

Legal Analysis of The Legitimacy of Law Enforcement Intelligence Activities by The Indonesian Prosecution Service Based on The Attorney General's Instruction No. 7 of 2023 in Handling Corruption Cases in Indonesia

Erwin Efendi Rangkuti^{1*)}, Muhammad Azhali Siregar¹⁾, Suci Ramadani¹

Published online: 15 December 2025

Abstract

Corruption constitutes an extraordinary crime due to its pervasive and destructive impact on political stability, economic integrity, and the social order of society. In combating this crime, the Office of the Attorney General of the Republic of Indonesia plays a crucial role not only as a public prosecutor but also as an institution vested with the authority to conduct law enforcement intelligence activities. This authority is generally regulated under Law No. 16 of 2004, as amended by Law No. 11 of 2021 on the Prosecution Service of the Republic of Indonesia. However, such provisions remain too general and fail to provide clear technical guidelines regarding the scope, mechanisms, and oversight of prosecutorial intelligence operations. To optimize this function, the Attorney General issued Instruction No. 7 of 2023, which emphasizes the intelligence function of the Prosecution Service in supporting general criminal law enforcement, special criminal acts, and corruption prevention. Nevertheless, the Instruction remains an internal administrative directive with no binding external legal force. This research adopts a normative juridical method, employing statutory, conceptual, comparative, and case study approaches. The findings reveal that the prosecutorial intelligence function is strategically significant in supporting anti-corruption efforts. However, juridical weaknesses persist, potentially resulting in normative conflicts and risks of human rights violations. Therefore, the study concludes that a statutory-level regulation is necessary to strengthen the legality and accountability of prosecutorial intelligence within Indonesia's criminal justice system.

Keyword: Prosecution Service, Law Enforcement Intelligence, Legality, Corruption, Attorney General's Instruction.

Introduction

Corruption in Indonesia has evolved into a systematic, structured, and massive form of criminal conduct. It not only causes substantial financial losses to the state but also undermines governmental legitimacy and erodes the public's sense of justice. Accordingly, corruption is categorized as an extraordinary crime, the eradication of which requires extraordinary measures – including the application of intelligence functions to support investigation, inquiry, and prosecution processes [1].

The Attorney General's Office of the Republic of Indonesia, as one of the principal pillars of the criminal justice system, is vested with the authority to conduct intelligence activities pursuant to Article 30 paragraph (1)(d) of Law No. 16 of 2004 on the Prosecution Service of the Republic of Indonesia, as amended by Law No. 11 of 2021 [2]. The article stipulates that the Prosecution Service has the authority to “conduct intelligence functions in the form of investigation, security, and mobilization within the framework of law enforcement.” Nevertheless, the provision remains general and lacks detailed

technical regulations regarding the scope, mechanism, and limits of such intelligence activities.

To fill this normative vacuum, the Attorney General issued Instruction No. 7 of 2023 concerning the Optimization of the Duties and Functions of Law Enforcement Intelligence Operations [3]. This instruction serves as an internal guideline governing the roles of prosecutorial intelligence, both internally and externally. Although it provides greater clarity, its legal force is limited to internal administrative effect within the institution.

In essence, intelligence operations are inherently close to the fundamental rights of citizens. For instance, intelligence activities in law enforcement may involve the collection of personal data, surveillance, or wiretapping. Without precise legal regulation, these practices may lead to potential violations of human rights as guaranteed under Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia [4]. Thus, it is essential to situate the prosecutorial intelligence function within a legal framework consistent with the principle of due process of law.

Comparatively, overlapping authorities among intelligence institutions are evident. The State Intelligence Agency (BIN) focuses on national strategic intelligence; the Indonesian National Police employs intelligence for maintaining public security and order; while the Indonesian National Armed Forces (TNI), through defense intelligence, concentrates on national defense. The Prosecution Service, however, performs a

Universitas Pembangunan Panca Budi, Indonesia

Muhammad Azhali Siregar

Email: azhalisiregar@dosen.pancabudi.ac.id,

specialized intelligence function in direct support of criminal law enforcement [5].

