

Restorative Justice at the Investigation Stage: A Normative Review of Its Conceptualization in the New Criminal Procedure Code

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Abstract

This article examines how restorative justice is conceptualized at the investigation stage under Indonesia's New Criminal Procedure Code and tests whether the new framework meaningfully constrains investigative discretion while safeguarding suspects' rights and maintaining legality, equality, and victim protection. It proceeds from the practical tension between high-volume case handling and the need to prevent coercive settlements, as well as the theoretical tension between punitive proceduralism and restorative repair. The study employs normative legal research using conceptual and analytical approaches. Data are collected through systematic documentary analysis of statutory provisions in the new Criminal Procedure Code and relevant implementing regulations, complemented by international restorative justice standards and doctrinal scholarship. The analysis applies norm identification, element extraction, intra-system comparison, and coherence testing to assess procedural safeguards, oversight design, and rights impacts. The study finds that the new code reframes restorative justice as a legally recognized procedural pathway at the investigation stage, shifting practice from discretion-led settlement to a rule-bound diversion mechanism anchored in documentation and external control points. It further finds that the most consequential constraint on investigators' authority is the movement toward judicially supervised validation of case termination, while residual risks persist in consent verification, classification consistency, and implementation detail. The findings support policy alignment across policing, prosecution, and adjudication through uniform standards on voluntariness, counsel access, documentation quality, and review criteria. Future research should evaluate operational compliance and the substantive rigor of oversight in high-throughput environments.

Keywords: Restorative Justice; Investigation Stage; New Criminal Procedure Code.

Introduction

Restorative justice at the investigation stage raises a primary normative problem in Indonesia's criminal procedure, namely how the New Criminal Procedure Code conceptualizes restorative justice as a lawful procedural mechanism while limiting investigative discretion and safeguarding the rights of suspects and victims. Practical concerns such as case backlog, detention avoidance, and rapid settlement remain important, but they are analytically secondary to this core legal question because they do not by themselves explain when early case termination remains compatible with legality, equality before the law, and procedural accountability (Husin & Husin, 2024). The theoretical significance follows from the same point. If restorative justice is treated not merely as an informal peace-making practice but as a legally structured mode of case resolution, then its conceptual design must be assessed in terms of authority, conditions, safeguards, and review.

In Indonesia, restorative justice at the investigative stage has grown through institutional practice before it was fully anchored in statutory criminal procedure (Situmeang, et al. 2025; Aisyah, et al. 2025; Pradani, et al. 2026). The Police issued a dedicated framework through Regulation of the Indonesian National Police Number 8 of 2021 on handling crimes based on restorative justice, which articulates formal and material requirements, the role of investigators as facilitators, and limits for eligible offenses (Sulistyawati, 2023). Parallel developments occurred in prosecution and adjudication, particularly through Prosecutor Regulation Number 15 of 2020 on termination of prosecution based on restorative justice, and Supreme Court Regulation Number 1 of 2024 on guidelines for adjudicating criminal cases based on restorative justice (Dewandaru et al., 2022). However, these frameworks were not originally designed as a single integrated procedural architecture, so the investigation stage became a site of discretion that could produce inconsistent outcomes, uneven protections for victims, and uncertainty about oversight.

Although restorative justice has been regulated across policing, prosecution, and adjudication, these frameworks remain normatively fragmented (Sitepu, et al. 2025; Asis, et al. 2025). Police Regulation Number 8 of 2021 primarily governs investigative facilitation and eligibility, Prosecutor Regulation Number 15 of 2020 focuses on termination of prosecution, and Supreme Court Regulation Number 1 of 2024 addresses adjudicative guidance. Because each instrument was issued for a different institutional stage and control logic, they do not necessarily employ the same thresholds, safeguards, documentation standards, or oversight structures. This fragmentation creates normative inconsistency in concrete terms. Similar cases may be filtered differently across institutions, victim participation may be protected unevenly, and the legal basis for terminating a case may appear stronger at one stage than another.

Recent Indonesian reports show a substantial rise in restorative justice settlements. The prosecution service reported 6,168 cases resolved through restorative justice by 12 November 2024 and 2,080 cases during 2025 (Husaini, 2024), while police reporting noted an increase from 18,175 cases in 2023 to 21,063 cases in 2024, (Bawono & Glaser, 2024). These statistics are relevant because they show institutional expansion, but they should not be read uncritically as proof of restorative success. High numbers may reflect administrative efficiency, case disposal, and congestion management rather than genuine restoration measured by voluntariness, victim satisfaction, reparative quality, and protection against coercive settlement. For that reason, the investigation stage requires closer normative scrutiny, since it is the point at which efficiency pressures most directly interact with early state discretion.

International restorative justice standards are relevant not only as abstract normative ideals but as benchmarks for assessing the adequacy of Indonesia's new procedural design. The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters require voluntariness, informed consent, proportionality, and protection against intimidation, (Velasco Hernández, 2020). In the context of Indonesia's New Criminal Procedure Code, these principles translate into concrete doctrinal questions at the investigation stage,

namely whether the law provides reliable consent verification, meaningful victim participation, sufficient protection against investigator-driven pressure, and review mechanisms capable of testing the legality and fairness of restorative termination,(Rossner, 2023). The significance of the new code therefore lies in whether it internalizes these standards in a reviewable procedural form.

Within Indonesia's doctrinal landscape, restorative justice has been most clearly institutionalized for children through diversion under the Juvenile Criminal Justice System Law, which is frequently treated as a proof of concept that restorative procedure can be legally structured without undermining due process. That experience demonstrates that restorative justice is workable when eligibility criteria, timelines, and oversight are explicit. In contrast, adult restorative practices in the investigation stage historically relied on internal regulations and discretionary judgments, creating recurrent debates about legality in formal criminal procedure and about the risk of unequal access. In this study, the conceptualization of restorative justice does not refer merely to definitional wording. It refers to the way the New Criminal Procedure Code legally constructs restorative justice as a procedural institution by specifying who may initiate it, what cases qualify, what safeguards govern consent and participation, how settlement affects investigative authority, and what form of review controls termination. This definition is central because the study is concerned with the legal architecture of restorative justice, not simply with its moral justification or policy appeal.

Indonesia's regulatory modernization has also been influenced by broader penal reform, including the new Criminal Code, Law Number 1 of 2023, which explicitly signals an evolving penal philosophy and is legislated to take effect after a transitional period following promulgation. A system that shifts from strict retribution toward correction, rehabilitation, and restoration requires procedural instruments that can operationalize those values. If substantive criminal law increasingly recognizes proportionality and alternatives to imprisonment, then criminal procedure must provide legitimate pathways to resolve minor cases without full adjudication, while still protecting victims and guarding public interests. Restorative justice at the investigation stage becomes

the most strategic mechanism, because it can prevent unnecessary escalation, reduce detention, and facilitate early repair,(Tri Utami et al., 2024). Yet this strategic position also creates the greatest risk, because early-stage resolution can be misused as a shortcut that hides coercion or privilege.

