



## The Effectiveness of Online Examination During the Covid-19 Pandemic on Law Enforcement in Subdit II of Dittipidum of Bareskrim Polri (Case Study on Decision Number: 935/PID.B/2020/PN BDG)

Beste Refo Kandida; Suya Nita; Mulyadi

Police Academy, Semarang, Indonesia

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### **Abstract**

The objectives of the present study were 1) to find and analyze obstacles when conducting online examination of witnesses and suspects, 2) to analyze and offer efforts so that the results of online examination of witnesses and suspects can become evidence that has binding power throughout the criminal justice process. This was qualitative study that combines normative and empirical study. The study was conducted at the Sub-Direktorat II of Dittipidum of Bareskrim Polri. The analysis was based on the applicable laws and regulations and was relevant to the legal issues that were the focus of the research. The results of this study maintained fair legal certainty which was an important thing during the current Covid-19 pandemic. Online examination had not been regulated in the Criminal Procedure Code, so that the minutes of online examinations were expected to be valid evidence in court and had binding evidence. Based on the results of the study, it was concluded that the existing laws and regulations were not sufficient to support the law enforcement process during the COVID-19 pandemic as expected due to a legal vacuum and technical regulations.

**Keywords:** *Law Enforcement; Covid-19 Pandemic; Polri*

### **Introduction**

This study examined the implementation of an online examination of a suspect of a crime when the Large-Scale Social Restriction (PSBB) policy during the Covid-19 Pandemic in Indonesia was implemented. The examination was carried out by Investigators of Subdit II of the Directorate of General Crimes (Dittipidum) of the Criminal Investigation Agency (Bareskrim) of the Indonesian National Police (Polri). Furthermore, the investigator writes down the results of the online examination in the Minutes of Investigation (BAP) as regulated in Article 75 paragraph (3) of the Criminal Procedure Code (KUHAP). However, in reality, the BAP could not be accepted in which the Indonesian Prosecutor's Office as the Public Prosecutor returned the BAP with an order to make it more complete (known as P.19). The Public Prosecutor considered that the Online BAP did not have the power of binding evidence (Meidyana & Putra, 2018).

As a form of response to social/physical distancing, a number of law enforcement agencies had agreed to conduct online hearings. It was initiated by the Supreme Court (MA) which issued the Supreme Court Circular Number 1 of 2020 concerning Guidelines for the Implementation of Duties During the Prevention of the Spread of Covid-19 in the Supreme Court and the Judicial Bodies Below (SEMA 1/2020) on March 23, 2020, the last times replaced with SEMA Number 3 of 2020 (SEMA 3/2020). Following up on SEMA 1/2020, the Director General of the General Judiciary Agency (Badilum) of the Supreme Court issued letter No. 379/DJU/PS.00/3/2020 dated March 27, 2020 addressed to the Heads of High Courts and Heads of District Courts throughout Indonesia to conduct criminal case trials via teleconference during the national disaster emergency related to the Covid-19 pandemic (Siregar, 2017).

The policy for conducting online criminal case trials was strengthened by a Memorandum of Understanding (MoU) dated April 13, 2020 between the Supreme Court, the Attorney General's Office and the Ministry of Law and Human Rights No. 402/DJU/KM.01.1/4/2020; KEP-17/E/Ejp/04/2020; PAS-008.HH.05.05 of 2020 concerning the Implementation of Trials via Teleconference during the Covid-19 outbreak in Indonesia. In essence, the MoU was intended to prevent the spread of Covid-19 in Corrections (Lapas), Detention Centers (Rutan) and District Courts/High Courts throughout Indonesia. (Krisnawan & Setiawan, 2021).

At the investigation level at the National Police, Police General Idham Aziz as the Head of the Indonesian National Police (Kapolri) responded to the Covid-19 national disaster by issuing the Chief of Police Decree No. Mak/2/III/2020 dated March 19, 2020 regarding Compliance with Government Policies in Handling the Spread of Covid-19. This announcement aimed to prevent the spread, expansion and development of Covid-19 as it would be a disturbance to public security and order. Next, the National Police Chief issued a Telegram Letter (ST) No. ST/3220/XI/KES.7/2020 dated November 16, 2020 which mandated all ranks of the National Police to enforce the law against violators of health protocols who disturbed public security and order. The Telegram (ST) letter included reference articles in law enforcement against health protocols violators based on Article 65 of the Criminal Code (KUHP), Article 212 of the Criminal Code, Article 214 paragraphs (1) and (2) of the Criminal Code, Article 216 of the Criminal Code, and Article 218 of the Criminal Code, as well as Law Number 2 of 2002 concerning the Police, as well as the provisions of Article 84 and Article 93 of Law Number 6 of 2018 concerning Health Quarantine (UU 6/2018).

