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Legal Loopholes in the Application for Termination of Investigation by Investigators Due to the Absence of Clear Standards in Determining Sufficient Evidence

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Abstract: This study examines the legal gaps that arise in investigators' requests to terminate investigations based on Article 109 paragraph (2) of the Criminal Procedure Code, which authorizes the filing of an SP3 (Sufficient Evidence Order) due to "insufficient evidence" but does not outline the operational criteria. This lack of clarity in the standard leaves investigators open to subjective interpretation, potentially leading to misuse to terminate investigations without a clear basis, reducing legal certainty and harming victims. The study uses a normative juridical approach with a critical analysis of laws and regulations, legal literature, and investigative practices in Indonesia. The results show that the ambiguity of the term "sufficient evidence" creates a legal loophole that weakens investigator accountability and leads to injustice in the criminal justice system. As a direction for legal reform, it is recommended that there be clear technical guidelines for assessing sufficient evidence, a strict oversight mechanism by prosecutors, and public transparency regarding the basis for terminating investigations, so that the SP3 authority can be exercised objectively, accountably, and in accordance with the principle of legal certainty. This reform is expected to minimize the potential for misuse, increase the integrity of law enforcement, and strengthen the protection of victims' rights.

Keywords: Legal Vacuum, Termination of Investigation, SP3, Criminal Procedure Code

INTRODUCTION

The principle of legal certainty is a key pillar in the administration of criminal justice, ensuring that every action by law enforcement officers can be legally and morally accounted for (Susilo, 2024). Investigation, as the initial stage in the criminal law enforcement process, plays a crucial role in determining the direction of prosecution and ensuring justice for the parties (Yanlua et al., 2025). Legal certainty requires clear norms regarding the limits of investigators' authority, including in making decisions to continue or terminate investigations (Ali, 2023). When these norms are not explicitly formulated, the potential for uncertainty increases, and public trust in law enforcement is eroded.

Article 109 paragraph (2) of the Criminal Procedure Code (KUHP) provides a legal basis for investigators to terminate an investigation if there is insufficient evidence, the incident is not a criminal act, or the investigation is terminated by law (Makarewa, 2021). The phrase "insufficient evidence" serves as a crucial legal basis for determining the validity of an investigation termination (Nurman et al., 2024). However, the law does not specify the definition of "sufficient evidence," creating an interpretative gap in its application (Mamengko, 2019). This situation leads to differing interpretations among investigators and has the potential to lead to injustice.

The issue of the ambiguity of the phrase "sufficient evidence" has been highlighted in law enforcement practice because it allows for subjectivity in investigators' decision-making. Each investigator may have a different view of the level of evidence deemed sufficient to continue an investigation or terminate it (Rozi, 2018). This situation creates the potential for abuse of authority that can harm victims and the public, who demand transparency in law enforcement (Dewanti et al., 2025). This unequal assessment also creates uncertainty for public prosecutors in determining the next legal steps.

The legal impact of this unclear norm is significant for substantive justice. Terminating an investigation without a definitive measure has the potential to violate the principle of legality, which requires every law enforcement action to be based on clear and definite law (Haris et al., 2025). From a sociological perspective, the public has lost trust in the objectivity of law enforcement because decisions to terminate investigations are often perceived as the result of interference by certain interests (Saputra, 2025). This situation has implications for the weakening of the legitimacy of the police as law enforcement agencies tasked with protecting the public interest.

Investigations are regulated in Article 1, number 2 of the Criminal Procedure Code (KUHP) as a series of actions by investigators to seek and collect evidence to identify suspects and prove criminal acts (Putri et al., 2023). This provision demonstrates that investigations are a systematic process subject to the principles of legality and due process of law (Darmansyah & Silalahi, 2024). Investigators have a responsibility not only to discover the formal truth but also to ensure that every action is in line with human rights and procedural justice (Purwono, 2024). This principle serves as the basis for ensuring that every decision in an investigation, including the termination of an investigation, is not arbitrary.

The stages of investigation, as regulated by the KUHP, demonstrate the relationship between evidence and legal decisions. Article 109 paragraph (2) of the Criminal Procedure Code (KUHP) provides three reasons for terminating an investigation, one of which is insufficient evidence (Devi, 2024). However, there are no provisions explaining the quantitative or qualitative parameters of this evidence. This situation creates disharmony between the principle of legality and investigative practices, which are heavily dependent on the investigator's personal interpretation. External oversight from prosecutors or the courts often only occurs after the SP3 decision is issued, thus weakening preventive controls.