The most recent and consequential development is the formal incorporation of restorative justice into the new Indonesian Criminal Procedure Code. A Supreme Court media article reports that a new Criminal Procedure Code, stated as Law Number 20 of 2025, was enacted on 13 November 2025, and it defines restorative justice and provides a framework for its implementation across stages including investigation. The same source describes requirements, limits to eligible offenses, and the involvement of the district court leadership through a judicial determination mechanism, which is presented as a checks and balances model over termination decisions,(Guruh Wicahyo Prabowo et al., 2025). Normatively, this institutional design is significant because it attempts to move restorative justice from fragmented institutional rules into a statutory architecture with judicial control, thereby addressing longstanding critiques about legality and accountability.

This statutory direction is not merely abstract, because contemporary practice already demonstrates how restorative justice at the investigation stage can be linked with judicial determinations. For example, an Antara report on a mutual assault dispute in Bandar Lampung describes that after mediation the police issued an investigation termination order, and the termination was followed by a district court determination granting the request, with specific dates and document identifiers reported,(Ardiansyah, 2026). Even if this is one case, it illustrates the model of external oversight that a new procedural design seeks to generalize. It also highlights that restorative justice at the investigation stage is no longer purely an administrative police practice, but is increasingly intertwined with court supervision, which raises important doctrinal questions about standards of review, transparency, and the rights of victims who may later contest the settlement.

At the same time, Indonesia's empirical reality shows that restorative justice at the investigation stage often arises in petty theft, minor assault, neighborhood

conflicts, and property disputes. Police public relations reporting frequently frames such cases as successful restorations of social harmony, such as a reported phone theft case resolved through restorative justice by a district police unit. These cases demonstrate the functional rationale for restorative justice, namely proportional responses to low-level offenses where victims may prefer restitution, apology, and repair to a lengthy process. Yet they also expose the central legal issue, which is whether restorative outcomes are truly voluntary and informed, particularly where victims fear retaliation or where community pressure pushes them to accept peace for the sake of “harmony.” The investigative stage magnifies these concerns because investigators have procedural authority, informational advantage, and control over the file’s future trajectory.

From a normative perspective, restorative justice at the investigation stage implicates foundational theories of criminal law and procedure. Legal certainty demands clear eligibility rules, transparent documentation, and reviewable reasons for termination. The theory of procedural justice, as developed in modern legal sociology and criminal justice scholarship, teaches that perceived fairness is heavily shaped by voice, neutrality, respect, and trustworthy motives, all of which must be structurally protected in mediation-like processes led by investigators,(Xu & Liu, 2020). The theory of responsive regulation and reintegrative approaches supports restorative settlements when they are proportional and accountable, but warns against capture when discretion operates without auditability. In Indonesian doctrinal terms, the rule of law and equality principles require that restorative mechanisms do not become informal bargaining spaces where the outcome depends on social status, access, or the ability to negotiate.

This leads to a clear research gap that motivates a normative review of restorative justice in the new criminal procedure code. Recent Indonesian studies and policy documents tend to emphasize the benefits of restorative justice in reducing caseloads, overcrowding, and social conflict, while treating procedural safeguards as secondary or assumed,(Guruh Wicahyo Prabowo et al., 2025). At the empirical level, growing numbers of restorative settlements at police and

prosecution levels show expansion, but they do not resolve debates about legal basis, inter-agency coherence, the proper role of courts, and the minimum rights of victims during early-stage settlement. There is also a conceptual gap between restorative justice as a philosophy of repair and restorative justice as a bureaucratic technique for case closure, a gap that becomes visible when settlements prioritize administrative finality over victim restoration. The new criminal procedure code's conceptualization must therefore be tested against both international standards and Indonesia's lived institutional practice.

Accordingly, the core gap addressed by this study is not whether restorative justice is beneficial in general, but whether its conceptualization in the New Criminal Procedure Code produces a coherent normative framework at the investigation stage. This includes examining whether the Code transforms previously fragmented and discretion-driven practices into a legally integrated mechanism that can reconcile restoration with legality, accountability, and the protection of rights. On that basis, this study asks how restorative justice is conceptualized at the investigation stage and whether that conceptualization sufficiently constrains investigative authority while maintaining victim protection and equality before the law.

Research Method

This study applies a normative legal research design to answer the research question on how restorative justice is conceptualized at the investigation stage under the new Criminal Procedure Code, and whether that conceptualization ensures legality, equality, victim protection, and accountable discretion. The design is appropriate because the problem arises from the structure and coherence of norms, rather than from measuring attitudes or behaviors. The analysis is doctrinal, focusing on the internal logic of legal rules and their compatibility with foundational principles of due process and the rule of law. This design can be replicated by following the same sequence of materials, sources, and interpretive steps described below.

The subject of this research is the normative framework governing restorative justice at the investigation stage. The primary legal materials consist

of: (1) the New Criminal Procedure Code, referred to in this article as Law Number 20 of 2025; (2) Regulation of the Indonesian National Police Number 8 of 2021 on the Handling of Crimes Based on Restorative Justice; (3) Prosecutor Regulation Number 15 of 2020 on Termination of Prosecution Based on Restorative Justice; (4) Supreme Court Regulation Number 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice; (5) Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, insofar as it serves as a doctrinal comparator for legally structured diversion; and (6) Law Number 1 of 2023 on the Criminal Code, insofar as it provides the broader penal reform context for restoration and proportionality. As complementary normative benchmarks, this study also refers to the United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters annexed to ECOSOC Resolution 2002/12. The population is the universe of applicable legal norms, while the sample is a purposively selected set of provisions and policy instruments directly regulating eligibility, procedure, consent safeguards, termination authority, and judicial oversight at the investigation stage. These statutory and regulatory instruments were inventoried, classified, and coded in the extraction matrix as primary legal sources to examine definitions, eligibility criteria, procedural sequence, consent safeguards, termination mechanisms, and forms of judicial or institutional oversight.

Data analysis uses a conceptual approach to clarify the meaning, scope, and conceptual boundaries of restorative justice as a procedural mechanism, and an analytical approach to test normative coherence, detect regulatory gaps, and assess potential legal impacts. The conceptual analysis maps restorative justice against theories of procedural justice, responsive regulation, and legality based discretion, while the analytical stage applies systematic interpretation, consistency testing, and rights based evaluation. The procedure follows ordered steps, namely norm identification, classification, element extraction, intra system and inter instrument comparison, and conclusion drawing on implications for legal certainty and protection at the investigation stage. The recorded data are textual legal propositions and doctrinal arguments, measured through

interpretive consistency, safeguards adequacy, and alignment with rule of law standards.

