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The Use of Polygraph *(Lie Detector)* in Criminal Case Evidence in Indonesia

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ABSTRACT: The use of a polygraph *(lie detector)* in criminal cases is a novel matter, raising questions about the position of the polygraph (lie detector) in criminal case evidence. This research discusses the regulation of polygraph *(lie detector)* use as evidence in criminal law outside the Criminal Procedure Code (KUHAP). The study employs a normative research method to systematically explain the status of the lie detector as indirect evidence in criminal law proceedings in Indonesia. The findings indicate that, based on Article 184 paragraph (1) of the Criminal Procedure Code, the provisions regarding the use of a polygraph *(lie detector)* as legitimate evidence are not explicitly regulated, considering that the polygraph *(lie detector)* is not primary evidence in court. The printed results of a lie detector examination can be classified as an expert opinion. Thus, a lie detector examination cannot stand alone and requires expert knowledge to be considered valid evidence in court proceedings.

KEYWORDS: *Lie Detector*, Criminal Offense, Evidence.

A. INTRODUCTION

The use of a polygraph *(lie detector)* in criminal cases is relatively new. Several examples of criminal cases utilizing a polygraph *(lie detector)* include the murder case of Brigadier Joshua Hutabarat, where the main perpetrator was Inspector General Ferdy Sambo. During the investigation process of this case, Ferdy Sambo underwent a *lie detector* test at the Forensic Laboratory Center (Puslabfor) in Sentul, West Java, specifically on September 8, 2022.[1] Previously, in another criminal case in 2016, specifically the murder case of Wayan Mirna Salihin, also known as the "cyanide coffee" case, a polygraph *(lie detector)* test was conducted on Jessica Kumala Wongso, who at the time of the examination was still a suspect. [2] Based on the above explanation, it raises the question of the position of the polygraph *(lie detector)* in proving criminal cases.

This research discusses the regulation of the use of polygraph *(lie detector)* as evidence in criminal law outside the Criminal Procedure Code (KUHAP). The evidentiary system adopted by KUHAP is the *Negatief Wettelijk Stelsel*, or negative evidentiary system, which is based on a minimum of two pieces of evidence and the judge's conviction.[3] In Indonesian criminal procedure law, evidence is regulated under Article 184 of the Criminal Procedure Code (KUHAP). Article 184 of KUHAP stipulates that the forms of evidence in criminal law proceedings in Indonesia are witness testimony, expert testimony, documents, indications, and the defendant's statements.[4] In the context of criminal procedure law, evidence plays the most crucial role in the trial examination process to seek material truth. It is during this evidentiary process that the fate of the defendant is determined, as this process will ultimately influence the judge's verdict in court based on the evidence prescribed by law.[5]

One of the stages in the examination of a criminal case is the investigation. Article 1 paragraph 2 of KUHAP states that an investigation is a series of actions taken by investigators in matters and according to procedures regulated in this law to search for and collect evidence that clarifies the criminal act that occurred and to identify the suspect.[6] However, in the examination of a criminal act, it is often found that the perpetrator does not admit to their actions. The existence of a *lie detector* or polygraph can

[1] Hendrik Khoirul Muhid, 'Kilas Balik Ferdy Sambo Jalani Tes Kejujuran Atau Lie Detector Setahun Lalu', *Tempo.Co*, 2023 <https://www.tempo.co/hukum/kilas-balik-ferdy-sambo-jalani-tes-kejujuran-atau-lie-detector-setahun-lalu-146383>.

[2] Andri Donnal Putera, 'Kuasa Hukum: Jessica Lolos "Lie Detector", Kenapa Tetap Jadi Terdakwa?', *Kompas.Com*, 2016 <https://megapolitan.kompas.com/read/2016/06/15/14570651/kuasa.hukum.jessica.lolos.lie.detector.kenapa.tetap.jadi.terdakwa.>.

[3] R Subekti, *Hukum Pembuktian*, 18th edn (Balai Pustaka, 2018).

[4] Lilik Mulyadi, 'Pembuktian Terbalik Kasus Korupsi', in *Badilum Mahkamah Agung Republik Indonesia* (Mahkamah Agung Republik Indonesia, 2010), XIII, pp. 1–3 <https://badilum.mahkamahagung.go.id/upload_file/img/article/doc/pembuktian_terbalik_kasus_korupsi.pdf>.

[5] M. Yahya Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP,Penyidikan Dan Penuntutan*, XV (Sinar Grafika, 2014).

