

**IMPLEMENTATION OF RESTORATIVE JUSTICE POLICIES
AGAINST PERSONS OF CRIMINAL ACTS OF NEGLIGENCE THAT
CAUSED DEATH**

**(Study of Circular Letter of the Solicitor General for General Crimes
Number 01/E/EJP/02/2022 about the Implementation of Termination of
Prosecution Based on Restorative Justice)**

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ABSTRACT

Requests for termination of prosecution of perpetrators of criminal negligence that cause death can be rejected or granted even if they use the same technical guide, namely Circular Letter of the Solicitor General for General Crimes Number 01/E/EJP/02/2022. Based on this background, the research focuses on understanding the parameters of restorative justice policies against perpetrators of negligence that cause death and the ideal implementation of restorative justice for perpetrators of negligence. This research is normative juridical research with a statutory approach, case approach, and conceptual approach. The request for Restorative Justice was granted because the parameter of negligent acts was not purely in the perpetrator's self but was also carried out by the victim himself. In contrast, the request was rejected because *culpa* only came from the perpetrator's actions. The ideal implementation of a restorative justice policy must lead to efforts to restore it to its original state, ensure there is no negative stigma from the community, and it is oriented towards technical efficiency and legal certainty for the parties. The research results suggest that the termination of cases based on restorative justice requires certainty of technical regulations, for example, through the Attorney General's Regulations. The ideal implementation of restorative justice policies must pay attention to a unified written policy/*lex scripta* that is publicly accessible, testable, integrative between justice mechanisms, functional differentiation of criminal justice, and the harmonization of subjects and objects in prosecutions.

Keywords: Restorative Justice Policy, Parameters, Ideal Implementation

**(Studi Surat Edaran Jaksa Agung Muda Tindak Pidana Umum Nomor
01/E/EJP/02/2022 Tentang Pelaksanaan Penghentian Penuntutan
Berdasarkan Keadilan Restoratif)**

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ABSTRAK

Permohonan penghentian penuntutan kepada pelaku tindak pidana kelalaian yang menyebabkan kematian dapat ditolak ataupun dikabulkan sekalipun menggunakan satu panduan teknis yang sama yaitu Surat Edaran Jaksa Agung Muda Tindak Pidana Umum Nomor 01/E/EJP/02/2022. Berdasarkan latar belakang ini maka penelitian berfokus untuk memahami parameter kebijakan keadilan restoratif terhadap pelaku tindak pidana kelalaian yang menyebabkan kematian dan implementasi ideal keadilan restoratif terhadap pelaku tindak pidana kelalaian. Penelitian ini merupakan penelitian yuridis normatif dengan pendekatan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Permohonan Restorative Justice dikabulkan karena parameter perbuatan lalai bukan murni ada pada diri pelaku melainkan juga dilakukan oleh korban itu sendiri sedangkan permohonan ditolak karena *culpa* hanya berasal dari perbuatan pelaku. Implementasi ideal kebijakan restorative justice harus mengarah pada usaha pemulihan kembali pada keadaan semula, tidak ada stigma negatif dari masyarakat, serta berorientasi pada efisiensi teknis dan kepastian hukum bagi para pihak. Saran dari hasil penelitian adalah penghentian perkara berdasarkan keadilan restoratif membutuhkan kepastian peraturan teknis misalnya melalui Peraturan Jaksa Agung. Implementasi ideal kebijakan keadilan restoratif nantinya harus memperhatikan: satu kesatuan kebijakan tertulis/ *lex scripta* yang dapat diakses publik, dapat diuji, integratif antar mekanisme peradilan dan memperhatikan diferensiasi fungsional peradilan pidana, serta harmonisasi subyek dan obyek dalam penuntutan.

Kata kunci: Kebijakan Keadilan Restoratif, Parameter, Implementasi Ideal