



Implementation of Investigations into the Crime of Incest by the Biological Father Against the Child Incest

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Abstract: The main problem in this research is the process of investigating criminal acts of incest committed by the biological father against the child in the jurisdiction of the East City Police. biological father of the child at the East City Police. The research aims to find out and explain the implementation and investigation of criminal acts of incest committed by the biological father against the child (Incest) at the East City Police. The results of the research are that the process of investigating the criminal act of incest by the biological father against the child is carried out in stages, making a report, conducting an investigation, carrying out a Visum et Repertum, sending a letter notifying the start of the investigation, conducting examination of witnesses, carrying out a case title to determine the suspect, carrying out coercive measures, examination of suspects, collection of evidence, filing.

Keywords: *Investigation; Criminal act; Crime of Incest*

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1. Introduction

An institution responsible for public services, such as the National Police of the Republic of Indonesia, is desired to provide optimal services to the community by demonstrating a high level of professionalism and accountability. "In Article 13 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, it is explained that the National Police has the main task of maintaining security and public order, enforcing the law and providing protection, guidance and community service." ¹ "Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) also provides a role for the National Police of the Republic of Indonesia to carry out the task of investigating and investigating criminal acts."²

Basically anyone and anywhere can become a victim of crime, whether men, women, children or adults. However, young people are more likely to be victims of crime, especially rape. Currently, the victim's relatives, including his own family, as well as new people the victim does not know are also committing the crime of child rape. Incest is when sexual relations occur between individuals who have a close family relationship, such as a child and a biological or stepfather, a child and a biological or stepmother, as well as between biological or stepsiblings. However, depending on the particular family relationship, other family members, such as uncles, aunts, grandparents, nieces, nephews, cousins, and so on, may also be involved in sexual violence.³

Incest between parents and children is considered a kind of sexual abuse of children. One of the most severe types of childhood abuse, especially when it involves parent-child incest, often results in severe and long-lasting psychological damage. Because it is considered the worst and most heinous moral offense, incest is today classified as an immoral act that is strictly prohibited and strongly condemned. However, cases of incest sometimes continue to increase. Apart from endangering the child's future, this behavior risks disrupting their social and emotional well-being. Apart from that, there is also the term family incest, which refers to sexual relations between a young child and close family members who have blood family ties.⁴

Legal consequences related to child protection efforts are covered in various legal regulations, both written and unwritten. Activities aimed at protecting children are guaranteed by legal regulations. In order for child protection efforts to be sustainable and to avoid variations that could have undesirable negative impacts on the

¹ "M.Khalid Zulkarnaen, Erli Salia, Arief Whisnu Wardana, Peran Pemeriksa Resor Muara Enim dalam Penegakan Hukum Tindak Pidana Pemerkosaan Anak Kandung, *Jurnal Hukum Doctrinal*, Volume 6 Nomor 1 (2021): 17"

² "Arif, Muhammad. Tugas dan fungsi kepolisian dalam perannya sebagai penegak hukum menurut Undang-Undang Nomor 2 Tahun 2002 tentang kepolisian, *Al-Adl: Jurnal Hukum*, Vol.13, No.1 (2021): 91-101."

³ Ivo Noviana, "Kekerasan Seksual Terhadap Anak : Dampak dan Penanganannya", *Jurnal Sosilo Informa*, Vol.1, No.1, (2015), hlm.15.

⁴ Vifi Swarianata, dkk, "Kriminalisasi Inses (Hubungan Seksual Sedarah) Dalam Perspektif Pembaharuan Hukum Pidana", *Law Journal UB*, (2016), hlm. 5.

implementation of child protection, Arif Gosita believes that clarity is needed in the legal aspects.⁵

Considering that the prohibition is intended to target certain actions, namely conditions or events caused by someone's activities, what is meant by a criminal act is an action that is contrary to the law and is punishable by criminal law. That the individual who initiated the incident is the target of criminal threats.⁶

The United Nations General Assembly adopted a resolution on November 20, 1958, aimed at ensuring the protection and welfare of children, "Declaration of the Rights of the Child. Preamble Declaration of the Rights of the Child (Preamble to the Declaration of the Rights of the Child). The United Nations Convention on the Rights of the Child is an international convention that regulates the civil, political, economic, social and cultural rights of children.

