonment for 2 (two) months.;
3. Determining that the sentence does not need to be carried out unless in the future there is a judge's decision that determines otherwise because the convict commits a crime before the probationary period of 2 (two) months ends ;
4. Determine the evidence in the form of:
 - a. a. 1 (one) attachment C6 on behalf of Hj. Yeni Safitri (registered as a permanent voter list at TPS 18, Gunuang Omeh District);
 - b. b. 1 (one) attachment C7 (list of attendance at TPS 18);
 Returned to the Lima Puluh Kota Regency General Election Commission.
5. Charged the Defendant to pay court fees of Rp. 5.000,- (five thousand rupiah).

After the decision of the Tanjung Pati District Court Number: 57/Pid.Sus/2019/PN.Tjp was read, the Public Prosecutor reported to the Gakkumdu Coordinator from the Prosecutor's Office according to the level to conduct a fourth discussion led by the Coordinator from the Prosecutor's Office for a maximum of 1x24 (one time twenty) four) hours after the court's decision is read. The fourth discussion was attended by Election Supervisors, Investigators and Public Prosecutors. In this case, the Public Prosecutor reports the results of the Tanjung Pati District Court Decision Number: 57/Pid.Sus/2019/PN.Tjp to the Lima Puluh Kota Gakkumdu Coordinator from the Payakumbuh District Attorney's office. Then the Public Prosecutor filed an appeal as a legal remedy against the decision of the Tanjung Pati District Court Number: 57/Pid.Sus/2019/PN.Tjp to the Padang High Court.

Normatively, the above is in accordance with the fourth stage of discussion, namely to determine the attitude of Gakkumdu in carrying out legal remedies against court decisions; or enforce court decisions. In the event that the results of the fourth discussion determine that Gakkumdu take legal action, the Public Prosecutor shall make a memorandum of appeal and/or counter memorandum of appeal no later than 3 (three) days after the verdict is read out.²⁹

Taking into account the decision of the Tanjung Pati District Court, the Public Prosecutor submitted a memorandum of appeal to the Padang High Court. The Padang High Court stated that it had accepted the appeal from the Public Prosecutor and upheld the decision of the Tanjung Pati District Court Number : 57/Pid.Sus/2019/PN Tjp dated May 31, 2019, for which the appeal was requested, with the full order as follows :³⁰

²⁹ Article 31 Regulation of the Election Supervisory Body Number 31 of 2018 concerning Integrated Law Enforcement Centers.

³⁰ Padang High Court Decision Number: 101/Pid.Sus/2019/PT.Pdg.

1. To declare that the defendant Hj. Yeni Zafitri Call. The above-mentioned Yeni has been legally and convincingly proven guilty of committing the crime of "Intentionally casting her vote more than once at one polling station or more" as stated in the single indictment ;
2. Sentencing the defendant with imprisonment for 2 (two) months, stipulating that the prison sentence does not need to be served unless in the future there is a judge's decision that determines otherwise because the convict committed a crime before the probationary period of 2 (two) month ends and a fine of Rp.5.000.000,- (five million rupiahs) provided that if the fine is not paid, it is replaced with imprisonment for 2 (two) months;
3. Determine the evidence in the form of :
 - a. 1 (one) attachment C6 on behalf of Hj. Yeni Safitri (registered as a permanent voter list at TPS 18, Gunuang Omeh District);
 - b. 1 (one) attachment C7 (list of attendance at TPS 18).
Returned to the Lima Puluh Kota Regency General Election Commission.
4. Burdening the Defendant to pay court fees at both levels of the court which for the appeal level is Rp. 5,000, - (five thousand rupiah).

The prosecutor implements a decision that has permanent legal force no later than 3 (three) days after the decision is received. The implementation of the decision is accompanied by Investigators and General Election Supervisors. In the event that the decision is pronounced without the presence of the defendant, the Prosecutor shall deliver a copy of the decision to the convict's family and/or legal advisor as well as the Head of the Neighborhood Association/Rukun Warga where the last convict is located according to the convict's Identity Card and/or the convict's identity in the indictment within 3 (three) days. days after the copy of the decision which has permanent legal force is received by the Public Prosecutor and announces the decision in the District Court where the case is being heard. The expiry period of carrying out a criminal offense against a decision in a general election criminal case that was decided without the presence of the defendant is calculated from the time the copy of the decision which has permanent legal force is submitted to the convict's family and/or legal counsel and the announcement of the decision in the District Court where the case is being tried with reference to in the provisions of Article 84 and Article 85 of the Criminal Code which regulates the expiration date for carrying out a crime.³¹