In the context of anti-corruption efforts, the prosecutorial intelligence function plays a critical role in gathering financial data, tracing fund flows, and identifying criminal networks. However, without a robust legal framework, these activities are at risk of being challenged for their legality in the future. The Jiwasraya and ASABRI corruption cases illustrate instances in which prosecutorial intelligence actively identified fraudulent schemes, albeit under limited external legal authority [6]. Likewise, the E-KTP case – which resulted in a state loss exceeding IDR 2.3 trillion – highlighted the exploitation of weak oversight by corruption networks involving multiple actors [7]. Furthermore, in the COVID-19 Social Aid (Bansos) case, the Prosecution Service played a crucial role in uncovering misappropriation of public funds intended for pandemic relief [8]. These cases collectively underscore the urgency of optimizing prosecutorial intelligence functions for early detection, fund tracing, and identification of actors involved in grand corruption schemes.

Scholars from Universitas Pembangunan Panca Budi have contributed significantly to this discourse. Muhammad Azhali Siregar emphasizes the importance of protecting human rights during law enforcement processes to prevent excessive state power [9]. Suci Ramadani underscores the urgency of criminal procedural reform to safeguard suspects from arbitrary treatment [10]. Their academic perspectives demonstrate the relevance of examining the legality of prosecutorial intelligence operations in Indonesia.

Accordingly, this research aims to analyze the legal legitimacy of prosecutorial law enforcement intelligence based on Attorney General's Instruction No. 7 of 2023, and to assess its implications for human rights protection and the sustainability of Indonesia's criminal justice system.

Method

This study employs a normative juridical research method, which primarily focuses on library-based legal analysis through the examination of primary, secondary, and tertiary legal materials. According to Soerjono Soekanto, normative legal research is designed to examine written law from various perspectives, including its theoretical foundation, historical development, and practical application [1].

The research utilizes several approaches, namely:

Statutory Approach

This approach analyzes statutory regulations forming the legal basis for the Prosecutor's Office's law enforcement intelligence activities. The sources include: the 1945 Constitution of the Republic of Indonesia, Law No. 16 of 2004 as amended by Law No. 11 of 2021 on the Prosecution Service of the Republic of Indonesia, Law No. 17 of 2011 on State Intelligence, Law No. 2 of 2002 on the National Police, Law No. 34 of 2004 on the Indonesian National Armed Forces (TNI), and Attorney General's Instruction No. 7 of 2023 [12].

Conceptual Approach

This approach examines key legal doctrines such as legality, due process of law, human rights protection, and the principle of checks and balances. For example, Barda Nawawi Arief's theory of criminal policy and legal accountability provides the conceptual foundation for understanding the lawful exercise of prosecutorial powers [13].

Comparative Approach

The study compares the roles and functions of prosecutorial intelligence with those of other state intelligence agencies – such as the State Intelligence Agency (BIN), the Indonesian National Police, and the Indonesian National Armed Forces (TNI) – to delineate their respective jurisdictions and avoid overlapping mandates [14].

Case Approach

The research analyzes landmark corruption cases in which prosecutorial intelligence played a critical role, including the Jiwasraya and ASABRI cases, to understand the practical implementation of intelligence functions in corruption eradication [15].

Historical Approach

This approach traces the evolution of prosecutorial intelligence authority from the early establishment of the Prosecution Service to its modernization through the Attorney General's Instruction No. 7 of 2023 [16].

The data sources of this research consist of:

- Primary Legal Materials: the 1945 Constitution, relevant statutes, the Attorney General's Instruction, and court decisions.
- Secondary Legal Materials: scholarly books on criminal law, academic works by Panca Budi scholars (Azhali, Suci, Ismaidar, Yasmira, Arif), national law journals, and academic articles.
- Tertiary Legal Materials: legal dictionaries, encyclopedias, and relevant online sources.

