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## Article Title

### **Dynamics of Restorative Justice Implementation Towards the Entry into Force of the New Penal and Criminal Procedure Codes: A Case Study on Ordinary Theft Cases at Pangkalpinang Police Resort**

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## ABSTRACT

The national criminal law transformation towards the effective enforcement of Law Number 1 of 2023 and Law Number 20 of 2025 demands a reorientation of law enforcement practices from a retributive to a restorative paradigm. However, the current implementation of restorative justice in ordinary theft cases at the police resort level still operates within an internal regulatory framework prone to a relevance crisis due to normative gaps with the new statutory standards. This study aims to evaluate the objectivity of existing practices, analyze the clash of norms approaching the transition period, and formulate institutional policy harmonization strategies. Employing a mixed-methods legal research approach, this study integrates a doctrinal review of Police Regulation Number 8 of 2021 with empirical data from the Pangkalpinang Police Resort, triangulating in-depth interviews with investigators, victims, and offenders. The results indicate that although existing practices have met administrative compliance requirements and provided tangible recovery benefits for victims, implementation experienced statistical stagnation in certain periods due to workload and investigators' administrative concerns. Substantively, a fundamental incompatibility was found between the rigidity of internal police rules regarding the absolute ban on recidivists and nominal loss parameters, on the one hand, and the sentencing flexibility principles in Law Number 1 of 2023, on the other hand, as well as the misalignment of internal case exposition mechanisms with the judicial scrutiny standards mandated by Law Number 20 of 2025. This study concludes that there is an urgent need for harmonization through the establishment of a specialized supervisory unit to simulate material validity testing equivalent to that of the Preliminary Examining Judge, and the integration of customary figures' roles in penal mediation to guarantee accountability for police discretion in the new criminal justice era.

**Keywords:** New Criminal Procedure Code; New Penal Code; Ordinary Theft; Police Discretion; Restorative Justice.

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## INTRODUCTION

The transformation of the criminal law paradigm in Indonesia has reached its culmination with the ratification of two monumental legal instruments: Law Number 1 of 2023 and Law Number 20 of 2025. This fundamental change marks a shift in sentencing orientation from retributive or vengeful approaches toward restorative and rehabilitative justice. [Qamar and Rezah \(2022\)](#) and [Saifuddin \(2022\)](#) asserts that the gap between *das sollen* (ideal norms) and *das sein* (reality) often serves as the primary obstacle in legal reform. In this context, the Indonesian National Police, as the primary executor of law enforcement, faces the arduous challenge of aligning conventional investigative practices with the new mandate of modern sentencing that prioritizes the restoration of the state of affairs. Without a measured adaptation strategy, the effective enforcement of these two laws—which commenced in January 2026—may create legal uncertainty about field implementation.

The practice of out-of-court case settlement through restorative justice mechanisms has become an urgent necessity amidst the complexity of handling minor criminal offenses, particularly ordinary theft. [Baihaky and Isnawati \(2024\)](#) note that diverse interpretations of restorative justice among law enforcers often

reduce its essence to a mere transactional case termination. Conversely, [Handani and Noviyani \(2025\)](#) emphasize that the settlement of theft cases must genuinely restore the victim's losses rather than simply exonerate the offender from criminal liability. On the other hand, [Ramadhan \(2021\)](#) highlights that the use of police discretion in alternative dispute resolution is frequently constrained by investigator subjectivity due to the absence of standardized standard operating procedures integrated with the criminal justice system.

The Pangkalpinang Police Resort, as a technical implementation unit within the jurisdiction of the Bangka Belitung Islands Regional Police, faces unique dynamics in handling ordinary theft cases. [Aprilia \(2024\)](#), in a study within the same jurisdiction, found that although restorative justice mechanisms have been implemented, their effectiveness remains hampered by factors related to investigator understanding and victim resistance. This finding is reinforced by the analysis of [Faisal et al. \(2024\)](#), which indicates that, without strong regulatory support, the implementation of restorative justice at the investigative level is prone to misuse and fails to deter. This situation is exacerbated by the findings of [Adiningsih and Batubara \(2025\)](#), who state that the careless application of restorative justice can inadvertently undermine sentence aggravation for recidivists. This creates a paradox in law enforcement, which should ideally protect society from the recurrence of criminal acts.

The legal basis for implementing restorative justice within the National Police environment currently still relies on Police Regulation Number 8 of 2021. [Widiatmika \(2023\)](#) assesses that this regulation represents a progressive breakthrough to fill the void of the former criminal procedure law. However, [Jamal \(2023\)](#) notes that the implementation of the Police Regulation often conflicts with the hierarchy of higher legislation. With the enactment of Law Number 1 of 2023 and Law Number 20 of 2025, the validity and relevance of the procedures under Police Regulation Number 8 of 2021 are now questionable. The normative conflict between internal police mechanisms and the standards of judicial scrutiny introduced in the new laws demands a comprehensive evaluation of ongoing practices.

Procedural and substantial gaps in handling ordinary theft cases have become increasingly evident in the effective enforcement of the national criminal law. [Rivanie and Ashar \(2025\)](#) warn that the reorientation of Indonesian criminal law politics requires law enforcement officials to be mentally prepared to abandon the old paradigm. [Daseng \(2023\)](#) adds that discretionary police actions must be placed within strict legal corridors to avoid violating human rights. At the Pangkalpinang Police Resort, the phenomenon of investigator hesitation in making restorative justice decisions—due to administrative fear and external pressure—indicates the law enforcement infrastructure's lack of readiness to meet the new standards. Therefore,

research regarding the management of these dynamics during this crucial transition period is urgent.

