



Legal Perspective on RIA in Public Procurement by Indonesian National Police: Strengthening Prudence, Mitigating Criminalization Risk

Agus Setyawan Heru
Purnomo*

Universitas Diponegoro,
Indonesia

Yos Johan Utama

Universitas Diponegoro,
Indonesia

Budi Ispriyarso

Universitas Diponegoro,
Indonesia

***Corresponding author:**

Agus Setyawan Heru Purnomo, Universitas
Diponegoro, Indonesia.

✉ agusshpps@gmail.com

Article Info:

Article history:

Received: August 22, 2026

Revised: September 25, 2026

Accepted: September 28, 2026

Available Online: October 9, 2026

Keywords:

Regulatory Impact Assessment;
Polri Procurement;
Administrative Criminalization;
Public Procurement Law;
Governance;
Legal Risk Mitigation



This is an open access article under the CC
BY-SA license.

Copyright © 2026 by Author. Published by
Politeknik Siber Cerdika International

Abstract

Background: Public procurement by the Indonesian National Police (Polri) combines administrative, budgetary, and anti-corruption requirements with security-sensitive and urgent decisions, necessitating clearer documentation of regulatory choices, risks, and decision rationales.

Objective: This study examines the legal, institutional, and evidentiary significance of integrating Regulatory Impact Assessment (RIA) into Polri's procurement governance to strengthen prudence, enhance accountability, and mitigate undue criminalization.

Methods: This normative legal research employs statutory, conceptual, and comparative approaches. Primary legal materials include procurement regulations, internal police regulations, and anti-corruption provisions. Secondary materials comprise regulatory governance literature and comparative RIA frameworks. No interviews, surveys, or observational data are used.

Results: The findings identify fragmented internal regulations, insufficient ex ante impact analysis, inconsistent risk assessments, and inadequate documentation of decision rationales. These deficiencies increase the risk of administrative deviations being interpreted as corruption. RIA provides a structured framework for evaluating risks, documenting justifications, and improving policy coherence, thereby strengthening the legal defensibility and accountability of procurement decisions. Rapid or confidential RIA formats can accommodate Polri's operational urgency and security requirements.

Conclusion: A dedicated police regulation mandating RIA could improve procurement governance, enhance regulatory quality, and reduce undue criminal liability risks for officials. This study proposes an RIA-based regulatory model tailored to Polri's high-risk procurement environment, emphasizing systematic assessment, documented reasoning, and institutional accountability.

To cite this article: Purnomo, A. S. H., Utama, Y. J., & Ispriyarso, B. (2026). Legal perspective on RIA in public procurement by Indonesian National Police: Strengthening prudence, mitigating criminalization risk. *Journal of Law & Social Politics*, 4(4), 1154-1168. <https://doi.org/10.59261/jlsp.v4i4.285>

INTRODUCTION

Public Procurement of Goods and Services (*Pengadaan Barang dan Jasa Pemerintah*/PBJP) constitutes a fundamental administrative mechanism through which governmental institutions operationalize state budget allocations and ensure the delivery of public services (Meilani, 2026). Within the Indonesian National Police (Polri), procurement carries heightened strategic importance, as it often involves the acquisition of specialized operational equipment, armaments, information systems, tactical tools, and security-sensitive technologies necessary for maintaining public order and safeguarding national security. Such procurement activities do not operate in a

vacuum; they unfold within a multilayered legal and institutional environment shaped by administrative law, public finance regulations, oversight mechanisms, and political expectations. As a result, decision-making in Polri's procurement processes is frequently exposed to legal vulnerability, especially when the complexity or urgency of procurement decisions intersects with stringent procedural requirements. National and international studies confirm that public procurement is consistently among the highest-risk areas for corruption, mismanagement, and criminal allegations, making robust regulatory frameworks essential to institutional integrity and legal certainty (Adekoya, 2024). In legal-risk terms, the analysis distinguishes defects of authority, procedural irregularities, abuse of authority, state financial loss, and corrupt intent or unlawful benefit. A procedural deviation therefore cannot, by itself, establish corruption; the statutory elements and evidentiary requirements remain controlling.

The evolving landscape of procurement regulation in Indonesia—especially under Presidential Regulation No. 16 of 2018 and its subsequent amendments, including Presidential Regulation No. 12 of 2021 and Presidential Regulation No. 46 of 2025—reflects the government's ongoing commitment to strengthening transparency, efficiency, and accountability in PBJP. However, regulatory changes alone have not fully resolved persistent challenges in Polri's procurement governance. One persistent issue concerns the misinterpretation of administrative deviations—often arising from ambiguities, urgent operational needs, or gaps in technical regulations—as criminal conduct. This phenomenon, sometimes described as “administrative criminalization,” blurs the line between errors of judgment or procedural lapses and criminal acts requiring proof of intent, such as corruption under Articles 2 and 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 (*Tipikor*). Scholarly analyses highlight that procurement-related corruption cases often stem from weak policy design, insufficient documentation, and inadequate *ex ante* regulatory analysis rather than malicious intent (Maksum & Suparno, 2025). This underscores the critical need for institutional mechanisms that can reduce ambiguity, enhance prudential governance, and protect well-intentioned officials who operate within high-pressure procurement environments. The legal analysis accordingly maps the source of authority, mandatory procurement procedures, discretion available to officials, documentation duties, and the separate elements required by anti-corruption law. This mapping provides the basis for assessing where an *ex ante* regulatory analysis could add value without altering substantive criminal-law standards.

Regulatory Impact Assessment (RIA) emerges as a relevant solution within this context. As a global standard for improving regulatory quality, RIA serves as an *ex ante* analytical tool designed to evaluate the potential effects of proposed regulations or regulatory policies before they are formally adopted. International best practices—particularly those developed by the OECD and the World Bank—emphasize that RIA promotes evidence-based policymaking, comprehensive evaluation of policy alternatives, cost-benefit analysis, and stakeholder consultation, ultimately enhancing regulatory effectiveness and minimizing unintended consequences (Radaelli, 2022). In jurisdictions where procurement decisions carry high legal exposure, RIA has demonstrated its utility in reinforcing procedural diligence, documenting the reasoning behind policy choices, and supporting compliance with administrative law principles such as legality, due care, transparency, and accountability. For Polri, with its unique combination of operational urgency and heightened security imperatives, RIA offers a structured method to ensure that procurement-related policies and directives are not only operationally sound but also legally defensible. The connection to Polri procurement is functional rather than automatic: RIA is relevant where Polri adopts or revises internal procurement rules, procedures, thresholds, or exceptional mechanisms because it requires the decision-maker to define the problem, compare options, identify legal and operational risks, and record reasons before the rule is implemented. It is not proposed as a substitute for procurement evaluation in every individual transaction.