After the decision has permanent legal force, in this case the Public Prosecutor of the Payakumbuh District Prosecutor shall carry out the contents of the court's decision a maximum of 3 (three) days after the reading of the decision by the Panel of Judges of the Padang High Court. The defendant was then executed to serve his sentence and has paid a fine as ordered by the Padang High Court Number : 101/Pid.Sus/2019/PT.Pdg.³²

2. Handling of Criminal Acts of Regional Head Elections in Lima Puluh Kota Regency

A. Stage of Acceptance of Findings and Reports

The crime of general election or regional head election is a violation or crime against election provisions.³³ The forms of election crime, for example, are giving false information about oneself or another person about something needed to fill out the voter list, conducting campaigns outside the predetermined schedule, intimidating and violent against voters, promising and/or giving money. or other

³¹ Article 32 Regulation of the Election Supervisory Body Number 31 of 2018 concerning Integrated Law Enforcement Centers.

³² Interview with Mr. Adhitya Febricar, SH., Head of Public Prosecutor's Office of the Payakumbuh District Attorney on August 21, 2021.

³³ Article 145 of Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws

material to influence voters.³⁴ Not only the handling of general election crimes is carried out by the Gakkumdu Center, the handling of regional head elections is also carried out by the Gakkumdu Center. However, the handling of regional head elections is carried out based on a joint regulation between Bawaslu, the Police and the Prosecutor's Office. In the process of handling general election crimes and regional head elections, there are different stages of handling. As explained above, there are 4 (four) stages of discussion in the process of handling general election crimes by the Gakkumdu Center. Then for the handling of regional head elections there are 3 (three) stages of discussion. The handling of criminal acts of regional head elections begins with the findings or reports received by the election supervisor. Election criminal investigators and prosecutors who are members of the Gakkumdu center must accompany the Provincial Bawaslu or Regency/City Bawaslu in receiving reports or findings. Assistance provided by investigators of election crimes and prosecutors uses the format for the completeness of findings/reports of alleged election crimes. The assistance is carried out by identifying, verifying and consulting on reports/findings of alleged election crimes. In the event that the findings/reports are received, the Election Supervisor prepares and fills out the report/finding format and assigns a number to the complainant who is given a Report Acceptance Certificate. After the reports/findings are received, the Election Supervisor accompanied by the Gakkumdu Center makes clarifications to the complainants and witnesses present. Election crime investigators conduct an investigation after the Provincial Bawaslu or Regency/City Bawaslu issues an assignment order to carry out the investigation. Election crime investigators issue an investigation warrant based on an assignment warrant.³⁵

In line with the above, the process of handling the Regional Head Election by the Gakkumdu Center of the Regency of Fifty Cities starts from the first stage with the findings and reports. The handling of alleged criminal violations of the 2020 Regional Head Election in Fifty Cities District found 6 (six) findings of alleged criminal violations of the Regional Head Election, namely:

1. Findings of Alleged Violations of Election Crime Number: 003/TM/PB/Kab/03.10/X/2020

This finding is an alleged violation of election crimes. Reported on behalf of "RU" as PPS Nagari Pandam Gadang who allegedly did not perform factual verification of 4 (four) supporters of the Prospective Regent and Deputy Regent. The other Reported Party, on behalf of "SY" as the Research Officer for the factual verification of Nagari Pandam Gadang, is suspected of not having carried out factual verification of 2 (two) supporters of the Prospective Regent and Deputy Regent. This condition is based on the results of the sample test supervision conducted by the General Election Supervisor of Gunung Omeh Sub-district on July 12, 2020 and July 15, 2020 in Nagari Pandam Gadang, Gunung Omeh District, Fifty Cities District. Voting Officers and Factual Verification Research Officers intentionally did not verify and recapitulate the support for individual candidates for Regent and Deputy Regent in 2020 on suspicion of violating the provisions of Article 185 B in conjunction with Article 186 paragraph (2) in conjunction with Article 184 of Law Number 1 of 2015 with the latest amendment is Law Number 10 of 2016.

