

## **POLICE DISCRETION IN HANDLING FOOD CRIMES BASED ON PANCASILA VALUES**

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### **Abstract**

This study aims to examine (1) What is the position of Police Discretion in solving Crimes in the Food Sector in legal policy in Indonesia?; (2) How is the exercise of Police Discretion in solving Food Crimes in Indonesian legal policy?; (3) What is the ideal construction of Police Discretion in solving Food Crimes in Indonesian legal policy? The research method used is empirical juridical with a statutory approach, concept approach, and case study approach. The results showed that; (1) The position of Police Discretion in solving Food Crimes in Indonesian legal policy; Police discretion can be interpreted as a policy based on the power to perform an action on the basis of his judgment and confidence. Discretionary authority is a power or authority exercised under the law on the basis of its considerations and beliefs and emphasizes moral considerations of balance within the legal framework. (2) Implementation of Police Discretion in solving Crimes in the Food Sector in legal policy in Indonesia; (a) legal factors that are multispectral by involving various related institutions or agencies, so that problems still often occur. (b) Law enforcement, in this case, the personnel of the Food Task Force Ditreskrimsus Polda Jatim are of poor quality supported by qualified competence. (c) Food crime law enforcement facilities and facilities are less supportive both in terms of equipment and budget, (d) society and culture have not been able to fully support optimal food crime law enforcement efforts. (3) The ideal construction of Police Discretion in solving Food Crimes in Indonesian legal policy; (a) Synergy of laws and regulations related to the enforcement of food crimes, (b) Communication, Coordination, and Collaboration in Law Enforcement of Food crimes. (c) improvement of human resources and skills of the Food Task Force; (d) improvement of adequate food crime law enforcement facilities and facilities both in terms of equipment and budget, (e) increasing community and cultural support through profiling and mapping of areas prone to food crime, community raising, business actors, distributors and importers, optimizing the daily reporting system around the price of basic commodities, and socialization activities and programs to develop the role of the East Java Food Task Force by extending the method the effectiveness of the performance of the food task force, the empowerment of information technology, accompanied by the empowerment of the role of mass media

**Keywords:** Discretion, Police, Handling, Crime, Food, Pancasila

### **A. INTRODUCTION**

National development is the will to continuously improve the prosperity and welfare of the Indonesian people in a fair and equitable manner in aspects of life and held in an integrated, directed, and sustainable manner in order to realize a just and prosperous society, both material and spiritual, based on Pancasila and the 1945 Constitution. In accordance with Article 27 paragraph (2) of the 1945 Constitution affirms that every citizen has the right to obtain a decent life for humanity. To obtain a decent life for humanity, in order to realize welfare and intelligence, it is necessary to provide goods and services in sufficient quantities, good quality, and affordable prices for the community.

Food needs are basic needs for every level of society in addition to clothing and shelter. Food

needs are basic human needs to be able to carry out their lives. Food is the most important basic human need and its fulfillment is part of human rights guaranteed in the Constitution of the Republic of Indonesia Year 1945 as a basic component to realize quality human resources. Food needs in Indonesia are indeed very large considering the large population as well.

Food is one of the basic needs that are needed by humans. Humans cannot be separated from food, because food supports energy to carry out daily activities. In article 1 of Law No. 18 of 2012 concerning Food, it is explained that food is everything derived from biological sources of agricultural, plantation, forestry, fishery, animal husbandry, waters and water products, both processed and unprocessed which are intended as food or beverages for human consumption, including food additives, food raw materials, and other materials used in the preparation process, food and beverage processing and/or manufacturing.

Food is everything that comes from biological sources and / or accompanied by water, both processed and unprocessed, which is intended as food or beverages for human consumption, including food additives, food raw materials, and other materials used in the process of preparing, processing, and / or the process of making food and beverages. Food is a basic human need whose fulfillment is a human right of every Indonesian citizen must always be available at all times, safe, quality, nutritious, and diverse at affordable prices, therefore it is necessary to establish a food system that provides protection, both for producers and consumers, and does not contradict the Constitution of the State of Indonesia.

The fulfillment of food consumption must prioritize domestic production by utilizing local resources and wisdom optimally. To realize this, three main things that must be considered are (i) food availability based on optimal use of local resources, (ii) food affordability from physical and economic aspects by the entire community, and (iii) food utilization or consumption of food and nutrition for a healthy, active, and productive life. The realization of food availability based on optimal utilization of local resources is carried out by diversifying food and prioritizing domestic food production. The realization of food affordability from physical and economic aspects is carried out through the management of stabilization of staple food supply and prices, management of staple food reserves, and distribution of staple foods. Food utilization or consumption of food and nutrition will produce quality human resources as one of the determining factors for the success of development.