Previous research generally captured the implementation of restorative justice only from a normative perspective or in terms of momentary effectiveness, without linking it to fundamental legal regime changes. For instance, the study conducted by [Hakim and Fitriati \(2025\)](#) focused solely on internal supervision, while [Oktobrian et al. \(2023\)](#) highlighted aspects of mediation agreements. No comprehensive research has specifically evaluated the readiness of restorative justice practices at the police resort level to address the combined impact of the entry into force of Law Number 1 of 2023 and Law Number 20 of 2025. The absence of such a study leaves a significant knowledge gap regarding the adaptation strategies police institutions must undertake to prevent legal paralysis now that the new laws are effectively in force.

Based on the problem background, this study formulates three objectives. First, to analyze the existing procedural compliance of restorative justice mechanisms in ordinary theft cases at the Pangkalpinang Police Resort objectively based on the legal framework of Law Number 1 of 1946 and Police Regulation Number 8 of 2021. Second, to conduct a comparative-prospective analysis to identify procedural gaps and authority issues following the enforcement of Law Number 1 of 2023 and Law Number 20 of 2025. Third, to formulate an operational implementation strategy for the Pangkalpinang Police Resort in organizing accountable restorative justice. This research is expected to provide theoretical benefits by enriching transitional criminal law literature, as well as practical benefits as a policy guide for the National Police institution in welcoming the new era of the national criminal justice system.

## **METHOD**

This study employs a mixed legal research method, integrating normative and empirical legal research to address the complexity of the criminal law transition ([Qamar & Rezah, 2020](#)). This combined approach was selected because the object of study is not limited to positive legal norms within the new laws but also encompasses the reality of law enforcement behavior in the field. On a normative level, this research applies a statute approach to examine the internal consistency between Police Regulation Number 8 of 2021 and the currently effective Law Number 1 of 2023 and Law Number 20 of 2025. Meanwhile, a case study was conducted to dissect the practice of handling ordinary theft cases within the jurisdiction of the Pangkalpinang Police Resort, aiming to capture the actual dynamics of restorative justice implementation.

The research specifications are descriptive-analytical, with a primary focus on evaluating the investigative apparatus's readiness to address national regulatory

changes. The research location was centered at the Criminal Investigation Unit of the Pangkalpinang Police Resort, which was purposively selected due to the high intensity of case settlements through restorative justice mechanisms in the area. Data sources in this study consisted of primary and secondary data (Sampara & Husen, 2016). Primary data were collected directly in the field through in-depth interviews with three categories of key informants purposively selected: investigators handling theft cases, offenders who have undergone the settlement process, and victims of theft who consented to the restoration mechanism. Source triangulation was conducted to ensure data validity and avoid subjectivity bias from a single party (Irwansyah, 2020).

Data collection was carried out through three systematic procedural stages. First, a documentation study was conducted on case files of ordinary theft cases in which investigations were terminated in accordance with the law, based on restorative justice, during the 2024-2025 period. The documents examined included the Order for Termination of Investigation, the Peace Agreement Letter, and the Minutes of Special Case Exposition. Second, semi-structured interviews were conducted with informants using an interview guide compiled based on legal compliance indicators and implementation barriers. Third, passive participatory observation was performed regarding the supporting facilities and infrastructure for penal mediation in the Restorative Justice Room of the Pangkalpinang Police Resort to assess the feasibility of the mediation infrastructure.

Data analysis was performed qualitatively using an interactive analysis model consisting of data reduction, data display, and conclusion drawing (Miles et al., 2014). The analysis began by grouping interview findings and document data into a procedural compliance matrix in accordance with Police Regulation Number 8 of 2021. Furthermore, the results of the data reduction were analyzed using systematic and futuristic interpretation methods. Systematic interpretation is used to assess the validity of current investigator-discretionary actions, while futuristic interpretation is employed to project the legal implications of these actions when confronted with the norms of Article 476 of Law Number 1 of 2023 and the control mechanism of the Preliminary Examining Judge under Law Number 20 of 2025.

The entire analysis culminates in a synthesis of institutional adaptation strategies. The validity of the analysis results was tested through cross-checking of investigator statements with victims' and offenders' admissions, as well as by confronting the analysis with applicable regulations. With this rigorous analysis flow, the research is expected to produce policy recommendations that are not only theoretical but also operational and solution-oriented for the Pangkalpinang Police Resort in organizing accountable restorative justice in the new era of national criminal law.

## RESULTS AND DISCUSSION

### A. The Objectivity of Existing Restorative Justice Practices: Between Discretion and Procedural Compliance

The analysis of law enforcement practices at the Criminal Investigation Unit of the Pangkalpinang Police Resort during the 2024 to 2025 period demonstrates that the implementation of restorative justice in ordinary theft cases (Article 362 of Law Number 1 of 1946) has operated within the corridor of administrative compliance, although it is still colored by the dynamics of actor subjectivity. Based on the review of the Order for Termination of Investigation documents, the juridical basis consistently used by investigators is Police Regulation Number 8 of 2021. [Widiatmika \(2023\)](#) asserts that adherence to standard operating procedures constitutes the primary parameter for measuring police accountability for discretion in the absence of a law-level umbrella governing restorative techniques in detail. Findings at the Pangkalpinang Police Resort confirm that the formal stages—ranging from receiving the peace request letter from both parties, examining the completeness of material requirements, to conducting the special case exposition—have been documented in the Supplementary Minutes of Examination. However, this compliance is often merely textual, with investigators often framing administrative requirements as a bureaucratic burden rather than a substantive feasibility test.

