

Forensic Psychiatric Examination in the YA Case under Indonesian Health Law Number 17 of 2023

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Abstract

Psychiatric assessment of a suspect has three frequently conflated dimensions: clinical (diagnosis and treatment), forensic (a structured medico-legal examination answering legal referral questions), and legal (the authorities' determination of responsibility, competence, coercive measures, and disposition). Article 81 of Indonesian Health Law Number 17 of 2023 requires a forensic examination for two distinct purposes: criminal responsibility and competence to undergo proceedings. Research Gap and Novelty: Indonesian studies examine the psychiatric visum mainly as evidence under Article 44 of the Criminal Code; procedural competence, the shift from the 2014 Mental Health Law to the 2023 Health Law, and the relationship between forensic findings and restorative-justice termination remain largely unexamined. The novelty lies in analysing, through primary case documents, the full pre-trial trajectory of the YA case: twenty-day police-hospital observation (2023), a parental outpatient-care request, settlement (2024), and restorative-justice termination of the investigation (June 2025). Method: Normative juridical research with statutory, conceptual, and case approaches. Results: A diagnosis, treatment request, family guarantee, or settlement cannot determine responsibility or competence; each requires a forensic opinion, retrospective for responsibility and present-focused for competence, followed by a reasoned legal decision. The restorative termination ended the investigation on a separate procedural ground and supplied no psychiatric finding. Legal Contribution: A three-dimensional, dual-axis model that assigns each question its own timing, evidence, decision-maker, and consequence, and an intertemporal clarification: the 2014 Mental Health Law and Minister of Health Regulation Number 77 of 2015 governed the 2023 examination, whereas the 2023 Health Law frames current practice. Conclusion: Clinical care, forensic assessment, legal determination, and restorative disposition must remain distinct; none may substitute for another.

Introduction

The criminal process must distinguish two questions when a suspect may have a mental disorder. The first asks whether the person could be held responsible for the alleged act at the time it occurred. The second asks whether the person is presently able to understand and participate in the investigation, prosecution, and trial. These questions concern different times, different functions, and different legal consequences. Article 81 of Law Number 17 of 2023 concerning Health expressly requires a mental health examination for both purposes, and Article 83 directs that the examination follow the applicable guideline (Law Number 17 of 2023, arts. 81(1)–(2) and 83).

The YA case brought this distinction into public view. An official police communication described YA as a person involved in disturbances in several public places whose conduct had circulated on social media. Police initiated a criminal process and sought psychiatric observation before deciding on detention (Indonesian National Police, 2023). That institutional statement is used only to establish the publicly reported procedural chronology; it does not establish guilt, diagnosis, criminal responsibility, or procedural competence. For privacy-sensitive reporting, the individual is referred to as YA throughout this article.

The Police Hospital in Kramat Jati conducted psychiatric observation. An official police news report stated that the observation lasted twenty days and that doctors recommended continued treatment at Dr Soeharto Heerdjan Mental Hospital in Grogol. The same report stated that detention had not yet been imposed while investigators awaited the medical result (Indonesian National Police, 2023). Significantly, the official account expressly declined to identify the condition, stating that the type of illness was a matter known to the doctor (Indonesian National Police, 2023). This restraint illustrates why a public label cannot substitute for the confidential forensic report.

The public discussion often treated the reported diagnosis as a complete answer to criminal responsibility. That approach is legally and medically inadequate. A diagnosis classifies a clinical condition and guides treatment. Criminal responsibility requires a functional and retrospective assessment of the person's capacities at the time of the alleged offence. Procedural competence requires a present-focused assessment of meaningful

participation in the proceedings. Either legal capacity may be preserved, impaired, or absent even when a mental disorder is clinically established. Comparative forensic psychiatry also shows that criminal responsibility is defined by the governing legal test, not by diagnosis alone (Pouls et al., 2022).

The timing of the case requires careful treatment. The arrest, observation, and referral occurred in April and May 2023. Law Number 17 of 2023 was enacted and entered into force on 8 August 2023. It therefore cannot be presented as the direct statutory basis for investigative steps completed before that date. At the relevant time, Articles 71 to 73 of Law Number 18 of 2014 concerning Mental Health and Minister of Health Regulation Number 77 of 2015 supplied the specific legal framework. The 2023 Health Law later repealed the 2014 Mental Health Law and restated the core examination duties in Articles 81 and 83 (Law Number 18 of 2014, arts. 71–73; Law Number 17 of 2023, arts. 81 and 83). The present study uses the 2023 Law as a contemporary normative framework and tests the 2023 conduct against the rules then applicable.