The data analysis employs a qualitative normative analysis, involving interpretation, correlation, and evaluation of legal sources in line with the formulated research questions. The conclusions are drawn through deductive reasoning, moving from general legal principles to specific findings [17].

Results and Discussion

Legality of the Prosecutorial Intelligence Activities

The intelligence activities of the Indonesian Prosecution Service within the national criminal justice system are legally grounded in Article 30 paragraph (1)(d) of Law No. 16 of 2004, as amended by Law No. 11 of 2021 on the Prosecution Service of the Republic of Indonesia [18]. The provision stipulates that the Prosecution Service is authorized to conduct “investigation, security, and mobilization within the framework of law enforcement.”

However, the article does not provide further technical elaboration, resulting in multiple interpretations concerning the scope, mechanism, and boundaries of prosecutorial intelligence activities. According to Muhammad Azhali Siregar, every exercise of state authority in the field of criminal law must have a clear legal basis to avoid uncertainty and potential human rights violations [19].

In this regard, the issuance of Attorney General's Instruction No. 7 of 2023 represents an institutional effort to strengthen the role of prosecutorial intelligence in law enforcement [20]. The instruction provides internal operational guidelines, both in administrative management and in supporting the handling of special criminal cases, including corruption. Nevertheless, its nature as an internal instruction means it does not carry external binding legal force. As Ismaidar emphasizes, the politics of law in regulation-making must adhere to the hierarchy of legislation to prevent normative gaps [21].

The absence of higher-level regulation has weakened the legal standing of prosecutorial intelligence, particularly when confronted with the principles of due process of law and human rights guarantees [22]. Hence, despite its strategic importance in combating corruption, the legal foundation of prosecutorial intelligence still requires reinforcement through legislation at the statutory level.

Attorney General's Instruction No. 7 of 2023: A Normative Analysis

Attorney General's Instruction No. 7 of 2023 is an internal policy issued to optimize the duties and functions of the Prosecutor's Office's law enforcement intelligence [20]. The instruction affirms the prosecutorial intelligence function within two broad scopes:

Internal functions, including administrative management, general crimes, special crimes, civil and administrative cases, as well as education and training; and

External functions, including early detection, prevention, and security measures to maintain public order.

The instruction serves as an operational guide for intelligence prosecutors to act more proactively in supporting the criminal justice process. However, due to its internal character, it cannot serve as a strong legal basis for external actions. As Arif Sahlepi notes, the discretionary powers of law enforcement officers must remain within the boundaries of legal accountability, and cannot rely solely on internal directives that lack statutory authority [23].

Therefore, while the instruction enhances internal governance of prosecutorial intelligence, external regulations remain necessary to ensure legal certainty and accountability.

Comparison of the Prosecutorial Intelligence Function with the Police, TNI, and BIN

A comparative analysis of Indonesia's intelligence institutions is crucial to avoid overlapping jurisdictions.

Prosecutorial Intelligence focuses on supporting investigation, inquiry, and prosecution, particularly in corruption and other special crimes.

Police Intelligence serves to maintain public security and order and provides early crime detection.

Military Intelligence (TNI) is oriented toward national defense and military strategy.

State Intelligence Agency (BIN) conducts strategic intelligence to safeguard national security.

These distinctions indicate that prosecutorial intelligence is uniquely integrated into the criminal justice system, unlike the broader national security focus of other agencies. As Yasmira Mandasari Saragih observes, the evolution of modern criminal law demands specialized intelligence institutions to effectively confront transnational crimes, including corruption [24].

Hence, clear delineation of functions among institutions is essential to prevent institutional conflicts in law enforcement practice.

Prosecutorial Intelligence in Corruption Cases

In practice, the intelligence function of the Prosecution Service contributes significantly to anti-corruption enforcement. One of its main roles involves collecting information on suspected corruption, tracing criminal assets, and detecting potential state financial losses.

Notable examples include the Jiwasraya and ASABRI corruption cases, where prosecutorial intelligence successfully identified fictitious investment schemes and traced illicit financial flows, causing multi-trillion-rupiah state losses [25]. Intelligence operations also played an integral role throughout the investigation and prosecution stages.