The act of rape in an incestuous family relationship is expressly prohibited under Islamic law. In accordance with the teachings of Allah SWT as stated in the Al-Quran Surah An-Nisa Verse 23, a father is prohibited from marrying or having sexual relations with his daughter. Apart from that, in Indonesia, there are a number of laws that regulate criminal acts of sexual harassment, including the Criminal Code (KUHP), Law Number 35 of 2014 concerning Child Protection, Law Number 23 of 2004 concerning the Elimination of Violence In the Household, and Law Number 12 of 2022 concerning Sexual Violence Crimes. The main purpose of these laws is to ensure that each individual is treated fairly, and they serve as a tool of social control.⁷

In the Indonesian state constitution as "the supreme law of the land" or the highest law, Article 28B paragraph (2) states: "every child has the right to survival, growth and development and the right to protection from violence and discrimination". The implementation of human rights (HAM) is carried out using this method. Because human rights are basic rights that cannot be taken away, given by God, and are inherent in the moral nature of humans when they are born into the world. Moreover, these human rights must not be abused by other individuals, and the duty to protect these rights becomes an obligation.⁸

A further special law, law no. 35 of 2014 concerning amendments to Law no. 23 of 2002 concerning child protection, further confirmed in the law. Article 2 refers to:

⁵ Mantali, Avelia Rahmah Y. "Implementation of Legal Protection for Child Victims of the Crime of Sexual Intercourse in Terms of the Fulfillment of the Right to Restitution". *Indonesian Journal of Advocacy and Legal Services* 4, No. (2022): 275

⁶ "Ismail, Dian Ekawaty., & Sarson, Mohamad Taufiq Zulfikar, Analisis Kriminologi Terhadap Perempuan Sebagai Pelaku Tindak Pidana Kekerasan Dalam Rumah Tangga, *Jurnal Tinjauan Hukum*, Volume 3, Nomor 3, (2021), hal. 58"

⁷ "Risma Septi Amellya, Skripsi: Penegakan Hukum Tindak Pidana Pencabulan Terhadap Anak Oleh Keluarga Sedarah (Studi Di Unit PPA Satreskrim Polres Banyumas), (Purwokerto: Universitas Islam Negeri Prof. K.H. Saifuddin Zuhri Purwokero, 2022), Hal.3-4

⁸ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945"

"The implementation of child protection is based on Pancasila and based on the 1945 Constitution and the basic principles of the Convention on Children's Rights, including:

- a. Non-discrimination
- b. The best interests of the child
- c. The right to life, survival, development, and
- d. Respect for children's opinions"

In Article 3 of law no. 23 of 2002 concerning Child Protection that: "child protection aims to guarantee the fulfillment of children's rights so that they can live, grow, develop and participate optimally in accordance with human dignity, as well as receive protection from violence and discrimination, for the sake of realizing Indonesian children of quality, noble character and prosperity."⁹

Cases of crimes against children occur in almost all regions of Indonesia. According to data from the National Commission for Child Protection, there are 299 thousand victims of types of violence, including sodomy, incest, and so on. In Indonesia, in 2020, of the 2,737 cases, 52% or around 1,424 were dominated by cases of sexual violence committed by the family. In 2021 there will be 4,162 cases of sexual violence and in 2022 there will be 9,588 cases of sexual violence against children and it is difficult for the authorities to uncover them.

Crimes against children are almost rampant throughout Indonesia. Sexual harassment of minors occurs with high frequency in Gorontalo City, especially in the East City area. The results of the study show that investigations into potential perpetrators of sexual violence cases in the East City jurisdiction have reached the second stage, or have reached the Prosecutor's Office level. This means that several police stations in various regions in Indonesia have been given the authority to carry out investigations, or the case process has been completed until it reaches the Prosecutor's Office, as happened at the East City Police Station.

