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## Article Title

### The Role of Physical Evidence in the Evidentiary System in Criminal Cases: A Study at Makassar City Police Headquarters

## Author(s)

**Asep Marsel Suherman\***

*Universitas Muslim Indonesia, Indonesia*

*\*Corresponding Author*

**Abdul Agis**

*Universitas Muslim Indonesia, Indonesia*

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## ABSTRACT

*This research aims to identify and analyze the role of physical evidence within the evidentiary system for criminal cases at the Makassar City Police Headquarters, as well as the factors influencing said role. This study falls under the category of empirical legal research, emphasizing field research supported by data and interview results. The research was conducted in the city of Makassar. Research findings indicate that the role of physical evidence in the evidentiary system for criminal cases at the Makassar City Police Headquarters is crucial. Physical evidence is significant in complementing other recognized types of evidence, including witness testimony and the defendant's statement. Furthermore, three factors associated with the role of physical evidence were identified: the legal substance factor, the legal structure factor, and the legal culture factor. Moreover, these factors were assessed as having a significantly positive influence on the evidentiary system for criminal cases at the Makassar City Police Headquarters. It is hoped that the role of physical evidence will be further strengthened, thereby enabling future improvements in the evidentiary system for criminal cases.*

**Keywords:** Criminal Cases; Evidentiary System; Physical Evidence.

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## INTRODUCTION

Physical evidence in criminal cases plays a vital role in the examination process of such cases, serving even as a vital determinant in decision-making concerning cases under process, both during investigation and in court (Ashari, 2017). Due to its significance, physical evidence can shape the case resolution process and become a determining factor in establishing the offense or criminal liability (Tahir & Safitri, 2018).

Essentially, the function and status of physical evidence in criminal cases are regulated by several legal provisions, among them Article 44 section (2) of Law Number 8 of 1981, which provides that:

*“Confiscated items shall be stored with due care, and the responsibility thereof lies with the authorized official according to the level of examination in the judicial process, and said items are prohibited from being used by anyone whomsoever.”*

The aforementioned provision emphasizes that in the absence of a state repository for confiscated items in the relevant location, the storage of such confiscated items shall be carried out at the offices of the Indonesian National Police, the District Prosecutor's Office, or the warehouse of a State Bank; and, under compelling circumstances, other storage arrangements may be made, keeping the items at their original place of seizure (Pratiwi et al., 2018). This provision also facilitates the practical storage of physical evidence if a region does not yet have a State Repository for Confiscated Items as referred to in Article 44 section (1) of Law Number 8 of 1981, which stipulates that *“confiscated items shall be stored in a state repository for*

*confiscated items*", in conjunction with Article 26 of Government Regulation Number 58 of 2010.

In practice, investigators sometimes can only suspect that an item has a direct or indirect connection to the committed crime, allowing the investigator to designate it as physical evidence (Kojansow, 2017). Therefore, it is compelling to examine the role of physical evidence and the factors influencing investigators regarding physical evidence within the evidentiary system for criminal cases.

Based on the foregoing discussion, this research aims to identify and analyze the role of physical evidence within the evidentiary system concerning criminal cases at the Makassar City Police Headquarters, as well as the factors influencing it.

## **METHOD**

This study employs an empirical legal research methodology, defined as research examining law in its social context (Sampara & Husen, 2016), and pertains to the role of physical evidence within the evidentiary system concerning criminal cases. This research was conducted in the city of Makassar, specifically at the Makassar City Police Headquarters, based on the consideration that this research location handles numerous criminal cases.

The population for this research comprises Police officers and Advocates (lawyers) who frequently handle criminal cases, as well as perpetrators of criminal offenses. The sample size consisted of 45 respondents, selected and proportionally stratified as follows:

1. 10 Police officers serving as Preliminary Investigators;
2. 10 Police officers serving as Investigators;
3. 10 perpetrators of criminal offenses; and
4. 5 Advocates (lawyers).