Previous Indonesian scholarship has approached the psychiatric dimension of criminal cases mainly through evidence and criminal responsibility. Several studies describe the *Visum et Repertum Psikiatrikum* as the instrument through which psychiatrists assist investigators, prosecutors, and judges, and report that courts give it considerable weight when applying Article 44 of the Criminal Code (Sobari & Nurdin, 2022; Putra et al., 2023; Sari et al., 2025). Others examine the legal protection of psychiatrists who issue such reports and the use of the report in a particular homicide case (Maulidianti et al., 2023; Siregar & Sinaga, 2023). Doctrinal studies of criminal responsibility have criticised the uncertain operation of Article 44 during investigation, observing that a finding of mental disorder does not by itself halt the proceedings, and have argued for a reconceptualisation of capacity in the National Criminal Code that recognises partial incapacity (Ohoiwutun et al., 2019; Alfarisi et al., 2021). From the clinical side, Indonesian forensic psychiatrists have shown that the psychomedicolegal analysis required in forensic evaluations is not defined in law and have proposed competency standards to make reports more consistent (Raharjanti et al., 2021, 2023).

A second body of literature addresses the wider legal setting. Research on the 2014

Mental Health Law has concentrated on clinical services and implementation, including psychiatrists' difficulty with the statutory distinction between persons with mental problems and persons with mental disorders, rather than on the forensic examination duties in Articles 71 to 73 (Bikker et al., 2021). A study of police investigations under Government Regulation Number 39 of 2020 found that procedural accommodation for persons with disabilities remained minimal (Devi & Prasetyo, 2022). Recent restorative-justice scholarship argues that community-based restorative mechanisms can bridge criminal responsibility and medical treatment for offenders with mental disorders and offer a more humane response to offences committed by persons with disabilities (Isnawan, 2025; Lutfianti & Utari, 2025). A 2026 qualitative study further documents the inconsistent use of psychiatric evaluation and the difficulty of translating clinical findings into legal reasoning in Indonesian criminal practice (Raharjanti et al., 2026). By contrast, competence to undergo proceedings, which comparative law treats as a distinct and contested inquiry into the accused's present ability to participate, appears to have received little independent attention in Indonesian legal scholarship (Brown, 2019).

Taken together, these studies leave four questions inadequately addressed, and this gap defines the present research. First, they generally treat psychiatric examination as a single question of criminal responsibility and rarely analyse competence to undergo proceedings as a separate statutory purpose with its own timing, evidence, and consequence. Second, they do not systematically distinguish the clinical, forensic, and legal dimensions of psychiatric assessment, so that a treating diagnosis, a forensic opinion, and a legal determination are often discussed as if they were interchangeable. Third, the studies reviewed do not address the intertemporal problem that arises when an examination conducted under the 2014 Mental Health Law and Minister of Health Regulation Number 77 of 2015 is evaluated after the 2023 Health Law, Government Regulation Number 28 of 2024, and the National Criminal Code have taken effect. Fourth, the restorative-justice literature presents mental disorder as a reason favouring restorative settlement but does not ask whether a restorative termination presupposes, replaces, or is independent of forensic findings on responsibility and competence, including the person's capacity to participate meaningfully in a settlement. Methodologically, existing work

relies mainly on statutes, doctrine, or court decisions; to the authors' knowledge, no study has examined from this perspective a documented pre-trial case that ended without adjudication.

To address this gap, the article examines two problems. First, what legal functions and minimum standards govern a forensic psychiatric examination of a suspect who may have a mental disorder? Second, how should the later outpatient-care request, settlement, restorative-justice application, and termination of investigation be distinguished from findings on criminal responsibility and procedural competence? The analysis therefore covers arrest, examination, treatment, detention, evidentiary use, reasonable accommodation, and restorative disposition.

The novelty of the article lies in three features. First, it analyses a complete pre-trial trajectory, from police referral and psychiatric observation to an outpatient-care request, settlement, restorative-justice request, and termination of investigation, on the basis of primary case documents rather than press reports or judgments alone. Second, it develops a three-dimensional, dual-axis model. The model separates the clinical, forensic, and legal dimensions of assessment and, within the forensic dimension, separates retrospective criminal responsibility from present procedural competence, linking each axis to a specific question, source of evidence, decision-maker, and procedural response. Third, it applies an intertemporal analysis that tests the 2023 conduct against the law then in force, while using the 2023 Health Law, Government Regulation Number 28 of 2024, and Articles 38 and 39 of the National Criminal Code as the framework for future cases. The main legal contribution is a principle of non-substitution: a clinical label, a family care plan, or a restorative settlement cannot replace a forensic opinion or a reasoned legal determination, and none may become a shortcut to punishment, exemption, or case termination.

