

# Peran Penyidik Polri dalam penanganan tindak pidana oleh notaris sebelum dan sesudah Putusan Mahkamah Konstitusi Nomor 49/PUU-X/2012: studi kasus di Polda Metro Jaya = Role of the Polri Investigator in handling criminal acts by notaries before and after the Constitutional Court Decision No. 49/PUU-X/2012: case study at Polda Metro Jaya

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## Abstrak

Penelitian ini dilatarbelakangi oleh adanya perbedaan peran penyidik polisi yang ditinjau sebelum dan sesudah Putusan MK No. 49/PUU-X/2012 tanggal 28 Mei 2013, sehingga mendorong penulis untuk melakukan penelitian terhadap permasalahan (1) Bagaimana perbedaan peran penyidik Polri dalam penanganan tindak pidana oleh Notaris pasca Putusan MK No. 49/PUU-X/2012?; (2) Bagaimana perlindungan hukum terhadap notaris sesudah Putusan MK No. 49/PUU-X/2012? (3) Bagaimana konsep tentang peran penyidik Polri dalam penanganan tindak pidana oleh notaris yang dapat memberikan perlindungan terhadap notaris dalam menjalankan tugasnya?. Metode penelitian ini adalah yuridis normatif dengan pendekatan kasus notaris X (Notaris Jakarta Timur) yang melakukan tindak pidana pemalsuan surat (Pasal 263 ayat 1 KUHP).

Hasil penelitian menunjukkan terdapat perbedaan peran penyidik Subdit Harda Ditreskrim Polda Metro Jaya dalam penanganan tindak pidana oleh notaris pasca Putusan MK No. 49/PUU-X/2012, yaitu meliputi pertama, pemanggilan terhadap notaris yang diduga melakukan tindak pidana, tidak perlu lagi mendapatkan ijin dan MPD melainkan ijin dari MKN. Kedua, tidak berlakunya lagi ketentuan dalam Pasal 14 ayat (1) Peraturan Menteri Hukum dan HAM RI No. M.03HT. 0310.TH 2007 yang mengatur tentang pengambilan minuta akta dan pemanggilan notaris. Ketiga, Hak Istimewa Notaris yaitu hak ingkar tetap dapat digunakan notaris dalam penyidikan atau dalam memberikan keterangan kepada polisi. Notaris dalam menjalankan tugas dan tanggung jawabnya harus bersifat profesional. Untuk memberikan perlindungan terhadap notaris pemerintah segera menetapkan peraturan pelaksana dari ketentuan Pasal 66 ayat (1) UUJN. Diharapkan adanya kerjasama yang baik antara penyidik Subdit Harda dengan notaris agar proses penyidikan dapat berjalan dengan cepat, efektif dan efisien.

This research was based on the back ground that there were differences about the role of police investigator between UUJN 2004, UUJN 2014 and Constitutional Court No. 49/PUU-X/2012. The researcher focused on how the best of the concept about notary protection by police investigator who faced the law especially in criminal act viewed by Constitutional Court No. 49/PUU-X/2012 and UUJN 2004. Some problem that proposed in this research are (1) How differences of the police investigator role in criminal act by notary in dispute resolution after Constitutional Court No. 49/PUU-X/2012?; (2) What the impact of the police investigator role changing in handling of criminal act by notary against notary protection?; (3) How the concept about the role in handling the criminal act by notary which able to give a protection on notary in conducting the duty? Socio-legal approach was used in this research. So, there were two aspect in this research those are doctrinal aspect, i.e. UUJN and Constitutional Court No. 49/PUU-X/2012 and the practice of investigating in criminal act by notary.

This research was conducted in Metro Jaya Police District. The role of the investigator Subdit Harda Ditreskrimum City Police in the handling of criminal acts by the notary after the Constitutional Court No. 49//PUU-X/2012, which includes the first, calling to the notary who allegedly committed the crime, do not need to get permission from the MPD. Secondly, are no longer effective in the provision of Article 14 paragraph (1) of the Regulation of the Minister of Justice and Human Rights No. M.03HT.0310.TH 2007 regarding the same thing. Third, the abolition of privilege Notaries in providing information to the police, who feared future public as well as other law enforcement officer can easily "calling out" notary for cases that are not material and do not need to involve a notary as a witness. Cooperation between the investigator Subdit Harda Ditreskrimum City Police with INI and PPAT in order to increase as an preventive action to protect a notary by police in handling criminal act by notary. This procedure must be accorded with Article 66 (1) UUUJN 2014.</i>