Results and Discussions

The Normative Framework for Implementing Restorative Justice at the Investigation Stage under the New Criminal Procedure Code

The normative framework for implementing restorative justice at the investigation stage under the new Criminal Procedure Code must be read as a deliberate shift from a purely case building paradigm toward a legally structured diversion model that still preserves legality, accountability, and victim protection. In doctrinal terms, the investigation stage is no longer treated only as a technical phase for collecting evidence and identifying suspects, but also as a gatekeeping phase where the state may authorize a restorative settlement as a lawful procedural outcome. This framework responds to a long standing practical reality in Indonesia, namely the persistence of informal peace making in minor cases, and it attempts to convert that reality into a rule bound mechanism rather than leaving it to ad hoc discretion. The core finding at this level is that the new code positions restorative justice as a formal procedural pathway, not merely an ethical preference, so its validity depends on clear conditions, a verifiable process, and an oversight architecture that can be reviewed.

Under Indonesian law before the new code, the most operational rules for restorative justice at the investigation stage were institutional regulations, particularly Police Regulation Number 8 of 2021 on handling crimes based on restorative justice. This regulation provides material and formal requirements, frames restorative justice as part of case handling authority, and links the process to documented agreements and administrative steps by investigators, (Irawati & Wijaya, 2023). The normative implication is significant because, in a strict legality perspective, a police regulation cannot fully substitute for a criminal procedure statute when the outcome is termination of a case that would otherwise proceed under KUHAP. This produced a recurrent debate over

whether restorative justice at investigation was best understood as a lawful exercise of discretion or as a practice that risked exceeding procedural boundaries, especially when termination decisions were not consistently supervised. The new code seeks to close this legitimacy gap by recognizing restorative justice in the criminal procedure statute itself, and by aligning it with an articulated mechanism rather than leaving it as a policy technique.

The New Criminal Procedure Code is publicly described as having incorporated an express mechanism for restorative justice, including the possibility that the mechanism may be initiated by the suspect or offender, the victim, their families, or offered by law enforcement and adjudicative actors. This design matters because it recasts restorative justice as a procedural option embedded in the justice chain, from investigation through adjudication, instead of being a fragmented practice tied to one institution. Another central feature, as publicly explained, is that the mechanism is connected to judicial involvement through a court determination model, which operates as a check over termination decisions arising from restorative settlement at the investigation stage. The core doctrinal finding is that the new code tries to institutionalize checks and balances, so that investigative discretion is channelled through a more transparent and reviewable route than the earlier model dominated by internal police policy.

Within this statutory direction, the relationship between investigation, prosecution, and adjudication becomes more integrated. In practice, Indonesian restorative justice has already been operating across institutions, with prosecutors applying their own termination framework under Prosecutor Regulation Number 15 of 2020, and judges guided by Supreme Court Regulation Number 1 of 2024 in adjudication based on restorative justice principles, (Riziq & Amri, 2025). The normative question, however, is not simply whether each institution has a guideline, but whether the standards are coherent across stages, especially regarding eligibility thresholds, exclusions, victim consent safeguards, and the public interest dimension of criminal enforcement. The new code's statutory recognition can be read as an attempt to provide that coherence, yet coherence will depend on interpretive alignment between statutory provisions and the

continuing operation of Perpol, Perja, and Perma as implementing norms. A key finding here is that the system's integrity will be measured by inter stage consistency, because inconsistent standards produce unequal treatment and undermine legal certainty.

Empirically, Indonesia has already experienced large scale use of restorative justice, which both justifies statutory incorporation and exposes the risks of normalization without adequate safeguards. Public reporting indicates that police restorative case resolutions increased from 18,175 cases in 2023 to 21,063 cases in 2024, which is often framed as an indicator of administrative effectiveness and social conflict reduction,(Bawono & Glaser, 2024). The prosecution service has also reported thousands of cases being resolved through restorative justice, including a publicly stated figure of 6,168 cases resolved by 12 November 2024, and reporting in 2025 of 2,080 cases resolved during that year. These empirical patterns are not merely descriptive, because they show that restorative justice has already become part of the operational identity of the criminal justice system, thereby increasing the stakes for ensuring legality and victim centered safeguards at the investigation stage. The finding is that statutory formalization in the new code is not a theoretical exercise, but a response to a real and expanding practice that demands uniform standards.

A concrete illustration of the emerging oversight model can be seen in reported cases where restorative settlement at the investigation stage is followed by a judicial determination after an investigation termination order is issued. An Antara report on a mutual assault dispute in Bandar Lampung describes a process where the police issued an investigation termination order after mediation, and the closure was followed by a district court determination granting the request, with details of dates and document identifiers included in the reporting,(Ardiansyah, 2026). This example is doctrinally useful because it reflects the procedural direction that the new code is described as promoting, namely that restorative justice outcomes at the investigative stage should not be treated as purely internal administrative decisions. It also exposes the legal issues that must be addressed, such as what evidentiary and consent standards a court must verify before endorsing termination based on restorative settlement, and

how victims can challenge a settlement that was not genuinely voluntary. The key finding is that judicial involvement can strengthen legality, but only if the review is substantive rather than a formal confirmation.

The new framework must also be examined through the lens of international standards, because restorative justice is not normatively neutral and it carries a known set of safeguards. The UN Economic and Social Council's Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters emphasize voluntariness, informed consent, proportionality, and protection against coercion and intimidation, which are especially relevant at the investigation stage where power imbalances are likely, (Shapland et al., 2024). When these principles are transposed into Indonesian procedure, the question becomes whether investigators are structurally positioned to ensure genuine consent, whether victims have adequate access to counsel or support, and whether restorative settlements can be insulated from community pressure that masks coercion as harmony. The new statutory recognition, as publicly described, can be interpreted as Indonesia's attempt to align practice with these minimum principles through a more formal mechanism rather than informal bargaining. The finding is that international standards sharpen the evaluation criteria, because they require the system to prove voluntariness and fairness, not merely to show settlement outcomes.

Despite statutory incorporation, there remains a risk of legal gaps, especially in operational details where statutory text cannot fully specify practice. Before the new code, the most common critique was a legality gap, namely that restorative termination at the investigative stage relied heavily on a police regulation rather than explicit KUHAP authority, creating uncertainty about review standards and uniform protections. After statutory incorporation, the gap shifts from legality to implementation, because the system must define, in a consistent and measurable way, the criteria for eligible offenses, the documentary requirements for consent and restitution, the protection mechanism for vulnerable victims, and the audit trail needed to prevent selective enforcement. Public commentary has already raised concerns about how expansive investigative discretion may become when investigators can effectively decide

whether a case proceeds, which increases the need for external controls and transparent reasons. The core finding is that the new code can close the foundational legality gap, yet it can still leave a functional gap unless implementing norms and institutional supervision are harmonized and enforceable.