Food also has a strategic role for a country because it can affect the social, economic, and political conditions of the country. Call it China, Germany, Australia, and New Zealand which are countries that are able to turn into developed countries because of the progress of their agricultural sectors. When food shortages occur, people can act anarchically and bring down the ruling regime as experienced in Egypt and Algeria. A number of countries, such as Ecuador, Bolivia and Nepal, have made "food sovereignty" a legal norm in their constitutions, while in others "food sovereignty" has become part of agricultural policy at the national level (Brazil) and policy at the regional level (State of Maine, USA). In Indonesia, through Law Number 18 of 2012 concerning Food in Article 3 it is said that food administration is carried out to meet basic human needs that provide benefits fairly, equitably and sustainably based on food sovereignty, food independence and food security, so it can be said that sovereignty is part of

food administration in Indonesia. Based on the description of weighing considerations, torso and general explanation of Law Number 18 of 2012 concerning Food, there is a direction of food regulation, namely for the sufficiency of community food up to the individual level with governance regulated by the government in a sovereign and independent manner. However, in addition to the independence of the State as a policy determinant, there are also food business actors who are given the freedom to establish and carry out their businesses in accordance with the resources they have. This regulatory direction that gives "freedom" to food business actors can have a positive meaning, but it can also have negative consequences, if this freedom is misinterpreted.

The legal basis of food policy in Indonesia is contained in various laws and regulations. The first legal basis is Law Number 18 of 2012 concerning Food (hereinafter referred to as the Food Law), which was announced in the State Gazette Number 227 of 2012. This Law explicitly regulates and distinguishes clearly related to 3 (three) important terms that are often confused, namely food sovereignty, food independence and food security. Article 1 explains the definition of food sovereignty, food independence and food security. Food sovereignty is the right of states and nations to independently determine food policies that guarantee the right to food for the people and provide the right for the community to determine food systems that are in accordance with the potential of local resources. Food independence is the ability of the state and nation to produce diverse food from within the country that can ensure the fulfillment of sufficient food needs at the individual level by utilizing the potential of natural resources (SDA), human, social, economic and local wisdom in a dignified manner. Food security is a condition of food fulfillment for the state up to individuals which is reflected in the availability of sufficient food, both in quantity and quality, safe, diverse, nutritious, equitable, and affordable and does not conflict with religion, beliefs and culture of the community, to be able to live healthy, active and productive lives in a sustainable manner.

The legal basis for regulating the security of the circulation of food and beverages consumed by the public are: Law Number 8 of 1999 concerning Consumer Protection, Law of the Republic of Indonesia Number 36 of 2009 concerning Health and Law of the Republic of Indonesia Number 18 of 2012 concerning Food and other laws and regulations. Law of the Republic of Indonesia Number 18 of 2012 concerning Food, Article 1 number 26: Food Circulation is any activity or series of activities in the context of distributing food to the community, whether traded or not. Law of the Republic of Indonesia Number 36 of 2009 concerning Health regulates Food and Beverage Security. Article 109: Any person and/or legal entity producing, Food is needed by every individual; this spurs most people to work as entrepreneurs or food producers. The growth and development of the goods and services industry on the one hand has a positive impact, among others, it can be mentioned: the availability of needs in sufficient quantities, better quality, and the existence of alternative choices for consumers in meeting their needs. However, on the other hand, there are negative impacts, namely the impact of business behavior arising from the tighter competition that affects the consumer community. Intense competition can change behavior towards unfair competition because business actors have conflicting interests between them. Producers or business actors will seek the highest profit in accordance with economic principles. This also

causes food manufacturers to increasingly ignore consumer safety in order to get as much profit as possible. For example, there are still many food manufacturers who like to use textile dyes for various food and beverage products because of economic considerations. The development of the textile industry in Indonesia causes textile dyes to be cheap and misused by food producers.

## **B. RESEARCH METHODS**

The research in this dissertation is normative juridical research with a statutory approach and a concept approach.<sup>1</sup>

## **C. RESEARCH RESULTS AND DISCUSSION**

### **1. The position of Police Discretion in solving Food Crimes in Indonesian legal policy**

Discretion is defined as freedom to make decisions in every situation faced. Discretion is always associated with decision making, power or authority exercised by someone over the problem at hand. Police discretion can be interpreted as a policy based on the power to perform an action on the basis of his judgment and confidence. Discretionary authority is a power or authority exercised under the law on the basis of its considerations and beliefs and emphasizes moral considerations of balance within the legal framework. However, the discretion is carried out not independently of legal provisions, but the discretion is still carried out within the framework of the law.