The term "sufficient evidence" has different conceptual roots from the term "sufficient preliminary evidence" used in the investigation and prosecution stages. According to Article 184 of the Criminal Procedure Code, valid evidence includes witness testimony, expert testimony, letters, clues, and the defendant's testimony (Pramita et al., 2024). However, the law does not specify how much or how strong the evidence must be to be considered sufficient. Supreme Court jurisprudence also shows variation in this assessment, depending on the context of the case (Hasanah, 2023). This situation emphasizes that without operational criteria, the term "sufficient evidence" tends to be a gray area in legal practice.

The investigator's authority to terminate an investigation is reaffirmed in Article 7, paragraph (1), letter i of the Criminal Procedure Code, which grants investigators the right to terminate an investigation (Jonadie, 2019). This authority must be exercised with due regard

to the principles of proportionality and accountability to prevent abuse. Article 18 of Law Number 2 of 2002 concerning the Indonesian National Police also provides the basis for the implementation of police discretion, but still limits this authority to legal accountability and the public interest (Rijal, et al., 2021). This affirmation of limits indicates that every investigator's discretion must be based on objective reasons and can be legally tested.

The principles of legality and due process of law are the primary controls to prevent investigators from acting arbitrarily in interpreting sufficient evidence. Legality demands compliance with written law, while due process of law ensures that all parties involved in the investigation process receive fair treatment (Yasin et al., 2025). The absence of a normative measure of sufficient evidence can result in a simultaneous violation of both principles. Therefore, oversight by the prosecution is a crucial factor in maintaining a balance between the authority of investigators and the protection of the rights of suspects and victims.

The principles of legal certainty, accountability, and transparency complement each other in criminal investigations. Legal certainty ensures clarity of rules, accountability demands accountability for every decision, and transparency ensures the public can assess the objectivity of the legal process (Puspitasari et al., 2025). When legal norms lack clear boundaries, these three principles are at risk of being neglected. This situation demonstrates that the issue of "sufficient evidence" is not merely a technical investigative issue but also touches the core of good legal governance and the credibility of law enforcement agencies.

The lack of regulation regarding the standard for "sufficient evidence" indirectly demonstrates the weakness of the normative design of the Criminal Procedure Code (KUHAP). Although criminal procedure law serves as an instrument for protecting human rights, this unclear definition can actually lead to violations of these fundamental rights. Investigators should have objective guidelines in determining the sufficiency of evidence so that any decision to terminate an investigation can be legally and morally justified. The absence of such guidelines reinforces the urgency of reforming criminal procedural law to be more responsive to the needs of modern justice.

METHOD

This research uses a normative juridical method with a statutory and conceptual approach. The statutory approach is used to examine in depth the positive legal provisions governing the termination of investigations, specifically Article 109 paragraph (2) of the Criminal Procedure Code (KUHAP), as well as implementing regulations such as Regulation of the Chief of Police Number 6 of 2019 concerning Criminal Investigations and Law Number 2 of 2002 concerning the Indonesian National Police. Through this approach, the research seeks to identify legal gaps in determining the standard of "sufficient evidence" which forms the basis for issuing a Letter of Order to Terminate Investigations (SP3), as well as to assess the conformity of investigative practices with applicable legal principles. The conceptual approach is used to examine and build a theoretical understanding of the concept of "sufficient evidence" based on doctrine, the opinions of legal experts, and theories of evidence in the criminal law system. This approach also serves as the basis for formulating the direction of legal reform so that the concept of "sufficient evidence" has objective standards and can be applied consistently. The research data were obtained through a literature review of primary legal materials such as laws, jurisprudence, and implementing regulations; secondary legal materials such as legal literature, scientific journals, and expert opinions; and tertiary legal materials such as legal dictionaries and legal encyclopedias. The analysis was conducted qualitatively, emphasizing systematic and constructive interpretation of legal norms, resulting in findings that are not only descriptive but also provide normative solutions to the legal gaps that are the focus of the research.