Research Method

This study is normative juridical (doctrinal) legal research. It identifies, interprets, and systematises the legal norms that govern the forensic psychiatric examination of a suspect and then tests a documented case against those norms in order to produce a prescriptive argument; it does not measure empirical behaviour or the frequency of practices (Marzuki, 2014; Hutchinson & Duncan, 2012). The research proceeds in four stages: (1) inventory of

the applicable legal materials; (2) reconstruction of the case facts from documents; (3) application of defined analytical criteria; and (4) formulation of a prescriptive procedural model.

Primary legal materials are binding instruments grouped by function: (a) constitutional and human-rights norms, namely Articles 27(1), 28D(1), 28H(1)-(2), and 28I(2) of the 1945 Constitution and Articles 12 and 13 of the Convention on the Rights of Persons with Disabilities as ratified by Law Number 19 of 2011; (b) the mental-health framework in force during the events, namely Articles 71 to 73 of Law Number 18 of 2014 concerning Mental Health and Minister of Health Regulation Number 77 of 2015, including its prescribed criminal visum format; (c) the current health-law framework, namely Articles 81 and 83 of Law Number 17 of 2023 concerning Health and Article 171 of Government Regulation Number 28 of 2024; (d) substantive criminal law, namely Article 44 of the Criminal Code applicable in 2023 and Articles 38 and 39 of Law Number 1 of 2023 concerning the Criminal Code, in force since 2 January 2026; (e) criminal procedure and evidence, namely Articles 133, 179, 184, and 186 of the Criminal Procedure Code; (f) disability and accommodation, namely Law Number 8 of 2016 concerning Persons with Disabilities and Articles 2 to 6, 15, and 16 of Government Regulation Number 39 of 2020; and (g) restorative justice, namely Articles 2(5), 16(2)(c), and 17 of Police Regulation Number 8 of 2021. Secondary legal materials comprise peer-reviewed Indonesian and international scholarship on forensic psychiatric evidence, criminal responsibility, procedural competence, structured assessment and bias, therapeutic jurisprudence, disability accommodation, and restorative justice, together with legal-philosophical works on culpability and legal ideals. Official legal-information databases were used only to verify the text and current status of the instruments.

Three approaches are combined. The statutory approach identifies these provisions, compares the 2014 and 2023 regimes, and determines which instrument governed each event. The conceptual approach clarifies concepts that the statutes use but do not fully define, namely mental disorder, criminal responsibility (*toerekeningsvatbaarheid*), competence to undergo proceedings, reasonable accommodation, and restorative justice, and draws on legal philosophy to explain why

these concepts must remain distinct. The case approach applies the resulting framework to the YA case. Because the case ended with termination of the investigation rather than a judgment, the case approach examines a documented case file instead of a court decision; it tests how the norms operated in practice rather than extracting a ratio decidendi.

The case materials consist of one public institutional statement and four case documents, listed in Table 1. The table separates what each document records on its face from what it cannot establish.

Table 1. Case materials and the limits of their evidentiary use

No.	Document (date; author)	Fact recorded on its face	Not established by the document
1	Official police news report, Tribrata News (5 May 2023; Indonesian National Police)	Referral for psychiatric observation at the Police Hospital, Kramat Jati; twenty-day observation; recommendation for continued treatment at Dr Soeharto Heerdjan Mental Hospital; detention not yet imposed pending the medical result	Diagnosis, criminal responsibility, procedural competence, or guilt
2	Request for outpatient treatment (6 July 2023; parents of YA)	Request for outpatient care; statement that a mental disorder had been conveyed orally; undertaking to cooperate with investigators and to supervise care	A verified diagnosis, approval by investigators, or any forensic opinion
3	Settlement agreement (25 July 2024; parties to Police Report No. LP/B/261/I/2023/SPKT/Polda Metro Jaya)	Apology and forgiveness; parents' best-efforts undertaking on mental-health care; reporting party's commitment to seek withdrawal of the report	Termination of the investigation, or any finding on responsibility or competence
4	Request for a restorative-justice case conference (5 March 2025; reporting party and parents of YA)	Request for a special case conference and termination under Police Regulation Number 8 of 2021	Police approval or termination
5	Notification of termination of investigation (June 2025; Directorate of General Criminal Investigation, Jakarta Metropolitan Police)	Termination effective 5 June 2025 on restorative-justice grounds, with reference to the corresponding termination order and decree	Acquittal, a judicial finding on criminal responsibility, or a medical finding on competence

Source: Authors' compilation from the case materials.