The police as perpetrators of discretion, namely acting as if not based on the applicable positive law, if studied further, it is an action that can uphold the objectives of the law itself, namely welfare, comfort, and order. In their duties, police work must not only be seen in relation to the administration of the law, but more broadly. This means that it is not only law-quality work, but all matters in public life, as the main duty of the police which includes various kinds of maintenance and prevention activities such as maintaining order and security, safety of people, objects, and the community, as explained in Article 2 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia. Furthermore, Article 15 c of Law Number 2 of 2002 affirms that preventing and overcoming the growth of community diseases.

Likewise, according to Satjipto Rahadjo, maintaining and preventing it requires creativity. In turn, creativity requires leeway and freedom of action and that means the task of the police cannot be regulated and limited or in terms of science requires a discretion to be able to carry out the main task. Meanwhile, according to Soerjono Soekanto, a legal purpose is not always identical to the objectives explicitly formulated, what is stated in a rule is not necessarily the real reason for making the rule. Based on the above view, the action of the police who forgive or in scientific terms exercise discretionary authority on the consideration that the public interest is not disturbed. In Article 18 paragraph (1) of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, it is affirmed that for the benefit of the public, officials of the National Police of the Republic of Indonesia in carrying out their duties and authorities can act according to their own judgment. These considerations in the public interest

are among the alternatives to the various considerations believed by the police officer.

According to M. Faal, the policy steps taken by the police are usually with the following considerations;

- a) The use of local customary law is considered more effective compared to the applicable positive law.
- b) Local law is more perceivable by parties between perpetrators, victims and the community.
- c) The wisdom pursued is more beneficial than merely using existing positive laws.
- d) On their own free will.
- e) Not contrary to the public interest.

With the considerations that must be made by police members in considering the discretion they will do, then at least objective and responsible considerations will affect the assessment of the police members.

Viewed from the point of assessment of the officer, the officer will measure or consider the crime First, to what extent the level of the law violated, whether it is too severe, ordinary, moderate, or light. Second, how is the policy of institutions, leaders or superiors, whether written or not (criminal politics), against crimes or violations of the law. Third, to the extent that the attitude or respect of the lawbreaker towards the officer is dissent, if the suspect is unsympathetic, resistant, stubborn, then this attitude will influence the officer in determining the granting of discretionary authority. Fourth that the police as kamtibmas enforcers will always think about something or in terms of security considerations. The potential that threatens security will affect the determination of discretion or not, security and order risks will always be taken into account in every circumstance, whether the safety of himself, others or society. Based on the explanation above, it can be understood that discretion is actually a decision or action of the police who consciously do not perform their obligations or duties as law enforcers based on reasons that can be accounted for by the law itself.

The police in Indonesia itself has general authority as stipulated in Law Number 2 of 2002 concerning the Police. Meanwhile, the criminal law enforcement process is regulated separately through Law Number 8 of 1981 concerning the Code of Criminal Procedure, or commonly referred to as the Code of Criminal Procedure (KUHAP). Police are street law enforcement officers who directly deal with the community. The role of the Police is generally known as the maintenance of public security and order as well as law enforcement officers in the criminal process.

In carrying out their daily duties, the police always chat and direct contact with the community as the object of policing duties, meaning that where there is a community there are police who are tasked with maintaining order and security in the community from all forms of crime ranging from anticipation or prevention to cracking down on a crime. The function of the Police according to Article 2 of Law No. 2 of 2002 is "one of the functions of the state government in

the field of maintaining public security and order, law enforcement, protection, protection, and service to the community." Therefore, in the context of law enforcement, the Police has the task of investigating a criminal case which is an implementation of the function of the Police and the mandate of Article 6 paragraph (1) of Law No. 8 of 1981 concerning the Code of Criminal Procedure. However, the implementation of investigations in uncovering a criminal case in the sub-system of investigation by the Police is not always easy to do.

Police discretion can be interpreted as a policy based on the power to perform an action on the basis of his judgment and confidence. Discretionary authority is a power or authority exercised under the law on the basis of its considerations and beliefs and emphasizes moral considerations of balance within the legal framework.

## 2. Implementation of Police Discretion in solving Crimes in the Food Sector in legal policy in Indonesia;

The implementation of Police Discretion in solving Crimes in the Food Sector in legal policy in Indonesia is a multisectoral legal factor involving various related institutions or agencies, so that problems still often occur. (b) Law enforcement, in this case, the personnel of the Food Task Force Ditreskrimsus Polda Jatim are of poor quality supported by qualified competence. (c) Food crime law enforcement facilities and facilities are less supportive both in terms of equipment and budget, (d) society and culture have not been able to fully support optimal food crime law enforcement efforts.

