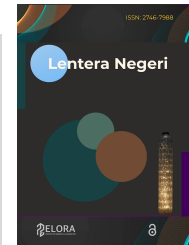




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Independent investigation and inquiry body as a solution for the protection of citizens' human rights

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ABSTRACT

The protection of human rights in criminal procedure requires not only formal legal guarantees but also an institutional design capable of ensuring independent and impartial investigations. In Indonesia, the concentration of investigative authority within the Indonesian National Police (POLRI) raises concerns regarding the effectiveness of such independence. This study aims to examine whether the current institutional framework under Law No. 20 of 2025 on the Criminal Procedure Code is capable of guaranteeing objective and accountable investigative processes. This research employs a doctrinal legal approach, using statutory and conceptual analyses based on legal materials collected through systematic library research. The analysis applies textual, systematic, and teleological interpretation, supported by deductive reasoning to evaluate the institutional design of investigative authority. The findings indicate that limitations of investigative independence stem from structural factors, including concentration of authority, budgetary dependence, hierarchical organizational culture, and weak oversight mechanisms. These conditions constrain objective law enforcement and weaken human rights protection. This study proposes an Integrated Oversight Framework that combines internal reform, judicial control, and public accountability as a layered model of oversight. However, the framework remains normative and requires further empirical validation and institutional feasibility analysis.



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Introduction

The protection of human rights in criminal procedure cannot be ensured solely through the existence of procedural norms; it requires an institutional design capable of limiting the exercise of state coercive power from the earliest stages of inquiry and investigation. Within a rule-of-law framework, such limitations are a constitutional necessity, as the state is obliged not only to enforce the law but also to prevent abuse of authority through effective institutional safeguards (Asshiddiqie, 2021; Pemerintah Republik Indonesia, 1945; Singh, 2025; Undang-Undang Republik Indonesia Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, 1999).

In Indonesia, the central issue lies in the institutional positioning of the Indonesian National Police (POLRI) as the primary investigative authority within the executive structure. While this arrangement is normatively justified by statutory law, it raises questions regarding the extent to which investigative functions can operate independently and impartially when embedded within hierarchical command systems and governmental control. Previous studies have indicated that concentration of authority within a single institution may weaken horizontal accountability and limit external corrective mechanisms (Grau et al., 2022; Idami, 2018; Nurbaedah, 2022; Santoso, 2000).

Debates on investigative independence generally follow two perspectives. One view emphasizes the role of individual integrity, professionalism, and ethics training as sufficient safeguards to ensure objectivity in law enforcement (Hiariej, 2016; Prenzler, 2009). Another perspective argues that independence is primarily determined by institutional design, including the distribution of authority, budgetary arrangements, recruitment systems, organizational culture, and oversight mechanisms (Bayanullah et al., 2025; Rowe, 2020; Zoelva, 2021). This study positions itself within the latter approach, arguing that structural factors play a decisive role in shaping investigative behavior, while not denying the relevance of individual integrity.

Empirical incidents involving law enforcement have been widely discussed in public discourse as illustrations of potential conflicts of interest and weaknesses in internal oversight. However, rather than relying on such cases as standalone empirical evidence, this study treats them as indicative context that highlights recurring institutional concerns, which must be examined through normative legal analysis and existing scholarly literature (Goldsmith, 2005; Royani et al., 2023; Walker & Archbold, 2018).

Based on this problem, the research aims to analyze whether the current institutional design of POLRI, as regulated under Law No. 20 of 2025 on the Criminal Procedure Code and related legislation, is capable of ensuring independent and impartial investigative processes in the protection of human rights. Moving beyond purely descriptive analysis, this study develops a normative framework by using the findings of institutional evaluation as the basis for proposing an Integrated Oversight Framework. This framework serves as a conceptual bridge between diagnosis (structural limitations) and prescription (institutional reform), ensuring that the proposed solution is grounded in identified legal and institutional deficiencies rather than abstract normative claims.