Investigators of Subdit II of the Directorate of General Crimes (Dittipidum) of Bareskrim conducted an examination of 2 (two) suspects BS and DA during the PSBB period. Examination of BS and DA is carried out online which results in an online BAP. Then the investigators transferred the case files on behalf of BS and DA to the DKI Jakarta High Prosecutor's Office. At that time, the Public Prosecutor (JPU) returned the case file with instructions to complete it (P.19). The process of going back and forth in this case file took place 3 (three) times. One of the instructions from the Public Prosecutor was to ask investigators to send BAP to witnesses named PA and EL which were signed by the two witnesses. At that time, the two witnesses were each serving a period of detention at the Cipinang Detention Center and Pondok Bambu Detention Center for other cases so they could not receive visits from outside parties, including investigators from Sibdit II of Dittipidum.

Previously, investigators had examined the PA and EL Witnesses who were respectively in the Cipinang Detention Center and Pondok Bambu Detention Center through the Zoom Meeting Application as the only means of official communication in the government sector available at the time of the PSBB. The results of the examination were included in the BAP. However, the Public Prosecutor considered that the BAP obtained through the zoom meeting (online) application could not be used in the trial because it was not signed by the witness so that investigators still had to get a wet signature from them. In this case, the signing by witnesses in this BAP was explicitly regulated in Article 75 paragraph (3) of the Criminal Procedure Code (KUHAP), which essentially mentioned that the minutes must be signed by the investigator and all parties involved in making the minutes. Meanwhile, it was a common knowledge that

at that time the PSBB was in progress in order to prevent/manage the spread of Covid-19, so that the examination of investigators and witnesses was prohibited from being carried out face-to-face.

Based on the explanation above, it was necessary to conduct comprehensive research and analysis on matters closely related to the implementation of criminal investigation activities carried out by investigators of the Sub-Directorate II of the Dittipidum of the National Police Criminal Investigation Unit during the implementation of the Large-Scale Social Restrictions (PSBB) in the future. The Covid-19 pandemic, especially in examining witnesses and suspects online through the zoom meeting application according to the laws and regulations in force in Indonesia as the legal basis in force and according to the reality that occurred in practice experienced by investigators as a concrete fact. The problem in this analysis was the effort for Sub-Directorate II of the Dittipidum of Bareskrim Polri in carrying out criminal investigations, especially examinations of witnesses and suspects online through the zoom meeting application during the Large-Scale Social Restriction (PSBB) policy during the Covid-19 Pandemic, as a breakthrough. within the Indonesian National Police (Polri).

### **Research Method**

This is qualitative study. Jane Richie defined qualitative study as an attempt to present the social world and its perspective within the world in terms of behavioral concepts, perceptions, and issues about humans being studied (Moleong, 2017). The analysis was based on the applicable laws and regulations and was relevant to the legal issues that were the focus of the study. This study combined normative and empirical research.

The present study was a holistic case study that which stood alone but was interconnected so that it was a unit (Ashofa, 2010). Case study has the ability to talk to their readers because it is presented in ordinary language rather than technical language in the form of numbers (Ashofa, 2010). Readers will find it easier to understand the meaning conveyed through simple and meaningful sentences. There were two types of data in this study which included primary data and secondary data. Primary data obtained from interviews with respondents as many as 5 (five) people who had competence in handling criminal acts as regulated in the Criminal Justice System in Indonesia. In addition, primary legal materials and secondary legal materials were also used to complement primary data. Primary legal materials were binding legal materials consisting of basic norms or rules, basic regulations, statutory regulations, namely legal materials that were not codified. Meanwhile, secondary legal materials provided explanations on primary legal materials, such as draft laws, research results or opinions of legal experts as well as legal books including theses and legal dissertations as well as legal journals relevant to the legal issues to be investigated (Marzuki, 2008).