A legally robust construction of restorative justice at the investigation stage requires a clear theoretical lens, because restorative justice is often misread as mere peace making. Procedural justice theory requires that affected parties experience voice, neutrality, respect, and trustworthy motives, which implies that investigators must be trained and structurally required to facilitate dialogue without steering outcomes or prioritizing closure over restoration. Reintegrative and responsive regulatory approaches support restorative settlements for minor cases as a proportional response that reduces the social cost of criminalization, but they also insist on accountability mechanisms to prevent capture, bargaining under pressure, and unequal access. In Indonesian constitutional terms, legality and equality principles require that restorative justice does not become a privilege that is easier for socially powerful suspects to obtain, while victims with less capacity are pushed toward settlement,(Anggraeni, 2020). The finding is that theory functions as a compliance test, because it translates abstract values into procedural safeguards that can be measured through documentation, review, and institutional accountability.

From a criminal policy perspective, the new framework can be defended as a rational strategy to reduce unnecessary detention and court congestion while prioritizing victim restoration. Supreme Court Regulation Number 1 of 2024 explicitly frames restorative adjudication as aiming to restore victims and relationships, encourage offender responsibility, and avoid deprivation of liberty in appropriate cases, while clarifying that restorative justice is not meant to erase criminal responsibility,(Riyadi, 2024). This policy orientation reinforces why the investigation stage is central, because early diversion prevents the downstream harms of prosecution and imprisonment for cases that can be responsibly resolved through restitution, apology, and repair. Yet the same policy orientation also implies that the state must define a clear public interest boundary, because

not all harms are suitable for restoration through settlement, and some offenses require formal prosecution to protect broader social order. The key finding is that criminal policy supports early diversion, but it simultaneously demands principled exclusions and a demonstrable public interest assessment.

Taken together, the normative framework under the new code can be summarized as a structured model that integrates initiation rights, procedural requirements, and oversight, while still relying on implementing rules to operationalize safeguards. The practical evidence of widespread restorative settlements in policing and prosecution explains why the mechanism is now embedded in statutory criminal procedure and why oversight has become a visible design feature. The remaining doctrinal task is to ensure that the new statutory mechanism does not collapse into a routinized case closure tool, because that would undermine victim rights and equality before the law even if settlement numbers rise. The key finding for this subsection is that the new code's recognition of restorative justice at the investigation stage marks a shift from discretionary policy toward statutory procedure, but its success will be decided by the quality of safeguards, the consistency of inter institutional standards, and the seriousness of review mechanisms in preventing coercion and unequal outcomes.

This discussion processes the doctrinal materials through a structured extraction and comparison method to explain how the new Criminal Procedure Code operationalizes restorative justice at the investigation stage, and how that operationalization alters the legality and control of investigative discretion. The dataset is not treated as a collection of isolated articles, but as an integrated procedural design composed of definitional clauses, eligibility limits, actor mandates, required steps, and oversight routes. Each element was coded into functional categories that reflect the main legal issues identified in the background, namely legality of diversion, equality in access, protection of victims, and accountability for case termination. The results below therefore represent processed outputs of classification and consistency testing, rather than raw quotations of provisions.

The first processing step was norm identification and boundary setting. Only norms that directly shape restorative justice at the investigation stage were included, meaning rules that define restorative justice, authorize investigators to initiate or facilitate it, regulate termination pathways, impose consent or restitution requirements, and connect outcomes to external review or supervision. Norms that only discuss general criminal policy or post adjudication rehabilitation were excluded because they do not determine the legality of diversion at the investigation stage. This selection strategy ensures that the claims in this discussion remain grounded in the procedural mechanics that govern early case handling. Replication is possible by applying the same inclusion criteria and then coding each norm into the categories used in the extraction matrix.

The second processing step was element extraction into a standardized matrix, which records the same variables across each relevant provision. Variables include initiation rights, eligibility criteria, procedural sequence, required documentation, victim participation conditions, termination authority, oversight mechanism, and available remedies if the process is challenged. The matrix format forces comparability because it does not allow one instrument to be summarized in abstract terms while another is described with procedural detail. Each variable was then assessed for internal clarity and for coherence with the rest of the system, meaning whether it aligns with adjacent procedural rules and does not create conflicting mandates. This step produces a set of system level findings about gaps and tensions that are not visible when reading provisions one by one.

The third processing step was consistency testing across three layers of legal control. The first layer is legality, meaning whether restorative justice is positioned as an authorized procedural outcome rather than an informal settlement. The second layer is procedural safeguards, meaning whether voluntariness, informed participation, and proportional repair are structurally protected. The third layer is accountability, meaning whether the system provides verifiable documentation, reviewability, and a mechanism to detect or correct abuses of discretion. The analytical expectation is that a robust statutory framework should improve the first layer by definition, but it will only be

credible if it also strengthens the second and third layers in a way that can be audited. The processed results show that the new code, as a statutory instrument, improves legality and offers a clearer architecture, yet it still leaves operational pressure points that must be addressed through implementation and interpretive standards.

The processed findings are summarized in the table below. The table is not a restatement of text, but a synthesis that compresses multiple normative elements into functional categories and highlights the control logic embedded in the system. It also records the main risk implication for each category, because the legal issue in restorative justice is rarely the existence of authority, but the risk of coercion, inequality, and non transparent closure. The table therefore functions as the single display of processed data for this discussion.

Table 1. Processed Normative Elements for Restorative Justice at the Investigation Stage and Their Control Implications

Category	Processed Content in the New Procedural Design	Control Implication and Risk Focus
Legal status	Restorative justice recognized as a formal procedural pathway	Improves legality. Risk shifts to how authority is applied in practice.
Initiation	Can be initiated by parties or facilitated by law enforcement	Expands access. Risk of unequal ability to trigger the mechanism.
Eligibility limits	Applies to selected offenses with exclusions for serious harms	Protects public interest. Risk of inconsistent classification by investigators.
Victim participation	Victim involvement treated as a necessary condition	Protects victim voice. Risk of pressured consent without support safeguards.
Consent standard	Settlement requires voluntariness and agreement	Core safeguard. Risk of hidden coercion through hierarchy or community pressure.

Repair content	Emphasis on restitution, apology, and restoration of relations	Aligns with restorative theory. Risk of superficial repair used to justify closure.
Documentation	Written records and procedural minutes required	Enables audit. Risk of templated documentation that masks lack of genuine process.
Termination authority	Closure linked to procedural termination routes	Administrative efficiency. Risk of premature closure without adequate verification.
External oversight	Oversight through an external determination or review mechanism	Enhances accountability. Risk of review becoming formalistic if standards are weak.
Remedy pathway	Space for review or challenge through procedural control points	Protects legality. Risk of limited access to remedies for victims with low capacity.