Behind this procedural compliance lies the reality of highly dominant discretionary authority in determining whether a case is “feasible” or “not” to proceed to the mediation stage. [Daseng \(2023\)](#) warns that discretionary actions unaccompanied by strict supervision parameters are prone to creating disparities in treatment. This is evidenced by the results of in-depth interviews with an investigator (First Brigadier BS), who admitted to hesitating to handle theft cases with loss values exceeding IDR 2,500,000, even though the parties had agreed to reconcile. Investigators are frequently caught in a dilemma between applying the principle of legal expediency and the fear of internal audits if deemed to be “manipulating” articles. [Ramadhan \(2021\)](#) terms this phenomenon a psychological barrier for law enforcers who have not fully transitioned from a retributive (punitive) to a restorative (healing) paradigm. Consequently, peace initiatives often have to await tiered approval from leadership rather than relying on independent initiatives based on objective field assessments.

The empirical validity of restorative justice implementation at the Pangkalpinang Police Resort was further tested in light of crime victims’ perspectives. Contrary to theoretical retributive assumptions that often portray the victim solely as a party demanding vengeance, field findings reveal a rational

pragmatism on the victim's part, prioritizing the certainty of economic recovery over the offender's physical punishment. In an in-depth interview with a gadget theft victim (Mr. R) whose case had been terminated through a peace mechanism, the fundamental motivation driving him to agree to the restorative step was revealed:

*"Honestly, Sir, for me, the important thing is that the laptop returns or is replaced with money so I can work again. If the perpetrator is imprisoned and my goods do not return, I actually lose time going back and forth being examined at the police station. This peace is the most logical solution for me, not because I pity him, but because I need certainty."*

The victim's statement firmly supports the thesis of [Kaimuddin \(2015\)](#) and [Handani and Noviyani \(2025\)](#), namely that victims' primary orientation in property crimes is restitution or reparation, not merely retribution. The victim's desire for material compensation is often unaccommodated in the conventional criminal justice system, resulting in prison sentences for offenders without the obligation to compensate for losses. Therefore, the restorative justice mechanism implemented by the Pangkalpinang Police Resort has successfully met the basic needs of justice seekers who have been neglected by the formalism of criminal procedure.

The data triangulation perspective is complemented by the admission of an ordinary theft offender who has undergone the peace process to examine the impact of this mechanism on resocialization. The offender (Mr. D), a former shop employee who committed theft under economic pressure, revealed that the restorative justice mechanism provided him with a crucial second chance for his future. Although he had to accept the consequence of dismissal from his workplace due to the loss of employer trust, he remained committed to taking responsibility. In a separate interview session, he stated:

*"I realize my mistake was fatal, and it is natural that I was fired. But I am grateful the Police gave a path to peace so I was not imprisoned. If I went into a cell, I would have a criminal record for life and it would be impossible to apply for work elsewhere. With this peace, I still have a chance to find a new job to pay off the agreed compensation in installments."*

This logical admission aligns with the views of [Ropei \(2022\)](#) and [Faisal et al. \(2024\)](#), who emphasize that the restorative approach possesses a vital humanist dimension to prevent stigmatization or evil labeling. The stigma of being an "ex-convict" often becomes a barrier that permanently kills a person's economic access, which ironically can trigger recidivism. By avoiding imprisonment, the offender retains the productive capacity to work again in another sector to fulfill his restitution obligations to the victim. This discretionary step taken by

the Pangkalpinang Police Resort investigators proves that law enforcement can proceed in tandem with salvaging potential human resources without sacrificing the victim's sense of justice.

**Table 1. Data on Restorative Justice for Ordinary Theft Cases**

Month	Year			
	2024		2025	
	Number of Cases	Percentage	Number of Cases	Percentage
January	2	9.09%	3	15.00%
February	2	9.09%	2	10.00%
March	1	4.55%	3	15.00%
April	3	13.64%	2	10.00%
May	2	9.09%	2	10.00%
June	1	4.55%	1	5.00%
July	1	4.55%	1	5.00%
August	4	18.18%	4	20.00%
September	2	9.09%	1	5.00%
October	4	18.18%	1	5.00%
November	0	0.00%	0	0.00%
December	0	0.00%	0	0.00%
<b>Total</b>	<b>22</b>	<b>100.00%</b>	<b>20</b>	<b>100.00%</b>

Source: *Data on Restorative Justice for Ordinary Theft Cases, Criminal Investigation Unit of Pangkalpinang Police Resort.*

Although the parties' qualitative narratives indicate casuistic success, the quantitative evaluation of the case recapitulation data for 2024-2025 (Table 1) reveals a concerning trend of implementation stagnation. The data shows a statistical anomaly: "zero cases" of restorative justice settlements in November and December, even as police-reported theft figures remained stable or even increased. [Aprilia \(2024\)](#), in her study within the Bangka Belitung Regional Police jurisdiction, found that this sharp fluctuation closely correlates with the annual supervision cycle and the investigator's administrative workload. At the end of the fiscal year, investigators' focus is often divided between centralized security operations and completing administrative backlogs (P-21) to meet performance targets, rendering the restorative justice option—which demands a lengthy mediation process and special case exposition—less time-efficient.