[6] Nisep Rahmad Fitriati, Iyah Faniyah, 'Hambatan Teknis Penyidikan Tindak Pidana Manipulasi Informasi Elektronik Pada Polda Sumatera Barat', *Masalah - Masalah Hukum*, 51.4 (2022), pp. 390–400, doi:http://dx.doi.org/10.14710/mmh.51.4.2022.390-400.

assist law enforcement officers in resolving a criminal case. Given this situation, an alternative method is needed to complete the investigation process.

A polygraph *(lie detector)* is a forensic physics examination method that utilizes scientific investigation. It involves a combination of medical devices to monitor changes occurring in the human body.[7] The use of a polygraph is carried out at the request of investigators based on the need for examining a criminal case, for instance, when facing difficulties in obtaining statements from witnesses or suspects.[8] The mechanism of a lie detector operates by recording and monitoring all physiological responses of a person while answering questions related to a criminal case.[9]

A lie detector is a manifestation of auxiliary sciences used in investigations to clarify a case. Auxiliary sciences play a significant role in uncovering many cases by providing scientific support. The auxiliary sciences applied in criminal procedural law to facilitate the process of proving criminal cases include psychology and psychiatry, criminalistics, criminology, logic, victimology, judicial medicine (IKK), molecular forensics such as DNA, fingerprint analysis, and *Polymerase Chain Reaction (PCR).* One of its applications is through criminology, which helps understand the reasons behind a person committing a crime during the process of proving a case. A *lie detector* is a forensic physical examination tool involving identification, laboratory testing, and other related procedures, guiding judges in finding coherence between pieces of evidence.

The way a *lie detector* works is by attaching or placing the device on the human body and asking questions to the subject. The results of this examination are recorded on photographic paper that can be analyzed or read by experts (psychologists and doctors) and investigators. It must be used in conjunction with other pieces of evidence to interpret or verify the polygraph results to strengthen the police investigation process. The term "investigator," as referred to in Article 1, paragraph 1 of the Indonesian Criminal Procedure Code (KUHAP), defines investigators as members of the Indonesian National Police or certain civil servants granted special authority by law during the investigation process.

A previous study by Lovina titled *"Kedudukan dan Keabsahan Hasil Pemeriksaan Poligraf dalam Sistem Pembuktian Pidana di Indonesia: Tinjauan Prinsip Keadilan yang Adil (Fair Trial)"* focused on the admissibility of polygraph examinations as evidence in court proceedings from the perspective of the *fair trial* principle. This differs from the current study, as no detailed research has yet been conducted on the use of lie detectors within the framework of the Indonesian Criminal Procedure Code (KUHAP). Therefore, a more in-depth analysis is needed, highlighting *the state of the art* in this area.[10] Another study discusses the use of *lie detectors* in murder cases involving minors,[11] That study differs significantly from this research, as this study will specifically examine the position of *lie detectors* in the process of proving criminal cases in Indonesia.

This research is normative legal research, as it focuses on written regulations or other legal materials. The use of normative research aims to produce a systematic explanation regarding the position of *lie detectors* as indirect evidence in the process of proving criminal cases in Indonesia.

B. DISCUSSION

1. The Urgency of Using Lie Detectors in Criminal Cases The purpose of evidence in a criminal case is to seek and uncover facts to clarify the circumstances of a criminal matter.[12] From a formal perspective, evidence in a criminal case is based on Article 184 of the Indonesian Criminal Procedure Code (KUHAP), which definitively enumerates the types of valid evidence, including witness testimony, expert testimony, documents, indications, and the defendant's testimony. However, when compared with the latest draft of the KUHAP, there are changes in the types of valid evidence. As stipulated in Article 175 paragraph (1) of the KUHAP Draft, valid evidence now includes: (a) physical evidence; (b) documents; (c) electronic evidence; (d) expert testimony; (e) witness testimony; (f) defendant's testimony; and (g) the judge's observation.

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[7] Sri Mulyati Chalil Vinca Fransisca Yusefin, 'Penggunaan Lie Detector (Alat Pendeteksi Kebohongan) Dalam Proses Penyidikan Terhadap Tindak Pidana Dihubungkan Dengan Undang-Undang Nomor 8 Tahun 1981 Tentang Kitab Undang-Undang Hukum Acara Pidana', *Wacana Pratama Jurnal Hukum*, 17.2 (2018), pp. 71–81, doi:DOI: 10.32816/paramarta.v17i2.58.

[8] I Wayan Bela Siki Layang Putu Tissya Poppy Aristiani, 'Pengaturan Alat Bantu Pendeteksi Kebohongan (Lie Detector) Di Pengadilan Dalam Pembuktian Perkara Pidana', *Kertha Semaya*, 10.3 (2022), pp. 506–16, doi:https://doi.org/10.24843/KS.2022.v10.i03.p02.