To clarify these findings, a study was carried out by the General Election Supervisory Agency (Bawaslu) of Lima Puluh Kota and an investigation by the Lima Puluh Kota Resort Police and accompanied by the Payakumbuh District Attorney, all three of which are elements in the Lima Puluh Kota Gakkumdu Center.

2. Findings of Alleged Violations of Election Crime Number: 004/TM/PB/Kab/03.10/X/2020.

On September 29, 2020, a 34 (thirty four) second video circulated to the public via message via WhatsApp. The contents of the video contain the content of 10 (ten) people suspected of being members

³⁴ <https://pshk.uui.ac.id/2018/03/mengenal-pelanggaran-pilkada/>, accessed July 31, 2021

³⁵ Article 16 Joint Regulation of the Chairperson of the Bawaslu of the Republic of Indonesia, the Head of the Police of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia Number 5 of 2020, Number 1 of 2020, Number 14 of 2020 concerning Integrated Law Enforcement Centers in the Election of Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor.

of the Lima Puluh Kota DPRD from the Gerindra Party, PKB Faction, and Hanura Faction who are jointly issuing statements of support to be ready to win Candidate Pair Number 1, namely Muhammad Rahman and Asyirwan Yunus.

The initial information has been poured into Form A6 by the Lima Puluh Kota Bawaslu. Based on the plenary meeting of the Lima Puluh Kota Bawaslu, the initial information will be forwarded or followed up in depth. The finding is alleged to have violated the provisions of Article 188 in conjunction with Article 71 paragraph (1) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulation Number 1 of 2014 concerning Elections for Governors, Deputy Governors, Regents, Deputy Regent, and Mayor and Deputy Mayor become Law.

3. Findings of Alleged Violations of Election Crime Number: 005/TM/PB/Kab/03.10/X/2020

Starting from the report on the results of the supervision of the General Election Supervisory Committee of the Situjuah Limo Nagari District to the Lima Puluh Kota Bawaslu. In the supervisory report, it was conveyed that there was a face-to-face campaign carried out by the 2020 West Sumatra Governor Candidate on behalf of Fakhrizal. The campaign is alleged to have violated an election crime because it involved the Nagari Wali and Nagari officials. The campaign activity was carried out at the house of one of the people in the name of "BTV" who resides in Jorong Sawah Laweh Nagari Tungka, Situjuah District, Limo Nagari.

In the results of this first discussion stage, the Center for Gakkumdu Lima Puluh Kota agreed that the findings should be followed up with an investigation process. After a series of clarification processes by the Lima Puluh Kota Bawaslu jointly accompanied by investigators from the Lima Puluh Kota Resort Police and the Payakumbuh District Prosecutor's Office, the alleged violation of election crimes involving the Village Head/Village Apparatus or other names Lurah/Urban Apparatus involving "DV" whose capacity is as Wali Nagari Situjuah Batua as the Host in the face-to-face campaign activity. The face-to-face campaign is alleged to have violated the provisions of Article 189 in conjunction with Article 70 paragraph (1) letter c of Law Number 1 of 2015 as amended by Law Number 10 of 2016.

4. Findings of Alleged Violations of Election Crime Number: 006/TM/PB/Kab/03.10/X/2020

The Lima Puluh Kota Bawaslu received a forwarding report on the results of the supervision of the Suliki District Supervisory Committee which contained an alleged violation of an election crime based on form A as a result of supervision on 7 October 2020 against campaign activities carried out by one of the Lima Puluh Kota Regent Candidates with Serial Number 2 on behalf of Darman Sahladi in Jorong Jariang Kenagarian Suliki, Suliki District, Lima Puluh Kota Regency.

Based on these findings, in the first discussion by the Gakkumdu Center, they jointly agreed that the findings would be followed up for investigation by investigators from the Lima Puluh Kota Resort Police and Payakumbuh District Attorney's Office.

5. Findings of Alleged Violations of Election Crime Number: 007/TM/PB/Kab/03.10/X/2020

The finding of the alleged violation of this election crime was carried out by the Candidate for Regent of Lima Puluh Kota with Serial Number 2 on behalf of "DS" who was suspected of carrying out campaign activities using government facilities and budgets as referred to in Article 187 paragraph (3) in conjunction with Article 69 letter h of Law Number 10 of 2016. The campaign activity was carried out through the Seminar IV Pillar of Nationality which was the activity of Members of the Indonesian House of Representatives and MPR RI on behalf of "MI" on 19 November 2020 at Jorong Sungai Cubadak Nagari Koto Tengah Batu Ampa, Akabiluru District, Lima Puluh Kota Regency.