The manuscript does not treat the absence of a formal RIA as proof of governance failure. Instead, it examines whether existing internal mechanisms perform comparable *ex ante* functions (problem definition, option appraisal, risk analysis, consultation where appropriate, and documented justification) and identifies the additional value that a structured RIA process could provide where those functions are fragmented.

Moreover, the rapid regulatory changes introduced through Presidential Regulation No. 46 of 2025 create new obligations and governance standards with which Polri must comply, yet these changes are not accompanied by a corresponding framework for ensuring regulatory quality within the institution. Existing regulations primarily emphasize procedural compliance, post-audit inspections, and financial accountability, but they lack a mandatory *ex ante* instrument such as RIA that could prevent weaknesses in regulatory design before policies are enacted. This disconnect reflects a broader research and governance gap: while Indonesia has made significant progress in improving procurement regulation at the national level, less attention has been given to designing regulatory quality assurance systems tailored to security institutions whose procurement needs differ substantially from those of civilian agencies (Carloni et al., 2021). The relevant question is therefore functional: whether current planning, legal review, internal audit, and procurement-control mechanisms collectively provide the same prospective analysis and documented comparison of regulatory options that RIA is designed to produce. Where they do, RIA may duplicate existing controls; where they do not, a proportionate RIA can fill a specific documentary and analytical gap.

This gap in the literature and practice is also evident in empirical studies on criminal prosecution related to procurement. Although scholars increasingly acknowledge the problem of overcriminalization and the difficulty of distinguishing administrative negligence from criminal misconduct, there is a lack of research examining how RIA can serve not only as a governance tool but also as contextual administrative documentation in legal proceedings. Such documentation may be relevant in cases involving allegations of abuse of authority under Article 3 of the Anti-Corruption Law, where courts must distinguish between the legitimate exercise of administrative discretion and intentional misuse of authority. The uploaded manuscript suggests that RIA could perform precisely this function—by documenting the reasoning, alternatives, and risk considerations underlying a policy, thereby providing contemporaneous evidence of the decision-making process when decisions were made in good faith. Yet, the integration of RIA into the legal defense framework for procurement-related cases remains largely unexplored in Indonesian scholarship. The study distinguishes an RIA record from legal or forensic evidence. An RIA is primarily an administrative record of *ex ante* reasoning; in a later audit, investigation, or judicial process, it may provide contextual documentation of the options, risks, and reasons considered, but its existence neither proves legality nor excludes criminal liability.

This study seeks to address these gaps by offering a comprehensive legal analysis of how RIA can be implemented within Polri's PBJP framework and how it may serve as a safeguard against administrative criminalization. The novelty of this study lies in its dual focus: first, on constructing a regulatory methodology for embedding RIA into Polri's internal policymaking processes; and second, on conceptualizing RIA as part of an evidentiary strategy in corruption-related investigations or prosecutions. By linking the domains of regulatory governance, procurement law, and criminal law, this article provides an interdisciplinary approach rarely discussed in the existing literature on Indonesian procurement reform. Prior research has examined RIA as a regulatory-quality instrument and has separately discussed procurement corruption, discretion, and criminalization risk. What remains insufficiently developed is a Polri-specific legal analysis of whether *ex ante* regulatory documentation can be integrated into security-sensitive procurement governance without being treated as a substantive defense to corruption charges.

Accordingly, the aim of this study is threefold. First, it seeks to provide a detailed legal perspective on the role and significance of RIA in Polri's procurement governance, including its alignment with principles of administrative law and good governance. Second, it analyzes how the introduction of RIA can strengthen the principle of prudence (*kehati-hatian*) by ensuring that procurement decisions are supported by systematic and documented analysis. Third, it seeks to demonstrate how RIA can function as an effective tool for mitigating the risk of criminalization—by generating formal administrative documentation of due process, good faith, and compliance with the principles of good governance (*Asas-Asas Umum Pemerintahan yang Baik* [General Principles of Good Governance]—AUPB). Ultimately, this study aims to develop a theoretically sound and practically applicable framework for integrating RIA into Polri's regulatory

architecture in order to enhance legal certainty, accountability, and institutional protection for procurement officials.

METHODS

This study employed a normative legal research design. The analysis was based on legislation, internal regulatory instruments available in the manuscript, published legal and policy materials, and comparative RIA literature. Contextual observations were derived from these documentary sources and were not characterized as empirical findings.

The research did not employ a socio-legal empirical design because no interviews, observations, or field data were reported. Comparative and case-law materials were treated as secondary legal materials only where the source, decision, and relevant reasoning were identifiable in the manuscript.

Data for this research consisted of primary legal materials (laws, regulations, presidential regulations, and *Perkap*), secondary legal materials (books, journal articles, dissertations, and procurement guidelines), and tertiary sources (encyclopedias, policy reports, and OECD documentation). Legal materials were collected through documentary analysis, digital legal repositories, and academic databases. The data were analyzed using qualitative legal interpretation techniques, including grammatical, systematic, and teleological interpretation, to derive meaning and normative implications from legal texts. In addition, a comparative regulatory analysis was applied to benchmark Indonesia's procurement and regulatory impact assessment practices against international standards, highlighting potential institutional adaptations that could strengthen prudence and mitigate criminalization risks. The findings were then synthesized to formulate a prescriptive model for integrating RIA into Polri's procurement governance, aligning with administrative law principles and the prevention-oriented perspective emphasized in contemporary anti-corruption scholarship ([Radaelli, 2022](#)). The analysis proceeded by identifying the governing norm, construing its legal function, comparing the norm with the documented objectives of RIA, and then assessing the legal implications for prudence, accountability, and reviewability. The conclusions were limited to what could be supported by these legal and documentary materials.