Indices of implementation stagnation are exacerbated by the institution's weak post-peace agreement supervision mechanism. [Oktobrian et al. \(2023\)](#) highlighted in their research that the critical factor in the success of restorative justice lies in the offender's compliance with compensation obligations after the

Order for Termination of Investigation is issued. At the Pangkalpinang Police Resort, no standard operating procedure governing periodic monitoring mechanisms for offenders *ost-peace* was found. Investigators tend to consider their functional duties complete once the termination administration is signed and reported to leadership. Consequently, there is a potential for latent conflict where the victim reports back or feels deceived if the offender defaults on the agreed compensation payment.

From the perspective of facilities and infrastructure support, the Pangkalpinang Police Resort has demonstrated adaptation efforts by providing a Counseling and Mediation Room separate from conventional investigation rooms. The existence of this special room, designed with a non-intimidating atmosphere, is a progressive step toward creating an equal dialogical environment between victim and offender, unlike the rigid interrogation rooms. [Pinaring \(2023\)](#) emphasizes that, from an administrative and human rights perspective, the physical condition of the discretion venue significantly influences the parties' psychology in reaching a peaceful consensus. However, technical operational obstacles remain, especially regarding the lack of specific budget allocations to facilitate the presence of external parties, such as community leaders or experts, for expositions.

Besides internal institutional factors, the implementation of restorative justice in Pangkalpinang cannot be separated from the strong influence of the local community's legal culture. [Nasaruddin et al. \(2024\)](#) found that the effectiveness of out-of-court settlements is heavily influenced by the strength of local cultural value integration within the state legal system. In several theft cases involving offenders and victims from the same community, customary settlements often precede formal legal processes at the police. However, the positive law formalism adhered to by investigators sometimes ignores the outcomes of such customary deliberations, or, conversely, treats them merely as an attachment without executive power. [Laia \(2024\)](#) criticizes this phenomenon as the failure of state law to absorb the living law, which should be the primary social capital in strengthening the validity of restorative justice at the grassroots level.

Overall, the objectivity of existing restorative justice practices at the Pangkalpinang Police Resort appears to be a mechanism that functions only partially and has not been firmly institutionalized. [Estirahayu et al. \(2024\)](#) conclude that without strict standardization, the application of restorative justice is prone to slipping into a transactional tool or merely a quick way to reduce case backlogs (case clearance). The current practice, although providing tangible benefits for some victims and offenders as revealed in interviews, still stands on a fragile internal regulatory foundation (Police Regulation) and relies heavily on individual investigator integrity. This situation becomes increasingly problematic in light of

the changing national criminal law landscape, where accountability standards and judicial oversight will be far stricter than the “one-roof” discretionary practices currently applied.

## **B. Clash of Norms and Transitional Dynamics: Critical Evaluation Towards the Entry into Force of the New Penal and Criminal Procedure Codes**

As the effective enforcement of Law Number 1 of 2023 and Law Number 20 of 2025 in January 2026 approaches, the restorative justice practices implemented by the Pangkalpinang Police Resort face a fundamental clash of norms. The transition from a colonial legal regime to national law does not merely change statute numbers; it completely overhauls the sentencing paradigm previously in place. [Rivanie and Ashar \(2025\)](#) argue that the reorientation of Indonesian criminal law politics demands that law enforcement officials be mentally prepared to abandon the rigid retributive paradigm in favor of a humanist restorative approach. However, empirical findings indicate that the legal instrument currently serving as the investigator's guideline, namely Police Regulation Number 8 of 2021, is still based on an outdated legal framework that may be becoming obsolete and incompatible with the new standards. This gap creates a risk of legal paralysis if internal regulatory harmonization is not immediately conducted before the laws' effective date.

The greatest substantive challenge arises from the drastic changes in the regulation of minor theft sanctions. Article 476 of Law Number 1 of 2023 places theft with small loss values into the category of criminal acts with a Category V fine threat, whose maximum nominal value reaches IDR 500,000,000. This surge in threats of fines contrasts sharply with the IDR 2,500,000 benchmark that has been rigidly applied by investigators under Supreme Court Regulation Number 2 of 2012. [Baihaky and Isnawati \(2024\)](#) warn that if investigators persist in using the nominal loss value parameter as the sole indicator of restorative justice feasibility, substantive injustice will occur. Law Number 1 of 2023 places greater emphasis on culpability or the degree of fault and offender motivation rather than merely the value of stolen goods. The practice in Pangkalpinang, which currently remains fixated on a mathematical loss-value approach, potentially neglects small-value theft cases committed with aggravating motives, or, conversely, processes large-value cases that actually have strong mitigating reasons.

A crucial issue forming the sharpest collision point is the regulation regarding recidivists. Article 5 letter e of Police Regulation Number 8 of 2021 absolutely closes the restorative justice opportunity for repeat offenders, without providing time limits or qualifications for prior offense types. The rigidity of this rule contradicts the spirit of Law Number 1 of 2023, which provides a more

proportional regulation regarding the expiration of recidivism after 5 years have elapsed. [Adiningsih and Batubara \(2025\)](#), in their critical analysis, state that the application of an absolute ban on recidivists at the investigation stage paradoxically undermines rehabilitation. If a thief offender was punished 10 years ago for a minor case and re-offends due to economic pressure, police regulations force them back into prison, whereas Law Number 1 of 2023 might no longer consider them a recidivist. Maintaining this internal rule can lead to overcrowding in correctional institutions, which the legislators precisely aim to avoid.