RESULT AND DISCUSSION

Analysis of Legal Vacancy in Determining Sufficient Evidence

Article 109 paragraph (2) of the Criminal Procedure Code (KUHP) authorizes investigators to terminate an investigation on the grounds of "insufficient evidence," but the law does not yet clarify the operational criteria that can be used as a reference. The absence of norms outlining standards for the sufficiency of evidence creates ambiguity in its application. Investigators ultimately resort to subjective judgments based on personal experience and perceptions of the evidence obtained. This situation has the potential to result in differing decisions between investigators in cases with similar characteristics. This concern demonstrates a clear legal vacuum because the law does not provide technical limits regarding the minimum level of evidence that must be met to continue or terminate an investigation.

This legal vacuum becomes even more apparent when examining Police Regulation Number 6 of 2019 concerning Criminal Investigations. This regulation regulates the administrative procedures for terminating an investigation and the procedures for issuing a Notice of Termination (SP3), but it does not outline how investigators should assess the fulfillment of the "sufficient evidence" element. As a result, the technical guidelines that should serve as guidance for officers do not provide clear normative direction. This leaves investigators with the discretion to interpret the sufficiency of evidence without an objective, legally verifiable assessment mechanism. This gap is not only formal but also substantive, as it concerns the essence of proof in criminal procedural law.

Differences in the interpretation of the term "sufficient evidence" create inconsistencies in the application of the law. Investigators in one jurisdiction may deem two pieces of evidence sufficient, while in another jurisdiction, they may deem them insufficient. This lack of uniformity creates a sense of discrimination in law enforcement and undermines the principle of justice. Victims of crime also face uncertainty about whether a reported case will proceed, depending on the investigator's subjective assessment. When the law does not provide a clear standard, investigators' decisions are no longer based on norms, but on their personal perceptions of the sufficiency of evidence.

The lack of a standard for "sufficient evidence" directly impacts the principle of legal certainty, which is the spirit of criminal procedural law. Legal certainty demands that every law enforcement action have a clear basis and predictable outcomes. When norms do not provide guidance regarding the minimum level of proof, legal certainty transforms into uncertainty. Investigators may terminate an investigation on the grounds of insufficient evidence, even though the evidence meets the minimum requirements stipulated in Article 184 of the Criminal Procedure Code. This situation raises concerns that legal decisions are determined more by the subjectivity of officials than by legal rationality.

The legal consequences of this lack of standards not only impact procedural aspects but also affect the substantive value of justice. Terminating an investigation without a clear benchmark has the potential to constitute an abuse of authority, as prohibited by Article 17 of Law Number 30 of 2014 concerning State Administration. This abuse of authority can occur when investigators use insufficient evidence as a pretext to close a case that actually has a strong basis for continuation. Victims lose access to justice because the legal process is halted, not based on the strength of the evidence, but on the investigator's subjective interpretation. As a result, public trust in law enforcement institutions declines.

The decline in public trust in the police is a serious consequence of this unclear norm. The public perceives that termination of investigations is often non-transparent and cannot be explained rationally. Without clear standards, SP3 decisions are easily suspected of being a form of legal intervention, negotiation, or compromise. This situation creates a negative perception that the law can be applied flexibly depending on the interests of certain parties.

When public trust weakens, the legitimacy of law enforcement is also compromised because the law loses its moral authority in the eyes of the public.

Victims' rights are one of the aspects most impacted by this legal vacuum. Victims have the right to legal certainty, justice, and equal treatment before the law, as guaranteed by Article 28D paragraph (1) of the 1945 Constitution. When investigations are terminated without objective criteria, victims' right to know the reasons and legal basis for the termination is neglected. The absence of a clear mechanism for assessing the sufficiency of evidence also makes it difficult for victims to file legal remedies such as pretrial motions. This situation demonstrates that the legal vacuum is not only a procedural issue but also a violation of the principle of human rights protection.

Jurisprudence shows that courts have repeatedly revoked SP3s because they were deemed not to meet the principles of objectivity and accountability. One notable case is the South Jakarta District Court Decision Number 22/Pid.Prap/2016/PN.Jkt.Sel. in the pretrial case between Novel Baswedan and the Indonesian National Police. The court deemed that the reasons for terminating the investigation were not supported by sufficient evidence and contradicted the principle of legal certainty. This decision emphasized the need for measurable measures in determining the sufficiency of evidence so that the decision to terminate an investigation can be legally tested. This case reflects the weakness of the normative framework governing the objective limits of investigators in using SP3 authority.