In the process of handling election crime violations, the Lima Puluh Kota Bawaslu will clarify by asking for information from the reported witnesses and expert testimony to find out that the elements of Article 187 paragraph (3) in conjunction with Article 69 letter h of Law Number 10 of 2016 are fulfilled for alleged election criminal offenses that have been committed.

6. Findings of Alleged Violations of Election Crime Number: 008/TM/PB/Kab/03.10/X/2020

On November 25, 2020 Bawaslu Lima Puluh Kota received a forwarding of the Monitoring Result Report of Model A by the Suliki District Supervisory Committee which found an alleged election crime violation during the campaign at the Golkar Party DPC Office in Suliki District on 22 November 2020. The campaign activity was carried out by the team Lima Puluh Kota Regent and Deputy Regent Candidates with Serial Number 3 in the name of "S-RK" and Lima Puluh Kota Regency DPRD Members from the Golkar Party on behalf of "PSV". Then at the end of the campaign activities flower pots were distributed to campaign participants carried out by "WL".

Following up on these findings, the Lima Puluh Kota Bawaslu together with the Lima Puluh Kota Resort Police and the Payakumbuh State Prosecutor's Office in the Gakkumdu Center element agreed that the report on the results of the supervision of the Suliki District General Election Supervisory Committee (Panwascam) contained allegations of election crime violations as stated in Article 187 A paragraphs (1) and (2), as well as in the first discussion, the alleged violation of the election crime has fulfilled the formal and material requirements.

Of the 6 (six) findings above, only 1 (one) case was processed at the Tanjung Pati District Court with Decision Number: 12/Pid.Sus/2021/PN.Tjp.

B. Stage of Conducting the Study

As described above, 6 (six) findings of alleged violations of election crimes are included in this second discussion stage, which is the flow or procedure for handling election crimes carried out by the Lima Puluh Kota Gakkumdu Center. The discussion of this second stage is to conduct studies and investigations whether these findings meet the elements of an election crime violation or not an election crime violation.

The results of the second discussion of the 6 (six) findings of alleged violations of election crimes are as follows :³⁶

1. Finding Number: 003/TM/PB/Kab/03.10/X/2020. Based on the facts supported by evidence and juridical analysis, through this second discussion meeting, the Center for Gakkumdu Lima Puluh Kota concluded that the reported party was on behalf of "RU" as Member of the Nagari Pandam Gadang Voting Committee (PPS) and "SY" as Research Officer Factual Verification cannot be said to have committed an election criminal offense. Because the element of "not verifying and recapitulating" as alleged in the findings based on Article 185 B in conjunction with Article 186 paragraph (2) of Law Number 1 of 2015 as amended by Law Number 10 of 2016 was not proven. It is the duty and obligation of the Factual Verification Research Officer to only carry out factual verification and the PPS's duties and obligations are only to carry out factual verification and include the results of factual verification in Minutes Number: BA.5-KWK as regulated in Article 48 paragraph (6) of the Law Number 10 of 2016 in conjunction with Article 23 paragraph (1) PKPU Number 18 of 2019. So that the findings are stopped and cannot be forwarded to the investigation stage by the investigators of the Lima Puluh Kota Resort Police.

³⁶ Interview with Mr. Muhammad Rosidi, S.IK, SH., Head of Criminal Investigation Unit of the Fifty Cities Police on August 18, 2021.