According to information obtained from the East City Police Criminal Investigation Unit, there have been developments in cases of sexual violence against children over the last three years, starting from 2020 to 2022, with the following details:

Data on the Number of Sexual Violence Cases in the Legal Area of the East City Police

TYPE OF CRIME	2020	2021	2022
Sexual violence (on the body)	1	-	1

⁹ "Pasal 3 Undang-Undang Republik Indonesia Nomor 35 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak"

Source: East City Police

Like the case that occurred in Gorontalo City, a father in Gorontalo City had the heart to have sex with his own biological child who was only 12 years old. What was even more painful was that this action was carried out several times over a period of 11 months. A month ago, a man named AN (39 years old), a father who lives in Gorontalo City, was suspected of being involved in a cruel and disturbing act, namely raping his own biological child. This tragic incident first occurred in September 2021. At that time, the child, who was only 11 years old, was invited by AN to do what he wanted. To ensure the child obeys, AN seduces him by offering Rp. 5,000. Apart from that, AN, who works as a fisherman, offered his son to ride his boat.

On Sunday, August 14 2022, initially when the house was quiet, only AN and her daughter, AN called her daughter to come into AN's room, then AN persuaded and threatened the victim to have sexual intercourse with her. AN threatened her daughter that she would end her mother's life if she was told about her actions. After running for 11 months, AN's actions were discovered by the mother and reported to the East City Police. The perpetrator's actions are as regulated and punishable by crime in "Article 81 Paragraph (2) and (3) of Law no. 17 of 2016 concerning the Determination of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law in conjunction with Article 64 Paragraph (1) of the Criminal Code in the Public Prosecutor's indictment. And the Panel of Judges at the Gorontalo City District Court has sentenced the perpetrator to prison for 17 (seventeen) years and a fine of Rp. 500,000,000 (Five hundred million Rupiah)".

Article 76D:

"Every person is prohibited from using violence or threats of violence to force a child to have sexual intercourse with him or another person."

Article 81:

(1) "Any person who violates the provisions as intended in Article 76D shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah).

(2) The criminal provisions as intended in paragraph (1) also apply to every person who deliberately commits deception, a series of lies, or persuades a child to have sexual intercourse with him or another person.

(3) In the event that the criminal act as referred to in paragraph (1) is committed by parents, guardians, people who have family relationships, child caretakers, educators, educational staff, officials in charge of child protection, or is committed by more than one person "together, the penalty is increased by 1/3 (one third) of the criminal threat as intended in paragraph (1)."

From the explanation above, it can be seen that the government has issued several legal bases related to child protection. However, from the results of research conducted by the prospective author, several problems emerged in this case. One of them is how the police can handle cases of sexual intercourse by the biological father of the child with appropriate handling strategies. This investigation process becomes more complicated because the child who is a victim witness must have experienced deep trauma and psychological disorders. This became an obstacle because the victim's child had difficulty providing evidence and lacked physical evidence, because only the victim and the perpetrator knew about the incident. Apart from that, child victim witnesses may also experience pressure from the perpetrator. So, even though a criminal act has occurred, it is difficult to reveal it. Based on the above, the problem can be formulated, namely how is the criminal act of incest committed by the biological father against the child (Incest) investigated at the East City Police?

2. Method

The type of research used in this research is empirical legal research. This type of empirical legal research is intended to obtain clarity and understanding of the problems in research based on existing reality. The author conducted research taking place at the East City Police Station. The legal materials used are primary legal materials and secondary legal materials. The population in this research is all members of the East City Police Department and the sample is 1 (one) member of the East City Police Criminal Investigation Unit. Data collection techniques were carried out using observation, direct interviews with East City Police investigators, and documentation. Based on legal material sources, this research uses qualitative descriptive data analysis.

3. Implementation of the Investigation into the Crime of Incest by the Biological Father Against the Child (Incest)

The research results show that law enforcement officers, especially the National Police, who handled the initial stages of cases of incestuous sexual intercourse by the biological father against the child, have carried out their duties and functions in accordance with the code of ethics stipulated in the applicable regulations and laws. In the realm of investigation, which is an important component in law enforcement, the process is in accordance with applicable Standard Operating Procedures (SOP). The purpose of the review stage is to uncover potential criminal acts committed by someone whose identity has not yet been revealed.