RESULTS AND DISCUSSION

Results

The findings highlight how RIA can function as both a regulatory enhancement mechanism and a legal safeguard. The application of RIA within Polri's PBJP framework demonstrates significant potential to strengthen prudential governance, improve regulatory coherence, and provide formal evidence of due administrative process. Consistent with OECD best practices, RIA is shown to contribute to more transparent, accountable, and defensible policymaking, particularly in contexts where high-stakes procurement decisions must balance efficiency, legality, and institutional mission ([OECD, 2023](#)). By analyzing these dynamics, the results not only address the research questions posed but also illuminate the feasibility and strategic importance of institutionalizing RIA through a dedicated *Peraturan Kepala Kepolisian Negara Republik Indonesia (Perkapolri)*. The following subsections elaborate on these key findings in detail, structured around regulatory gaps, legal risks, evidentiary benefits, and institutional compatibility.

Institutional and Regulatory Gaps in Polri's Procurement Framework

The legal mapping identifies several regulatory and documentary gaps relevant to the article's research question, including fragmentation across internal rules, limited explicit ex-ante comparison of regulatory options, and uneven articulation of risks and decision rationales. These are characterized as analytical gaps in the documentary framework rather than as empirically proven failures of Polri procurement practice.

Table 1

Institutional and Regulatory Gaps in Polri's Procurement Framework

Category	Current Condition in Polri's PBJP	Identified Gaps	Implications	Sources
Regulatory Foundation	Polri follows Perpres 16/2018, 12/2021, 46/2025; supplemented by Perkap.	Internal Perkap do not include RIA or pre-regulatory evaluation mechanisms.	Fragmented policy design; lack of coherence and adaptability.	(Carlioni et al., 2021; OECD, 2022)
Policy Coherence & Consistency	Procurement guidelines differ across units.	No standardized impact assessment or harmonization mechanism.	Inconsistent procurement decisions across departments.	(Klingler, 2020; Nogues Comas & Mendes dos Santos, 2021)
Risk Assessment Process	Risk identification is informal and undocumented.	Absence of mandatory risk analysis and cost-benefit evaluation.	Higher vulnerability to operational failure and audit scrutiny.	(Saab & de Almeida Midlej e Silva, 2021)
Pre-Regulatory Oversight	Oversight is primarily post-audit (Itwasum).	No preventive ex-ante regulatory review such as RIA.	Inadequate safeguards against policy flaws.	(OECD, 2022)
Documentation & Evidentiary Standards	Procedural documentation exists but lacks analytical justification.	Insufficient justification records weaken administrative defenses.	Increased risk of criminalization under UU Tipikor.	(Adhi et al., 2025; Situmeang et al., 2025)
Operational Sensitivity & Confidentiality Needs	Procurement involves confidential and urgent items.	No adapted RIA model for security-sensitive procurement.	Vulnerability to procedural deviations and legal challenges.	(Busol & Romaniuk, 2024; OECD, 2023)
Regulatory Quality Assurance	Regulatory drafting relies heavily on internal discretion.	Lack of institutional regulatory quality tools like RIA.	Policies risk being reactive or lacking defensibility.	(OECD, 2023)

Furthermore, the absence of systematic regulatory quality-assurance instruments, particularly Regulatory Impact Assessment (RIA), results in a policy environment in which procurement decisions are not consistently grounded in structured analysis. OECD literature emphasizes that RIA serves as a foundational mechanism for ensuring that regulations are coherent, necessary, and proportionate, thereby reducing arbitrary or inconsistent policymaking (OECD, 2023). In contrast, Polri's internal regulations tend to emphasize procedural compliance and technical specifications but do not mandate ex-ante evaluation of regulatory alternatives, potential risks, or downstream operational consequences. Without RIA, regulatory drafting within Polri tends to rely heavily on internal administrative discretion, which may lead to fragmented practices across different organizational units and procurement categories. These inconsistencies are further aggravated when urgent or confidential procurement is required, making it difficult to maintain transparency and uniform adherence to good governance principles (Carlioni et al., 2021).

The manuscript also notes that several *Perkap* remain descriptive rather than analytical in nature, focusing primarily on step-by-step procedures without embedding risk assessment,

scenario analysis, or cost-benefit evaluation as integral components of policy formulation. This technical-procedural orientation creates a regulatory gap because procurement activities in security institutions inherently involve high-risk decision environments. As public procurement scholars have shown, regulations that lack a robust analytical foundation tend to produce inconsistent enforcement, operational inefficiencies, and increased vulnerability to allegations of mismanagement or impropriety (Klingler, 2020). In the Polri context, these regulatory shortcomings are amplified by the sensitivity and urgency that characterize many procurement scenarios—conditions that demand not only procedural clarity but also rigorous justification for the decision pathways taken.

Compounding these issues is the fact that internal oversight mechanisms in Polri—primarily conducted through *Inspektorat Pengawasan Umum* and financial auditors—generally adopt a post-audit orientation rather than preventive, ex-ante evaluation. International best practices demonstrate that institutions without strong pre-regulatory review frameworks are significantly more prone to governance failures and legal challenges (OECD, 2023). Because Polri's procurement oversight is triggered after decisions have been made, authorities often lack documentary evidence that policy decisions were taken with due consideration of alternatives, risks, or potential legal consequences. This deficiency not only weakens institutional accountability but also exposes procurement officials to heightened risks of administrative sanctions and even criminal scrutiny under the Anti-Corruption Law—a phenomenon that scholars refer to as the criminalization of administrative discretion (Situmeang et al., 2025). This distinction is important: ex-post audit asks whether an implemented decision complied with applicable rules, whereas ex-ante regulatory analysis asks why a rule or procedure should be adopted, what alternatives exist, and what foreseeable legal and operational risks accompany each option.

Collectively, these findings demonstrate that the absence of a formalized RIA mechanism in Polri's procurement governance may undermine regulatory coherence, operational consistency, and legal defensibility. Without structured pre-regulatory analysis, Polri cannot ensure that internal procurement regulations consistently meet the standards of necessity, proportionality, and evidence-based policymaking associated with good governance principles. This gap not only restricts the institution's ability to design resilient procurement frameworks but also constrains efforts to protect procurement officials from undue criminal liability, particularly in high-risk or ambiguous decision-making environments. Integrating RIA into Polri's internal regulatory design therefore emerges as an important institutional priority, aligning with global governance standards while addressing vulnerabilities that may arise within security-sector procurement systems.