2. Finding Number :004/TM/PB/Kab/03.10/X/2020. Based on the second stage of the discussion meeting, the Gakkumdu Center agreed that this finding did not meet the elements of an election crime. This is because Law Number 10 of 2016 does not include all legal subjects, such as regional officials as legal subjects, even though Article 71 paragraph (1) completely reads to include regional officials in the interests of legal subjects. Although it has fulfilled the element of using state facilities as a venue for the implementation of the campaign, it still does not fulfill the element of absolute understanding of the campaign in Article 1 paragraph (21) of Law Number 8 of 2015 as amended by Law Number 1 of 2015. By Nevertheless, the Center for Gakkumdu Lima Puluh Kota agreed to stop the process of handling violations of election crimes based on these findings.
3. Finding Number: 005/TM/PB/Kab/03.10/X/2020. Based on the facts and juridical analysis, the Center for Gakkumdu Lima Puluh Kota concluded that this finding could not be continued to the investigation stage because it did not meet the elements of Article 189 in conjunction with Article 70 paragraph (1) letter c of Law Number 1 of 2015 as amended by Law Number 10 of 2016. With the elements of the election crime violation not fulfilled, the Lima Puluh Kota Gakkumdu Center stopped the process of handling the election crime violation.
4. Finding Number: 006/TM/PB/Kab/03.10/X/2020. Based on the second discussion by the Gakkumdu Lima Puluh Kota Center for this finding, the perpetrators who are suspected of "deliberately making decisions and/or actions that benefit or harm one of the pairs of candidates" have not fulfilled all of the elements of Article 188 in conjunction with Article 71 paragraph (1) of the Law Number 1 of 2015 as amended by Law Number 10 of 2016. Sentra Gakkumdu agrees that the process for handling violations of election crimes is stopped. Then, related to alleged violations of other laws and regulations found in the process of handling violations of election crimes, it is fully submitted to the Lima Puluh Kota Bawaslu. The other alleged violation is an administrative violation based on Law Number 5 of 2014 concerning State Civil Apparatus (ASN) which was carried out by Wali Nagari Suliki for his involvement during the campaign. Furthermore, the violation has also been forwarded to the State Civil Apparatus Commission (KASN) to be followed up in accordance with the applicable laws and regulations.
5. Finding Number: 007/TM/PB/Kab/03.10/XI/2020. Based on the results of the second discussion, the Center for Gakkumdu Lima Puluh Kota agreed to conclude that this finding did not meet the elements of Article 187 paragraph (3) in conjunction with Article 69 letter h of Law Number 10 of 2016. So this finding was stopped in the process of handling election crime violations.
6. Finding Number: 008/TM/PB/Kab/03.10/XI/2020. Based on the discussion of this second stage, the Center for Gakkumdu Lima Puluh Kota agreed that this finding fulfills the elements of an election crime violation on behalf of "WL" as alleged in Article 187A paragraph (1) and paragraph (2) in conjunction with Article 73 paragraph (4) Law Number 10 of 2016. After the agreement in this second discussion by the Gakkumdu Center, the process of handling election crime violations is continued or continued to the stage of investigation carried out by the investigators of the Lima Puluh Kota Resort Police.

C. Stage of Submission of Study Results

The third discussion is that the investigator of the election crime submits the results of the investigation in the third discussion led by the Coordinator of the Provincial/District/City Gakkumdu Center. The third discussion was carried out during the investigation process. The third discussion was attended by the Election Supervisor, Election Crime Investigators and Prosecutors to discuss the results of the investigation. This third discussion can lead to the conclusion that the case file is submitted to the Public Prosecutor. The results of the third discussion are stated in the minutes of the discussion signed by the

Election Supervisor, Election Crime Investigator and the Prosecutor.³⁷ After the case file is received by the Prosecutor and declared complete, the investigator of the election crime submits the suspect and evidence to the Prosecutor.³⁸ In the discussion of this third stage, of the 6 (six) findings of alleged violations of election crimes, only 1 (one) finding of alleged violations of election crimes was continued to the investigation stage. The findings are numbered: 008/TM/PB/Kab/03.10/XI/2020.

D. Stages of Court Examination

Based on Finding Number: 008/TM/PB/Kab/03.10/XI/2020, the Center for Gakkumdu Lima Puluh Kota agrees that this finding fulfills the elements of an election crime violation on behalf of Wisna Lendrawati as alleged in Article 187A paragraph (1) and paragraph (2) in conjunction with Article 73 paragraph (4) of Law Number 10 of 2016. In the indictment of the Public Prosecutor, the defendant Wisna Lendrawati with the summons of Alen, on Sunday, November 22, 2020 at around 11.30 WIB, at the Regency Golkar Party Secretariat Office Lima Puluh Kota with its address at Jorong Suliki, Pasar Kenagarian Suliki, Suliki District, the jurisdiction of the Tanjung Pati District Court, which has the authority to examine and adjudicate the case, who intentionally commits an unlawful act by promising or giving money or other materials in return for Indonesian citizens either directly or indirectly. or indirectly to influence voters not to use their voting rights in a certain way until the vote becomes invalid, choosing a certain candidate or not choosing a certain candidate.