As Suci Ramadani points out, modern investigative practices must uphold the principle of prudence while safeguarding suspects' rights [26]. Therefore, although prosecutorial intelligence strengthens evidence-gathering in corruption cases, clear oversight mechanisms are required to prevent human rights infringements.

Judicial Implications for Human Rights

Law enforcement intelligence activities inherently intersect with human rights, particularly regarding the right to privacy, freedom of communication, and personal data protection. According to Muhammad Azhali Siregar, criminal law enforcement must not sacrifice human rights principles, as doing so would undermine substantive justice [27].

Furthermore, the 1945 Constitution, specifically Article 28G, guarantees protection of individual and family privacy, dignity, and personal security [28]. If intelligence activities are conducted without sufficient legal foundation, they risk violating constitutional rights.

Thus, the issue is not whether intelligence activities are necessary, but how they are implemented within a legal, transparent, and accountable framework.

The Urgency of a New Statutory-Level Regulation

Based on the foregoing analysis, it can be concluded that the legal foundation for prosecutorial intelligence remains weak. Hence, a new statutory-level regulation is required to strengthen the position of this function. Such legislation should address:

- The scope of prosecutorial intelligence authority;
- Operational limitations and external oversight mechanisms;
- Human rights safeguards in every intelligence activity; and
- Institutional coordination mechanisms with other intelligence agencies to prevent overlapping mandates.

As Jimly Asshiddiqie asserts, the principle of legality in constitutional law demands that every exercise of state authority be founded upon clear and explicit legal authorization [29]. Therefore, establishing a comprehensive legislative framework for prosecutorial intelligence is not merely an option – it is a necessity.

Conclusions and Recommendations

Based on the findings of this research, it can be concluded that Attorney General's Instruction No. 7 of 2023 provides significant operational guidance for the intelligence function of the Prosecution Service. The Instruction strengthens the internal capacity of prosecutorial intelligence in supporting law enforcement, particularly in handling corruption cases.

However, due to its internal and administrative nature, the Instruction possesses limited juridical force, as it does not have external binding power. This limitation raises the potential for normative conflicts, overlapping authority with other intelligence institutions, and possible human rights violations.

The differentiation between the intelligence functions of the Prosecution Service, Police, Indonesian National Armed Forces (TNI), and the State Intelligence Agency (BIN) demonstrates that prosecutorial intelligence plays a unique and specialized role embedded within the criminal justice process. Nevertheless, such uniqueness must be balanced by a stronger legal framework to ensure legitimacy and accountability.

Therefore, it is essential to establish a statutory-level regulation that comprehensively governs the authority, mechanisms, and oversight of prosecutorial intelligence. Such regulation would:

- Provide legal certainty and institutional legitimacy;
- Enhance accountability and transparency; and
- Guarantee the protection of human rights in every intelligence practice within the scope of law enforcement.

Ultimately, a comprehensive and legally binding framework will strengthen the role of the Prosecution Service's intelligence in the national criminal justice system, ensuring that its implementation aligns with the principles of legality, due process of law, and human rights protection.

References

- Andi Hamzah, Indonesian Criminal Law (Jakarta: Sinar Grafika, 2021), p. 115.
- Law No. 16 of 2004 as amended by Law No. 11 of 2021 on the Prosecution Service of the Republic of Indonesia.
- Attorney General's Office of the Republic of Indonesia, Instruction of the Attorney General No. 7 of 2023, www.kejaksaan.go.id, accessed September 30, 2025.
- The 1945 Constitution of the Republic of Indonesia, Article 28G paragraph (1).
- Yasmira Mandasari Saragih, Dynamics of Criminal Law Enforcement in the Digital Era (Medan: Pustaka Insan Madani, 2023), p. 64.
- Supreme Court of the Republic of Indonesia, Corruption Case Decision: Jiwasraya, No. 33/Pid.Sus-TPK/2021/PN.Jkt.Pst., accessed September 30, 2025.