Three rules govern the use of these materials and keep fact separate from interpretation. First, factual statements in the Results and Discussion are confined to what a document records and are attributed to that document in the footnotes; a party-authored document proves that a statement or request was made, not that its content is true. Second, matters the materials do not disclose, including the diagnosis, the formal referral questions, the composition of the examination team, psychometric results, and the forensic opinions on responsibility and competence, are treated as unknown and are not inferred. The confidential medical record and the complete Visum et Repertum Psikiatrikum were not examined. Third, the authors' legal interpretation is expressed as normative evaluation and is derived from the criteria in Table 2, not from the case documents. To protect privacy, the person concerned is identified only by initials, and other personal data are omitted.

The YA case is analysed against seven criteria derived from the primary legal materials (Table 2). For each criterion, the analysis records whether the materials show compliance, show non-compliance, or are silent; silence is reported as a limitation of the record and is not resolved by assumption.

Table 2. Criteria for analysing the YA case

No.	Criterion	Legal basis
1	Temporally applicable law: which instrument governed each event, without retroactive application of later instruments	Law Number 18 of 2014, arts. 71-73; Law Number 17 of 2023, arts. 81 and 83; Law Number 1 of 2023, arts. 38-39
2	Trigger and referral: suspicion of a mental disorder in a person alleged to have committed an offence; formal written request stating identity, purpose, and case description	Law Number 18 of 2014, art. 71(1); Minister of Health Regulation Number 77 of 2015, arts. 4-7
3	Institution and examiners: government or regional-government hospital; team of at least three persons led by a psychiatrist	Law Number 18 of 2014, art. 73; Minister of Health Regulation Number 77 of 2015, arts. 4-7
4	Duration and delivery: fourteen days, extendable by fourteen days with written approval; report delivered within seven working days	Minister of Health Regulation Number 77 of 2015, arts. 10, 13, and 18

No.	Criterion	Legal basis
5	Content of the opinion: separate conclusions on criminal responsibility and procedural competence in the prescribed format	Law Number 18 of 2014, art. 71(2); Law Number 17 of 2023, art. 81; Minister of Health Regulation Number 77 of 2015, Attachment, Form 1
6	Separation of measures and accommodation: arrest, observation, treatment, and detention kept distinct; personal assessment and reasonable accommodation provided	Criminal Procedure Code; Law Number 8 of 2016; Government Regulation Number 39 of 2020, arts. 2-6 and 15-16
7	Restorative disposition: legal basis, conditions, and meaningful participation, and its relationship to the forensic findings	Police Regulation Number 8 of 2021, arts. 2(5), 16(2)(c), and 17

Source: Authors' formulation from the primary legal materials.

The legal materials are interpreted grammatically, systematically, and temporally. The analysis proceeds deductively: each criterion is first stated as a legal standard and then applied to the documented facts. The result is prescriptive: the article proposes a workflow that can be applied in later cases without prejudging the facts of this case.

Results and Discussion

A. THE NORMATIVE FRAMEWORK FOR FORENSIC PSYCHIATRIC EXAMINATION

Indonesia's constitutional framework requires equal recognition before the law, legal certainty, health protection, and freedom from discriminatory treatment. These guarantees apply to a suspect with an actual or suspected psychosocial disability and also protect the complainant's right to an effective process. The correct response is neither automatic prosecution without assessment nor automatic termination based on a diagnostic label. It is an evidence-based process that identifies the person's functional abilities and provides the safeguards needed for a fair decision (Constitution of the Republic of Indonesia of 1945, arts. 27(1), 28D(1), 28H(1)–(2), and 28I(2)).

Law Number 8 of 2016 and Government Regulation Number 39 of 2020 add an access-to-justice layer. Law-enforcement institutions must provide reasonable accommodation. Government Regulation Number 39 of 2020 requires a personal assessment by a doctor or other health professional and or a psychologist or psychiatrist

to identify the kind and degree of disability, the barriers faced, and the accommodation required. It also contemplates a disability assistant, an interpreter, health professionals, and adapted communication or facilities throughout the process (Government Regulation Number 39 of 2020, arts. 2–6 and 15–16). These measures implement the Convention on the Rights of Persons with Disabilities, including equal recognition before the law and effective access to justice (United Nations, 2006, arts. 12–13; Law Number 19 of 2011).

For the events in April and May 2023, Article 71 paragraph 1 of the Mental Health Law required an examination when a person suspected of having a mental disorder allegedly committed a criminal offence. Paragraph 2 stated two purposes: determining the ability to be criminally responsible and determining competence to undergo the judicial process. Article 73 required the examination to be performed by a psychiatrist and permitted the involvement of another specialist or a clinical psychologist (Law Number 18 of 2014, arts. 71 and 73). Minister of Health Regulation Number 77 of 2015 operationalised these duties and remains listed by the Ministry of Health as a regulation in force (Minister of Health Regulation Number 77 of 2015).