Some factors that support or hinder efforts to enforce the food crime law by the East Java Police Ditreskrimsus to maintain public security and order, which can be identified through ES – OHA as follows:

**Table 3.1: Data / facts from observations / research (ES-OHA) Law Enforcement of Food Crime in the Ditreskrimsus Polda Jatim**

EXTERNAL (PEST)	INTERNAL (SDO-4M + KERMA)
<ol style="list-style-type: none"> <li>1. Politics <ul style="list-style-type: none"> <li>- Food Law</li> <li>- Government sage</li> <li>- Import Sage.</li> <li>- Trade politics.</li> </ul> </li> <li>2. Economics <ul style="list-style-type: none"> <li>- Natural resources</li> <li>- National food granary</li> <li>- Monopoly / Unfair business competition</li> <li>- Food cartel/mafia.</li> <li>- Public poverty level</li> </ul> </li> <li>3. Social <ul style="list-style-type: none"> <li>- Information transparency</li> <li>- Cultural change</li> <li>- Masy confidence level</li> <li>- Community behavior (Entrepreneurs)</li> <li>- Shifting social values</li> </ul> </li> </ol>	<ol style="list-style-type: none"> <li>1. Legal Factors <ul style="list-style-type: none"> <li>- Involving various agencies</li> <li>- Overlapping authority and regulations.</li> <li>- Multiinterpretive rules</li> </ul> </li> <li>2. Law Enforcement Apparatus Factors. <ul style="list-style-type: none"> <li>- Establishment of Food Task Force</li> <li>- Only implemented by Unit III Indagsi</li> <li>- Quantity less support</li> <li>- Competence is less supportive</li> </ul> </li> <li>3. Law enforcement support facilities and facilities <ul style="list-style-type: none"> <li>- Still using the personal property of personnel</li> <li>- Less supported by the latest technological developments</li> <li>- Not yet supported by a specific budget</li> <li>- Not yet communicated with relevant agencies</li> </ul> </li> <li>4. Community factors <ul style="list-style-type: none"> <li>- Economic level.</li> <li>- Access to food.</li> </ul> </li> </ol>

<p>4. Technology</p> <ul style="list-style-type: none"> <li>- High unemployment</li> <li>- Communication aids</li> <li>- Transport aids</li> <li>- Application development</li> <li>- The role of the media</li> <li>- Negative opinion / fake news</li> </ul>	<p>5. Cultural factors</p> <ul style="list-style-type: none"> <li>- Still concentrated on positive gakum.</li> <li>- Lack of prevention efforts.</li> </ul>
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Based on the results of identification through ES – OHA as mentioned above, related to the factual conditions of handling food crimes in the East Java region, the existence of the East Java Police Food Task Force Team in accordance with its function and role in maintaining food availability, especially staples that concern the lives of many people, as well as price stability prevailing in the market, the East Java Police Food Task Force in the period 2017 to 2019 has succeeded in uncovering as many as 16 cases Food crimes, as previously stated in table 3.2 Data on Food Crimes in the East Java region, with the following case details:

**Table 3.2: Data on the Disclosure of Food Crime by the Food Task Force of the East Java Regional Police TA. 2017 to 2019**

No	Police Report	Alleged Mode / Article	Development
1	LPA/19/V/2017/DITRESKRIMSUS dated 09 May 2017. GSA crime scene Ds Segoromadu Kec Kebomas Gresik	Production of consumable salt using industrial salt raw materials	P.21 LEVEL II
2	LPA/25/V/2017/Ditreskrimsus, dated May 17, 2017. UD crime scene. Soedimampir Jl. Lebak Jaya Utara III C No. 7-9 Surabaya	Law of the Republic of Indonesia No. 8 years1999 concerning Consumer Protection and Law of the Republic of Indonesia No. 18 of 2012 concerning Food	P.21 LEVEL II
3	LP. A/24/V/2017SUS/JATIM. Crime Scene: Warehouse Ds. Dungus Kec. Cerme Kab. Gresik; 2. Warehouse Ds. Domas Kec. Menganti Kab. Gresik.	Transfer of gas from 3 kg/subsidized LPG to 12 kg and 50 kg/non-subsidized LPG cylinders)	P.21
4	LP. A/27/V/2017/SUS/JATIM. MAY 18 2017. Crime Scene : CV Ghina Food d/a telasih tulangan sidoarjo	Producing/distributing food is unhygienic and without being equipped with permits	P.21 LEVEL II
5	LI / 145 / V / 2017 / SUS / JATIM. MAY 5 2017. Crime Scene : PT. Surya Jaya, owner of Tamadoy Thamrin, d/a jl Raya Banjar Sugihan Tandes Surabaya	Expired sausages, frozen meat suspected to be turtles, Found frozen fish types (Salmon and Patin)	STOP RESEARCH NOT A CRIMINAL OFFENSE , TITLE TGL 17 JUNE 2017
6	R/LI/148/V/2017. May 18, 2017. CRIME SCENE: UD MEGA GRACIA SIDOYOSO 4/23 RT/RW 004/005 Ds. SIMOKERTO, Kel. SIMOKERTO, SURABAYA CITY	Producing and marketing frozen food without BPOM permission.	STOP RESEARCH
7	LI / 181 / VI / 2017 / SUS / JATIM. TGL 5 JUNE 2017 Crime Scene :Margomulyo IX Warehouse Complex No A 3	Packaging of granulated sugar trademark indomart tanpa distribution permit issued from BPOM	STOP RESEARCH