The defendant's unlawful act was carrying out healthy exercise and healthy walking in Jorong Suliki, Pasar Kenagarian Suliki, Suliki District on 22 November 2020, Sunday, with a total of approximately 50 (fifty) participants, which activity started at 08.00 WIB. Then, after the healthy gymnastics and healthy walks were completed, the participants gathered at the Golkar Party Secretariat Office in Suliki District, some of which were entered into the office and some were still outside the office. Not long after, a witness came on behalf of Putra Satria Veri who is a Member of the Lima Puluh Kota Regency DPRD from the Golkar Party along with Hj. Dhifla Wiyani, S.H., M.H., who is a Candidate Member of the Indonesian House of Representatives for the 2019 legislative election. The event continued with the opening and remarks by Putra Satria Veri and Hj. Dhifla Wiyani, SH, MH, in which in his speech there was an invitation to support and choose the candidate for Regent and Deputy Regent of Lima Puluh Kota Regency with Serial Number 3. Then after the speech was finished, there was distribution of packaged rice and flower pots provided by the defendant with a total of 40 (forty) pots which were distributed to all participants in the series of activities.

That the flower pot given by the defendant is not a campaign material nor is it a gift as regulated in General Election Commission Regulation Number 11 of 2020 concerning Amendments to General Election Commission Regulation Number 4 of 2017 concerning Campaigns for the Election of Governors and Deputy Governors, Regents and Deputy Regent, and/or Mayor and Deputy Mayor, and General Election Commission Regulation Number 13 of 2020 concerning the Second Amendment to General Election Commission Regulation Number 6 of 2020 concerning Implementation of the Election of Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor Simultaneously Continues in Non-Natural Disaster Conditions Corona Virus Disease (Covid-19).

For the defendant's actions, the Public Prosecutor carried out a single indictment based on the provisions of Article 187A paragraph (1) in conjunction with Article 73 paragraph (4) of Law Number 10

³⁷ Article 23 Joint Regulation of the Chairperson of the Bawaslu of the Republic of Indonesia, the Head of the Police of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia Number 5 of 2020, Number 1 of 2020, Number 14 of 2020 concerning Integrated Law Enforcement Centers in the Election of Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor.

³⁸ Article 25 Joint Regulation of the Chairperson of the Bawaslu of the Republic of Indonesia, the Head of the Police of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia Number 5 of 2020, Number 1 of 2020, Number 14 of 2020 concerning Integrated Law Enforcement Centers in the Election of Governor and Deputy Governor, Regent and Deputy Regent, and Mayor and Deputy Mayor.

of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governor and Deputy Governor, Regent and Deputy Regent, Mayor and Deputy Mayor Becomes Law.

In connection with the above-mentioned charges, the Tanjung Pati District Court Judges decided as follows :³⁹

1. To declare that the Defendant, Wisna Lendrawati, called Alen, has been legally and convincingly proven guilty of committing the crime of “deliberately providing other materials to Indonesian citizens to influence voters to choose a certain candidate” as stated in the single indictment of the Public Prosecutor;
2. Sentencing the Defendant with imprisonment for 6 (six) months and imposing a fine of Rp. 5,000,000 (five million rupiah) with the condition that if the fine is not paid, it is replaced with imprisonment for 1 (one) month;
3. To stipulate that the sentence does not need to be carried out unless in the future there is another order in the judge's decision because the Defendant has committed an act which can be punished before the end of the probationary period of 10 (ten) months;
4. Charged the Defendant to pay the costs of this case in the amount of Rp. 5,000, - (five thousand rupiah).

After the court's decision was read out with Decision Number: 12/Pid.Sus/2021/PN.Tj. Pati, the Public Prosecutor of the Payakumbuh District Prosecutor's Office, reported to the Lima Puluh Kota Gakkumdu Center Trustees to conduct a study on the Court's decision. Then the results of the report from the Lima Puluh Kota Gakkumdu Center Trustees were reported to the Lima Puluh Kota Gakkumdu Center in order to take a stand on the decision of the Tanjung Pati District Court. The Center for Gakkumdu Lima Puluh Kota jointly agreed that an appeal was made against the decision of the Tanjung Pati Court.

Then the Padang High Court in its ruling decided :⁴⁰

1. Accept the appeal by the Public Prosecutor;
2. Strengthening the Decision of the Tanjung Pati District Court Number: 12.Pid.Sus/2021/PN.Tjp dated January 28, 2021 for which the appeal was requested;
3. Charges the case fee to the Defendant in two levels of trial at the appellate level set at IDR 5,000 (five thousand rupiah).