The novelty of this research lies in its systematic linkage between institutional diagnosis and normative design. By shifting the focus from individual misconduct to structural constraints, this study contributes to the development of a more comprehensive approach to investigative independence one that integrates legal doctrine, institutional analysis, and accountability design within a unified framework.

Method

This study employs a doctrinal legal research design to analyze the regulation and institutional design of investigative authority in relation to human rights protection. It uses a statutory approach, examining key legal instruments such as the 1945 Constitution, Law No. 2 of 2002 on the Indonesian National Police, Law No. 48 of 2009 on Judicial Power, Law No. 30 of 2014 on Government Administration, and Law No. 20 of 2025 on the Criminal Procedure Code, alongside a conceptual approach grounded in the principles of rule of law, due process, and separation of powers (Bab, Pemerintahan, I Ketentuan, 2014; Pemerintah Republik Indonesia, 1945; Republik Indonesia, 2002, 2009).

Legal materials were collected through systematic library research using academic databases and legal repositories, with inclusion limited to authoritative legal sources and relevant scholarly works on investigative independence and oversight. The materials were interpreted using textual, systematic, and teleological methods to assess both the normative content of legal provisions and their alignment with human rights objectives (Soekanto, 2007).

The analysis applies deductive reasoning by using general principles of due process and accountability as benchmarks to evaluate the institutional design of the Indonesian National Police and its investigative functions (Ibrahim, 2006).

The Integrated Oversight Framework proposed in this study is developed through normative synthesis, combining doctrinal analysis, evaluation of existing institutional arrangements, and limited comparative references on police oversight mechanisms. It is designed as a prescriptive model integrating internal supervision, judicial control, and public accountability to address structural weaknesses in investigative independence (Marzuki, 2021).

Results and Discussions

Investigative Independence and the Institutional Design of the Indonesian National Police

In a rule-of-law system, the earliest stage of criminal proceedings namely inquiry and investigation determines whether the protection of human rights is effective in practice. The central issue in Indonesia is not merely the conduct of individual officers, but the institutional design that places investigative authority within the Indonesian National Police as part of the executive branch. This configuration embeds investigative functions within hierarchical command structures, limiting the space for objective and impartial decision-making (Republik Indonesia, 2002; Santoso, 2000). The concentration of investigative authority in a single

institution weakens horizontal checks within the criminal justice system. As a result, corrective mechanisms depend heavily on internal structures that are not institutionally distant from the actors being supervised. This structural condition explains recurring problems of conflict of interest, limited accountability, and delayed correction in cases involving internal actors (Rowe, 2020).

In addition, budgetary dependence reinforces institutional constraints. As a governmental body, the Indonesian National Police relies on executive-controlled budget allocation, which may influence priorities and operational autonomy. Without safeguards ensuring stable and protected funding, investigative functions risk being indirectly shaped by administrative and political considerations rather than purely legal standards (Initiative et al., 2021).

Comparative Perspective on Independent Investigative Bodies

Comparative practice shows that several jurisdictions have established independent bodies to investigate alleged misconduct by law enforcement officers. However, rather than assuming their effectiveness, it is necessary to examine their institutional characteristics.

Table 1. Comparative Features of Independent Police Oversight Bodies

Institution		Mandate		Institutional Position	Budget Model	Key Performance Indicators
Ontario (Canada)	SIU	Investigates serious injury/death involving police		Independent civilian agency	Provincial allocation (annual)	Case completion rate, prosecution referrals, public reporting
IPID (South Africa)		Investigates misconduct and criminality	police and	Statutory independent body	National budget (parliamentary)	Complaint resolution rate, disciplinary outcomes
IPOA (Kenya)		Oversees conduct and investigates complaints	police and	Independent oversight authority	Parliamentary budget	Complaint processing time, public trust indicators

Sources: (Authority, 2016; Initiative et al., 2021; Lekgau et al., 2021; Puddister & McNabb, 2024)

These institutions do not uniformly “prove success,” but they demonstrate a consistent design principle: institutional separation from the police chain of command combined with measurable accountability mechanisms. Their effectiveness depends on clear mandates, budget sufficiency, and enforceable oversight powers rather than mere formal independence.