According to (McMillan & Schumacher, 2003), data in qualitative research is obtained through investigative techniques where researchers collect data by meeting face to face and interacting directly with people and places related to research. In this study, the researcher carried out the necessary activities, methods and techniques, such as asking questions related to the applicable processes and procedures, as well as collecting data from participants such as matters relating to the practice of carrying out tasks. The answers to the questions and the collected data were then identified and further analyzed. In conducting observations, researchers could go directly to the location and participate actively as participants to collect data or can also be passive by just being an observer. Meanwhile, in terms of interviews, researchers could conduct interviews with respondents in various ways as mentioned by (Creswell, 2013) namely face to face, by telephone, or other media (p.267). Researchers document researched data by studying and retrieving data from various literatures in the form of books, official reports, scientific journals, articles, in the form of hard files (printed) or soft files from the internet. Data collection was an effort to obtain various theories and their supporting materials related to the problems in this study. The steps of research data analysis were in the form of data collection followed by sorting and reducing data

(Ishaq, 2017). The results of sorting and reducing the data were then presented in the results of the study and finally conclusions were drawn.

### ***Research Results and Discussion***

#### **Obstacles of Investigators of Subdit II of the Directorate of General Crimes in Conducting Online Examination of Witnesses and Suspects**

At the level of investigation at the National Police, Police General Idham Aziz as the Head of the Indonesian National Police (Kapolri) responded to the Covid-19 national disaster by issuing the Chief of Police Decree Number Mak/2/III/2020 dated March 19, 2020 regarding Compliance with Government Policies in Handling the Spread of Covid-19. This announcement aims to prevent the spread of the expansion and development of Covid-19 and disturbances to public security and order. Next, the National Police Chief issued a Telegram Letter (ST) Number ST/3220/XI/KES.7/2020 on November 16, 2020 which mandated all ranks of the National Police to enforce the law against violators of health protocols who disrupt public security and order. The Telegram (ST) letter included reference articles in law enforcement against health protocols violators based on Article 65 of the Criminal Code (KUHP), Article 212 of the Criminal Code, Article 214 paragraphs (1) and (2) of the Criminal Code, Article 216 of the Criminal Code, and Article 218 of the Criminal Code, as well as based on Law Number 2 of 2002 concerning the Police, as well as the provisions of Article 84 and Article 93 of Law Number 6 of 2018 concerning Health Quarantine (Law 6/2018).

The Head of the National Police Criminal Investigation Agency also issued verbal orders and directives to each director within the Criminal Investigation Agency (Bareskrim) and the Regional Police (Polda) level to conduct online examinations at the investigative and investigational levels. However, the verbal order was not followed up with a Telegram Letter or Circular as in general, nor was it followed up with a Memorandum of Understanding (MoU) between the Supreme Court (MA) and the Attorney General's Office (AGO) regarding the transfer of case files. Thus, the implementation of the verbal order in practice was interpreted individually by the executors in the field, especially the investigator's superiors. In addition, standard operating procedures (SOP), instructions and directions (Jukrah) and technical instructions (Juknis) that had clarity as a basis for reference were also not available.

In principle, the examination of suspects or witnesses in the investigation stage at Sub-Directorate II of the Directorate of General Crimes was guided by Perkapolri Number 14 of 2012 concerning Management of Criminal Investigations. However, since the Covid-19 pandemic, the implementation of Large-Scale Social Restrictions (PSBB) had hampered the examination of witnesses and suspects in the investigation stage. The examination, which was initially carried out through face-to-face meetings, was changed to an online meeting as mandated by the Head of the National Police Criminal Investigation Agency. Related to this, the researcher had conducted interviews with the Head of Unit (Head of Unit) in Sub-Directorate II of the Dittipidum at the National Police Criminal Investigation Unit, AKBP Kristinatara, S.H., M.H. On this occasion, the Head of Sub-Directorate II of Dittipidum at the National Police Criminal Investigation Unit explained that there were obstacles in the online examination of witnesses and suspects. The first obstacle was the absence of a clear legal basis. So far, online examination of witnesses and suspects had only been carried out based on the leadership's policy after receiving directions from the Public Prosecutor.