High Risk of Administrative Criminalization in Procurement Decisions

Indonesian procurement case law can support this argument only where the judgment and its *ratio decidendi* are specifically identified. Accordingly, this study limits its doctrinal claim to the principle that administrative irregularity and corruption are legally distinct inquiries and that criminal liability must be assessed against the statutory elements of the charged offense, including the relevant findings concerning authority, benefit, loss, and culpability.

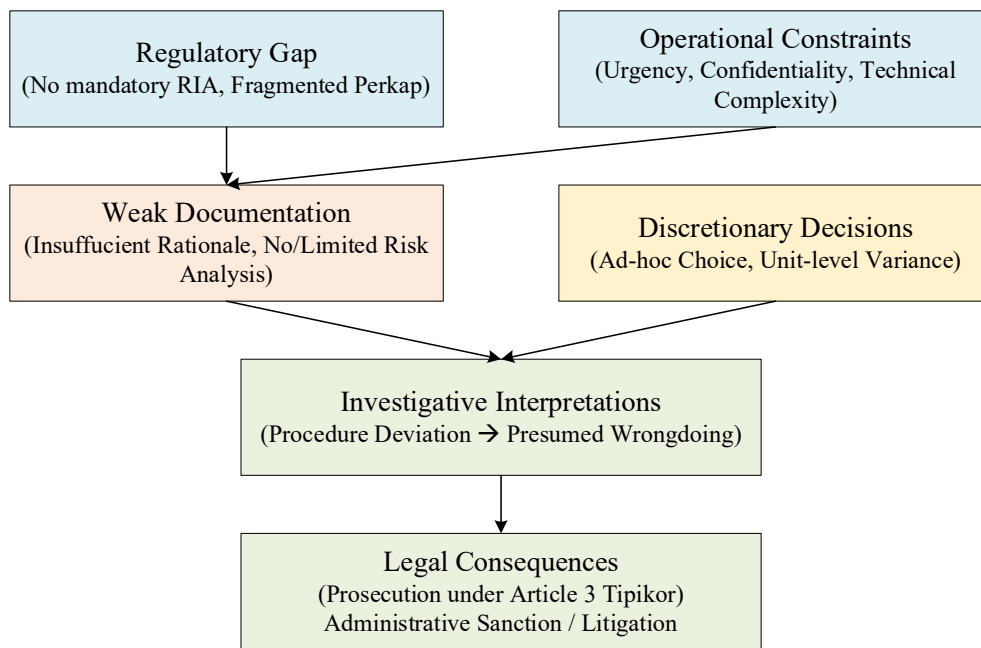


Figure 1. High Risk of Administrative Criminalization in Procurement Decisions

Legal scholars emphasize that this pattern of criminalization is exacerbated by inconsistent and sometimes incomplete regulatory guidance. Maksum & Suparno (2025) demonstrate that procurement officials across government institutions frequently rely on discretionary judgment when regulations do not provide clear pathways for addressing urgent operational needs. Such discretion, while legally permissible under administrative law principles, becomes a point of vulnerability when evaluators retrospectively measure decisions against procedural ideals. For Polri, the manuscript stresses that procedural deviations tend to arise not from corrupt motives but from uncertainties inherent in specialized procurement—such as intelligence equipment, tactical tools, and emergency procurement demands—yet these deviations may still trigger heightened legal scrutiny. The lack of evaluative tools such as RIA to justify and document the rationale behind such decisions deepens this exposure.

Another key factor contributing to administrative criminalization is inadequate documentation of decision-making processes, including missing justifications for procurement methods, insufficient risk assessments, or failure to formally record the consideration of alternatives. In procurement systems where documentation of reasoning is weak, investigators may interpret decisions as arbitrary or improperly motivated, even when officials acted within the scope of their authority. This dynamic is particularly acute in Polri, where operational confidentiality requirements may limit how much information can be recorded or disclosed during procurement. The manuscript notes that this creates tension between security-based confidentiality and the transparency expectations of auditors and law enforcement bodies, potentially leading to misinterpretations about intent and legality. Without systematic documentation of the rationale behind procurement decisions, Polri officials remain exposed to allegations grounded more in suspicion than in substantive evidence.

Comparative literature reinforces these concerns. Studies from Malawi and Ukraine illustrate that in environments where procurement regulations lack robust analytical and documentary frameworks, officials face a significantly higher risk of overcriminalization and punitive oversight (Nkhata & Chipofya, 2024). These studies show that when rules do not require structured impact assessments or risk evaluations, enforcement bodies tend to rely heavily on procedural formalism to assess compliance. As a result, any divergence from prescribed procedures—even when justified by operational logic—can be construed as willful misconduct. Such comparative experiences align closely with Indonesia's situation, where the absence of regulatory instruments such as RIA may allow investigators to retrospectively impose idealized standards on decisions that were made under uncertainty or institutional pressure. Malawi and

Ukraine are not treated as institutional models for Polri. They are used only as comparative illustrations from the cited literature of how procurement systems under governance pressure can benefit from clearer analytical and documentary controls; differences in legal systems and institutional contexts limit direct inference to Indonesia.

The governance literature cited in this manuscript supports a conceptual association between regulatory clarity, documentation, and accountability, but the present study does not provide empirical data measuring the incidence of criminalization within Polri. Its contribution is therefore normative: identifying how ex-ante documentation could improve the traceability of decision reasoning.

RIA Strengthens Prudence and Administrative Accountability

The analysis suggests that implementing Regulatory Impact Assessment (RIA) within Polri's procurement governance would significantly strengthen the principle of prudence (*kehati-hatian*) that lies at the core of Indonesian administrative law. Prudence is a manifestation of the *Asas-Asas Umum Pemerintahan yang Baik* (AUPB), particularly the principles of *kecermatan* (due care), *profesionalitas*, and *akuntabilitas* (accountability). As Radaelli (2022) emphasize, RIA institutionalizes prudential governance by compelling policymakers to justify decisions through systematic impact assessments, risk projections, and evaluation of alternative policy pathways. In procurement contexts where decisions carry high fiscal and operational stakes, RIA helps ensure that every internal regulation, procurement method, or strategic directive is based on demonstrable rationality rather than ad hoc or undocumented discretionary judgment.