Source: Findings from normative legal research

The first finding derived from the table is that statutory recognition re characterizes restorative justice as a legal outcome rather than a discretionary courtesy. This reading is consistent with Marder's analysis that the institutionalization of restorative justice within formal policing structures requires clear procedural embedding and cannot rely solely on discretionary culture, and it also resonates with Rossner's view that restorative justice must be assessed as a structured process of fairness rather than merely as a settlement outcome,(Putra et al., 2026). This matters because the investigation stage is the earliest point at which coercive state power is exercised, including arrest, detention, and labeling someone as a suspect, so any diversion model must be anchored in legality to be legitimate. When restorative justice is structurally recognized, the investigative act of facilitating restoration becomes part of criminal procedure rather than an informal deviation from it. This improves predictability for parties and reduces the likelihood that early settlements will be treated as legally irrelevant. However, legality alone does not guarantee justice,

because the decisive question becomes whether the procedure contains a control logic that can detect coercion and unequal bargaining.

The second finding is that initiation rules expand access but simultaneously introduce a distribution problem. If restorative justice can be initiated by multiple actors, then the mechanism is not restricted to those with institutional connections, which supports equality in principle. Yet unequal legal literacy and unequal negotiation power can still produce unequal outcomes, because the ability to frame a case as eligible and to request restorative handling is itself a form of procedural capital. This is where the investigation stage is structurally sensitive, because investigators often control information about eligibility, required documents, and how to sequence the steps. The design therefore needs interpretive standards that obligate investigators to provide standardized information to both parties, so the mechanism is not captured by those who can negotiate better.

The third finding is that eligibility limits protect the public interest but remain a major site of discretionary risk. A restorative mechanism that lacks exclusions can undermine deterrence and the state duty to protect the community, especially when the harm is serious or involves vulnerable victims. By imposing eligibility limits, the new framework expresses that restoration is not a replacement for accountability, but a differentiated response for selected categories of harm. The problem is that eligibility limits are only as reliable as the classification practices that apply them, and classification is often contested in real cases at the investigation stage. If investigators apply eligibility rules inconsistently, similar cases will be handled differently, which produces an equality deficit even when the written rules appear neutral. This concern is supported by Riziq and Amri, who emphasize that restorative justice in Indonesia should not be understood as a general substitute for criminal accountability, and by Anggraeni, who cautions that restorative mechanisms can produce unequal outcomes when access and negotiation capacity differ across parties (Efa Rodiah Nur et al., 2025).

The fourth finding concerns consent safeguards, which sit at the core of restorative legitimacy. The processed data show that the framework positions

victim participation and agreement as central conditions, which aligns with the conceptual foundations of restorative justice that require voluntary engagement and respectful dialogue. Yet the investigation stage is inherently asymmetrical, because investigators control the process environment and parties often feel compelled to comply with what they think the authority expects. This creates a risk that consent becomes formalized through signatures rather than established through meaningful verification of voluntariness. For that reason, the normative framework must be operationalized with a verification practice that records how consent was obtained, what information was provided, and whether the victim had support or time to decide.

The fifth finding concerns documentation and auditability as a legal technology. Written minutes, agreements, and procedural records are not merely administrative, because they form the evidence that restorative justice was conducted in a legally defensible manner. The processed synthesis suggests that documentation is treated as a required procedural feature, which can enable oversight and later review. The risk, however, is the production of standardized templates that satisfy form but not substance, especially under caseload pressure. A robust design therefore requires that documentation captures substantive indicators, such as the content of repair, the absence of intimidation, and the parties' understanding of legal consequences, not merely their signatures.

The sixth finding is that termination authority is the pressure point where restorative ideals meet procedural finality. At the investigation stage, closure can terminate the state's punitive trajectory and prevent the case from entering prosecution, which is often beneficial for minor cases but highly consequential for victims seeking formal adjudication. A normative framework must therefore reconcile two rationalities, namely administrative efficiency and rights based accountability. If termination is too easy, the mechanism becomes a case disposal tool, and restoration becomes symbolic. If termination is too rigid, the mechanism becomes unusable and restoration remains rhetorical, so the system reverts to conventional punitive processing.

The seventh finding relates to oversight and remedies, which determine whether restorative justice is reviewable or insulated. The processed table

indicates that external oversight is built into the framework through a determination or review mechanism that sits outside the investigative chain. This is a key structural improvement because it creates a formal control point that can validate whether the legal conditions were met and whether the termination is justified. The difficulty is that oversight can become procedural theater if the reviewing authority lacks clear standards for examining voluntariness, proportionality of repair, and eligibility classification. The framework therefore requires a doctrinally explicit standard of review that moves beyond checking documents and toward assessing whether the restorative process complied with minimum fairness conditions.

These findings can be connected to the underlying conceptual expectations derived from procedural justice theory and responsive criminal policy. Procedural justice expects that parties perceive fairness when they have voice, when decision makers are neutral, and when outcomes are explained with reasons they can understand. The processed results show that the framework has the skeleton needed to support those conditions, namely participation, documentation, and external control points. Responsive criminal policy expects differentiated treatment for minor cases to reduce unnecessary criminalization, while preserving the state's capacity to pursue serious harms. The eligibility and exclusion logic aligns with that expectation, but it can only succeed if classification practices and oversight standards are consistent.

The discussion also clarifies where the legal gap now shifts. The prior concern was a legality gap, meaning restorative practice at investigation was heavily dependent on internal institutional rules. With statutory incorporation, the legality gap is partially addressed, yet an implementation gap becomes the dominant problem, particularly in consent verification, classification consistency, and the substantive quality of oversight. This shift is typical when an informal practice is formalized, because formalization creates authority but does not automatically create institutional capacity or uniform interpretive habits. The processed data therefore support a cautious conclusion, namely that the normative framework offers an improved architecture, but its justice value

will be measured by operational safeguards that translate statutory commitments into verifiable practice.

In sum, the processed doctrinal analysis shows that the new procedural design establishes restorative justice as a legally recognized pathway at the investigation stage, supported by initiation options, eligibility limits, documentary requirements, and an external control point. The design is coherent at the level of structural logic, because it attempts to balance diversion and accountability rather than replace prosecution in general. The remaining risks are concentrated in the procedural micro level, where consent, classification, and review standards determine whether restorative justice is protective or coercive. This discussion therefore supports the expectation that the new framework can strengthen legality and accountability, yet it also shows why interpretive standards and implementation protocols are indispensable to prevent restorative justice from becoming a routinized closure mechanism rather than a genuine repair based process.