Analysis of several other pretrial cases also reveals a similar pattern, where courts have found investigators inconsistent in determining the sufficiency of evidence. For example, in one case, two pieces of evidence were deemed insufficient to proceed with an investigation, while in another case, the same type of evidence was deemed sufficient. This discrepancy demonstrates the absence of a uniform standard of proof in investigative practice. When the court must be the final arbiter of whether an investigation is valid, the legal system fails to provide a preventive mechanism that should be at the investigator's level. This legal gap makes the oversight mechanism reactive, rather than preventive.

A comparison with other legal systems illustrates that some countries have clear guidelines for assessing the sufficiency of evidence. In the Netherlands, for example, prosecutors play a central role in overseeing decisions to terminate investigations, with detailed internal guidelines specifying the criteria for sufficient evidence. Meanwhile, in the UK, the "sufficient evidence" standard is explicitly regulated by the Crown Prosecution Service, which requires two stages of assessment: an evidentiary test and a public interest test. Both systems emphasize the importance of transparency and objectivity in determining the sufficiency of evidence, something that is not yet explicitly regulated in Indonesia.

A lesson learned from the practices in these countries is the importance of having normative and technical guidelines that limit the scope for investigator subjectivity. These standards not only ensure consistency among law enforcement agencies but also guarantee the rights of all parties involved in the criminal justice process. When evidentiary criteria are clearly defined and testable, decisions to terminate investigations become more transparent and accountable. It will strengthen the legitimacy of investigators as professional law enforcers and increase public trust in the criminal justice system. The current legal vacuum in Indonesia demonstrates the need for regulatory reform that can bridge the gap between the flexibility of investigators' authority and the need for objective legal certainty.

Direction of Legal Reform and Strengthening of Supervisory Mechanisms

The establishment of standards for assessing "sufficient evidence" is an urgent need to address the legal gap that has long been a source of uncertainty in investigative practice. The Criminal Procedure Code (KUHP) only provides general definitions without clearly defining the criteria for sufficient evidence. Investigators often interpret the term

subjectively, based on personal experience and judgment, leading to disparate treatment of cases. Such assessments can lead to injustice and threaten the principle of equality before the law. Measurable standards are necessary to ensure that the termination of an investigation is truly based on a strong and rational legal basis.

The criteria for assessing evidence should encompass measurable quantitative and qualitative aspects. The quantitative aspect relates to the amount of evidence legally recognized under Article 184 of the KUHAP, such as witness testimony, expert testimony, letters, clues, and the defendant's testimony. The qualitative aspect relates to the level of relevance and probative strength of each piece of evidence to the elements of the alleged crime. Combining these two aspects allows for a more objective assessment of the sufficiency of evidence. Applying these standards can prevent investigators from arbitrarily using the "insufficient evidence" argument.

Recommendations for the establishment of specific regulations should be directed toward the development of binding normative guidelines for all law enforcement officials. These guidelines should ideally be set out in the form of a Government Regulation as a direct derivative of the Criminal Procedure Code in order to have adequate legal force. The National Police Chief's Regulation can also serve as an implementing instrument outlining technical indicators for evaluating evidence in discontinuing an investigation. A formulation will provide a consistent and accountable legal basis for investigative practice. This step will also strengthen the accountability of the police institution in the public eye.

The oversight mechanism for the use of the SP3 authority plays a crucial role in maintaining a balance between investigators' authority and the protection of citizens' rights. Prosecutors have pre-prosecution authority under Article 8 of the Criminal Procedure Code to oversee the results of investigations before a case is submitted to court. This function must be optimized so that prosecutors can objectively assess whether the termination of the investigation has fulfilled the element of sufficient evidence. Effective oversight can prevent intervention or decisions inconsistent with criminal procedure law. A sound oversight system also strengthens the integrity of the overall law enforcement process.

The involvement of external institutions such as the National Police Commission (Kopolnas) and the Indonesian Ombudsman needs to be increased as part of a public oversight mechanism. These two institutions play a strategic role in assessing the procedural and ethical aspects of investigations, including decisions to terminate cases. The National Police Commission (Kopolnas) can evaluate investigators' compliance with legal guidelines, while the Ombudsman can follow up on public reports of alleged maladministration. This inter-institutional synergy creates a stronger, multi-tiered oversight framework and promotes transparency in SP3 decision-making.