[9] Erdiansyah Erdiansyah Ruspian Ruspian, Evi Deliana, 'Kekuatan Alat Bukti Mesin Polygraph Dalam Persidangan Perkara Pidana Di Indonesia', *Jurnal Online Mahasiswa Fakultas Hukum*, 6.2 (2019), pp. 1–15, doi:https://jom.unri.ac.id/index.php/JOMFHUKUM/article/view/26039.

[10] Lovina, 'Kedudukan Dan Keabsahan Hasil Pemeriksaan Poligraf DalamSistem Pembuktian Pidana Di Indonesia:Tinjauan Prinsip Keadilan Yang Adil(Fair Trial)', *Jurnal Jentera*, 3.1 (2020), pp. 175–201, doi:https://jurnal.jentera.ac.id/index.php/jentera/issue/view/3.

[11] Ismawati Septiningsih Agnada Risma Melati, 'Penggunaan Poligraf (Lie Detector) Dalam Pembuktian Perkara Persetubuhan Anak', *Verstek*, 11.3 (2023), pp. 372–78, doi:https://doi.org/10.20961/jv.v11i3.71922.

[12] Johan Wahyudi, 'Dokumen Elektronik Sebagai Alat Bukti Pada Pembuktian Di Pengadilan', *Jurnal Perspektif*, 17.2 (2012), pp. 118–26, doi:https://doi.org/10.30742/perspektif.v17i2.101.

The evidentiary system refers to the organization and classification of the types of evidence that can be used. Achieving proof that fully corresponds to the truth is difficult, even though criminal procedural law provides guidelines aiming to approximate the truth as closely as possible. The law of evidence offers direction on how judges can determine facts that tend toward the truth. Each theory of evidence presents its own foundational principles to guide the process of proving a case.[13]

A judge's consideration of evidence is a crucial part of the proof process in a trial. Evidence serves as the effort or means presented by the parties involved in a case, which the judge uses as the basis for making a decision in that case.[14] In relation to evidence, forensic science is also recognized as an interdisciplinary field that applies natural sciences, medicine, biology, psychology, chemistry, and criminology. Its purpose is to prove the occurrence of a criminal act or unlawful event by examining evidence and physical traces related to the incident. A further definition of forensic laboratories can be found in Article 1, Number 2 of the Indonesian National Police Regulation Number 10 of 2009. Regarding technological advancements, especially those related to electronic systems, reference can be made to Article 5 Paragraph 1 of Law Number 11 of 2008, which states that electronic information, electronic documents, and/or their printouts are valid evidence. Law Number 11 of 2008 introduces innovation by broadening the meaning of information as legitimate evidence. Article 5 Paragraph 2 of Law Number 11 of 2008 further affirms this. Based on these references, a lie detector (polygraph) is a type of instrument that measures physiological response changes such as pulse rate, breathing, and heartbeats based on mental deception that involves elements of fear. All attempts at deception conducted consciously by a rational individual are voluntary and uncontrollable.

The regulatory basis for the use of lie detectors in proving criminal acts is stipulated in Article 9 paragraph (2) of the Indonesian National Police Regulation Number 10 of 2009, which relates to the types of evidence that can be examined by forensic laboratories. The types of evidence subject to examination by the Police Forensic Laboratory include forensic physical examinations such as lie detector tests, voice analysis (voice analyzer), electronic devices, telecommunications, computers (digital evidence), and causes of electrostatic processes, as well as electrical equipment, utilization of electrical energy, and electricity theft. Other forensic fields include chemical and biological examinations, document and counterfeit money analysis, and ballistic and metallurgical forensics. The use of lie detectors is based on the Police Order Number: Sprin/295/II/1993 concerning the Validation of the Indonesian National Police Organization, issued on February 7, 1993, by the Chief of the Indonesian National Police, which regulated the Police Forensic Laboratory. Prior to this regulation, the forensic laboratory was known as the Criminal Laboratory, which at that time was not yet a specialized body like the current forensic laboratory.

The use of lie detectors is one of the instruments employed by forensic laboratories that function as institutions assisting investigators in their investigative processes. The results of *lie detector* examinations during investigations can be considered as indications because they can be categorized as electronic information and/or documents, which are an extension of documentary evidence. These serve as guidance for judges in proving a case and in establishing consistency between various pieces of evidence with the facts and the alleged criminal act. Indirect evidence, such as lie detector results, holds the same evidentiary value as other types of evidence because the results are supported by experts and issued in the form of official documents, allowing this instrument to be used as valid evidence.