The types of data utilized in this research are as follows (Irwansyah, 2020):

1. Primary Data: data obtained directly from respondents based on the population and sample determination;
2. Secondary Data: data obtained from tracing library legal materials, comprising official documents from the Makassar District Prosecutor's Office, laws and regulations, reference materials, legal scientific journals, legal encyclopedias, as well as official texts or publications.

To obtain the data required for this research, the following data collection techniques were employed (Qamar & Rezah, 2020):

1. Questionnaires/Surveys: involving direct interviews where questions related to the issues examined in this research were posed to respondents for answering;
2. Documentation: conducted through formal requests for relevant documents;
3. Library Research: carried out by inventorying and analyzing library legal materials pertinent to the issues studied in this research.

The collected data were subsequently quantified using a quantitative descriptive analysis model, and then elaborated through frequency distribution tables.

## **RESULTS AND DISCUSSION**

### **A. The Role of Physical Evidence in the Evidentiary System concerning Criminal Cases**

In principle, all types of evidence hold equal value and importance; however, in reality, law enforcement officials consistently commence the proof-gathering process following the sequence of witness testimony, documentary evidence, and expert testimony (Biloro, 2018). During the investigation phase, investigators typically begin by collecting witness testimony (Pratama, 2019). Similarly, during court proceedings, the Public Prosecutor will initiate the evidentiary process by presenting testimonial evidence. Should the witness testimony prove insufficient, only then does the examination proceed to other types of evidence (Sigar, 2013). Conversely, circumstantial evidence is required in court proceedings when other types of evidence are insufficient to prove the defendant's guilt (Nugroho, 2017). Even when proof derived from other types of evidence is already convincing, the role of physical evidence remains pertinent for presentation during the trial, in order for the Judge to be fully convinced regarding the criminal case being tried (Alamri, 2017).

Regarding the assessment of evidence within the evidentiary system, Article 184 of Law Number 8 of 1981 provides that:

- (1) Valid types of evidence are:
  - a. witness testimony;
  - b. expert testimony;
  - c. documentary evidence;
  - d. circumstantial evidence ;
  - e. the defendant's statement.
- (2) Matters that are common knowledge need not be proven.

The provisions outlined above possess significant probative force; however, law enforcement officials have discretion in assessing them. Within the evidentiary

theory adopted in Indonesia, physical evidence merely serves as a supplement in the criminal case process to further convince the Judge when evaluating the types of evidence presented by the public prosecutor (Prameswari et al., 2015). Physical evidence is generally only required when other types of evidence have not met the minimum threshold of proof, as stipulated in Article 183 of Law Number 8 of 1981, which provides that:

*“A Judge shall not impose a criminal sentence upon a person unless, based on at least two valid types of evidence, the Judge gains the conviction that a criminal offense has truly occurred and that the defendant is guilty of committing it.”*

Furthermore, it can be stated that physical evidence as circumstantial evidence would not exist without other types of evidence serving as its source. Thus, the interpretation of physical evidence as circumstantial evidence (which itself is a type of evidence) heavily depends on other types of evidence. Therefore, the Judge must first attempt to establish proof using other types of evidence before utilizing physical evidence as circumstantial evidence, or unless circumstances exist where proof can no longer possibly be obtained from other types of evidence. In such situations, establishing proof through physical evidence interpreted as circumstantial evidence becomes essential. Factually, judicial decisions are often encountered that merely summarize circumstantial evidence using a standard phrase; the defendant’s guilt has been proven due to the congruence between the actions and the committed criminal offense.

### **1. Criminal Offense of Theft**

Data obtained from interviews with respondents regarding the number of theft cases based on physical evidence secured at Makassar City Police Headquarters over the past three years are presented in the table below.