3.1. Make a report

Based on the results of an interview with Bripda Satria Marrung as Head of Criminal Investigation Unit of the East City Police, in cases of sexual intercourse carried out by the biological father against the child with the initials AN which began to occur in 2021 to 2022 there were reports. In relation to the report, it is stated in Article 1 point 24 of the Criminal Procedure Code which explains that a report is a notification submitted by a person because of a right or obligation under the law to an authorized official regarding whether a criminal incident has occurred or is suspected to have occurred.

The person who reported the case of sexual intercourse by a father against a biological child in Talumolo Village, Dumbo Raya District, Gorontalo City, was the mother. From the research results, the Police Report Number for the case is: LP/B/52/VIII/2022/SPKT/Polsek Kota Timur/Polsek Gorontalo Kota /Polda Gorontalo. At that time, the mother of the child witness first reported the case of sexual intercourse to the sub-district office. And after that, the sub-district office coordinated with Bhabinkantibmas, finally the case was reported to the East City Police.

After receiving a report from the reporter, the police will follow up on the report. Law enforcement officials are required to make notes regarding the report, either in a separate notebook or in a case register book. Next, the report will be identified by providing a number in the case register book.¹⁰

3.2. Conduct Investigation

According to "Article 1 point 5 of the Criminal Procedure Code, Investigation is a series of investigative actions to search for and discover an incident that is suspected of being a criminal act in order to determine whether or not a review can be carried out according to the method regulated in this law."

Investigation is the first step in the process of handling criminal acts, especially in cases of sexual intercourse by the biological father of the child. This investigation is carried out by law enforcement officials, such as the Police, with the aim of gathering sufficient information and clues to assess whether the report from the reporter contains elements of a criminal act or not, as well as to identify who is the perpetrator of the crime.

- Determine who the reporter is

From the results of an interview with Bripda Satria Marrung as the Criminal Investigation Unit of the East City Police, who was the reporter in the case of the crime of incest committed by the biological father against the child with the initials AN and the victim JN, namely the victim's biological mother.

- Determine what events are reported

In the case studied by the author, namely the criminal act of incest committed by the biological father against his child.

- Where the Event Occurred

The criminal act of sexual intercourse with a biological child occurred in Talumolo Village, Dumbo Raya District, Gorontalo City.

- When the Event Occurred

¹⁰ "Hartono, Pemeriksaan & Penegakan Hukum Pidana Melalui Pendekatan Hukum Progresif, (Jakarta: Sinar Grafika: 2012)"

The case of incestuous sexual intercourse by a biological father against a child in Talumolo Subdistrict with the initials being the perpetrator AN and his child as the victim JN lasted for almost 1 year. This case first occurred in September 2021 until the last case of sexual intercourse occurred on August 14 2022 at around 20.00 WITA in the bedroom.

- How the Event Happened

Based on an interview with Bripda Satria Marrung as Head of Criminal Investigation Unit of the East City Police from the Investigation Report in September 2021 at around 09.00 WITA, initially the suspect with the initials AN was at home with the child witness. Because the house was quiet, the suspect called the child witness to come into the suspect's room. After the child witness and the suspect were alone in the room, the suspect persuaded him by giving Rp. 5,000. After that, the suspect threatened the child witness that if his mother found out about this incident and he did not comply with the suspect's wishes, namely having sex, then the suspect would kill his mother, whose initials were RA. After experiencing persuasion and threats from the suspect, the child witness felt afraid and remained silent. Then the suspect immediately opened his trousers and also opened the trousers of the child witness while groping the child witness's breasts. After that, the suspect rubbed and inserted his genitals into the child witness' genitals repeatedly with back and forth movements so that the child witness felt ticklish and painful in his genitals. Apart from that, the suspect also grabbed the child witness's genitals with his hands. Then the suspect ordered the child witness to hold his genitals by shaking the child witness's hand until liquid came out of the suspect's genitals.

3.3. Visum et Repertum (VeR)

After the report was completed, the examiner handling the case of sexual intercourse by the biological father of the child immediately took the child witness to the Gorontalo City Police Health Care Polyclinic. Administrative costs for treatment at this polyclinic are not borne by the victim's family, but are borne by the examiner who handles the case. Visum et Repertum is carried out based on the results of the Police Report (LP) which has been reported by the reporter.