Based on the above decision of the Padang High Court, the Prosecutor at the Gakkumdu Lima Puluh Kota Center shall carry out the decision which has permanent legal force no later than 3 (three) days after the Padang High Court's decision is received by the Prosecutor and is accompanied by an election crime investigator, election supervisor, and Lima Puluh Kota Resort Police. The defendant was then executed to serve his sentence and has paid a fine as ordered by the Padang High Court Number: 19/Pid.Sus/2021/PT.Pdg.

Conclusion

1. In the case of handling general election crimes by the Gakkumdu Lima Puluh Kota Center out of 10 (ten) cases, only 1 (one) case stems from findings that are raised to the investigation stage until

³⁹ Tanjung Pati District Court Decision Number: 12/Pid.Sus/2021/PN.Tjp.

⁴⁰ Padang High Court Decision Number : 19/Pid.Sus/2021/PT.Pdg.

examination by a court where evidence of violations of general election crimes is found as regulated in article 516 of Law Number 7 of 2017 concerning general elections with imprisonment for 2 (two) months and a fine of Rp. 5,000,000 (five million rupiah) provided that if the fine is not paid, it is replaced with imprisonment for 2 (two) months. Then at the appeal stage, the Panel of Judges of the Padang High Court decided to accept the appeal from the Public Prosecutor and upheld the decision of the Tanjung Pati District Court Number: 57/Pid.Sus/2019/PN Tjp dated May 31, 2019, for which the appeal was requested.

2. In the case of handling the criminal election of Regional Heads by the Center of Gakkumdu Fifty Cities from 6 (six) cases, only 1 (one) case stems from findings that are raised to the stage of investigation until examination by the court as regulated in General Election Commission Regulation Number 11 2020 concerning Amendments to General Election Commission Regulation Number 4 of 2017 concerning Campaign for Election of Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor and General Election Commission Regulation Number 13 of 2020 concerning Second Amendment to General Election Commission Regulation Number 6 of 2020 concerning the Implementation of the Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors Simultaneously Continued in Non-Natural Disaster Conditions Corona Virus Disease (Covid-19). The investigation stage was carried out and found evidence of violations of the criminal act of the Regional Head Election as regulated in Article 187A paragraph (1) in conjunction with Article 73 paragraph (4) of Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors and Deputy Governors, Regents and Deputy Regents, Mayors and Deputy Mayors Becomes Law. During the examination at the Tanjung Pati District Court, the defendant was legally and convincingly proven guilty of committing the crime of “deliberately providing other materials to Indonesian citizens to influence voters to choose certain candidates” as referred to in Article 187A paragraph (1) and paragraph (2) in conjunction with Article 73 paragraph (4) of Law Number 10 of 2016 with imprisonment for 6 (six) months and impose a fine of Rp. 5,000,000 (five million rupiah) with the stipulation that if the fine is not paid, it is replaced with imprisonment for 1 (one) month. Then at the appeal stage, the Padang High Court Panel of Judges decided to accept the appeal from the Public Prosecutor and upheld the Tanjung Pati District Court Decision Number: 12.Pid.Sus/2021/PN.Tjp dated January 28, 2021 for which the appeal was requested.

Suggestion

- 1) The handling of criminal violations of general elections and regional head elections by the Lima Puluh Kota Integrated Law Enforcement Center is expected to have human resources (HR) with educational qualifications in the field of law. So that the process of handling criminal elections for general elections and regional head elections can run properly as it should without any debate over the formulation of the articles of Law Number 7 of 2017 concerning Elections which are considered multi-interpretative for the understanding of members of the Lima Puluh Kota Integrated Law Enforcement Center.
- 2) It is hoped that there will be a revision or improvement of Law Number 7 of 2017 concerning general elections and Bawaslu Regulation Number 31 of 2018 concerning the Integrated Law Enforcement Center and Law Number 10 of 2016 concerning regional head elections.
- 3) The role and function of the Integrated Law Enforcement Center needs to be improved by making the institution the center of activities for handling general election crimes. This step is believed to be able to increase the effectiveness of handling criminal acts of general election and regional

head elections, compared to the Integrated Law Enforcement Center only as a forum to equalize views between elements of the Integrated Law Enforcement Center.

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