The 2015 Regulation sets institutional and professional safeguards. A criminal forensic mental health examination must be conducted in a government or regional-government hospital that has a psychiatrist, appropriate personnel, a secure observation room, recommended psychometric instruments, and safety arrangements. A hospital director forms an examination team of at least three people, led by a psychiatrist. The team may include other specialists, a general physician, a clinical psychologist, a nurse, or other personnel according to need. The examination begins on a formal written request from the police, prosecution service, court, or another authorised law enforcement body, and the request must state the subject's identity, the purpose, and a description of the case (Minister of Health Regulation Number 77 of 2015, arts. 4–7).

The required activities include a psychiatric clinical interview, psychiatric examination and observation, psychometric testing, indicated physical and supporting examinations, medicolegal analysis, and preparation of a *Visum et Repertum Psikiatrikum*. The initial period is no longer than fourteen days after the official request is received and the examinee is present. It may be extended for no more than another

fourteen days with the applicant's written approval. The completed report must be delivered to the requesting institution no later than seven working days after the examination ends (Minister of Health Regulation Number 77 of 2015, arts. 10, 13, and 18).

Law Number 17 of 2023 preserves the same core architecture. Article 81 makes the examination mandatory and identifies responsibility and procedural competence as separate purposes, while Article 83 requires compliance with the applicable guideline. Government Regulation Number 28 of 2024 now details the current framework: Article 171 requires a criminal examination in a central- or regional-government hospital, information to the examinee or family about the procedure, restricted delivery of the result to the requesting institution, and a formal request from an authorised law-enforcement body. Minister of Health Regulation Number 77 of 2015 remains listed as in force. This continuity strengthens the present framework but does not make the later instruments retroactive (Government Regulation Number 28 of 2024, art. 171(1)–(9); Minister of Health Regulation Number 77 of 2015).

The substantive criminal-law test must also be located in time. Article 44 of the Criminal Code in force during the alleged conduct excluded punishment when the act could not be attributed to the actor because of defective mental development or a disorder caused by illness. The court, not the psychiatrist, made the final legal determination. The psychiatrist supplied the clinical findings and medicolegal reasoning that enabled the court to decide attribution (Criminal Code applicable in 2023, art. 44).

Since 2 January 2026, Articles 38 and 39 of the National Criminal Code provide a more differentiated framework. Article 38 permits sentence reduction and or measures for a person who had a mental or intellectual disability when committing an offence. Article 39 states that a person with a mental disability in an acute relapse accompanied by psychotic features, or a person with a moderate or severe intellectual disability, cannot be sentenced but may be subject to measures. These provisions confirm the need to describe severity, symptoms, timing, and functional effect instead of relying on a broad diagnostic category (Law Number 1 of 2023, arts. 38–39).

The evidentiary framework completes the structure. Under the Criminal Procedure Code, expert testimony and documentary evidence are recognised forms of proof. A

Visum et Repertum Psikiatrikum may enter the case file as a formal medical-legal document, while the psychiatrist may explain the method and opinion in court. The report informs the legal decision; it does not replace the court's reasoned assessment of criminal responsibility or procedural competence (Criminal Procedure Code, arts. 133, 179, 184, and 186).

B. CRIMINAL RESPONSIBILITY AND PROCEDURAL COMPETENCE

Criminal responsibility is retrospective. The evaluator reconstructs the person's mental state at the time of the alleged act, which may be days or months before the examination. Relevant material includes the subject's account, prior clinical records, medication history, collateral accounts from family or witnesses, recordings, police records, the sequence before and after the act, and evidence of substance use. The task is to test the relationship between symptoms and conduct, not merely to identify whether a disorder existed at some point in the person's life.

The criminal form attached to Minister of Health Regulation Number 77 of 2015 makes the functional inquiry concrete. The conclusion should state whether there is a mental disorder, whether the alleged unlawful behaviour formed part of its symptoms, and whether the examinee could understand the value and risk of the conduct, form a conscious purpose, and direct the will toward that purpose. It should also address substance dependence where relevant (Minister of Health Regulation Number 77 of 2015, Attachment, Form 1). A report that states only 'bipolar disorder' does not answer these questions.