Toward a Concrete Budgetary Model for Investigative Independence

To address budgetary dependence, this study proposes a more concrete funding mechanism. Instead of relying solely on annual executive allocation, an independent investigative body should be supported through (1) Parliamentary-based allocation, ensuring institutional accountability to the legislature rather than the executive; (2) Multi-year budgeting, providing operational stability and reducing political fluctuation; (3) Minimum allocation threshold, for example a fixed percentage within the national law enforcement budget, to guarantee functional capacity. Such a model aligns financial autonomy with institutional independence, ensuring that investigative priorities are not subordinated to administrative or political interests.

Operationalizing the Integrated Oversight Framework

The Integrated Oversight Framework (IOF) proposed in this study is a layered model combining internal, judicial, and public accountability. To enhance clarity and replicability, its structure can be summarized as follows:

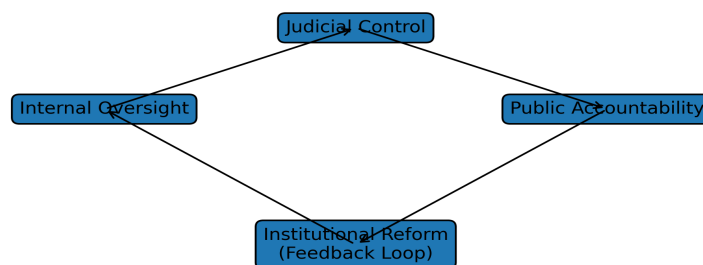


Figure 1. Conceptual Structure of IOF

Core Components (1) Internal Oversight Reform, Strengthening supervisory units with procedural audit authority and partial structural independence from operational command; (2) Judicial Control Enhancement, Expanding pretrial review to assess not only formal legality but also the substantive rationality of investigative actions; (3) Public Accountability Mechanism, Establishing independent complaint bodies with investigative powers, transparency obligations, and authority to publish findings.

Implementation Principles

To avoid remaining purely normative, the IOF operates based on three principles (1) Institutional Separation: oversight bodies must be structurally distinct from investigative institutions; (2) Functional Integration: oversight layers must interact and reinforce each other; (3) Measurable Accountability: performance indicators such as case resolution time, oversight outcomes, and public trust must be institutionalized.

Potential Failure Modes

The effectiveness of the IOF depends on broader institutional conditions. Several risks must be acknowledged (1) Judicial Weakness if courts lack independence, expanded judicial control may become ineffective; (2) Capture of Oversight Bodies external oversight institutions may become politicized or co-opted; (3) Symbolic Accountability transparency without enforcement power may reduce oversight to formal compliance; (4) Resource Constraints inadequate funding may undermine the operational capacity of oversight mechanisms.

These risks indicate that oversight reform must be accompanied by broader institutional strengthening, particularly in judicial independence and governance integrity. The findings confirm that the challenge of ensuring independent and impartial investigations in Indonesia is rooted in institutional design rather than individual behavior. Comparative experience suggests that independence requires structural separation, financial autonomy, and layered oversight supported by measurable accountability mechanisms. The Integrated Oversight Framework provides a coherent normative model, but its effectiveness depends on concrete implementation, particularly in budget design, institutional safeguards, and the strengthening of oversight capacity.

Conclusions

This study shows that the limits of investigative independence in Indonesia arise from institutional design through three main mechanisms: concentration of authority that weakens external control, budgetary dependence that constrains autonomy, and hierarchical structures that reinforce internal loyalty over objectivity. Comparative findings indicate that independent investigative bodies rely on institutional separation, stable funding, and measurable accountability, although these factors do not automatically ensure effectiveness. The Integrated Oversight Framework proposed in this study offers a layered model combining internal reform, judicial control, and public accountability to address these structural weaknesses. However, this study remains normative. It does not provide empirical testing, detailed implementation pathways, or analysis of political feasibility. Further research is therefore required to assess the practical effectiveness and institutional viability of the proposed framework.

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