Transparency is crucial for maintaining public trust in law enforcement agencies. Termination of investigations without a clear legal justification often gives rise to negative perceptions and suspicions of interference. The implementation of Law Number 14 of 2008 concerning Public Information Disclosure provides the basis for providing access to information regarding the termination of investigations. The public has the right to know the reasons, legal basis, and deliberations behind the issuance of SP3s. The openness can be an effective social control mechanism to prevent abuse of the investigators' authority.

Procedural fairness in issuing SP3s can be strengthened through mandatory public disclosure of the reasons for termination of investigations. This practice not only ensures accountability but also reinforces the principles of good governance. Every decision to terminate an investigation should be accompanied by a written report explaining the evidence base and legal considerations used. The announcement must still pay attention to the confidentiality of the investigation and the privacy rights of the parties involved. Measured

transparency creates a balance between the public's right to know and the importance of orderly law enforcement.

The development of ideal policy and procedural models should be guided by the establishment of a Standard Operating Procedure (SOP) for termination of investigations based on the principles of fairness and checks and balances. This SOP should include evidence assessment mechanisms, internal verification procedures, and a uniform reporting format. Implementing the SOP can serve as a standard guideline for all investigators at various levels of the police force, ensuring more consistent implementation of the termination of investigations. These guidelines can also serve as a reference for prosecutors in conducting pre-prosecution oversight. Consistent procedural implementation will reduce the potential for abuse of authority and increase public trust in the legal process.

A mechanism for victims to appeal against decisions to terminate investigations deemed unfair should be established. This mechanism could involve strengthening pretrial institutions, which have broader authority to assess the substance of the reasons for termination of investigations, rather than simply formal procedures. Another alternative is the establishment of an internal appeals system within the police force that allows victims or informants to file objections before an SP3 is issued. Such a mechanism provides room for internal control and prevents biased decisions. Protecting victims' rights is a fundamental aspect of just criminal procedural law reform. Legal reforms that emphasize evidentiary standards, oversight, and transparency serve not only as technical solutions but also as an effort to strengthen the principles of the rule of law. Every investigator's decision must be based on rational standards, accountable procedures, and effective oversight. Harmonizing regulations, institutional oversight, and public participation will create a legal system that is more responsive to demands for justice. It is hoped that this reform will ultimately restore public trust in law enforcement agencies and ensure that every action taken by investigators truly supports legal certainty and justice.

CONCLUSION

The absence of standards for determining "sufficient evidence" in the Criminal Procedure Code (KUHP) and its derivative regulations has created a significant legal vacuum with far-reaching impacts on Indonesia's criminal justice system. The phrase "insufficient evidence," which serves as the basis for terminating an investigation under Article 109 paragraph (2) of the KUHP, lacks a valid operational definition, leaving investigators open to broad and subjective interpretation. This situation has the potential to lead to abuse of authority in issuing Investigation Termination Orders (SP3), undermine public trust, and threaten the principle of legal certainty and the protection of victims' rights. These weaknesses demonstrate the need for a more detailed legal framework, a robust oversight system, and transparent accountability mechanisms to ensure investigators' authority is aligned with the principles of substantive justice and due process of law.

Legal reform measures should be directed toward the creation of derivative regulations of the KUHP that explicitly outline standards for assessing sufficient evidence, both quantitatively and qualitatively. The Prosecutor's Office and external institutions such as the National Police Commission (Kopolnas) and the Ombudsman should be given a greater role in overseeing the investigation termination process to ensure the objectivity and accountability of investigators' decisions. It is also necessary to revise Police Regulation No. 6 of 2019 to explicitly regulate the technical indicators for assessing evidence before issuing a formal investigation warrant (SP3). Implementing public information disclosure and victim involvement in the investigation termination process are concrete manifestations of the principles of transparency and participatory justice. Theoretically, the urgency of this reform will strengthen the development of the concept of "sufficient evidence" as a rational

instrument in a modern state based on the rule of law. Practically, its implementation will enhance the professionalism of law enforcement officers and restore public trust in the integrity of the criminal justice system.

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