Procedural competence is present-focused and may change. The evaluator should assess whether the person can understand the allegation and possible consequences, recognise the roles of investigator, prosecutor, judge, and defence counsel, communicate relevant facts, follow questions, make reasoned choices with legal advice, and maintain sufficient attention and behavioural control. A person may have been responsible at the time of the act but later become acutely unwell and unable to participate. The reverse is also possible: treatment may restore present competence without resolving whether the person lacked responsibility at the earlier time.

This distinction explains why treatment and adjudication may proceed on different

tracks. Treatment addresses symptoms, risk, and recovery. The legal process determines responsibility through lawful evidence. A temporary inability to participate calls for stabilisation, accommodation, and review; it does not logically establish absence of responsibility at the time of the alleged act. Likewise, a finding of present competence does not prove that the person was responsible during an earlier acute episode.

Recent forensic research supports a structured approach. Criminal-responsibility evaluations vary substantially across jurisdictions, and expert quality has been criticised where legal criteria, methods, or reasoning are unclear (Pouls et al., 2022). A systematic review identified possible bias in the wording of reports, use of psychometric tools, expert technique, and inter-examiner agreement (Meyer & Valenca, 2021). Structured instruments can improve transparency, although they support rather than replace clinical judgment and the applicable legal test. Retrospective assessment remains dependent on collateral information and careful testing for unreliable self-report (Parmigiani et al., 2023).

The proper division of roles is therefore essential. It mirrors the three dimensions of assessment identified in the Introduction: clinical findings on diagnosis and treatment, forensic opinions on the legal referral questions, and legal determinations by the competent authority. The psychiatrist identifies diagnosis, symptoms, course, functional abilities, causal relationship, treatment needs, and risk within medical expertise. The investigator and prosecutor decide procedural action within their powers. The judge determines the legal consequence after evaluating the report, expert testimony, and the other evidence. Each actor must explain how the medical findings connect to the legal standard.

C. PHILOSOPHICAL FOUNDATION: DIGNITY, CULPABILITY, AND THERAPEUTIC JUSTICE

The statutory rules acquire their full meaning only when read through legal philosophy. A person under examination remains a bearer of dignity and legal agency, not a medical object or merely a source of risk. In Indonesian legal thought, Pancasila operates as a *rechtsidee*: an immanent value that grounds the material sources of law and a transcendent value that directs the legal order. The associated ideal of *pengayoman* requires protection as well as assistance. In this setting, protection extends to the person

examined, the complainant, and the public, while assistance enables meaningful participation by a person whose capacities may be impaired (Sidharta, 2017; Shidarta, 2020).

Radbruch's legal philosophy explains why the examination is not a technical medical detour. Law must mediate justice, legal certainty, and purposiveness. Formal referral rules, an authorised team, a defined period, and a reasoned report serve certainty; an individualised inquiry into functional capacity serves justice; and accurate adjudication combined with clinically appropriate care serves social purpose. Treating every diagnosis as an exemption would sacrifice certainty and the legitimate interests of victims, while treating mental disorder as proof of guilt or dangerousness would sacrifice justice and human dignity (Radbruch, 1950, pp. 43–224).

The principle of culpability supplies a further moral limit on punishment. Hart's account of excuse treats impaired capacity for choice as relevant to whether punishment is fair, while Duff distinguishes responsibility as answerability from legal liability (Hart, 2008). The distinction is crucial: a person may be called to explain conduct without ultimately being liable to punishment, and liability cannot be inferred from diagnosis or from the harmful result alone. A forensic opinion must therefore identify the capacities that made the conduct fairly attributable, rather than convert a psychiatric category into either automatic condemnation or automatic excuse (Duff, 2007).

Duff's concept of answerability also illuminates procedural competence. A criminal trial is a communicative practice in which the accused is called to answer a public allegation. If acute symptoms prevent comprehension, communication, or reasoned choice, the proceeding loses part of its moral legitimacy even if formal steps are completed. Accommodation and temporary stabilisation are therefore not privileges. They are conditions that make the person's participation real and preserve the trial as a process of reasoned accountability rather than an exercise performed upon a passive object.

Therapeutic jurisprudence adds a consequence-sensitive lens by asking whether legal rules, procedures, and institutions produce therapeutic or anti-therapeutic effects while preserving other legal values. It supports timely care, respectful communication,

and procedures that reduce avoidable psychological harm, but it does not authorise treatment goals to displace legality, proof, autonomy, or due process. Contemporary scholarship warns that court-linked treatment may itself deepen the criminalisation of mental illness when access to care depends on coercive justice involvement (Yamada, 2021). A therapeutic orientation must therefore remain rights-based and proportionate, not paternalistic (Testa, 2021).