Visum et Repertum is a term that is closely related to Forensic Medicine. In the context of this scientific discipline, which was previously known as Judicial Medicine, R. Atang Ranoemihardja explained that Judicial Medicine or Forensic Medicine is a branch of science that utilizes knowledge in the field of medicine to provide assistance to the judicial process, both in criminal cases and other cases, such as civil. The main aim and task of Judicial Medicine is to provide support to the police, prosecutors and judicial institutions in handling legal cases that require medical knowledge to solve them.¹¹

¹¹ "Rahman Syamsuddin, Peranan Visum Et Repertum Di Pengadilan, *Al-Risalah*, Volume 11, Nomor 1, 2011, hlm. 197."

Based on the results of an interview with Bripda Satria Marrung as Head of Criminal Investigation Unit of the East City Police, after receiving the report from the Criminal Investigation Unit examiner, he made a request to the Gorontalo City Police Health Care Polyclinic so that the case of incestuous sexual intercourse by the biological father against the child was immediately carried out by the Visum et Repertum process. Because if a child witness is late at the post-mortem, it is possible that the results will not match the actual situation. However, according to the results of the Visum et Repertum Number: R/26/VIII/2022/Urkes Res Gtlo Kota, this case of sexual intercourse with a biological child had a positive result and was in accordance with the criminal act that occurred, meaning that the child witness experienced tearing of her hymen in a clockwise direction. 10, 12 and 2 clockwise. Because the evidence, namely the post-mortem letter from an expert, in this case a doctor, is an important piece of evidence in proving the existence of a criminal act of sexual violence that occurred against a child. And the doctor who examined the Visum et Repertum case of sexual intercourse with a biological child was Dr. Yusuf Abrianto Lukum. The post-mortem results are notified to the victim's family.

3.4. Carrying out a case title to carry out an investigation

National Police Chief Regulation Number 6 of 2019 concerning Criminal Investigation. Article 1 Paragraph 24 explains that the case title is the result of the investigator's explanation of the inquiry and inquiry process to the degree participants, followed by group discussions to obtain input and corrections in order to produce recommendations on how to proceed with the inquiry and investigation. This means that the case must be postponed after the case has entered the investigation process and before the case is continued further.

Article 32:

"(1) The ordinary case as referred to in Article 31 letter a, is carried out to:

- a. Determining whether a crime is a crime or not;
- b. Determine the suspect;
- c. Termination of investigation;
- d. Delegation of cases;
- e. Solving investigative obstacles".

If the biological father has an incestuous relationship with the child, the Criminal Investigation Unit will monitor the case. Determining whether or not there is a criminal act in a case is the first step in the investigation process. Apart from that, at the investigation stage, conclusions drawn from the findings of the case title are also presented.

3.5. Sending Notification Letter of Commencement of Investigation

SPDP according to "Article 6 paragraph (1) of Law Number 3 of 2014 concerning Standard Operational Procedures for Implementing Criminal Investigations, is a letter of notification of the start of the review from the examiner to the Public Prosecutor, which is made and sent after the investigation order is issued. "Furthermore, the Public Prosecutor will respond to the Notice of Commencement of Investigation (SPDP) by appointing a research prosecutor to take part in the investigation process in the case of sexual intercourse by the biological father against his biological child."

Based on information obtained from an interview with Bripda Satria Marrung regarding the crime of incest committed by the biological father against the child at the East City Police, it was revealed that before carrying out the investigation, the examiner had submitted a notification. regarding the purpose of investigating the case to the Gorontalo City District Prosecutor's Office, specifically the public prosecutor. In response to the notification, the public prosecutor will appoint an investigative prosecutor to participate in the investigation process.

According to the Criminal Procedure Code, opening an investigation functions as a means of horizontal supervision between related law enforcement agencies and aims to become a basis for functional coordination and cooperation. This makes it possible to handle criminal cases quickly, easily and cheaply.

3.6. Conducting Investigations (Examining Witnesses)

According to Article 1 Number 26 of the Criminal Procedure Code:

"A witness is a person who can provide information for the purposes of investigation, prosecution and justice regarding a criminal case that he himself heard, saw for himself and experienced for himself."