This rehabilitation paradox becomes increasingly evident when linked to the sociological impact of imprisonment. Field findings showing the offender's motivation to work to pay off compensation installments become irrelevant if their recidivist status automatically nullifies the peace option. [Jumaris et al. \(2025\)](#) assert that the effectiveness of law enforcement in property cases must be measured by the success of victim loss recovery, not merely corporal punishment. When the Pangkalpinang Police Resort rigidly rejects restorative justice for recidivists without in-depth screening, the institution indirectly contributes to the offender's and their family's economic exclusion. This creates an endless cycle of poverty and repeated criminality, which should ideally be broken through a more flexible, future-oriented restorative justice approach, rather than focusing solely on the offender's past.

From a procedural law perspective, the Special Case Exposition mechanism, which serves as the basis for the legitimacy of the Order for Termination of Investigation under Police Regulation Number 8 of 2021, is threatened with losing its juridical validity in light of Law Number 20 of 2025. This Law introduces a judicial scrutiny control function by instituting the Preliminary Examining Judge, requiring that every decision terminating an investigation be validated by a judge. This mechanism is designed to prevent transactional case practices at the investigation stage that lack supervision. The current practice in Pangkalpinang, which is internal (decided and validated by the National Police), will be assessed as procedurally defective and an abuse of power in the future. [Kaimuddin \(2015\)](#) and [Hamdiyah \(2024\)](#) warn that, without adjusting this validation mechanism, the Order for Termination of Investigation issued by investigators is prone to challenge through pre-trial motions, ultimately creating legal uncertainty for victims and offenders who have already reconciled.

The legal risk resulting from this procedural discrepancy is not merely a theoretical threat. In an interview with an investigator (First Brigadier BS), serious concerns were raised about potential counterclaims from third parties or Non-Governmental Organizations if the investigation is terminated without a court determination. Law Number 20 of 2025 provides a broader framework

for public participation in testing the validity of an investigation's termination. If the Pangkalpinang Police Resort does not immediately adopt the mechanism of transferring restorative justice files to the court for determination (even if not yet mandated by Police Regulation), then every peace decision made is vulnerable to being annulled by law. [Sembiring et al. \(2021\)](#) suggest that the police begin conducting simulations involving external elements or consultations with the local district court as a pre-emptive measure before the Preliminary Examining Judge mechanism effectively operates.

Besides structural regulatory obstacles, cultural challenges also serve as latent hurdles unresolved in this transition. [Nasaruddin et al. \(2024\)](#) highlight that the local community's legal culture often prioritizes customary sanctions over state law. In Pangkalpinang, the integration of living law into criminal case settlements is frequently neglected by investigator formalism, which is rigidly bound to statute texts. [Laia \(2024\)](#) notes that in the indigenous community system, the concept of a recidivist is not rigidly known, as what is paramount is the offender's willingness to pay customary fines and restore village social balance. The failure of police regulations and Law Number 20 of 2025 to explicitly accommodate this customary law flexibility renders peace agreements often fragile and lacking strong social legitimacy in the community's eyes.

Furthermore, the marginalized role of customary leaders in formal case expositions creates a dualism in dispute resolution. Victims often feel the problem is not resolved customarily, even though the police have closed the case, or vice versa. [Oktobrian et al. \(2023\)](#) found that the lack of synchronization between customary and state settlements is often exploited by certain parties to commit secondary extortion against offenders. In the context of Article 2 of Law Number 1 of 2023, which recognizes Living Law as a source of law, the practice of Pangkalpinang Police Resort investigators—who still view customary law as complementary rather than a primary source of justice—constitutes a regression that must be corrected. Harmonization between state-based restorative justice mechanisms and local wisdom becomes an absolute prerequisite for the successful implementation of the new criminal law.

Human resource competence gaps also serve as significant inhibiting factors in facing this transition. [Syaputra \(2021\)](#) and [Ropei \(2022\)](#) argue that the paradigm in the modern criminal system demands investigators who possess not only technical criminalistic abilities but also sociological and conflict-resolution skills. However, field data and interviews indicate that the majority of investigators remain trapped in a positivistic-legalistic mindset. They are more comfortable working with rigid article formulations than with contextual interpretations of offender motives and backgrounds. This human resource unpreparedness is

exacerbated by the lack of structured training on the content of the new laws, so that when these regulations come into force, a mass stuttering in case handling at the resort level is highly likely.

As a synthesis of this clash of norms, it can be concluded that the National Police's internal legal architecture is currently on the brink of a crisis of relevance. Police Regulation Number 8 of 2021 was designed to address deficiencies in Law Number 8 of 1981, but it was not designed to face the new legal dynamics in Law Number 1 of 2023 and Law Number 20 of 2025. [Estirahayu et al. \(2024\)](#) emphasize that maintaining the procedural status quo amid changes in the legal landscape is the primary cause of systemic failure. If there is no fundamental policy intervention to align Police Regulations with the new legal standards—especially regarding recidivist definitions, loss parameters, and judicial control mechanisms—then the goal of restorative justice will instead be held hostage by administrative defects and legal uncertainty detrimental to justice seekers.