The manuscript makes clear that Polri's procurement environment involves frequent high-risk decisions, including acquisitions of tactical equipment, confidential systems, and resources for urgent security needs. In such fast-moving operational settings, the principle of prudence must be complemented by an analytical framework that documents the reasoning behind decisions to prevent misinterpretation or retrospective judgment by oversight bodies or law enforcement agencies. RIA provides precisely this framework by creating an administrative record that outlines why certain procurement choices were made, the risks involved, the available alternatives, and the rationale for selecting the preferred option. This level of documentation is critical for demonstrating *good faith*—an important consideration for procurement officials who must justify actions taken under uncertainty or operational urgency.

From an accountability standpoint, RIA can improve transparency by creating a standardized record of the problem, alternatives, risks, and reasons considered before an internal rule is adopted. Such documentation may assist auditors, investigators, reviewing authorities, or courts when it is legally relevant and admissible, but it is not automatically evidence of lawful conduct.

Moreover, RIA plays a crucial role in reducing the discretionary ambiguity that often leads to accusations of wrongful procurement practices. As administrative scholars argue, ambiguity in regulatory standards amplifies officials' exposure to allegations of procedural violations or financial misconduct (Klingler, 2020). RIA reduces this ambiguity by establishing a uniform framework for evaluating regulatory or policy proposals—covering dimensions such as cost-benefit estimation, stakeholder mapping, legal compatibility, and risk mitigation. For Polri, whose internal procurement regulations currently vary in structure and analytical rigor, the adoption of RIA would harmonize policy formulation across units, thereby reducing the gaps that produce inconsistent interpretations or discretionary overreach.

Additionally, RIA strengthens the internal governance ecosystem by embedding preventive oversight, which is currently underdeveloped in Polri's procurement system. Existing oversight mechanisms conducted by *Itwasum* and financial auditors are heavily post-audit oriented, meaning that they react to decisions after the fact rather than preventing flaws in regulatory design or decision-making. International governance literature consistently advocates RIA as a preventive tool that identifies regulatory weaknesses before they manifest in costly or legally problematic outcomes (OECD, 2022). By integrating RIA into the early stages of policymaking, Polri would shift from a reactive oversight model toward a proactive one—

reducing institutional exposure to audit findings, mitigating risks of procurement failure, and enhancing legal defensibility.

Finally, RIA enhances prudential governance by fostering a decision-making culture grounded in evidence and institutional learning. In procurement sectors where uncertainty, complexity, and urgency are common—as is the case within Polri—decision-makers benefit from structured analytical processes that reduce reliance on intuition or undocumented discretion. RIA not only clarifies decision pathways but also creates feedback loops for evaluating the long-term performance of regulations, which strengthens the institution's overall regulatory capacity. Comparative studies show that agencies adopting RIA experience improved policy coherence, stronger internal coordination, and reduced corruption risks due to increased transparency and systematic evaluation (Nogues Comas & Mendes dos Santos, 2021). For Polri, the institutionalization of RIA would thus represent a significant step toward a more accountable, transparent, and prudent procurement governance system capable of withstanding both operational and legal challenges.

RIA as Evidentiary Support in Addressing Corruption Allegations

A central proposition of the analysis is that RIA can strengthen administrative documentation. In subsequent review, that record may help explain the contemporaneous rationale and risk assessment behind a regulatory choice; however, it does not function as standalone exculpatory evidence and cannot displace the evidentiary requirements of anti-corruption law.

The manuscript emphasizes that Polri officials are often scrutinized not necessarily for unlawful decisions per se but for insufficient documentation of decision-making logic, especially in high-value or urgent procurement scenarios. RIA directly addresses this evidentiary gap by generating comprehensive analytical reports that detail problem identification, risk analysis, cost-benefit considerations, and evaluation of alternative procurement methods. Such documentation allows investigators, auditors, and judges to reconstruct the decision-making process, thereby reducing reliance on assumptions or retrospective interpretations that may disadvantage procurement officials. This aligns with research by Maksum & Suparno (2025), who argue that the majority of procurement-related corruption allegations originate not from intentional abuse but from weak administrative justifications. Consequently, RIA's structured analytical format becomes not only a governance tool but also a potential legal safeguard.

Comparative legal studies further highlight the evidentiary value of RIA in distinguishing administrative errors from corruption. In jurisdictions such as Ukraine and Malawi, where procurement systems suffer from incomplete regulatory documentation, enforcement bodies tend to criminalize administrative discretion, interpreting a lack of analysis as evidence of illicit intent (Nkhata & Chipofya, 2024). Conversely, countries with established RIA frameworks demonstrate lower rates of misdirected prosecution because RIA reports provide clear, auditable documentation linking actions to institutional objectives (OECD, 2023). These international findings illustrate the potential benefits for Polri: RIA can serve as an instrument of legal protection by documenting that procurement decisions—especially those involving deviations from standard procedures—were taken on the basis of structured evaluation rather than arbitrary or corrupt motives.

Additionally, RIA can reinforce documentation of the legal basis, discretion, alternatives, and foreseeable consequences considered in decision-making. The value of that record lies in making the reasoning reviewable; it does not create a presumption of legality or convert a substantively unlawful act into a lawful one.

Finally, the preventive and evidentiary dimensions of RIA contribute to a broader culture of integrity and compliance within Polri's procurement governance. By embedding analytical and documentary requirements in pre-decision processes, RIA encourages officials to anticipate potential legal risks, evaluate alternatives more rigorously, and ensure procedural fidelity. This may reduce opportunities for misconduct while simultaneously helping protect well-intentioned officials from baseless allegations. Moreover, RIA's structured documentation creates a reliable evidentiary record that can be used not only in corruption cases but also in administrative

reviews, internal investigations, and audits. In this way, RIA functions as both a compliance tool and a protective mechanism, reinforcing Polri's institutional resilience against operational and legal uncertainty.

Compatibility of RIA with Polri's Operational and Security Mandates

A key result of this study is the finding that Regulatory Impact Assessment (RIA) is not only compatible with Polri's operational and security mandates but also aligns closely with the institution's need for structured decision-making in high-risk procurement environments. Polri often engages in procurements involving specialized tactical equipment, cyber-surveillance tools, protective gear, and intelligence systems—procurements that require rapid, confidential, and highly technical decision-making processes. The manuscript underscores that these unique characteristics are frequently cited as reasons why conventional regulatory tools might impede operational speed or confidentiality; however, the analysis suggests that RIA can be adapted to accommodate such constraints. OECD analyses confirm that RIA frameworks are adaptable and can be designed to accommodate sector-specific operational constraints, including those in security, defense, and law enforcement (OECD, 2023). This adaptability renders RIA potentially suitable for Polri's procurement functions, particularly when the model is calibrated to reflect operational urgency and confidentiality needs.