Based on the results of an interview with Bripda Satria Marrung as Head of Criminal Investigation Unit of the East City Police, he explained that in investigating the criminal act of incestuous sexual intercourse by the biological father against the child, a review of the child and parents was carried out on the basis of the Police Report namely LP/B/52/VIII/2022/ SPKT/EAST CITY POLICE/GORONTALO CITY POLRES/GORONTALO POLDA After receiving a report from the parents, as well as getting details and clarification from the parents and child regarding the unlawful act. The aim of the investigation is to find out whether there has indeed been a criminal act of sexual intercourse between children and to ask questions related to the criminal act of incest.

In this case of the crime of incest, the child was examined and questioned by a policewoman and accompanied by her mother. During the interview process, the East City Police Criminal Investigation Department collaborated with the P2TP2A (Integrated Service Center for the Empowerment of Women and Children) institution. This is one of the police's strategies in uncovering cases of incest. Because child

witnesses are under psychological pressure, this collaboration has a good impact so that child witnesses do not feel restless, afraid, anxious when questioned or when asked questions related to the incident.

During the examination, child witnesses are asked questions regarding the following: when the incident occurred, where it occurred, who the perpetrator was, how it happened, and what the victim's experience was regarding the incest that befell him. If the young witness is asked a question about the incident and cannot understand it, the mother will clarify. The incestuous relationship, which lasted almost a year, occurred at his residence in Talumolo District. Examination of child witnesses is carried out behind closed doors in the Criminal Investigation Room or investigator's room. Apart from examining child witnesses, their parents were also examined. The parents were questioned by the examiner on several matters related to the case during the examination procedure.

- Examination of Child Witnesses

Based on the Investigation Report (BAP), the child witness explained that the sexual intercourse occurred around September 2021 at around 09.00 WITA until last Sunday, August 14 2022 at 20.00 WITA in the suspect's bedroom in the Talumolo Village area, Dumbo Raya District. The way the suspect first had sexual intercourse with the child witness was that initially the suspect with the initials AN was at home with the child witness. Because the house was quiet, the suspect called the child witness to come into the suspect's room. After the child witness and the suspect were alone in the room, the suspect persuaded him by giving Rp. 5,000. After that, the suspect threatened the child witness that if his mother found out about this incident and he did not comply with the suspect's wishes, namely having sex, then the suspect would kill his mother, whose initials were RA.

After experiencing persuasion and threats from the suspect, the child witness felt afraid and remained silent. Then the suspect immediately opened his trousers and also opened the trousers of the child witness while groping the child witness's breasts. After that, the suspect inserted his genitals into the child witness' genitals repeatedly with back and forth movements so that the child witness felt ticklish and painful in his genitals. After a few minutes, the suspect released his sperm on the cloth. Apart from that, the suspect also grabbed the child witness's genitals with his hands. Then the suspect ordered the child witness to hold his genitals by shaking the child witness's hand until liquid came out of the suspect's genitals. The child witness had been sexually assaulted approximately 20 (twenty) times and was often threatened by the suspect that if he told anyone he would threaten to kill his mother.

- Witness Examination (Victim's Mother)

When a biological father has sexual relations with a biological child, investigators often interrogate the victim's mother as a witness. Investigators asked the parents about what happened to their child, how they found out about their child's sexual intercourse, whether they witnessed the sexual violence or had been told about it by

their child, and whether they knew who committed the sexual violence. activities with their children. So what is the child's complaint after having sexual intercourse? The victim's mother may be able to provide information about the sexual activity case and make the review process easier for the examiner by answering questions.