The absence of a clear legal basis had become the main obstacle for Investigators of the Sub-Directorate II of the Dittipidum of the Criminal Investigation Unit of the Indonesian National Police in completing the investigation process during the Covid-19 pandemic. Investigators of Sub-Directorate II of the Directorate of General Crimes (Dittipidum) at Bareskrim conducted an examination of 2 (two) suspects BS and DA during the PSBB. Examination of BS and DA was conducted online which results in an online BAP. Then the investigators transferred the case files on behalf of BS and DA to the DKI

Jakarta High Prosecutor's Office. At that time, the Public Prosecutor (JPU) returned the case file with instructions to complete it (P.19). The process of going back and forth in this case file took place 3 (three) times. One of the instructions of the Public Prosecutor was to ask investigators to send BAP to witnesses named PA and EL to be signed by the two witnesses. At that time, the two witnesses were serving their respective periods of detention at the Cipinang Detention Center and Pondok Bambu Detention Center for other cases so they could not receive visits from outside parties, including the Sibdit II Dittipidum investigator. Previously, investigators had examined witnesses PA and EL who were respectively in the Cipinang Detention Center and Pondok Bambu Detention Center through the Zoom Meeting Application, the results of which were written down in the Minutes of Examination (BAP). However, the Public Prosecutor considered that the Minutes of Examination (BAP) obtained through the zoom meeting (online) application could not be used in the trial because it was not signed by the witness concerned, so investigators still had to get a wet signature from the witness. The signing of witnesses in the BAP was regulated explicitly in Article 75 paragraph (3) of the Criminal Procedure Code (KUHAP) which essentially stated that the minutes must be signed by the investigator and all parties involved in making the minutes. With this in mind, investigators ultimately had to meet directly with the witnesses in each detention center, of course, after coordinating and obtaining written permission from the authorized detention center officers.

Direct meetings between investigators and witnesses were aimed at obtaining wet signatures on the Examination Report (BAP) from each witness. In the implementation of Large-Scale Social Restrictions (PSBB) in the Covid-19 pandemic, face-to-face meetings should be avoided as much as possible to minimize the spread of the Covid-19 virus in the community as mandated in PP 21/2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease. 2019 (Covid-19) (Tarmizi, 2021). Moreover, Police General Idham Aziz as the Head of the Indonesian National Police (Kapolri) responded to the Covid-19 national disaster by issuing the Chief of Police Decree Number Mak/2/III/2020 dated March 19, 2020 regarding Compliance with Government Policies in Handling the Spread of Covid-19. This announcement was intended so that the spread of Covid-19 did not expand and develop so that it became a disturbance to public security and order. Next, the National Police Chief issued a Telegram Letter (ST) Number ST/3220/XI/KES.7/2020 on November 16, 2020 which ordered all ranks of the National Police to enforce the law against violators of the health protocol who disturbed public security and order. The Telegram (ST) letter included articles that became references in law enforcement against health protocol violators based on Article 65 of the Criminal Code (KUHP), Article 212 of the Criminal Code, Article 214 paragraphs (1) and (2) of the Criminal Code, Article 216 the Criminal Code, and Article 218 of the Criminal Code, as well as based on Law Number 2 of 2002 concerning the Police, as well as the provisions of Article 84 and Article 93 of Law Number 6 of 2018 concerning Health Quarantine (Law 6/2018). In this regard, investigators needed to find a breakthrough so that the examination of witnesses and suspects during the investigation process meets the provisions of Article 75 of the Criminal Procedure Code, in particular Article 75 paragraph (3) of the Criminal Procedure Code while still complying with the government's recommendation to limit face-to-face activities in the context of PSBB to prevent the spread of Covid-19 as regulated in PP 21/2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (Covid-19).

In the online examination of witnesses and suspects in the Covid-19 pandemic, investigators of the Sub-Directorate II of the Dittipidum of the Criminal Investigation Unit of the National Police carried out the following stages: a. made calls to witnesses or suspects by notifying that the examination would be carried out online through the Zoom Meeting Application. This was also notified to the legal representative if the person concerned was accompanied by a legal representative; b. carried out further coordination regarding the technical implementation of the examination accompanied by the provision of a Zoom Meeting link. This was intended to ensure that the inspection was carried out safely; c. the examination conducted by the investigator was accompanied by the Minutes of Examination and the Minutes of Recording the Examination. In this case, the Minutes of Examination of Witnesses or Minutes

of Examination of Suspects were not signed by the party being examined, while the Minutes of Recording of Examinations were signed by the investigator.

On the same occasion, the Head of the Sub-Directorate II Unit of the Dittipidum of Bareskrim Polri conveyed to the researchers that apart from the absence of a clear legal basis, the obstacle faced was the unavailability of supporting and adequate facilities and infrastructure. The availability of an adequate internet network that supported online examinations had not been evenly distributed. In addition, it was also constrained by the absence of a budget allocated for the purchase of quotas and maintenance of supporting tools used in online inspections.