The philosophical position has an epistemic consequence. Respect for dignity requires the examiner to distinguish observed facts, the examinee's account, collateral information, clinical inference, and the ultimate medical-legal opinion. Trauma-informed interviewing may improve both humane treatment and the quality of information, but role clarity remains essential so that compassion does not become advocacy and scepticism does not become stigma (Goldenson et al., 2022). Transparent reasoning is thus a safeguard against bias and a condition of legitimate judicial reliance.

D. APPLICATION TO THE YA CASE

The publicly documented chronology begins with three linked events. Police investigated alleged offences and identified YA as a suspect. Behaviour observed before and during the investigation raised concern about his mental condition. The Police Hospital then conducted a twenty-day observation and doctors reportedly recommended continued treatment at Dr Soeharto Heerdjan Mental Hospital (Indonesian National Police, 2023).

The documentary record then extends the chronology. YA's parents requested outpatient care on 6 July 2023; the reporting party and family later reached a settlement recorded on 25 July 2024; a restorative-justice case conference was requested on 5 March 2025; and a police notification records that the investigation was terminated effective 5 June 2025 on restorative-justice grounds. These later events concern treatment arrangements, reconciliation, and procedural disposition, not a retrospective replacement for the forensic opinion (Parents of YA, 2023; Parties to Police Report No. LP/B/261/I/2023/SPKT/Polda Metro Jaya, 2024; Reporting party and parents of YA, 2025; Directorate of General Criminal Investigation, Jakarta Metropolitan Police, 2025).

The referral itself was legally significant. The then-applicable Mental Health Law

required an examination once the person was suspected of having a mental disorder and was alleged to have committed an offence. Referral protected YA from a decision based solely on police impressions and protected the integrity of the investigation by obtaining specialist evidence. It also supported clinical management of any acute risk to the subject or others.

The reported twenty-day period exceeded the ordinary fourteen-day period but remained within the maximum twenty-eight days permitted by the 2015 Regulation. Compliance would depend on facts that public reporting does not establish: when the official request was received, when YA was present for examination, and whether the requesting institution gave written approval for the extension. The duration alone therefore neither proves compliance nor proves a violation (Minister of Health Regulation Number 77 of 2015, art. 13).

Public speculation about a specific diagnosis cannot resolve criminal responsibility. The official police account itself withheld the type of illness and deferred to the doctor. The legally relevant questions were whether a qualifying condition existed at the time of the alleged conduct, whether the conduct formed part of its symptoms, and whether the capacities described in the ministerial form were materially impaired. Those conclusions require the complete examination and cannot be inferred from a press statement or a diagnostic label (Indonesian National Police, 2023; Minister of Health Regulation Number 77 of 2015, Attachment, Form 1).

The letter dated 6 July 2023 adds a post-observation clinical-care document. YA's parents asked investigators to permit outpatient treatment at Dr Soeharto Heerdjan Mental Hospital, stated that personnel at the Police Hospital and the psychiatric hospital had orally conveyed that YA had a mental disorder, undertook to remain cooperative, and promised to supervise continued care. The letter proves the request and representations made by the parents. It is not the psychiatric visum, independent proof of a diagnosis, proof that police approved outpatient status, or a determination of criminal responsibility or procedural competence (Parents of YA, 2023).

The same caution applies to competence. Reports that a person became agitated, made unusual claims, or needed inpatient care may justify a competence assessment. They

do not establish the result. The team had to determine whether YA could understand the process, communicate with counsel, provide a coherent account, and make decisions. If symptoms prevented meaningful participation, stabilisation and periodic reassessment were required before steps demanding active participation. If competence was preserved with accommodation, the process could continue while treatment was provided.

Arrest, psychiatric observation, treatment, and detention must retain their separate legal purposes. Arrest secures a person for investigation under criminal procedure. Forensic observation gathers medical-legal evidence. Hospital treatment addresses health needs and risk. Detention is a coercive measure that requires statutory grounds and proportionality. Admission to a mental hospital cannot be used as informal punishment or as detention without a valid medical and legal basis. Conversely, transfer for treatment does not erase a pending criminal case when the evidence still requires a lawful decision.

The later settlement and restorative-justice process operated on a different legal plane. The agreement dated 25 July 2024 records an apology and forgiveness, a best-efforts undertaking by YA's parents to care for his mental health, and the reporting party's commitment to seek withdrawal of Police Report No. 261. The request dated 5 March 2025 then sought a special case conference and termination under Police Regulation Number 8 of 2021. Those documents evidenced reconciliation and a request; neither document, standing alone, automatically terminated the investigation (Parties to Police Report No. LP/B/261/I/2023/SPKT/Polda Metro Jaya, 2024; Reporting party and parents of YA, 2025; Police Regulation Number 8 of 2021, arts. 2(5), 16(2)(c), and 17).