Moreover, the introduction of RIA enhances Polri's ability to justify procurement decisions made under time-sensitive conditions. Operational urgency may necessitate deviations from standard procurement methods, including *Penunjukan Langsung* (direct appointment) or emergency procurement procedures. While these deviations may be legally permissible under the applicable regulatory framework, they carry significant audit and legal risks if the underlying justification is not thoroughly documented. RIA provides a structured mechanism to articulate the necessity, proportionality, and expected impacts of such deviations, strengthening institutional accountability and documenting the basis for decisions. When adapted for high-risk environments, RIA may take the form of a rapid or proportionate assessment in which the depth of analysis is scaled to urgency and confidentiality. The minimum record should nevertheless identify the legal authority, objectives, material risks, alternatives considered, and reasons for the selected option. This is proposed as an analytical design principle rather than as an existing binding category under Indonesian law.

In addition, the empirical literature demonstrates that law enforcement and security institutions can benefit from analytical tools such as RIA because they help balance the dual imperatives of operational secrecy and public accountability. Busol & Romaniuk (2024) in their study of procurement during martial law in Ukraine, found that even in contexts of extreme urgency, the absence of structured impact analysis led to vulnerabilities that diminished institutional credibility and fueled perceptions of impropriety. Conversely, where RIA or RIA-like mechanisms were employed, institutions managed to maintain both operational confidentiality and transparency in decision-making. These findings suggest that Polri—whose procurement activities often intersect with national security imperatives—could similarly benefit from the structured but flexible nature of RIA. The manuscript articulates this need clearly, highlighting gaps in Polri's current procurement governance structure in which secrecy requirements may inadvertently reduce documentation quality, exposing officials to heightened post-factum scrutiny.

RIA is also compatible with Polri's internal command structure, which relies heavily on hierarchical decision-making and the issuance of technical directives. Unlike rigid bureaucratic instruments, RIA enhances rather than complicates hierarchical processes by standardizing the analytical criteria required before a procurement policy or *Peraturan Kepala Kepolisian Negara Republik Indonesia (Perkapolri)* is issued. This creates consistent expectations for all units, reducing the variability and interpretive divergence that may exist among Polri's procurement personnel. OECD policy design principles emphasize that consistent use of RIA strengthens inter-unit coordination and reduces institutional fragmentation—two issues repeatedly identified as contributing to procurement errors or irregularities (OECD, 2022). Polri's reliance on multiple procurement units and decentralized decision-making makes this advantage particularly

relevant.

Finally, the compatibility between RIA and Polri's operational mandates also lies in its capacity to enhance legal defensibility in security-sensitive procurement. Due to the confidential nature of many procurements, Polri often faces challenges in providing full transparency during audits, reviews, and legal inquiries. RIA does not require disclosure of sensitive operational information but instead focuses on documenting the logic, legal basis, alternatives considered, and risk assessments underlying procurement choices. This form of documentation can preserve sensitive information while still supporting accountability requirements. Comparative research confirms that security institutions using RIA-adapted frameworks may benefit from clearer documentation and reviewability because decision-makers and reviewing authorities are better able to understand the reasoning behind decisions (Carloni et al., 2021). For Polri, this suggests that RIA can align with operational realities while strengthening the institution's capacity to defend its decisions in legal forums without unnecessarily compromising sensitive information.

Need for a Dedicated Indonesian Police Regulation (Perkapolri) Mandating RIA

The analysis supports consideration of a tailored ex-ante regulatory-analysis requirement within Polri's internal rulemaking framework. A *Perkapolri* is one possible legal vehicle, but whether RIA should be mandatory for every instrument depends on proportionality, security sensitivity, urgency, and overlap with existing review mechanisms. A risk-based threshold is therefore preferable to an undifferentiated mandate.

International practice demonstrates that embedding RIA within sector-specific regulatory frameworks can enhance regulatory quality. OECD (2023) emphasizes the importance of formalizing RIA requirements rather than relying solely on optional internal guidelines. Without a binding requirement, regulatory drafting may revert to habitual or discretionary patterns, undermining accountability and analytical consistency. In Polri's context—where procurement decisions often involve substantial financial outlays, sensitive operational implications, and high legal exposure—the absence of a mandatory RIA framework leaves officials without a standardized process for articulating justifications, assessing risks, and evaluating alternatives. By embedding RIA within a *Perkapolri*, Polri could align its internal regulatory processes with international approaches to regulatory quality while addressing governance vulnerabilities in high-risk procurement areas, including policing, defense, and national security (Nogues Comas & Mendes dos Santos, 2021).

Moreover, a dedicated *Perkapolri* mandating RIA would directly address the potential administrative-criminalization risks identified in Section 2. Research indicates that one of the main risk factors for the criminalization of procurement decisions is the lack of formal documentation demonstrating prudence and *good faith* (Adhi et al., 2025). Procurement officials are frequently prosecuted based on procedural deviations that retrospectively appear unjustified because of insufficient supporting analysis, even when officials acted within their authority and in the institution's interests. A formal RIA requirement would compel decision-makers to produce structured documentation covering problem identification, legal grounding, risk assessments, impact projections, and options analysis—elements that may help distinguish lawful administrative discretion from intentional wrongdoing. This serves not only as a governance improvement tool but also as a potential legal safeguard.

A dedicated RIA *Perkapolri* would also enhance internal coordination and accountability across Polri units. As the manuscript notes, procurement responsibilities within Polri are dispersed across various directorates, logistics units, and specialized operational divisions, each with differing interpretations of procurement norms and differing levels of technical expertise. This decentralization contributes to inconsistencies that may undermine both policy coherence and legal defensibility. RIA can function as a harmonizing instrument by creating uniform analytical standards for all units, ensuring that policy proposals and procurement decisions are evaluated according to consistent criteria. This aligns with the OECD's emphasis on RIA as a "coordination tool" that bridges institutional silos and encourages cross-unit deliberation to improve regulatory outcomes (OECD, 2022). Such harmonization is particularly relevant for Polri, given the diverse nature of its procurement needs and the potential for inconsistent

interpretations to create legal vulnerabilities.