Limits on Investigators' Authority over Restorative Justice at the Investigation Stage in Safeguarding Suspects' Rights under the New Criminal Procedure Code

Investigators' authority is structurally decisive in any restorative justice regime because the investigation stage is where the state first converts a social conflict into a formal criminal case, activates coercive powers, and fixes the procedural trajectory that will shape later prosecution and adjudication. Under the new Criminal Procedure Code, the normative framework for restorative justice is no longer treated as an internal managerial discretion, but as a legally recognizable pathway that can end a case at an early stage through a controlled mechanism,(Andriyani et al., 2024). The central finding of this subsection is that the "limits" on investigators' authority are not merely ethical restraints, but a legally designed set of procedural brakes that are meant to safeguard suspects' rights while preserving public interest control. Those safeguards become

meaningful only if the investigator's capacity to initiate, steer, and close a restorative process is matched by enforceable obligations, verifiable documentation, and external supervision.

In the Indonesian legal context, the pre reform practice of restorative justice at the investigation stage grew largely through institutional policy and informal settlement traditions, especially for minor assault, petty theft, and neighborhood disputes. The police formalized much of that practice through Police Regulation Number 8 of 2021, which sets formal and material requirements and directs investigators to handle certain cases through restorative justice when conditions are met. This institutional norm was important operationally, yet it was also the source of a recurrent legality critique because the most consequential step, case closure at the investigation stage, could appear to rest on internal executive regulation rather than an explicit statutory criminal procedure mandate. The new Criminal Procedure Code addresses that legitimacy gap by explicitly recognizing restorative justice in statute and by embedding a mechanism that, at least in design, narrows the space for unilateral closure by investigators.

The most concrete statutory limit on investigative authority, as publicly explained by the Supreme Court's communication, is the requirement that a restorative justice based termination of investigation is not solely an investigator's decision but must be brought under judicial control. The Supreme Court article describes that Pasal 84 of the new KUHAP obliges investigators to notify the prosecutor of the investigation termination letter and to request a determination from the head of the district court within a tight timeframe, described as no later than three days,(Wiyono et al., 2021). This requirement is significant for suspects' rights because it converts a discretionary administrative closure into a decision pathway with an external legality check, potentially reducing the risk that an investigator uses restorative justice to pressure a suspect into an admission or to close a case without adequate procedural fairness. It is also significant because it implies that investigators must prepare a reviewable record showing why restorative justice is lawful and appropriate in the specific case.

The judicial control architecture is reinforced by later guidance reported through the Supreme Court's circular framework. Reporting on SEMA 1 of

2026 explains that an investigation or prosecution termination based on restorative justice is not automatically valid and that investigators and prosecutors must apply for a determination from the head of the district court in the jurisdiction of the case. The same reporting describes strict timelines, both for submitting the application and for the court to issue the determination, indicating a deliberate attempt to balance speedy resolution with formal oversight. From the standpoint of suspects' rights, this architecture aims to reduce the risk that restorative justice becomes a tool of informal bargaining under investigative dominance, because the outcome must pass through a court gate that is expected to assess legality, not merely accept a settlement at face value,(Kusworo & Fauzi, 2022). The controlling question, however, is whether the review standard is substantive enough to detect coercion and to protect the suspect's right to silence and counsel during the restorative process.

A second set of limits operates through initiation and process design rather than through termination control alone. The Supreme Court article describes that restorative justice can proceed through an application submitted by the perpetrator, suspect, defendant, or their family, and or by the victim or their family, and it can also be offered by investigators, prosecutors, or judges. This multi channel initiation model matters for suspects' rights because it prevents investigators from monopolizing the "entry" into restorative justice, which would otherwise strengthen investigative dominance. If a suspect can request restorative justice through a structured procedure, then restorative justice can function as a rights enabling option rather than a privilege granted selectively by investigators. Yet a rights enabling design still requires procedural equality, because a suspect's ability to request restorative justice depends on legal literacy, access to counsel, and protection from intimidation by authority figures.

The key rights risk at the investigation stage is that restorative justice can blur the boundary between consensual repair and compelled self incrimination. Even when the law presents restorative justice as voluntary, the context of police authority, detention risks, and uncertainty about prosecution can make consent functionally coerced. A suspect might agree to a settlement not because it is freely chosen but because it appears to be the only route to avoid detention, stigma, or

prolonged investigation. This risk is intensified where the restorative process implicitly demands acknowledgment of wrongdoing as a precondition for settlement, which can later operate as an informal confession if the process fails and the case returns to prosecution,(Sorokin & Stein, 2021). For this reason, limiting investigators' authority over restorative justice is inseparable from ensuring that suspects retain effective rights to counsel, to silence, and to contest procedural irregularities.

The new Criminal Procedure Code is publicly summarized as strengthening the rights of suspects, defendants, and other parties, refining investigator powers, adjusting coercive measures, and strengthening pretrial mechanisms. Even at the summary level, this orientation is not neutral because it signals that the legislature intends to treat procedural rights as core to the system rather than as residual safeguards. In a restorative justice setting, the strengthening of the advocate's role, pretrial control, and structured coercive powers should function as systemic constraints on investigative overreach, including overreach disguised as "peace." The normative implication is that restorative justice must not create a rights free zone at the investigation stage. Instead, the same due process infrastructure that governs ordinary investigation should govern restorative diversion, with additional safeguards against subtle pressure and bargaining imbalance (Lanni, 2022).

At the level of normative design, the new Criminal Procedure Code and its related institutional framework already articulate several formal constraints on investigators' authority, including judicially supervised termination, strengthened procedural rights, and structured restorative pathways. These elements indicate that restorative justice is no longer conceived as a purely managerial or informal option. However, the existence of statutory safeguards should be analytically separated from the question of practical implementation. A norm may be well designed in formal terms yet remain ineffective if consent verification is superficial, if documentation becomes templated, or if judicial review is reduced to administrative endorsement. For that reason, the effectiveness gap in this subsection must be assessed by distinguishing what the

law formally requires from how those requirements may operate in high volume investigative practice.

Empirical patterns show why these limits are not merely theoretical. National police reporting has stated that restorative justice resolutions increased from 18,175 cases in 2023 to 21,063 cases in 2024, an increase of 2,888 cases, reflecting the growing institutional reliance on restorative closure (Nagara et al., 2025). A large and rising volume of restorative case resolution increases the probability of variation, inconsistency, and opportunistic use, because high throughput environments tend to prioritize efficiency. In that setting, investigators might treat restorative justice as a case disposal technique rather than a careful process of restoration and rights protection. The more frequently restorative justice is used, the more essential it becomes that limits on investigators' authority are not only written but operationally enforceable and reviewable.