**Table 1. Criminal Cases of Theft Based on Physical Evidence**

<b>Year</b>	<b>Frequency</b>	<b>Percentage (%)</b>
2016	5	19.23
2017	10	38.46
2018	11	42.31
<b>Total</b>	<b>26</b>	<b>100.00</b>

*Data Source: Processed from Makassar City Police Headquarters Data, 2019*

Based on Table 1 above, the data on theft cases based on physical evidence show that in 2016 there were 5 (five) cases or 19.23%; in 2017 there

were 10 (ten) cases or 38.46%; and in 2018 there were 11 cases or 42.31%. Furthermore, according to the Head of the General Crimes Investigation Unit of Makassar City Police Headquarters:<sup>1</sup>

*“The most frequently confiscated physical evidence is two-wheeled motor vehicles, accounting for over 50%. This is due to the high number of two-wheeled motor vehicle theft offenses.”*

## **2. Criminal Offense of Assault**

Data obtained from interviews with respondents regarding the number of assault cases based on physical evidence secured at Makassar City Police Headquarters over the past three years are presented in the table below.

**Table 2. Criminal Cases of Assault Based on Physical Evidence**

<b>Year</b>	<b>Frequency</b>	<b>Percentage (%)</b>
2016	18	25.71
2017	24	34.29
2018	28	40.00
<b>Total</b>	<b>70</b>	<b>100.00</b>

*Data Source: Processed from Makassar City Police Headquarters Data, 2019*

Based on Table 2 above, the data on assault cases based on physical evidence show that in 2016 there were 18 cases or 25.71%; in 2017 there were 24 cases or 34.29%; and in 2018 there were 28 cases or 40.00%. Furthermore, according to the Head of the General Crimes Investigation Unit of Makassar City Police Headquarters:

*“The most prevalent form of assault offense involves domestic violence, although reconciliation often occurs after mediation by the police.”*

## **3. Narcotics and Psychotropic Offenses**

Data obtained from interviews with respondents regarding the number of narcotics and psychotropic offenses based on physical evidence secured at Makassar City Police Headquarters over the past three years are presented in the table below.

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<sup>1</sup>Interview with the Head of the General Crimes Investigation Unit, Makassar City Police Headquarters, on August 5, 2019.

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**Table 3. Narcotics and Psychotropic Offense Cases Based on Physical Evidence**

Year	Frequency	Percentage (%)
2016	30	30.31
2017	33	33.33
2018	36	36.36
<b>Total</b>	<b>99</b>	<b>100.00</b>

*Data Source: Processed from Makassar City Police Headquarters Data, 2019*

Based on Table 3 above, the data on narcotics and psychotropic offenses based on physical evidence show that in 2016 there were 30 cases or 30.31%; in 2017 there were 33 cases or 33.33%; and in 2018 there were 36 cases or 36.36%. Furthermore, according to the Head of the Narcotics Investigation Unit of Makassar City Police Headquarters:<sup>2</sup>

*"Narcotics and psychotropic offenses constitute the most numerous cases handled at Makassar City Police Headquarters over the past three years."*

## **B. Factors Influencing the Role of Physical Evidence in the Evidentiary System concerning Criminal Cases**

### **1. Legal Substance**

Data obtained from interviews with respondents concerning the role of physical evidence in the evidentiary system for criminal cases at Makassar City Police Headquarters, based on the legal substance factor, are presented in the table below.

**Table 4. The Role of Physical Evidence in the Evidentiary System concerning Criminal Cases based on the Legal Substance Factor**

Indicator	Frequency	Percentage (%)
Influential	25	55.56
Less influential	13	28.89
Not influential	7	15.55
<b>Total</b>	<b>45</b>	<b>100.00</b>

*Source: Processed from Questionnaire Data, 2019*

Based on Table 4 above, the findings indicate that 25 respondents (55.56%) stated it was influential; 13 respondents (28.89%) stated it was less influential; and 7 (seven) respondents (15.55%) stated it was not influential.

<sup>2</sup>Interview with the Head of the Narcotics Investigation Unit, Makassar City Police Headquarters, on August 6, 2019.

Consequently, the legal substance factor significantly influences the role of physical evidence in the evidentiary system concerning criminal cases at Makassar City Police Headquarters. However, physical evidence itself is not formally listed as one of the binding types of evidence in Law Number 8 of 1981, although it is frequently used in practice and considered highly important in the criminal case process.