- Supreme Court of the Republic of Indonesia, Corruption Case Decision: E-KTP, No. 130/Pid.Sus-TPK/2018/PN.Jkt.Pst., accessed September 30, 2025.
- Corruption Eradication Commission (KPK), Annual Report 2021, www.kpk.go.id, accessed September 30, 2025.
- Muhammad Azhali Siregar, *Human Rights Protection in the Criminal Law Enforcement Process* (Medan: Pustaka Prima, 2022), p. 73.
- Suci Ramadani, *Criminal Procedure Reform and the Protection of the Rights of Suspects* (Medan: Tahta Media, 2023), p. 52.
- Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1986), p. 52.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945; Undang-Undang Nomor 16 Tahun 2004 jo. Undang-Undang Nomor 11 Tahun 2021 tentang Kejaksaan Republik Indonesia; Undang-Undang Nomor 17 Tahun 2011 tentang Intelijen Negara; Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia; Undang-Undang Nomor 34 Tahun 2004 tentang Tentara Nasional Indonesia; Instruksi Jaksa Agung Nomor 7 Tahun 2023
- Barda Nawawi Arief, *Kebijakan Kriminal* (Jakarta: Kencana, 2021), p. 34.
- Muhammad Arif Sahlepi, *Kajian Hukum tentang Diskresi dan Akuntabilitas dalam Penegakan Hukum* (Jakarta: Kencana, 2024), p. 41.
- Mahkamah Agung RI, Putusan Tipikor Kasus Jiwasraya No. 33/Pid.Sus-TPK/2021/PN.Jkt.Pst., accessed September 30, 2025, putusan3.mahkamahagung.go.id.
- Ismaidar, *Politik Hukum dalam Pembentukan Peraturan Perundang-undangan* (Medan: Pustaka Madani, 2022), p. 19.
- Muhammad Azhali Siregar, *Hak Asasi Manusia dalam Sistem Hukum Indonesia* (Medan: Pustaka Prima, 2024), p. 102.
- Law No. 16 of 2004 jo. Law No. 11 of 2021 on the Prosecution Service of the Republic of Indonesia.
- Muhammad Azhali Siregar, *Perlindungan Hak Asasi Manusia dalam Proses Penegakan Hukum Pidana* (Medan: Pustaka Prima, 2022), p. 74.
- Kejaksaan Agung RI, Instruksi Jaksa Agung Nomor 7 Tahun 2023, www.kejaksaan.go.id, accessed September 30, 2025.
- Ismaidar, *Politik Hukum dalam Pembentukan Peraturan Perundang-undangan* (Medan: Pustaka Madani, 2022), p. 26.
- Muhammad Azhali Siregar, *Hak Asasi Manusia dalam Sistem Hukum Indonesia* (Medan: Pustaka Prima, 2024), p. 103.
- Muhammad Arif Sahlepi, *Kajian Hukum tentang Diskresi dan Akuntabilitas dalam Penegakan Hukum* (Jakarta: Kencana, 2024), p. 44.
- Yasmira Mandasari Saragih, *Dinamika Penegakan Hukum Pidana di Era Digital* (Medan: Pustaka Insan Madani, 2023), p. 67.
- Mahkamah Agung RI, Putusan Tipikor Kasus Jiwasraya No. 33/Pid.Sus-TPK/2021/PN.Jkt.Pst., accessed September 30, 2025.
- Suci Ramadani, *Reformasi Hukum Acara Pidana dan Perlindungan Hak Tersangka* (Medan: Tahta Media, 2023), p. 58.
- Muhammad Azhali Siregar, "Kebijakan Kriminal dan Hak Asasi Manusia," *Jurnal Hukum dan Peradilan*, Vol. 11, No. 1 (2024), p. 122.
- The 1945 Constitution of the Republic of Indonesia, Article 28G. Jimly Asshiddiqie, *Hukum Tata Negara dan Pilar Demokrasi* (Jakarta: Konstitusi Press, 2020), p. 55