If the two obstacles above were analyzed from the factors that affect the effectiveness of law enforcement as described by Soekanto, there were 2 (two) factors that became obstacles. The first was the legal factor in which the current written rules do not accommodate online examinations at the level of statutory regulations. Thus, in carrying out online examinations, investigators were only based on leadership policies after obtaining instructions from the Public Prosecutor (Suhaimi, 2021). The second was the factor of facilities and supporting facilities for law enforcement officers in carrying out their duties and functions. The absence of supporting elements for the apparatus in enforcing the rules had made the officers unable to move, communicate, and work well (Iswantoro, 2020). As described previously, the availability of an adequate internet network that supported online inspections is not evenly distributed and there was no budget allocated for purchasing quotas and maintaining supporting tools used in online inspections. In this case, it became an obstacle for Sub-Directorate II of the Dittipidum of Bareskrim Polri to conduct online examinations of witnesses and suspects (Lumbanraja, 2020).

### **Efforts of Sub-Directorate II of the Directorate of General Crimes in Writing Online Examination Results of Witnesses and Suspects during Large-Scale Social Restrictions (PSBB) in the Covid-19 Pandemic to Become a BAP with Binding Power**

The Criminal Procedure Code (hereinafter abbreviated as "KUHP") is a formal criminal law that regulates how a law enforcer handles a criminal case starting from investigation, prosecution and trial (Akbar, 2019). If a case has been upgraded to an investigation, the investigator is obliged to carry out a Minutes of Examination (BAP) in which the investigator has compiled questions that are more conical to the alleged crime committed by the suspect in the Minutes of Examination (Fatah, 2015).

The signature of a witness in the Minutes of Examination (BAP) of witnesses is needed by investigators to show that all answers written in the Minutes of Examination (BAP) are answers that were actually given by the witness without any pressure or coercion from the investigator (Tabah, 2021). If during the investigation the suspect refuses to sign the Minutes of Examination (BAP), based on article 118 of the Criminal Procedure Code, the investigator is obliged to make an official report on the refusal of the signature accompanied by the reasons for the refusal to give the signature.

The consequence of this refusal to the investigator is that at the time of trial, the witness testimony will of course be more trusted by the panel of judges examining the case. Then, in practice, the investigator will be called to be a verbal witness or a witness investigating a case for questioning regarding the case being tried. Minutes of refusal of signatures often make the investigator's position "weak".

Yahya Harahap explained that the minutes contained witness statements which were signed by the investigator and the witness. The signing of the minutes of inspection needs to pay attention to the following two things:

- a. After first agreeing to the contents of the minutes, the witness then signs the BAP. This approval is given after the investigator has read it before the witness or the investigator orders the witness to

read it him/herself. However, if the witness cannot read, there is no other choice than the investigator reading the minutes in front of the witness.

- b. The law provides the possibility for witnesses not to sign the Minutes of Investigation (BAP) (Article 118 of the Criminal Procedure Code). If the witness does not want to put his/her signature in the BAP, the investigator makes a note of that refusal in the official report. The notes are in the form of explanations and reasons why the witness refuses to sign in the minutes. If the witness does not want to sign the official report, he/she must give a strong reason (Harahap, 2010). In other words, without a strong reason, the witness is required to sign the Minutes of Examination.

Investigators of Subdit II of the Directorate of General Crimes (Dittipidum) of Bareskrim conducted an examination of 2 (two) suspects BS and DA during the PSBB. Examination of BS and DA was carried out online which resulted in an Online BAP. Then, the investigators handed over the case files on behalf of BS and DA to the DKI Jakarta High Prosecutor's Office. At that time, the Public Prosecutor (JPU) returned the case file with instructions to complete it (P.19). The process of going back and forth in this case file took place 3 (three) times. One of the prosecutor's instructions was to ask the investigators to send BAP to witnesses named PA and EL along with the signatures of the two witnesses. At that time, the two witnesses were serving their respective periods of detention at the Cipinang Detention Center and Pondok Bambu Detention Center for other cases so they could not receive visits from outside parties, including investigators from Sibdit II of Dittipidum.