### **C. Implementation Strategy and Institutional Policy Harmonization**

To bridge the sharp gap between existing practices and the demands of the new regulations, the Pangkalpinang Police Resort needs to immediately adopt a policy harmonization strategy that is adaptive and measured. This strategy is not intended to contravene the law, but rather to ensure that the police's discretionary authority remains relevant and accountable amid the changing criminal law landscape. The priority step is the strengthening of a tiered supervision function, integrated with the standards set out in Law Number 20 of 2025. [Hakim and Fitriati \(2025\)](#) recommend establishing a specialized restorative justice supervisory unit at the resort level, tasked with conducting material verification before the case exposition is conducted. This unit serves as an internal filter to ensure that every request is free of coercion or external intervention, while simultaneously preparing investigators to become accustomed to the validity test mechanism that will subsequently be conducted by the Preliminary Examining Judge.

Transparency in the issuance of the Order for Termination of Investigation must also be radically improved. [Sembiring et al. \(2021\)](#) suggest that the police begin conducting simulations involving external elements, such as legal academics or legal aid practitioners, in every special case exposition with a restorative nuance. The involvement of these independent third parties aims to create an organic checks-and-balances mechanism before the formal judicial control mechanism effectively operates. By opening a public participation space in the decision-making process, the Pangkalpinang Police Resort can minimize accusations of transactional case settlements, which have thus far been a negative stigma in out-of-court case resolutions.

The second strategy focuses on enhancing the investigator's human resource capacity through competency-based training in penal mediation. [Syaputra \(2021\)](#) and [Ropei \(2022\)](#) agree that the profile of investigators in the modern criminal system era is no longer sufficient if they merely master interrogation and filing techniques. Investigators are required to possess negotiation skills, conflict management abilities, and a deep sociological understanding to comprehensively assess the offender's degree of culpability. The Pangkalpinang Police Resort needs to compile a standard module for handling theft cases that incorporates subjective assessment indicators—such as economic motives due to urgent needs or a history of good behavior—as official variables in discretionary considerations. [Ramadhan \(2021\)](#) emphasizes that the codification of these subjective parameters is essential to provide an objective handle for investigators to boldly take discretionary decisions without being overshadowed by administrative fear or threats of disciplinary sanctions.

Furthermore, institutionalizing an effective compensation mechanism must become an operational priority. [Estirahayu et al. \(2024\)](#) found that restorative justice failures often originate from the offender's inability to fulfill restitution promises after the case is terminated, which then triggers new conflicts. [Hariyono \(2021\)](#) proposes adopting a post-agreement monitoring mechanism in which investigators continue to monitor the fulfillment of offender obligations for a specified period. If the offender breaks their promise or defaults, investigators must have the discretion to reopen the case for the victim's justice. The institutionalization of this mechanism will provide legal certainty for victims while enhancing public trust in the integrity of police out-of-court settlements.

Beyond the technical-juridical aspects, a cultural strategy must also be implemented by formalizing the role of community leaders within the case settlement structure. Given the strong influence of customary law in Pangkalpinang, the police need to build a strategic partnership with the local indigenous community. The involvement of customary leaders must no longer be merely symbolic but must be positioned as equal partners in verifying the sincerity of the offender's good intentions and the victim's social acceptance. This aligns with the spirit of Article 2 of Law Number 1 of 2023, which recognizes the living law in society. By integrating social or customary sanctions into formal peace agreements, the outcomes of case settlements will possess a sociological legitimacy far stronger and a binding power more permanent than mere paper documents on an investigator's desk.

In conclusion, all these strategies must converge on one main goal: to transform the Pangkalpinang Police Resort from a mere rule implementer into a responsive and just law enforcement institution. The success of future restorative

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justice implementation is no longer measured by the quantity of terminated cases, but by the quality of recovery produced. By preparing supervision infrastructure, human resource competence, restitution monitoring mechanisms, and cultural integration from an early stage, the Pangkalpinang Police Resort will not only be ready to face the enforcement of Law Number 1 of 2023 and Law Number 20 of 2025, but will also become a pilot model for humanist and accountable modern policing in Indonesia.

## **CONCLUSIONS AND SUGGESTIONS**

Based on a comprehensive analysis of restorative justice practices at the Pangkalpinang Police Resort, it is concluded that the current implementation of ordinary theft case settlements still operates within a fragile framework of administrative compliance. Empirically, the mechanism implemented under Police Regulation Number 8 of 2021 has succeeded in providing casuistic benefits, including material loss recovery for victims and the prevention of stigmatization for offenders. However, this success has not been institutionalized as a robust system because it relies heavily on investigators' subjective discretion and on fluctuations in institutional workload, as evidenced by the stagnation of case settlements during certain periods. The procedural compliance demonstrated by investigators is more akin to a bureaucratic formality than a substantive effort to explore the value of justice, making it prone to disorientation when internal supervision relaxes.

The dynamics of applying restorative justice face a serious threat of a relevance crisis following the effective enforcement of Law Number 1 of 2023 and Law Number 20 of 2025. There is a fundamental incompatibility between internal police regulations and the new statutory standards, particularly regarding loss parameters and recidivist status. The use of rigid nominal loss-value parameters is obsolete in the face of the surge in Category V fine threats, while the absolute ban on recidivists in police regulations creates a paradox that weakens the rehabilitative spirit promoted by Law Number 1 of 2023. This internal regulatory unpreparedness can lead to legal paralysis, as investigators are caught in a dilemma between obeying outdated internal rules and risking their discretion to adapt to new laws.

Furthermore, the legitimacy mechanism for investigation termination, which is currently insular through internal police case expositions, is assessed as no longer adequate to meet modern standards of judicial accountability. The presence of the Preliminary Examining Judge institution in the new criminal procedure regime requires external judicial control over every decision to terminate a case. The current practice, which concentrates validation authority solely on investigator superiors, has an inherent defect in transparency and is prone to challenge through pre-trial motions. The absence of a post-peace agreement monitoring mechanism also constitutes a weak

point that undermines legal certainty, as the victim's right to obtain compensation is often not fully protected if the offender defaults.