A structured ex-ante analysis could reinforce internal accountability by making regulatory reasoning more transparent and reviewable. The present research does not measure public trust and therefore makes no empirical claim that RIA would increase it.

Discussion

The findings identify a case for targeted regulatory improvement in Polri's procurement governance, particularly where internal rulemaking lacks a consistent ex-ante record of objectives, alternatives, legal risks, and implementation consequences. The study does not establish the frequency or causal effect of these gaps on actual procurement outcomes.

A core theme emerging from the analysis is the phenomenon of administrative criminalization. Indonesian jurisprudence frequently demonstrates a tendency to equate procedural or administrative irregularities with criminal intent, particularly under Article 3 of the Anti-Corruption Law. Scholars such as Adhi et al. (2025) note that procurement officials often face allegations of abuse of authority not because of corrupt motives but because of unclear rules, inadequate documentation, or the absence of structured reasoning behind decisions. These vulnerabilities are especially acute in Polri's environment, where high-risk procurement often demands rapid decision-making under conditions of operational secrecy. The manuscript reinforces that many investigations involving Polri procurement stem from insufficiently documented justifications rather than unlawful intent, potentially increasing officials' vulnerability to legal scrutiny.

RIA emerges as a central corrective mechanism because it institutionalizes prudence (*kehati-hatian*) and strengthens the evidentiary basis of administrative decisions. Administrative law principles require that decisions be made carefully, proportionately, and transparently—elements that RIA can systematically embed in the regulatory process. Saab and Silva (2021) emphasize that RIA enhances accountability by compelling policymakers to articulate problem definitions, analyze impacts, and evaluate alternatives before issuing regulatory directives. In the context of Polri, RIA would fill a crucial governance gap by ensuring that procurement regulations and decisions are grounded in coherent reasoning, structured risk assessments, and compliance with the AUPB. This alignment is relevant to ensuring that procurement practices remain defensible both administratively and legally.

In addition to strengthening prudential governance, RIA offers significant protective value by generating documentary evidence that can help distinguish legitimate administrative discretion from criminal misconduct. As discussed in the results, courts and investigators may rely on documentation to assess intent, and in the absence of structured justification, procedural deviations may be construed as indicators of wrongdoing. Criminalization of public officials often stems from the inability to prove that decisions were made in *good faith*. The analytical depth and transparency provided by RIA directly address this evidentiary deficiency by allowing Polri to demonstrate that procurement decisions were not arbitrary but were grounded in systematic evaluation and institutional needs.

Furthermore, RIA aligns closely with Polri's operational and security mandates, countering concerns that analytical tools may impede rapid or confidential decision-making. International experience shows that RIA can be adapted through expedited or proportionate approaches, allowing agencies to maintain operational tempo while supporting regulatory quality (OECD, 2023). The flexibility of RIA models enables Polri to preserve confidentiality when required while still adhering to governance standards. The manuscript correctly notes that many of Polri's procurement challenges stem from the tension between the necessity of secrecy and the need for transparency; RIA provides a means of addressing this tension by documenting reasoning without requiring disclosure of operationally sensitive information.

A dedicated *Perkapolri* mandating RIA would therefore represent not merely a procedural reform but a potential restructuring of procurement governance within Polri. Formalizing RIA through a binding regulation would support institutional consistency, reduce reliance on discretionary interpretation, and promote harmonization across diverse procurement units. OECD guidance emphasizes that formal institutionalization is important to consistent RIA

implementation, particularly in sectors with complex operational requirements (OECD, 2023). For Polri, such a *Perkapolri* could promote coherence in procurement planning, improve oversight readiness, and ensure that relevant procurement-related policies undergo structured scrutiny before implementation.

Finally, the integration of RIA into Polri's procurement framework carries broader implications for public-sector governance in Indonesia. It signals a shift toward a preventive, evidence-based regulatory culture that prioritizes institutional accountability and legal certainty. The move could align Polri with international good-governance standards and potentially support public confidence in the integrity of security-sector procurement, although such an effect was not measured in this study. As Nogues Comas & Mendes dos Santos (2021) note, procurement reforms are most successful when regulatory quality tools are complemented by empowered institutions, transparent processes, and robust documentation practices. By adopting a dedicated RIA *Perkapolri*, Polri could contribute to broader efforts to strengthen procurement governance across Indonesia's public sector.

CONCLUSION

The analysis concludes that fragmented regulation and uneven ex-ante documentation are relevant governance risks in Polri procurement; it does not establish that the absence of RIA is the primary cause of criminalization. RIA is proposed as one possible instrument for improving the quality and traceability of regulatory decision-making alongside existing procurement, audit, and legal-control mechanisms.

Furthermore, the findings highlight that RIA may play an important role in mitigating the risk of administrative criminalization within procurement. Indonesian jurisprudence continues to show instances in which administrative mistakes are interpreted as criminal acts, particularly in cases involving procurement decisions made under regulatory ambiguity or operational pressure. This study shows that RIA can serve as an evidentiary mechanism by documenting problem identification, consideration of alternatives, and risk-management steps that may demonstrate prudence and good faith in administrative action. As several scholars and comparative studies confirm, robust documentation can be important in distinguishing between lawful discretion and misconduct. By adopting RIA as a mandatory internal standard through a dedicated *Perkapolri*, Polri could harmonize its procurement regulations, enhance transparency, and strengthen the documentary basis for the legal defense of procurement officials.

Taken together, the results support a proportionate strengthening of Polri's internal regulatory architecture through clearer ex-ante problem definition, option appraisal, risk documentation, and reason-giving. The contribution is a Polri-specific RIA design proposition whose practical effects must be tested empirically; public trust and criminal-case outcomes were not measured in this study.

This study is primarily conceptual and normative in nature, relying on doctrinal legal analysis, secondary empirical literature, and qualitative assessment of Polri's procurement regulations. While this approach offers a comprehensive legal and theoretical evaluation, it does not include field-based empirical data, such as interviews with Polri procurement officials, judicial officers, or regulatory stakeholders. Additionally, the absence of publicly available detailed case files limits the ability to examine specific prosecutorial reasoning in procurement-related corruption cases. The study is also constrained by the evolving nature of procurement regulation—particularly the recent issuance of Presidential Regulation No. 46 of 2025—which may not yet have been fully implemented or interpreted by practitioners. As such, certain practical implications of RIA adoption in Polri remain subject to institutional dynamics that extend beyond the scope of the present analysis.