8	LPA/50/V/2018/SUS/East Java. May 5, 2018 Crime Scene. PT. Jakarta Sereal, address Jl. Kasuari No. 35 Surabaya	Horticultural Crimes.	P.21 LEVEL II
9	LPB/17/V/2018/SUS/JATIM. 18 May 2018 Crime Scene : MR1/LEO JAYA MALANG, JL cemoro kandang kec.kedung kandang Malang	Mentari / rice brand crime is not in accordance with the quality listed on the label	P.21 LEVEL II
10	LPA/58/VII/RES.2.1./2018/SUS/JATIM4Juli 2018. (BISCUITS). Crime scene: CV. Surya Pangan Lestari	Does not have a distribution permit for any processed food	SP.3
11	LPA/59/VII/RES.2.1./2018/SUS/JATIM July 4 2018. (SYRUP). Crime Scene: UD. Bonaci Anugerah Jaya with the address Jl. K.H. Zaenal Abidin No. 59 A Tambak Sumur Waru Sidoarjo	Does not have a distribution permit for any processed food	SP.3
12	Police Report No.: LPA/18/III/2019/SUS/JATIM dated March 13, 2019 (PILUS). Crime Scene: Dsn. Dodokan Ds. Tangjursari Kec. Taman Kab. Sidoarjo	Industrial and/or food crime	PROCESS
13	Police Report No.: LPA/30/IV/2019/SUS/JATIM dated April 9, 2019 Crime Scene: UD. Bonaci Anugerah Jaya	Trafficking and/or consumer protection offences	P.21
14	Police Report No.: LPA/55/VII/2019/SUS/JATIM dated July 2, 2019 TKP: UD. SMN Food Supply.	Article 135 Jo Article 71 paragraph (2) of Law No. 18 of 2012 concerning food	PROCESS
15	LPA/96/X/IPP.2.1.10./2019/Sus/East Java Crime Scene: UD. Saraswati Wonorejo	Circulation of non-certified kale seeds,	Fingerprinting process
16	LP. A/85/IX/SUS/JATIM, September 17, 2019 Minister of Agriculture No. 48/SR.120/8/2012 concerning Production Certification and supervision of Horticultural Seed circulation	Seed circulation that does not meet quality standards and/or is not registered	Fingerprinting process

Data source: Ditreskrimsus Polda Jatim 2020

To find out the factual conditions of law enforcement of food crimes in the Ditreskrimsus Polda Jatim in order to maintain Kamtibmas, the author will use the theory of law enforcement from Soerjono Soekanto which states that law enforcement is strongly influenced by its own legal factors, namely laws and regulations in force in Indonesia, law enforcement factors, namely parties who form or implement the law, factors of facilities or facilities that support law enforcement and factors Society and culture are the environments in which the law applies or is applied. Therefore, the factual conditions discussed are as follows:

Regulations governing the food sector are spread across various laws and regulations, including Law Number 18 of 2012 concerning Food, Law Number 7 of 2014 concerning Trade, Presidential Regulation (PERPRES) No. 71 of 2015 Determination and Storage of Basic Needs and Essential Goods, Government Regulation (PP), namely PP Number 17 of 2015 concerning Food Security and Nutrition, Presidential Instruction (Inpres) namely Presidential Instruction Number 5 of 2015 concerning Grain / Rice Procurement Policy and Rice Distribution by the Government, as well as Ministerial Regulation (Permen) namely Permendag Number 19 / M-DAG / PER / 3/2014 concerning Rice Imports, Permendag Number 45 of 2013 concerning Soybean Import Provisions in the Framework of Soybean Price Stabilization Program and



Permendag Number 35 of 2015 concerning Determination of Benchmark Prices for White Crystal Sugar Farmers and other regulations.