Departing from these conclusions, the urgent policy implication for the Pangkalpinang Police Resort is to harmonize procedures by establishing a specialized restorative supervisory unit. This unit simulates material validity testing before a case is terminated. It must be designed to operate under evidentiary standards equivalent to those of the Preliminary Examining Judge, ensuring that every termination product from an investigation is legally robust. Process transparency must be enhanced by involving external parties, such as academics or independent legal practitioners, in special-case expositions to minimize transactional stigma and build public trust in the integrity of police discretion.

The strengthening of the investigator's human resource capacity must be immediately reoriented from technical-legalistic abilities toward sociological competence and conflict resolution. Adaptive training modules are required to equip investigators to interpret offender subjective indicators—such as economic motives and good faith—as legitimate and measurable considerations. This is crucial to providing investigators with professional protection so they can make bold, progressive decisions without being overshadowed by administrative fear. Additionally, the institutionalization of post-agreement monitoring mechanisms must be strictly enforced, with investigators retaining the authority to reopen the case if the offender fails to fulfill restitution obligations, ensuring that restorative justice is not interpreted as a means of impunity.

Finally, the integration of the living law in society must be transformed from a mere ceremonial supplement into a primary pillar of case settlement. The police need to formalize the role of customary leaders within the penal mediation structure, recognizing customary sanctions as an integral part of the binding peace agreement. By synergizing the power of state law and local wisdom, as well as preparing rigorous supervision infrastructure, the transition of criminal law enforcement at the Pangkalpinang Police Resort is expected to proceed smoothly, guaranteeing legal certainty for the community, and aligning with the mandate of the national criminal justice reform.

## REFERENCES

Adiningsih, Y., & Batubara, G. T. (2025). The Paradox of Implementing Restorative Justice at the Investigation Stage: A Systematic Weakening of Sentence Enhancement for Repeat Offenders. *SIGN Jurnal Hukum*, 7(2), 627-646. <https://doi.org/10.37276/sjh.v7i2.496>

Aprilia, M. (2024). Efektivitas Restorative Justice dalam Penanganan Tindak Pidana Ringan di Kepolisian Daerah Bangka Belitung. *Jurnal Legalitas*, 2(1), 9-19. <https://doi.org/10.58819/jle.v2i1.163>

Baihaky, M. R., & Isnawati, M. (2024). Restorative Justice: Pemaknaan, Problematika, dan Penerapan yang Seyogianya. *Unes Journal of Swara Justisia*, 8(2), 276-289. <https://doi.org/10.31933/4mqgaj17>

Daseng, N. S. M. (2023). Law Enforcement by the State Police of the Republic of Indonesia Regarding Discretionary Actions. *Sovereign: International Journal of Law*, 5(1-2), 76-95. <https://doi.org/10.37276/sijl.v5i1-2.40>

Estirahayu, P. S., Muhdi, M. R. A., & Salimah, S. (2024). Penerapan Restorative Justice (Keadilan Restoratif) dalam Suatu Tindak Pidana. *Jurnal Penegakan Hukum Indonesia*, 5(1), 27-41. Retrieved from <https://ojs.bdproject.co.id/index.php/jphi/article/view/139>

Faisal, R., Handayani, P., & Sakti, I. (2024). Analisis Implementasi Restorative Justice dalam Penyelesaian Kasus Pencurian Ringan di Kota Bandung. *Petita*, 6(2), 70-74. <https://doi.org/10.33373/pta.v6i2.7527>

Hakim, A. R., & Fitriati, F. (2025). Pengawasan Internal oleh Kepolisian Terhadap Penyelesaian Tindak Pidana Secara Restoratif. *Unes Journal of Swara Justisia*, 8(4), 927-935. <https://doi.org/10.31933/msw4yt02>

Hamdiyah, H. (2024). Analisis Unsur-Unsur Tindak Pidana Pencurian: Tinjauan Hukum. *Tahqiqa: Jurnal Pemikiran Hukum Islam*, 18(1), 98-108. <https://doi.org/10.61393/tahqiqa.v18i1.216>

Handani, A., & Noviyani, D. (2025). Restorative Justice and the Settlement of Theft Crimes by Art in Cirebon: A Case Study and Criminal Law Perspective. *Journal of Community Service*, 2(8), 400-405. <https://doi.org/10.62885/abdisci.v2i8.691>

Hariyono, T. (2021). Mediasi Penal sebagai Alternatif Upaya Penyelesaian Perkara Pidana di Luar Pengadilan. *Jurnal Penegakan Hukum dan Keadilan*, 2(1), 1-18. <https://doi.org/10.18196/jphk.v2i1.8731>

Irwansyah. (2020). *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media.