Based on the explanation from the parents as stated in the Investigation Report (BAP), in May 2022 at 12.30 WITA, the witness found that the suspect was half naked in the above position and was having sexual intercourse with the child witness who was lying down. At that time the suspect apologized to the witness because he admitted he had made a mistake and promised not to repeat this heinous act. And the witness forgave the suspect's actions. However, the suspect continued to repeat his heinous act, namely having sexual intercourse with the child witness when the witness (the victim's mother) was not at home. Finally, the child witness told the witness (the victim's mother) that the suspect was still having sexual intercourse on Monday 15 August 2022 at the suspect's house in the Talumolo Village area, Dumbo Raya District. From the story of the child witness, finally the witness (the victim's mother) found out that the suspect had forced him to insert his genitals into the genitals of the child witness so that he felt pain and sexual intercourse occurred. Apart from being sexually assaulted, the child witness said that the suspect also groped her breasts, had had sexual intercourse approximately 20 (twenty) times, and the child witness was threatened with killing her mother (the victim's mother) by the suspect if her actions were told to anyone. After hearing the story of the suspect's actions, the witness (the victim's mother) reported the incident to the police office, namely the Gorontalo East City Police. During the investigation process, the witness (the victim's mother) accompanied the child witness to get a post mortem. And the witness (the victim's mother) was able to find out the results of the post-mortem, namely that the child had experienced a tear in the blood membrane.

3.7. Carrying out cases to identify suspects

In the case of the crime of incest by a biological father against his child, involving a perpetrator with the initials AN and a victim with the initials JN, a suspect was identified. This step has been regulated in accordance with the provisions contained in Article 25 of Perkap Number 6 of 2019:

1. "The determination of the suspect is based on at least 2 (two) pieces of evidence supported by evidence.
2. Determination of suspects as intended in paragraph (1), is carried out through a case title mechanism, unless caught red-handed."

The results of the interview with the examiner are based on the results of clear evidence carried out in a case led by the Head of Criminal Investigation Unit. And the suspect in the criminal case of incestuous sexual intercourse by the biological father of his child has not been arrested and questioned by the East City Police inspector. Because later it will develop in the next process.

3.8. Taking Forced Efforts

The results of the interview with Bripda Satria Marrung showed that with evidence from the review of the victim and parents, as well as the post mortem et repertum results letter, the examiner immediately made efforts to find and confirm the whereabouts of the suspect. With these two initial pieces of evidence, the arrest of the suspect is considered legal. This action is also in line with the principle of "unus testis nullus testis," which means one witness is not a witness. Thus, a minimum of two pieces of evidence are required as a requirement, and in cases of incest, this requirement has been met so that the examiner can arrest the perpetrator.

The suspect AN was arrested with a valid warrant and arrest warrant. After the arrest, the police immediately followed up on the arrest warrant by taking the suspect to the criminal investigation room at the East City Police. There, the suspect was questioned regarding his involvement in the sexual intercourse case. This arrest must be carried out within a maximum of 1x24 hours, so that after the arrest, a review is immediately carried out to determine whether the suspect needs to be detained or not.

Article 1 Number 20 KUHP:

"Arrest is an investigator's action in the form of temporary restraint on the freedom of a suspect or defendant if there is sufficient evidence for the purposes of review and prosecution and/or trial in matters and according to the method regulated by law"

In the case of the crime of incestuous sexual intercourse by the biological father of the child, the suspect AN has been detained. Cases of sexual intercourse by a biological father against his child are regulated explicitly in Article 76D jo 81 of Law Number 35 of 2014 as amended by Law Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning Second Amendment to the Law -Law Number 23 of 2002 concerning Child Protection becomes law, suspects suspected of having committed these criminal acts must be detained. Because the threat of punishment is more than 5 years as stated in Article 21 Paragraph 4 letter a of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP).

3.9. Carrying out examinations of suspects

Article 1 Number 14 KUHP:

"A suspect is a person who, because of his actions or circumstances, based on preliminary evidence, is reasonably suspected of being the perpetrator of a criminal act."

From the results of interviews with researchers and Bripda Satria Marrung as Head of Criminal Investigation Unit of the East City Police, the investigation of the suspect was carried out by arresting the suspect and taking him to the East City Police, more specifically to the Criminal Investigation Room. The results of the suspect's

examination are presented in the form of a BAP (Investigation Report). The purpose of the review is to obtain information from the suspect.

Based on the results of the interview with Bripda Satria Marrung, the suspect AN had sexual intercourse at the suspect's house in the Talumolo Village area, Dumbo Raya District, he had sexual intercourse with his biological child JN on Sunday, August 14 2022 at 20.00 WITA in the suspect's bedroom. And also from the results of the examination, it was found that the suspect had had sexual intercourse with the child witness since September 2021. The reason the suspect committed this act was because he could no longer stand his sexual lust and lust.