Therefore, the flow of food management has a very broad scope ranging from formulating food policies, coordinating, integrating, and controlling the implementation of food policies, to availability, distribution, prices, consumption, security, handling food insecurity and nutrition, whose implementation is multisectoral or Multiple Agency System by involving various related institutions or agencies. These institutions include the Ministry of Agriculture, the Food Security Agency (BKP) of the Ministry of Agriculture, BPPOM (Food and Drug Circulation Management Agency), BULOG (Logistics Affairs Agency), DKP (Food Security Council), and the Special Staff of the President for Food Affairs as well as various related agencies, such as the Ministry of Trade, BPN (National Land Agency), Ministry of Forestry, Ministry of Public Works and others. Food institutions in the regions both provincial and district / city have been formed which are representatives of the institutions located at the center. To determine the factual condition of the synergy of cross-sectoral cooperation relations between the East Java Police Food Task Force and related agencies so far, it can be explained through data on the form of synergy of cooperation relations as follows:

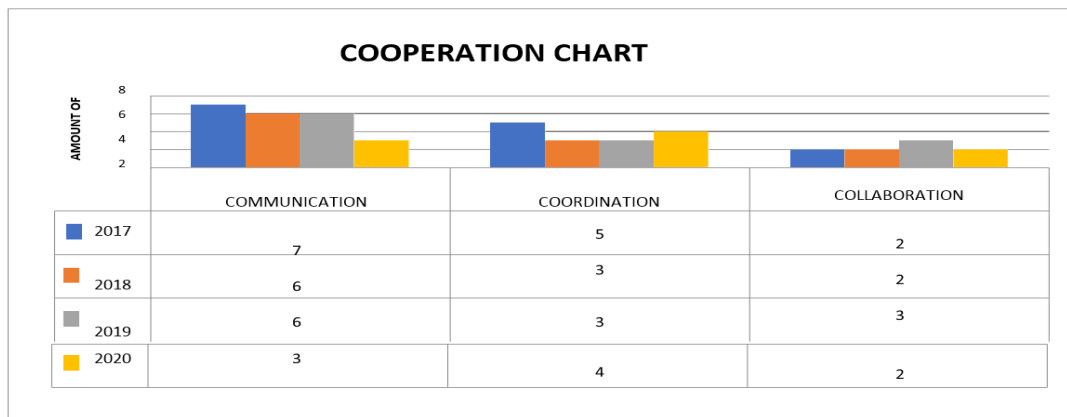
**Table 3.3: Data on the form of cooperative relations with related agencies Year 2019 - 2022**

No	Activities	Forms Of Cooperation	Related Institutions	Interval
1	Preemtif	-Extension	Department of Industry	6
		-Socialization	Agriculture office	3
			Divre Bulog	1
			Livestock Office	1
			Community	-
2	Preventive	- Sidak to the market	Trade Office	11
		- Sidak Kegudang Bapok		10
		- Security of activities		3
		- Raid food products	BPOM	1
3	Law enforcement	-Investigation	PPNS	2
		-Investigation	CJS / Prosecution	8
		-Legal development	University – Legal expert	-

Source: Ditreskrimsus Polda Jatim, July 2020

From the table above, it can be seen that the cooperation relationship between the Food Task Force and related agencies has been running, however, it is still partial and incidental. In the sense that the cooperative relationship that is established is only limited to repressive law enforcement efforts against perpetrators of food crimes, but synergy in handling food problems comprehensively related to food management and supervision policies and activities has not been realized. Judging from the cooperation theory approach which includes aspects of communication, coordination and collaboration between the Food Task Force and related agencies, especially in law enforcement efforts against food crimes, is still relatively minimal, the following is a graphic data of the cooperation relationship between the Food Task Force and related agencies:

Picture 3.1: Graphic relationship Collaborate Task Force Food with agency Hook



In order to enforce the law against food crimes, on April 4, 2017 the East Java Police Chief has formed a Food Task Force Team which was updated through the Dirreskrimsus Order No. : Sprin/49/II/OPS1.2/2020 concerning the establishment of a Food Task Force with a personnel strength of 32 (thirty-two) people, with the following details:

Table 3.4: Personnel Data of the Food Task Force Team Ditreskrimsus T.A 2020

No	Position	Sum	Information
1	Kasatgasda	1	Dirreskrimsus
2	Waka Satgasda	1	Wadirreskrimsus
3	Kamonev	1	Kabagbinopsnal
4	Member	5	Bagbinopsnal
5	Supervisor	1	Kabagwassidik
6	Member	2	Pawasdik
7	Katim I	1	Head of Sub-Directorate I Indagsi
8	Wakatim I	1	Kanit III Subdit I Indagsi
9	Member	5	Subdit I Indagsi
10	Katim II	1	Sub-Directorate IV Tipidter
11	Wakatim II	1	Panit Subdit IV Tipidter
12	Member	5	Subdit IV Tipidter
13	Katim III	1	Head of Sub-Directorate V Cyber
14	Wakatim III	1	Associate Investigator 2
15	Member	5	Subdit In Tipidter
Total Amount		32	