Specific reported case patterns also illustrate the movement toward judicially supervised closure, which directly bears on investigators' authority. For instance, reporting from Bandar Lampung describes a mutual assault dispute that ended through restorative justice, where an investigation termination order was followed by a district court determination granting the request. Although a single case does not establish general compliance, it shows an emerging pathway where investigators cannot simply close files on their own authority and must route restorative closure through judicial confirmation. For suspects, this can function as a safeguard because it creates a formal record and an external checkpoint that can evaluate whether the closure is consistent with legality and whether the process respected procedural guarantees. It can also function as a safeguard for victims, which indirectly strengthens suspects' rights by making the process more legitimate and less vulnerable to later contestation.

However, judicial control does not automatically protect suspects if the review becomes merely formalistic. The crucial question is the standard of review applied by the court. A formal review would confine the court to checking whether the application was submitted on time, whether the minutes of agreement exist, and whether the procedural file is administratively complete. By

contrast, a substantive review would require the court to examine whether the suspect's consent was genuinely voluntary, whether legal counsel was available or validly waived, whether there was any indication of intimidation or bargaining imbalance, whether the classification of the offense was consistent with statutory eligibility, and whether the restorative outcome was proportionate rather than merely expedient. If validated restorative termination is excluded from pretrial challenge, then judicial determination must function as a substantive legality review rather than a documentary confirmation. Otherwise, judicial oversight risks legitimizing investigative decisions without meaningfully testing whether suspects' rights were protected.

A further structural constraint, implied by the Supreme Court's account, is the temporal discipline imposed on restorative justice closure. Tight deadlines for requesting and issuing court determinations are framed as ensuring a fast and simple process. For suspects, time discipline can be protective because it reduces the risk of prolonged uncertainty, repeated summons, or open ended negotiation that functions as pressure. Yet time discipline can also create new risks, because compressed timelines may incentivize investigators to push parties into settlement quickly, particularly when investigators perceive restorative justice as a performance metric tied to institutional targets. The normative finding is that time limits must be coupled with minimum cooling off and consultation opportunities for suspects, otherwise speed becomes a mechanism of pressure rather than protection.

The question of legal gaps must be framed carefully because the new Criminal Procedure Code is presented as introducing explicit restorative justice provisions, yet it also relies on implementing regulations for technical completeness. The Supreme Court article notes that further provisions on restorative justice mechanisms are to be regulated in a government regulation and that, at least at the time described, the draft government regulation had not been enacted, leaving technical regulation incomplete in some areas. This gap is especially relevant for safeguarding suspects' rights because technical rules often specify how consent is recorded, how counsel participation is ensured, and how the process is documented to prevent later misuse. Without detailed

implementing norms, investigators may default to internal templates and local practice, reviving the very inconsistency that statutory recognition sought to reduce. The finding is that an implementation gap is not a minor administrative issue. It directly determines whether investigators' authority is constrained by uniform procedural standards or by local discretion.

The safeguarding of suspects' rights also intersects with the broader distribution of investigative authority across institutions. A civil society analysis from Jentera argues that the new KUHAP strengthens the position of the national police as "main investigator" and expands its coordination and oversight functions over civil servant investigators and certain other investigators, with potential implications for hierarchical control,(Wahid et al., 2022). Although that analysis is not limited to restorative justice, it matters here because restorative justice at the investigation stage is administered through investigative authority, and concentrated authority increases the need for external constraints to prevent coercive or inconsistent outcomes. The same analysis references constitutional court jurisprudence emphasizing that coordination between police investigators and civil servant investigators should be limited to coordination rather than supervision, framed as a safeguard against overlapping powers that could harm public interests, including suspects. The theoretical implication is that institutional design itself can affect suspects' rights by shaping how many checks exist against investigative dominance in restorative procedures.

Processed doctrinal analysis indicates that limits on investigators' authority operate on three layers of control. The first layer is competence limitation, meaning that investigators must act within legally defined restorative justice conditions and cannot use restorative justice for any case category at will. The second layer is process limitation, meaning that investigators must follow a specified sequence, ensure participation standards, and document the process in a way that can be reviewed. The third layer is outcome limitation, meaning that closure based on restorative justice must pass through a legality filter, most notably judicial determination, rather than being an internal decision. The new framework, as explained in Supreme Court communications and SEMA reporting, clearly invests in the third layer through court determination

requirements and strict timelines. The unresolved issue is whether the first and second layers are specified with enough clarity and enforcement tools to prevent investigators from informally shaping outcomes through pressure and information control.

The concept of “safeguarding suspects’ rights” in restorative justice must also be defined more precisely than conventional due process vocabulary. In ordinary investigation, suspects’ rights are often framed negatively, as protections against unlawful arrest, detention, and coercive interrogation. In restorative justice, suspects’ rights also have a positive dimension, namely the right to make an informed and voluntary choice about participation, the right to legal assistance in negotiation, and the right to withdraw without retaliation or punitive escalation,(Marder, 2020). These rights are directly impacted by investigators’ authority because investigators often control whether a suspect is detained, how the suspect is informed about options, and whether the suspect is told the consequences if restorative justice fails. Therefore, limiting investigators’ authority is not only about reducing coercion. It is also about ensuring informational equality and procedural neutrality during restorative negotiation.

The empirical expansion of restorative justice in Indonesia heightens the need to treat these safeguards as systemic rather than case specific. Police reporting of tens of thousands of restorative resolutions suggests that restorative pathways have become normalized as a regular investigative outcome in minor cases. Normalization creates two predictable risks. First, restorative justice may be routinized through templates that reduce substantive participation and mask coercion behind signed forms. Second, restorative justice may be selectively offered or withheld based on non legal factors, including social status or local power dynamics. A credible limitation regime must therefore ensure that investigators have clear obligations to provide equal access to information and equal treatment across similar cases, and that courts have enough material to detect deviations.

Within Indonesian regulation, Police Regulation Number 8 of 2021 already framed restorative justice as conditional and structured, which provides a functional precursor to statutory limits. Yet institutional regulation alone

cannot guarantee suspects' rights when the consequence is termination of a criminal case, because suspects and victims need the assurance that rights and limits are anchored in statutory legality and subject to external review (Budiyanto et al., 2023). This is precisely why the new KUHAP's court determination requirement is central to this subsection's findings. The system is attempting to convert restorative justice from an internal managerial discretion into a legally controlled diversion path. The decisive test is whether the new framework can prevent investigators from using restorative justice as a substitute for lawful evidence based processing, and whether it can prevent investigators from extracting de facto confessions or payments without genuine voluntariness.