## **2. Legal Structure**

Legal structure encompasses the entirety of law enforcement institutions and the characteristics/professionalism of law enforcement personnel, due to the strong tendency among the public to equate law with officials or law enforcers (Bunyamin, 2021). The professionalism of law enforcement officials in assessing evidence, such as interpreting physical items used in committing a crime as circumstantial evidence and evaluating the defendant's statement, is greatly determined by their astuteness in evaluation (Mahmud et al., 2019).

Furthermore, data obtained from interviews with respondents concerning the role of physical evidence in the evidentiary system for criminal cases at Makassar City Police Headquarters, based on the legal structure factor, are presented in the table below.

**Table 5. The Role of Physical Evidence in the Evidentiary System concerning Criminal Cases based on the Legal Structure Factor**

Indicator	Frequency	Percentage (%)
Influential	23	51.11
Less influential	14	31.11
Not influential	8	17.78
<b>Total</b>	<b>45</b>	<b>100.00</b>

*Source: Processed from Questionnaire Data, 2019*

Based on Table 5 above, the findings indicate that 23 respondents (51.11%) stated it was influential; 14 respondents (31.11%) stated it was less influential; and 8 (eight) respondents (17.78%) stated it was not influential. Consequently, the legal structure factor significantly influences the role of physical evidence in the evidentiary system concerning criminal cases at Makassar City Police Headquarters.

## **3. Legal Culture**

Legal culture comprises the entirety of values, attitudes, sentiments, and behaviors of community members, including government officials, concerning



the law (Hariyadi, 2020). An essential component of legal culture is legal awareness, as it forms part of the legal culture (Sukriono, 2014). Besides the term legal awareness, the term legal sentiment is also recognized. Essentially, legal awareness constitutes the consciousness or values residing within individuals regarding existing law or the desired legal order (Usman, 2014). In other words, legal awareness is a person's perception of the law.

When legal awareness is discussed, it cannot be separated from legal compliance or public obedience to the law. Actual behavior manifested as legal compliance can be achieved if such compliance is based on satisfaction, as satisfaction is the result of achieving aspirations and justice. In other words, the law will gain public support if it aligns with the values that grow and develop within the society (Maryanto, 2015).

Furthermore, data obtained from interviews with respondents concerning the role of physical evidence in the evidentiary system for criminal cases at Makassar City Police Headquarters, based on the legal culture factor, are presented in the table below.

**Table 6. The Role of Physical Evidence in the Evidentiary System concerning Criminal Cases based on the Legal Culture Factor**

Indicator	Frequency	Percentage (%)
Influential	24	53.33
Less influential	13	28.89
Not influential	8	17.78
<b>Total</b>	<b>45</b>	<b>100.00</b>

*Source: Processed from Questionnaire Data, 2019*

Based on Table 6 above, the findings indicate that 24 respondents (53.33%) stated it was influential; 13 respondents (28.89%) stated it was less influential; and 8 (eight) respondents (17.78%) stated it was not influential. Consequently, the legal culture factor significantly influences the role of physical evidence in the evidentiary system concerning criminal cases at Makassar City Police Headquarters.

## **CONCLUSIONS AND SUGGESTIONS**

Based on the analysis of the research results and discussion, it can be synthesized that the role of physical evidence holds a crucial position within the framework of the evidentiary system for criminal cases at Makassar City Police Headquarters. This fundamental importance stems from the capacity of physical evidence to effectively

support and complement other formal types of evidence, including witness testimony and the defendant's statement, which in turn reinforces the overall evidentiary process. Furthermore, the findings of this study consistently demonstrate that three primary factors – namely legal substance, legal structure, and legal culture – collectively exert a significant positive influence on the optimization of the role of physical evidence in the implementation of the evidentiary system within the jurisdiction of Makassar City Police Headquarters.

Considering the conclusion regarding the vital role of physical evidence and the constructive impact of the influencing legal factors, it is hereby recommended that continued attention and efforts be focused on further strengthening the standing, management, and utilization of physical evidence. This strategic reinforcement is projected not only to enhance the credibility of physical evidence itself but also to contribute significantly to improving the overall effectiveness and integrity of the evidentiary system for criminal cases at Makassar City Police Headquarters, ultimately leading towards the realization of a more reliable and just criminal justice process in the future.

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