Data source: Ditreskrimsus Polda Jatim, Year 2020

However, based on observations accompanied by the author's experience during service at the Sub-Directorate of Indagsi Ditreskrimsus Polda Jatim, in its implementation the Food Task Force Team did not run as expected, where the handling of food crimes was fully still charged to Unit III Subdit I Indagsi Ditreskrimsus, with the following personnel composition:

**Table 3.5: Personnel Data Unit III Indagsi Ditreskrimsus Polda Jatim 2020**

No	Group	Position	Sum	DIKUM	DIKJUR
1	KOMPOL	KANIT	1	S2	Already
2	IPTU	COMMITTEE	2	S1	Already
3	THREE	MEMBER	7	S2 : 1 S1 : 4 SMA : 2	1 Already 6 Not yet
SUM			10		

Data source: Subdit I Indagsi Ditreskrimsus Polda Jatim 2020

Faced with the complexity of the problem of food crime in the East Java region, the ability of Human Resources Unit III Indagsi Ditreskrimsus as mentioned above in quantity is very unresponsive to be able to carry out the roles and functions of the Food Task Force Team which should be carried out by 29 people as stated in the Ditreskrimsus order, as well as from the quality aspect even though the investigators of Unit III Subdit 1 Indagsi have sufficient competence to support based on background general education and Dikjur background, but most of the auxiliary investigators still have a high school education background and have never attended Dikjur so they lack supporting competence in optimizing food crime law enforcement.

In supporting the operational implementation of the Food Task Force in the Ditreskrimsus Polda Jatim, the availability of facilities and facilities in the form of both budget and equipment that supports the effectiveness of the Food Task Force's performance in efforts to enforce food crime laws. However, the factual condition of the existence of the Food Task Force Team until now has not been supported by the budget allocated specifically or separately in the DIPA RKA-KL in accordance with the programs and activities to be carried out by the Food Task Force Team in law enforcement of Food crimes.

The budget ceiling of the Ditreskrimsus Polda Jatim TA. 2020 can be seen in the following data:

**Table 3.6: DIPA Ditreskrimsus Polda Jatim T.A. 2020**

No Program AlokasiKet		
1.	Prog improvement of facilities and infrastructure of the National Police apparatus	1.103.668.000
2.	Prog investigation and investigation of criminal acts	26.244.887.000
	Sum	27.348.555.000

Source: DIPA RKA-KL Distreskrimsus Polda Jatim, 2020

From the data above, it can be seen that the budget allocation for the criminal investigation and investigation program amounted to Rp. 26,244,887,000, - where the budget was divided into criminal investigation and investigation programs handled by the Sub-Directorate of Indagsi, Banking, Tipidkor, Tipidter and Tipid Cyber under the Ditreskrimsus organizational structure.

Meanwhile, for budget support for Subdit I Indagsi in the Budget Ceiling of the Ditreskrimsus

Polda East Java, Rp. 347,200,000 is allocated specifically for the process of handling food crimes amounting to Rp. 83,070,550,-. This budget allocation support is certainly less or even far from real conditions, so it becomes an obstacle for Unit 3 Subdit I Indagsi as the leading sector in the Food Task Force Team to optimize food crime law enforcement efforts in the East Java region to maintain Kamtibmas. The following is the budget ceiling data and absorption in Sub-Directorate I of Indagsi in the realization of the 2019 budget, as follows:

**Table 3.7: Support and Budget Absorption Sub-Directorate I/Enforcement of TA. 2019**

No	Unit	Budget Ceiling	Absorb Budget	Ket
		IDR 347.200.000,-		
1	Unit 1 / HKI		Rp76.602.829,-	
2	Unit 2 / Residential		Rp60.287.000,-	
3	Unit 3 / Food		Rp83.070.550,-	
4	Unit 4 / Trade		Rp97.089.106,-	
Sum			IDR 317.049.485,-	

Data source: Ditreskrimsus Polda Jatim 2020

As for getting around this so far, by borrowing funds from the realization of the budget of other cases that were first realized, commonly known in the Sub-Directorate I / Indagsi environment with the term "cross-subsidy". However, the alternative of solving the problem by means of cross-subsidies resulted in disorderly administration and financial accountability.

Besides this, budget problems that are often faced that so far the National Police in managing the budget uses an index system. The National Police divides the handling of cases into four categories, namely: very difficult, difficult, moderate, and mild cases. However, the budget spent on certain cases cannot be predicted, it may exceed the estimated budget, and so far for cases of investigation / investigation in the Police that require large costs, the shortfall is charged to investigators not to the state. Not to mention Preemptive and Preventive activities that do not have a budget and are not included in the Investigation / Investigation budget.