Previously, investigators had examined witnesses PA and EL who were respectively at the Cipinang Detention Center and Pondok Bambu Detention Center through the Zoom Meeting Application as the only means of official communication in the government sector available at the time of the PSBB. The results of the examination were included in the BAP. However, the Public Prosecutor considered that the BAP obtained through the zoom meeting application (online) could not be used in the trial because it was not signed by the person concerned, so the investigator still had to get a wet signature from the party being examined. Regarding the signing by witnesses in this BAP, it was explicitly regulated in Article 75 paragraph (3) of the Criminal Procedure Code (KUHAP), which essentially stated that the official report must be signed by the investigator and all parties involved in making the official report. Meanwhile, at that time the PSBB in order to prevent/manage the spread of Covid-19 was in progress so that investigators and witnesses were prohibited from meeting in person.

Regarding the validity of the Minutes of Investigation of suspects and witnesses conducted online at the investigation stage, the Head of the Center for Criminal Statistics and Information Technology at the Attorney General's Office, Didik Farkhan Alisyahdi, S.H., M.H. expressed his opinion. In the opinion of the Head of the Center for Criminal Statistics and Information Technology at the Attorney General's Office, there was no provision in the Criminal Procedure Code that stipulated that the examination of witnesses and suspects must be carried out at the investigator's office. He referred to the provisions of Article 113 of the Criminal Procedure Code which essentially stipulated that if a suspect or witness gave a proper and reasonable reason for his/her absence, the investigator came to the residence of the suspect or witness. Thus, the Criminal Procedure Code allowed witnesses and suspects to be examined outside the investigator's office. If it was associated with an online examination, then the examination by means of teleconferencing was allowed. Currently, prosecutors in almost all regions had also conducted online examinations of suspects and witnesses, especially during the Phase II submission from investigators, namely the submission of suspects and evidence.

When examining suspects in the Minutes (form BA-4/suspect and BA-5/evidence), the investigator had conducted online examinations via video conference. The investigator remained in the District Attorney's Office, while the detainee remains in the detention room. Referring to the Criminal Procedure Code, the examination of witnesses and suspects was regulated in Article 112 of the Criminal Procedure Code which only had two conditions. In this case, there must be a clear reason for the summons and a valid and proper summons. The legal requirements for examining witnesses and suspects

were regulated in Article 75 of the Criminal Procedure Code. First, it must be made in the Minutes of Examination of Witnesses and Minutes of Examination of Suspects. Second, the Minutes of Examination were made by investigators on the basis of the power of an oath of office so that it must also be carried out by a legitimate investigator. Third, the Minutes of Investigation (BAP) must be signed by the investigator and all those involved in the event.

On this occasion, the Head of the Center for Criminal Statistics and Information Technology at the Attorney General's Office stated that investigations via teleconference or video conference could be carried out by investigators with witnesses and suspects during the investigation stage. That, among others, must meet several conditions such as the existence of a call and the call made must be in accordance with the grace period. Minutes of Examination (BAP) were still made and signed by all parties.

The procedure for signing the Minutes of Examination (BAP) whose examination is carried out online can be done easily, among others as follows: a. During the examination interview, the results of the examination in the form of an Examination Report (BAP) are published in PDF form which can be sent via e-mail to witnesses and suspects, the results of which are printed by the person concerned for signature. The signed printout is then scanned and sent back to the investigator; b. If the witness and suspect find it difficult to do the things in point a, the investigator can print the results of the Examination Report (BAP) to be sent by post or trusted courier to the witness and suspect in question for signature, then the results are sent back to the investigator.

According to the Head of the Center for Criminal Statistics and Information Technology at the Attorney General's Office, online examinations have the advantage of being recorded. Thus, if there is an issue with an incident in the examination process, it can be answered by playing the recording of the examination.

In line with the opinion conveyed by the Head of the Center for Criminal Statistics Data and Information Technology at the Attorney General's Office, the Head of the Sub-Directorate II of the Dittipidum of the Criminal Investigation Unit of the Indonesian National Police conveyed to the researchers that during the online examination process for witnesses and suspects, investigators conveyed the Minutes of Investigation (BAP) to witnesses and the suspect via courier to obtain a signature from the party concerned. This was done as an effort so that the Minutes of Examination (BAP) of witnesses and suspects comply with the provisions stipulated in the Criminal Procedure Code.

On the same occasion, the Head of the Sub-Directorate II Unit of the Dittipidum of Bareskrim Polri conveyed the efforts that need to be made to resolve the obstacles faced in the online examination of witnesses and suspects at the investigation stage. First, from a juridical perspective, it requires cooperation with the Prosecutor's Office to make a Memorandum of Understanding as a temporary legal umbrella for online examination of witnesses and suspects at the investigation stage. Second, from a technical point of view, it requires a special budget to build internet network facilities and infrastructure and other supporting tools.