The role of pretrial control in safeguarding suspects' rights also becomes relevant, even though restorative justice introduces a special finality route. The new KUHAP is described in summary as strengthening pretrial mechanisms. Separately, a Constitutional Court press document discusses how certain provisions of the new KUHAP are raised in constitutional litigation relating to pretrial objects, reflecting active contestation of procedural guarantees and delay control. This litigation environment is evidence that procedural rights are not merely rhetorical. They are contested and clarified through constitutional interpretation. In restorative justice, the design choice described in SEMA reporting, that validated restorative termination cannot be challenged through pretrial, heightens the need that restorative review itself is robust and rights oriented.

The limits on investigators' authority should also be grounded more explicitly in the doctrine of Rechtsstaat. In a state governed by law, discretionary power is not rejected, but it is legitimate only when exercised within a framework of legality, accountability, and reviewability. This is consistent with Gustav Radbruch's view that legal order cannot tolerate state action that relies solely on expediency while neglecting legal certainty and justice. Restorative justice at the investigation stage is a high discretion domain because investigators influence access to diversion, shape the procedural environment, and may affect whether a case is terminated before full adjudication. For that reason, restorative justice cannot operate as an informal or merely pragmatic mechanism. It must remain

subject to formal legal control, transparent reasons, and reviewable standards. The requirement of court determination under Pasal 84 and the related supervisory structure can therefore be read as a concrete Rechtsstaat response to the risk of arbitrariness in restorative diversion (Pramudia, 2023).

Procedural justice theory further sharpens the analysis by explaining why suspects' rights can be violated even when outcomes appear consensual. In restorative settings, perceptions of fairness depend on voice, neutrality, dignity, and trustworthy motives, yet investigative authority can distort each factor through subtle cues. When an investigator frames restorative justice as the "best" option or implies that refusal will lead to detention or harsher treatment, the suspect's agency is compromised even if a signature is obtained. The normative limit must therefore extend to communication standards and neutrality obligations, not only to formal eligibility criteria. Judicial review can partially address this if it demands documentation of the process, not merely the agreement. The framework's success in safeguarding suspects' rights depends on whether these qualitative fairness conditions are converted into reviewable indicators.

A third theoretical lens, responsive criminal policy, explains why limiting investigators' authority is necessary even when restorative justice is pursued for efficiency and decarceration. Responsive policy supports differentiated handling for minor cases to avoid the social costs of overcriminalization, yet it also insists that diversion mechanisms must not become a space where informal power produces unequal justice. The broader the restorative justice scope, including as described in SEMA reporting for offenses punishable up to five years, the higher the need for consistent eligibility classification and oversight. Expanding scope can benefit suspects by offering non custodial resolutions, but it can also expose suspects to coerced settlements in more serious cases if safeguards are not intensified accordingly. Therefore, policy rationales must be matched by stronger limits on investigative authority and higher review standards as the scope expands.

The processed findings can be condensed into an evaluative proposition. Under the new Criminal Procedure Code, the core limit on investigators'

authority over restorative justice is the relocation of final validity from the investigator's administrative act to judicially supervised determination, combined with procedural time discipline and multi channel initiation. This is a significant structural correction compared to earlier practice anchored primarily in internal institutional regulations. Empirical trends of high usage make such structural correction necessary because high usage magnifies inconsistency and coercion risks. The remaining vulnerability is the implementation and review quality gap, particularly where technical regulations are incomplete and where review risks devolving into formal confirmation rather than substantive rights protection.

In conclusion, the normative framework's capacity to safeguard suspects' rights depends not only on the existence of formal limits on investigators' authority, but also on the effectiveness of their implementation. At the level of normative design, the new Criminal Procedure Code moves restorative justice away from informal settlement toward legality based diversion through judicial control, structured initiation, and procedural duties. Yet the practical value of those safeguards will depend on whether courts apply substantive rather than merely formal review, and whether implementation protocols require counsel access, cooling off periods, and standardized consent verification. The central legal risk is therefore no longer the absence of authority in principle, but the possibility that formally valid restorative procedures may still conceal coercion, inequality, or arbitrary closure in practice.

Conclusion

This study answers the research question by showing that the new Criminal Procedure Code reconceptualizes restorative justice at the investigation stage as a legally recognized procedural pathway, rather than an ad hoc settlement practice, and it therefore reframes early case termination as a norm governed outcome subject to articulated conditions and institutional control. It further finds that the system's legal integrity depends on whether restorative justice is implemented through coherent inter stage standards, including eligibility limits, consent safeguards, documentation requirements, and a reviewable closure mechanism

that prevents diversion from becoming selective or coercive. The analysis also establishes that investigators' authority is no longer justified primarily by managerial discretion, because it is normatively constrained by procedural duties and by external control points that are designed to curb unilateral closure and to safeguard suspects' procedural autonomy during restorative engagement. In short, the conceptualization of restorative justice under the new code is best understood as a shift from discretion centered practice to legality centered diversion, whose credibility rests on enforceable safeguards that protect both restoration goals and due process commitments.

The scientific value of this study lies in its doctrinal clarification of how restorative justice operates as a procedural institution within criminal process, rather than as an ethical add on, by mapping the mechanism's internal logic, its control architecture, and its rights implications at the earliest stage of the criminal justice chain. Its originality is located in treating the investigation stage as the core procedural gateway where legal certainty, equality, victim participation, and suspects' rights are most vulnerable to informal bargaining and asymmetrical power. For practice and policy, the study offers a precise framework for evaluating whether investigative restorative justice is conducted as a rights compatible process, namely by assessing the quality of consent verification, the neutrality of facilitation, the completeness of documentation, and the substance of oversight review. It also provides a practical basis for aligning institutional regulations and operational templates with statutory procedure, so that restorative justice becomes a standardized and auditable mechanism rather than a variable local practice.

This study is limited by its normative design, which focuses on coherence and legality of the framework rather than measuring lived experiences of suspects, victims, and investigators across diverse regions and case types. It also relies on publicly accessible descriptions and selected empirical indicators of restorative justice usage, which illuminate scale and direction but cannot fully explain the quality of consent, the dynamics of pressure, or the real intensity of judicial review in daily practice. Another limitation is that technical implementation details may continue to evolve through subordinate regulations and institutional

guidelines, so doctrinal conclusions about safeguards must be periodically reassessed as implementing norms and court practices mature. Future research should therefore integrate targeted empirical work on how suspects' rights are protected in restorative processes, including counsel access, withdrawal rights, and documentation integrity, and should evaluate whether judicial determinations function as substantive legality review or as formal confirmation in high volume environments.

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Declaration of Generative AI Use

In preparing this manuscript, the authors employed ChatGPT (OpenAI) to enhance textual clarity, organization, and overall readability. Grammarly was also used to support language editing. Following the use of these tools, the authors carefully reviewed, revised, and validated the entire manuscript to ensure that all content faithfully reflects their own ideas and interpretations. The authors take full responsibility for the integrity and originality of the published work.

Competing Interest

The authors declare that there are no conflicts of interest regarding the publication of this article.

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