Future research should adopt an empirical socio-legal approach to complement this study's normative findings. Surveys and interviews with procurement officials, internal auditors, investigators, and judges would provide deeper insights into how procurement decisions are made, documented, and evaluated in practice within Polri. Comparative studies with military, intelligence, and policing institutions in other jurisdictions—especially those that have implemented expedited or security-sensitive RIA approaches—would also enrich the

understanding of how analytical tools can be adapted to secrecy-intensive procurement environments. Additionally, future work should explore the design of a tailored RIA model for Polri, including templates, risk matrices, and procedural workflows that incorporate security considerations. Finally, longitudinal studies assessing the impact of implementing an RIA-based *Perkapolri* on procurement outcomes, legal exposure, and institutional accountability would be valuable in evaluating the long-term effectiveness of regulatory impact assessment in Indonesia's security-sector governance.

ACKNOWLEDGEMENT

The authors would like to express their gratitude to Universitas Diponegoro for providing academic support and research facilities that contributed to the completion of this study. The authors also acknowledge the valuable contributions of scholars, legal practitioners, and institutions whose publications and regulatory documents supported the normative and comparative analysis conducted in this research.

AUTHOR CONTRIBUTION STATEMENT

Agus Setyawan Heru Purnomo contributed to the conceptualization, research design, legal analysis, manuscript preparation, and final revision of the article. Yos Johan Utama contributed to the development of the theoretical framework, legal interpretation, and critical review of the manuscript. Budi Ispriyarso contributed to the analysis of administrative law principles, regulatory governance perspectives, and manuscript refinement. All authors reviewed and approved the final version of the manuscript.

REFERENCES

- Adekoya, A. A. (2024). Public procurement in local government: A tool for good governance, value creation, and sustainable development . *International Journal of Management and Economics Invention*, 10(8), 3474–3486.
- Adhi, S., Arifin, R., & Sani, T. (2025). From Administrative Irregularities to Criminal Acts: Uncovering Corruption in State Procurement Systems. *PAMPAS: Journal of Criminal Law*, 6(2). <https://doi.org/10.22437/pampas.v6i2.43759>
- Busol, O., & Romaniuk, B. (2024). The system of prevention of offences in the field of public procurement during martial law in Ukraine in comparison with the European Union. *Naukovij Visnik Nacjonal'noï Akademii Vnutrišnih Sprav*, 29(3). <https://doi.org/10.56215/naia-herald/3.2024.09>
- Carloni, E., Polinori, P., & David, D. (2021). Public procurement and corruption: Perspectives, Rules, Experiences. In *Understanding and Fighting Corruption in Europe: From Repression to Prevention*. https://doi.org/10.1007/978-3-030-82495-2_7
- Klingler, D. U. (2020). Measuring What Matters in Public Procurement Law: Efficiency, Quality and More. *Journal of Management Policy and Practice*, 21(3). <https://doi.org/10.33423/jmpp.v21i3.3143>
- Law No. 20 of 2001 on Eradication of Corruption (Amendment to Law No. 31 of 1999)
- LKPP Regulation No. 9 of 2018 concerning Guidelines for the Implementation of Goods/Services Procurement through Providers
- LKPP Regulation No. 12 of 2021 concerning the Procurement of Goods/Services in Emergency Situations
- Maksum, U., & Suparno, S. (2025). Synergy of Administrative and Criminal Law Enforcement as an Effort to Prevent and Eradicate Corruption in Procurement of Goods and Services in Government Environment. *Journal of Social Science (JoSS)*, 4(7). <https://doi.org/10.57185/joss.v4i6.473>
- Meilani, A. (2026). *Penerapan Manajemen Risiko Pengadaan Barang/Jasa melalui E-Purchasing di Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah*. Politeknik STIA LAN Jakarta.
- Nkhata, M. J., & Chipofya, M. V. (2024). Trust in the law but beware! The possible corruptogenic effects of the law on public procurement in Malawi. *Crime, Law and Social Change*, 82(2). <https://doi.org/10.1007/s10611-024-10146-w>

- Nogues Comas, A. A., & Mendes dos Santos, N. F. (2021). Measuring Public Procurement Rules and Practices: Benchmarking a Recurrent Infrastructure Contract. In *Measuring Public Procurement Rules and Practices: Benchmarking a Recurrent Infrastructure Contract*. <https://doi.org/10.1596/1813-9450-9651>
- OECD. (2022). OECD framework for regulatory policy evaluation. OECD Publishing.
- OECD. (2023). International practices on regulatory impact assessment. OECD Publishing.
- Presidential Regulation No. 106 of 2007 concerning the Government Goods/Services Procurement Policy Agency
- Presidential Regulation No. 157 of 2014 concerning Amendments to Presidential Regulation No. 106 concerning the Government Goods/Services Procurement Policy Agency.
- Presidential Regulation No. 16 of 2018 concerning Government Goods/Services Procurement.
- Presidential Regulation No. 12 of 2021 concerning Amendments to Presidential Regulation No. 16 of 2018 concerning Government Goods/Services Procurement.
- Presidential Regulation No. 46 of 2025 concerning the Second Amendment to Presidential Regulation No. 16 of 2018 concerning Government Goods/Services Procurement.
- Radaelli, C. M. (2022). Regulatory impact assessment (RIA). *The Palgrave Encyclopedia of Interest Groups, Lobbying and Public Affairs*. Cham: Springer International Publishing, 1122–1129.
- Saab, F., & de Almeida Midlej e Silva, S. (2021). Evaluating the quality of Regulatory Impact Analysis: a literature review. *Revista Do Serviço Público*, 72(b). <https://doi.org/10.21874/rsp.v72.ib.5875>
- Situmeang, T., Sectionardo, W. A., & Berutu, C. A. N. (2025). CRIMINALIZATION “A POLICY” “JURIDICAL REVIEW BASED ON GOOD GOVERNANCE ASPECTS.” *Veredas Do Direito*, 22(3). <https://doi.org/10.18623/rvd.v22.n3.3405>