Likewise with the factual conditions of facilities and infrastructure that also do not support the enforcement of food crime laws by the Sub-Directorate I of Indagsi Ditreskrimsus Polda East Java at this time as follows:

**Table 3.8: Subdit I Indagsi infrastructure data**

No.	Alut/Alsus	Sum	Ket
1	Riksa Room	-	
2	Laptop	11	Privately owned
3	Printer	6	Privately owned
4	Table	11	Service
5	Chair	11	Service
6	Internet access	1	

Source: Ditreskrimsus Polda Jatim, 2020

Based on the table above that the infrastructure facilities owned to support law enforcement

efforts for food crimes, both in quantity and quality, are relatively lacking, so they often cause problems in the form of:

- a) Computers / laptops and printers are the personal inventory of investigators, so when investigators move tasks, it becomes an obstacle for new investigators.
- b) Limited facilities and / or examination rooms for witnesses and / or suspects in Subdit I / Indagsi, .
- c) The lack of support for the facilities and infrastructure of 2-wheeled and 4-wheeled vehicles is an obstacle to the mobility of investigators in efforts to enforce the Food crime law.

Community and cultural conditions also affect efforts to enforce food crime laws, where in the current democratic era it is not enough just to prioritize aspects of legal certainty, but must be in line with the concept of Democratic Policing as a practical, academic basis as well as policing standards for the National Police so that the application of policing is in accordance with the demands / expectations of the community based on the best quality of police work, one of them is that in the perspective of law enforcement, the Police are required not only to be repressive but sensitive to the Principles of Justice and Humanity in addition to legal certainty and legal expediency.

Based on the above, the task of the Food Task Force in law enforcement is not limited to repressive efforts in the form of enforcement, but can prioritize preemptive and preventive measures, especially regarding food problems that become human rights for every human being. However, law enforcement efforts carried out by the East Java Police Food Task Force are currently still oriented towards the form of action against perpetrators of food crimes without being accompanied by preemptive and preventive prevention efforts to overcome various root causes of food crimes.

### **3. The ideal construction of Police Discretion in solving Food Crimes in Indonesian legal policy**

The ideal construction of Police Discretion in solving Crimes in the Food Sector in legal policy in Indonesia can be carried out by:

1. Synergy of laws and regulations related to food law enforcement,
2. Communication, Coordination, and Collaboration in Food Crime Law Enforcement.
3. improvement of human resources and skills of the Food Task Force;
4. improvement of adequate food crime law enforcement facilities and facilities both in terms of equipment and budget,
5. increasing community and cultural support through profiling and mapping areas prone to food crime, community raising, business actors, distributors and importers, optimizing the daily reporting system around the price of basic commodities, and socialization activities and programs to develop the role of the East Java Food Task

Force by extending the effectiveness of the food task force's performance, empowering information technology, accompanied by empowering the role of mass media

#### **D. CONCLUSION**

The conclusion as the essence of the discussion in writing this manuscript can be described as follows:

The position of Police Discretion in solving Food Crimes in Indonesian legal policy; Police discretion can be interpreted as a policy based on the power to perform an action on the basis of his judgment and confidence. Discretionary authority is a power or authority exercised under the law on the basis of its considerations and beliefs and emphasizes moral considerations of balance within the legal framework.

Implementation of Police Discretion in solving Crimes in the Food Sector in legal policy in Indonesia; (a) legal factors that are multisectoral by involving various related institutions or agencies, so that problems still often occur. (b) Law enforcement, in this case, the personnel of the Food Task Force Ditreskrimsus Polda Jatim are of poor quality supported by qualified competence. (c) Food crime law enforcement facilities and facilities are less supportive both in terms of equipment and budget, (d) society and culture have not been able to fully support optimal food crime law enforcement efforts.

The ideal construction of Police Discretion in solving Food Crimes in Indonesian legal policy; (a) Synergy of laws and regulations related to the enforcement of food crimes, (b) Communication, Coordination, and Collaboration in Law Enforcement of Food crimes. (c) improvement of human resources and skills of the Food Task Force; (d) improvement of adequate food crime law enforcement facilities and facilities both in terms of equipment and budget, (e) increased community and cultural support through profiling and mapping of areas prone to food crime, community gathering, business actors, distributors and importers, optimizing the daily reporting system around the price of basic commodities, and socialization activities and programs to develop the role of the East Java Food Task Force by extending effectiveness the performance of the food task force, the empowerment of information technology, accompanied by the empowerment of the role of mass media

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