A *lie detector* is a device that measures whether a person is being untruthful by detecting emotional responses that trigger measurable reactions such as changes in pulse rate, blood pressure, respiration rate, and skin response. The purpose of using the *lie detector* is to determine whether a suspect is lying when answering investigators' questions, which forms the basis for investigators to provide confidence to the judge during trial proceedings. Additionally, it helps to obtain new evidence and discoveries. Generally, the process of proving a criminal case begins once a legal event is identified, and the lie detector is used only as a supplementary tool in the examination process.

The use of electronic information or documentary evidence remains controversial among experts and authorities because there is no clear regulation in the Criminal Code (KUHP) regarding this matter, making expert testimony necessary to verify the validity of lie detector results. The expert testimony here refers specifically to experts from forensic computer laboratories. Therefore, with written regulations governing the use of this tool, the results obtained can be legally accountable and in accordance with legal certainty. The urgency of the *lie detector* initially lies in assisting the police to detect lies told by perpetrators, enabling law enforcement to more easily determine whether the suspect is truthful or deceitful in their statements.

2. The Position of the Polygraph *(Lie Detector)* in Criminal Evidence in Indonesia

Upon closer examination, the polygraph (lie detector) is a machine that produces its examination results in the form of a printout. This printout contains graphs showing the fluctuations of physiological reactions, which reflect changes in organ functions detected

[13] Sukinta Sukinta Dani Ramadhan Syam, Bambang Dwi Baskoro, '"Peranan Psikologi Forensik Dalam Mengungkapkan Kasus-Kasus Pembunuhan Berencana (Relevansi "Metode Lie Detection" Dalam Sistem Pembuktian Menurut KUHAP)', *Diponegoro Law Journal*, 6.4 (2017), pp. 1–15, doi:DOI: https://doi.org/10.14710/dlj.2017.19775.

[14] Joko Setiono Zaidun Zaidun, 'Penyelesaian Tindak Pidana Penganiayaan Dengan Pendekatan Keadilan Restoratif', *Jurnal Pembangunan Hukum Indonesia*, 6.1 (2024), pp. 49–60, doi:https://doi.org/10.14710/jphi.v6i1.%p.

through sensors attached to the subject while answering questions posed by the polygraph examiner.[15] Thus, the graph depicting physiological reactions can be classified as electronic evidence, referring to Law No. 11 of 2008 concerning Electronic Information and Transactions.

Based on the provisions of Article 5 of Law No. 11 of 2008 concerning Electronic Information and Transactions, it states that: (1) Electronic information and/or electronic documents and/or their printouts constitute valid legal evidence. (2) The electronic information and/or electronic documents and/or their printouts as referred to in paragraph (1) are an extension of valid evidence in accordance with the procedural law applicable in Indonesia. This article explains that electronic information and/or electronic documents, whether in electronic form or as printouts, can be considered or used as an extension of valid evidence, in accordance with the procedural law in Indonesia. In relation to this, the results of examinations using *lie detector* instruments (polygraph) as part of an electronic system can be admitted as valid evidence in court.

When related to the five types of evidence listed in Article 184 of the Indonesian Criminal Procedure Code (KUHAP), the results of polygraph *(lie detector)* examinations can be categorized as indirect evidence (alibi evidence). However, the use of the polygraph in this context is only as supplementary evidence, not as the main evidence to prove the criminal act committed by the defendant. Therefore, to be considered valid evidence under the applicable procedural law in Indonesia, further proof is required before drawing conclusions from such evidence, namely by presenting expert testimony from a forensic computer laboratory expert.[16] In connection with this matter, if the results of the polygraph *(lie detector)* examination are submitted alone without expert testimony, they stand solely as indirect evidence. However, before categorizing the polygraph results as indirect evidence or expert opinion, it is important to first examine whether the polygraph examination of the suspect was conducted properly and in accordance with the standards set by the Indonesian National Police Regulation No. 10 of 2009. If these procedural requirements are not met, then the polygraph test results cannot be accepted as valid evidence because their accuracy may be compromised.

In this context, the use of the *lie detector* remains quite unclear because the application of such technology is not explicitly regulated in the KUHAP (Indonesian Criminal Procedure Code), which requires expert testimony regarding the effectiveness of the lie detector. The expert testimony here refers to experts from the Forensic Computer Research Institute. According to Article 184 paragraph (1) of the KUHAP, the use of the polygraph *(lie detector)* method as valid evidence is not explicitly and clearly regulated, considering that the polygraph is not a primary evidence tool in court. Regulations concerning the polygraph were only introduced in the Indonesian National Police Regulation Number 10 of 2009 on Procedures and Requirements for Requesting Government Technical Examinations of Criminalistics, Crime Scenes, and Forensic Laboratories of Evidence by the Head of the Indonesian Police Forensic Laboratory. This regulation positions the polygraph as one type of evidence that can be examined in forensic laboratories and regulates the formal and technical requirements for examinations of suspects or witnesses. Therefore, to determine whether the polygraph *(lie detector)* qualifies as valid evidence, further in-depth review is needed.