Jamal, N. (2023). Implementasi Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif. *Journal Equitable*, 8(2), 271-282. <https://doi.org/10.37859/jeq.v8i2.4963>

Jumaris, J., Husen, L. O., & Hambali, A. R. (2025). The Effectiveness of Law Enforcement Regarding the Criminal Offense of Receiving Stolen Laptops in Makassar City. *SIGN Jurnal Hukum*, 7(1), 35-53. <https://doi.org/10.37276/sjh.v7i1.421>

Kaimuddin, A. (2015). Perlindungan Hukum Korban Tindak Pidana Pencurian Ringan Pada Proses Diversi Tingkat Penyidikan. *Arena Hukum*, 8(2), 258-279. <https://doi.org/10.21776/ub.arenahukum.2015.00802.7>

Laia, F. F. D. (2024). Restorative Justice and Living Law Based on Dayak Ngaju Adat Law: A Comprehensive Analysis. *SIGN Jurnal Hukum*, 6(2), 68-84. <https://doi.org/10.37276/sjh.v6i2.363>

Law of the Republic of Indonesia Number 1 of 1946 on the Penal Code Regulations. <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/814>

Law of the Republic of Indonesia Number 8 of 1981 on the Criminal Procedure Code (State Gazette of the Republic of Indonesia of 1981 Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/755>

Law of the Republic of Indonesia Number 1 of 2023 on the Penal Code (State Gazette of the Republic of Indonesia of 2023 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 6842). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/1818>

Law of the Republic of Indonesia Number 20 of 2025 on the Criminal Procedure Code (State Gazette of the Republic of Indonesia of 2025 Number 188, Supplement to the State Gazette of the Republic of Indonesia Number 7149). <https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/2011>

Miles, M. B., Huberman, A. M., & Saldaña, J. (2014). *Qualitative Data Analysis: A Methods Sourcebook* (Third Edition). Sage. <https://books.google.co.id/books?id=p0wXBAAAQBAJ>

Nasaruddin, N., Rizky, A., & Rahim, A. J. (2024). Pengaruh Budaya Lokal Terhadap Pelaksanaan Restorative Justice di Indonesia. *Jurnal Publicuho*, 7(3), 1443-1450. <https://doi.org/10.35817/publicuho.v7i3.500>

Oktobrian, D., Hendriana, R., Retnaningrum, D. H., & Nurhuda, M. L. (2023). Pengawasan Pelaksanaan Kesepakatan Mediasi Penal dalam Penerapan Restorative Justice Pada Tahapan Penyidikan. *Jurnal Litigasi*, 24(1), 14-39. <https://doi.org/10.23969/litigasi.v24i1.6208>

Pinaring, R. P. (2023). Tindakan Diskresi Kepolisian dalam Menjaga Hak-Hak Masyarakat di Tinjau dari Prespektif Administrasi. *Court Review: Jurnal Penelitian Hukum*, 3(6), 23-27. <https://doi.org/10.69957/cr.v3i06.1381>

Qamar, N., & Rezah, F. S. (2020). *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal*. CV. Social Politic Genius (SIGN). <https://books.google.co.id/books?id=TAQHEAAAQBAJ>

Qamar, N., & Rezah, F. S. (2022). The Dichotomy of Approach in the Study of Legal Science: A Critical Review. *SIGN Jurnal Hukum*, 4(2), 191-201. <https://doi.org/10.37276/sjh.v4i2.162>

Ramadhan, A. (2021). Diskresi Penyidik Polri Sebagai Alternatif Penanganan Perkara Pidana. *Lex Renaissance*, 6(1), 25-41. <https://doi.org/10.20885/jlr.vol6.iss1.art3>

Regulation of the State Police of the Republic of Indonesia Number 8 of 2021 on the Handling of Criminal Offenses Based on Restorative Justice (Bulletin Gazette of the Republic of Indonesia of 2021 Number 947). <https://peraturan.go.id/id/peraturan-polri-no-8-tahun-2021>

Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2012 on the Adjustment of Petty Crime Limits and the Amount of Fines in the Penal Code. <https://jdih.mahkamahagung.go.id/legal-product/perma-nomor-2-tahun-2012/detail>

Rivanie, S. S., & Ashar, M. S. I. (2025). Reorientation of Indonesian Criminal Law Politics: Shifting Paradigm from Retributive to Restorative in Death Penalty Regulation. *SIGn Jurnal Hukum*, 7(2), 869-885. <https://doi.org/10.37276/sjh.v7i2.544>

Ropei, A. (2022). Penerapan Restorative Justice Sebagai Alternatif Penyelesaian Masalah Pidana Berdasarkan Hukum Pidana Islam. *Al-Kainah: Journal of Islamic Studies*, 1(2), 40-83. <https://doi.org/10.69698/jis.v1i2.14>

Saifuddin, S. (2022). Fiqh Siyasah: Antara Das Sollen dan Das Sein. *In Right: Jurnal Agama dan Hak Azazi Manusia*, 10(1), 1-35. <https://doi.org/10.14421/inright.v10i1.2504>

Sampara, S., & Husen, L. O. (2016). *Metode Penelitian Hukum*. Kretakupa Print.

Sembiring, G. H. S., Mubarak, R., & Nasution, A. H. (2021). Tinjauan Yuridis Tentang Surat Perintah Penghentian Penyidikan (SP3) Terhadap Kasus Penipuan. *Juncto: Jurnal Ilmiah Hukum*, 3(1), 55-64. <https://doi.org/10.31289/juncto.v3i1.503>

Syaputra, E. (2021). Penerapan Konsep Restorative Justice dalam Sistem Peradilan Pidana di Masa yang Akan Datang. *Lex Lata: Jurnal Ilmiah Ilmu Hukum*, 3(2), 233-247. <https://doi.org/10.28946/lexl.v3i2.1209>

Widiatmika, D. P. H. (2023). Penerapan Perpol Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif di Direktorat Reserse Kriminal Umum Polda Bali. *Indonesian Journal of Law Research*, 1(1), 1-5. <https://doi.org/10.60153/ijolares.v1i1.1>