Efforts were made to resolve the obstacles faced during online examination of suspects and witnesses at the investigation stage, in particular to fulfill the requirements for signatures of the parties being examined as mandated by Article 75 paragraph (3) of the Criminal Procedure Code, is a form of the concept of full enforcement. The concept of full enforcement is law enforcement which also includes applicable procedural law in order to protect the rights and interests of the individuals concerned. In the concept of full enforcement, law enforcement efforts by law enforcement officers are limited by matters of a technical nature, such as facilities, infrastructure, skills or various other structural and bureaucratic obstacles such as provisions on approval or permission from superiors. Enforcement of this type of law is difficult to implement, although in practice it is still possible to implement it as long as there are solutions related to the limitations and obstacles faced by law enforcement officials. Muladi also argued that full



enforcement stipulated that law enforcers are expected to enforce the law to the fullest even though it is limited by procedural law for the benefit of related parties. However, in practice it is also not easy because there are certain limitations and obstacles such as time constraints, personal, and personnel capabilities. Nevertheless, such law enforcement still leaves a solution by providing space for certain parties through discretionary actions or decision making.

The validity of the examination of witnesses and suspects is regulated in Article 75 of the Criminal Procedure Code. First, it must be included in the Minutes of Examination of Witnesses and Minutes of Examination of Suspects. Second, the Minutes of Examination are made by investigators on the basis of the power of an oath of office so that it must also be carried out by a legitimate investigator. Third, the Minutes of Investigation (BAP) must be signed by the investigator and all those involved in the action. The online examination of witnesses and suspects in the Covid-19 pandemic whose examination results were published in the Minutes of Examination (BAP) obtained through the zoom meeting application (online) had created a debate about the legal force because it was not signed by the person being examined. To comply with the provisions of the applicable procedural law, particularly Article 75 paragraph (3) of the Criminal Procedure Code, investigators could make several breakthroughs, including: a. submit the Minutes of Examination (BAP) to witnesses and suspects via courier to obtain signatures from the parties concerned; and b. The Minutes of Examination (BAP) are published in PDF format and the results can be sent via e-mail to witnesses and suspects which are then printed by the person concerned for signature. The signed printout is then scanned and sent back to the investigator. These efforts are a form of full enforcement to comply with the provisions of the Criminal Procedure Code. However, it must still pay attention to government policies in law enforcement efforts during the Covid-19 pandemic and efforts to prevent the spread of Covid-19.

## **Conclusion**

Sub-Directorate II of the Dittipidum of Bareskrim Polri faced a major obstacle in conducting online examinations of witnesses and suspects. In this case, the results of the examination which were included in the Minutes of Examination (BAP) did not have binding legal force in the view of the Public Prosecutor (JPU). Thus, it could not be considered by the panel of judges in the trial in court considering that the BAP did not meet the elements mandated in the provisions of Article 75 paragraph (3) of the Criminal Procedure Code. This had caused the Criminal Investigation Police to be unable to complete the investigation process effectively during the Large-Scale Social Restriction (PSBB) policy during the Covid-19 pandemic. In practice, investigators must meet directly with witnesses in each Detention Center after coordinating and obtaining written permission from the authorized officer in order to obtain a wet signature on the BAP. This had the potential to become a place for the spread of Covid-19 so that it was not in line with the aims and objectives of Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019.

In the future, investigators of Subdit II of the Dittipidum of Bareskrim Polri may apply several efforts to obtain proper BAP from the results of online examinations of witnesses and suspects through the following 2 (two) mechanisms: first, submitting BAP to witnesses and suspects through a trusted courier service to obtain wet signature; and secondly, the BAP is contained in a PDF file which is sent via e-mail to witnesses and suspects then the file is printed by the person concerned to be signed wetly. The signed printout is then scanned and sent back to the investigator. Thus, the BAP results from the examination of witnesses and suspects which are carried out online can be a tangible manifestation of full enforcement efforts that comply with the provisions of Article 75 paragraph (3) of the Criminal Procedure Code regarding the examination of witnesses and suspects while still paying attention to government policies in law enforcement efforts. during the Covid-19 pandemic and efforts to prevent the spread of Covid-19.

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