The basic foundation is that scientific evidence in general serves as supplementary proof submitted by prosecutors and investigators to uncover criminal cases. There is a possibility that scientific evidence may not be accepted, usually due to doubts about the validity of the suspect's confession. A person is considered guilty only when there is a legally binding final decision *(inkracht)* in the resolution of a criminal case. The use of the *lie detector* is based on the investigator's discretion, as it is generally considered an alternative tool that does not have to be used but only employed when the investigator deems it necessary during the investigation.

For example, when there are insufficient witnesses and testimony from the suspect is needed, the use of a polygraph *(lie detector)* can be applied. In a case involving child sexual abuse, as in the prosecution's evidence in case number 111/Pid.Sus/2020/PN Wno, the polygraph results were accepted in accordance with Article 184 paragraph (1) of the KUHAP as documentary evidence. However, in this instance, its role was only as supplementary evidence, not as the main evidence in court, so it must be combined with other evidence to strengthen the proof during the trial.

Compared to the use of lie detectors in Russia, where the government and all related agencies, including employers, utilize polygraphs *(lie detectors)* in evidence and personality assessments, the aim is to prevent individuals from committing criminal acts. This proactive use of the polygraph serves as a preventive measure, unlike in Indonesia, where its role is more limited and primarily used as supplementary evidence during investigations and trials.[17] The results of a *lie detector* examination can be considered valid if they are presented by an expert or accompanied by expert testimony from a forensic computer laboratory.[18] A *lie detector* is a tool

[15] Lovina, 'Kedudukan Dan Keabsahan Hasil Pemeriksaan Poligraf DalamSistem Pembuktian Pidana Di Indonesia:Tinjauan Prinsip Keadilan Yang Adil(Fair Trial)'.

[16] Agnada Risma Melati, 'Penggunaan Poligraf (Lie Detector) Dalam Pembuktian Perkara Persetubuhan Anak'.

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[18] Boby Pinasang Claudea Jaden Gil Jocom, Herlyanty Y. A. Bawole, 'Lie Detector Dalam Pembuktian Tindak Pidana Di Indonesia', *Lex Privatum*, 13.3 (2024), pp. 1–12, doi:https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/54694.

used to measure a person's emotional level, where lies can be detected through emotional responses reflected in measurements of breathing rate, blood volume, pulse rate, and skin response.[19]

The use of the polygraph *(lie detector)* in criminal case evidence cannot stand alone but must be supported by other evidence that can clarify the matter in court, to convince the panel of judges.[20] In criminal case evidence, the *lie detector* must be supported by expert explanation, because interpreting the results of a lie detector cannot be done by legal professionals *(jurists)* alone.[21] The use of *lie detectors* is important in the investigation and inquiry process because suspects in criminal cases often lie during these stages, while investigators and detectives need to search for and uncover the facts of the criminal case.[22] However, in a criminal trial, the use of a *lie detector* cannot be applied while the defendant is giving testimony, because the defendant is not sworn in when testifying in court. In criminal law theory, there is a principle called *non-self-incrimination*, which means the defendant has the right not to provide any testimony that may incriminate or harm them during the trial.

C. CONCLUSSION

According to Article 184 paragraph (1) of the Indonesian Criminal Procedure Code (KUHAP), the use of the polygraph *(lie detector)* as valid evidence is not explicitly regulated, considering that the polygraph is not a primary piece of evidence in court. Regulation regarding the polygraph was first stipulated in the Indonesian National Police Chief Regulation Number 10 of 2009 concerning Procedures and Requirements for Requests for Technical Criminalistic Examinations of Crime Scenes and Forensic Laboratory Examinations of Evidence by the Head of the Forensic Laboratory of the Indonesian National Police, which classifies the polygraph as one type of evidence that can be examined in the forensic laboratory and sets formal and technical requirements for examinations of suspects or witnesses. Therefore, to determine whether the polygraph qualifies as valid evidence, further examination is necessary. The printed results from lie detector tests can be classified as expert opinions, meaning that *lie detector* examinations cannot stand alone and require expert knowledge to be admitted as valid evidence in court.

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