3.10. Evidence Collection

Bripda Satria Marrung as Head of Criminal Investigation Unit of the East City Police explained that in the results of the investigation into the crime of sexual intercourse with a biological child, 2 (two) pieces of evidence were found, namely witness statements and post mortem et repertum results, and the suspect's confession. Then the evidence is given to the Prosecutor's Office in the form of case files to be used in the trial process. And if the public prosecutor still feels that something needs to be completed, it will be returned to the examiner and stated in the coordination report.

3.11. Filing

After the examiner completes the investigation, they create a resume containing a summary and conclusions of the results of the review. After that, the case files are compiled and submitted to the superior investigator for further research. Once the file is complete and meets the requirements, the binding and sealing process is carried out. Next, the investigator makes a cover letter for the case file which is then submitted to the prosecutor's office and given to the public prosecutor.

If within 14 (fourteen) days the case files are not returned by the public prosecutor, then the case files are considered complete (P-21). However, if the public prosecutor states that the case file is incomplete (P-18), then the investigator must complete the file in accordance with the public prosecutor's request. All of these processes are recorded in the minutes of coordination with the public prosecutor.

4. Conclusion

From the analysis presented by the author in the previous chapters regarding the investigation of the criminal act of incest by the biological father against the child at the East City Police, it can be concluded that the investigation process was based on reports of those who experienced the crime of sexual intercourse. The review activity process is carried out in stages, namely making a report, conducting an investigation, conducting a Visum et Repertum (VeR), sending a letter notifying the start of the investigation, examining witnesses, carrying out coercive measures, filing the case, submitting the case files to the Public Prosecutor, and surrender of suspects and evidence.

References

Book:

Hartono. (*Pemeriksaan & Penegakan Hukum Pidana Melalui Pendekatan Hukum Progresif*). (Jakarta: Sinar Grafika, 2012)

Journal Article:

Ismail, Dian Ekawaty dkk. 2021. Analisis Kriminologi Terhadap Perempuan Sebagai Pelaku Tindak Pidana Kekerasan Dalam Rumah Tangga. *Jurnal Tinjauan Hukum*. Volume 3, Nomor 3

Mantali, Avelia Rahmah Y. 2022. "Implementation of Legal Protection for Child Victims of the Crime of Sexual Intercourse in Terms of the Fulfillment of the Right to Restitution". *Indonesian Journal of Advocacy and Legal Services*, No.4

Muhammad, Arif. 2021. "Tugas dan fungsi kepolisian dalam perannya sebagai penegak hukum menurut Undang-Undang Nomor 2 Tahun 2002 tentang kepolisian". *Al-Adl: Jurnal Hukum*

Noviana, Ivo. 2015. "Kekerasan Seksual Terhadap Anak : Dampak dan Penanganannya". *Jurnal Sosilo Informa*, Vol.1, No.1

Rahman Syamsuddin. 2011. "Peranan Visum Et Repertum Di Pengadilan", *Al-Risalah*, Volume 11, Nomor 1

Swarianata, Vifi dkk. 2016. "Kriminalisasi Inses (Hubungan Seksual Sedarah) Dalam Perspektif Pembaharuan Hukum Pidana". *Law Journal UB*

Zulkarnaen, Khalid dkk. 2021. "Peran Pemeriksa Resor Muara Enim dalam Penegakan Hukum Tindak Pidana Pemerkosaan Anak Kandung". *Jurnal Hukum Doctrinal* Volume 6 Nomor 1

Thesis:

Amellya, R. (2022). *Penegakan Hukum Tindak Pidana Pencabulan Terhadap Anak Oleh Keluarga Sedarah (Studi Di Unit PPA Satreskrim Polres Banyumas)*. Skripsi. Purwokerto: Universitas Islam Negeri Prof. K.H. Saifuddin Zuhri Purwokero

Legislation:

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945

Undang-Undang Republik Indonesia Nomor 35 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak

Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia

Peraturan Kapolri Nomor 6 Tahun 2019 tentang Penyidikan Tindak Pidana

Kitab Undang-Undang Hukum perdata

Kitab Undang-Undang Hukum Pidana

Kitab Undang-Undang Hukum Acara Pidana