The subsequent police notification supplies the official procedural outcome. It records that the investigation was terminated effective 5 June 2025 because of restorative justice and refers to the corresponding termination order and decree. The outcome is a termination of investigation, not an acquittal, a judicial finding that YA lacked criminal responsibility, or a medical confirmation of incompetence. Its stated ground is restorative justice following reconciliation, which must remain analytically distinct from the earlier forensic questions (Directorate of General Criminal Investigation, Jakarta Metropolitan Police, 2025).

Four forensic-procedural outcomes are possible under the dual-axis model. A

responsible and competent person may proceed through the ordinary process with any necessary accommodation. A person who may have been responsible but is presently incompetent requires treatment and restoration of competence before meaningful participation. A person who may have lacked responsibility but is presently competent can participate while the court adjudicates responsibility and any treatment measure. A person who may have lacked responsibility and is presently incompetent requires both immediate clinical care and strict safeguards. Whether restorative-justice requirements permit termination is a further and separate procedural question; it does not answer either forensic axis.

Reasonable accommodation should accompany, not replace, the competence inquiry. In a case involving mental disability, accommodation may include simplified explanations, shorter interview sessions, scheduled breaks, a trusted assistant approved by the person or family, access to medication, a calm examination environment, and coordination with the treating psychiatrist. Government Regulation Number 39 of 2020 permits delay when a required assistant or interpreter is unavailable and requires personal assessment to identify the needed support (Government Regulation Number 39 of 2020, arts. 3, 15, and 16).

Confidentiality and accurate public language are also important. A police or media statement should not disclose more health information than is necessary, should identify the source and limits of any medical statement, and should avoid language that equates mental disorder with dangerousness or guilt. The presumption of innocence remains applicable, and a treating diagnosis should not be reported as if it were the court's ruling on responsibility.

E. EVIDENTIARY VALUE AND JUDICIAL REASONING

A legally useful Visum et Repertum Psikiatrikum must show its reasoning. The 2015 Regulation requires anamnesis, psychiatric examination and observation, relevant physical findings, supporting tests, a conclusion, and a closing certification. Its prescribed criminal format then links the diagnosis to the alleged conduct and to the functional elements of responsibility. A conclusory report leaves the court unable to test whether the legal opinion follows from the observed facts.

The report should separate verified facts, collateral information, the examinee's statements, clinical observations, inferences, and ultimate medical-legal opinions. It should state the records reviewed, the duration and setting of observation, tests used, medication and substance issues, differential diagnosis, and any limitation affecting confidence. If the evaluator cannot reconstruct the mental state at the time of the act with sufficient reliability, the report should say so rather than convert uncertainty into a categorical answer.

Procedural fairness requires an opportunity to examine the expert basis. The prosecution and defence should be able to request clarification, identify omitted records, question the causal analysis, and seek an additional opinion where a material contradiction remains. The court may accept or reject an expert opinion, but a departure from a well-supported report should be explained in relation to the legal test and the other evidence. Recent Indonesian scholarship likewise treats psychiatric visum and expert explanation as central to a reasoned assessment of responsibility, not as an automatic verdict (Siregar & Sinaga, 2023; Maulidianti et al., 2023).

The absence of the complete report from the accessible record remains decisive for the limits of this case study. The available materials support the existence of observation, a recommendation for continued care, a parental outpatient request, a settlement, a restorative-justice application, and eventual termination of the investigation. They do not disclose a verified diagnosis, the formal referral questions, team composition, collateral sources, psychometric results, causal analysis, responsibility opinion, competence opinion, or extension approval. A responsible legal analysis cannot fill those gaps with speculation.

F. A PROCEDURAL MODEL FOR FUTURE CASES

A practical model begins with an early trigger. Investigators should record observable indicators that raise concern, such as disorganised communication, marked mood elevation, psychotic symptoms, inability to understand cautions, prior psychiatric treatment, or acute risk. The record should describe behaviour without assigning a diagnosis. When the statutory threshold is met, the investigator should issue a written referral promptly and identify both responsibility and competence questions.

The referral package should include the alleged-offence chronology, interview recordings, witness accounts, relevant digital evidence, prior medical information lawfully obtained, medication and substance history, and observations from custody. The examiner should have enough information to compare the current presentation with the state at the material time. A diagnosis based only on a short interview or on media-visible conduct is insufficient for a retrospective forensic opinion.

The hospital should document the team appointment, conflict-of-interest screening, dates that start and end the statutory period, any written extension, emergency treatment, contacts with family or counsel, and the chain of custody for records. The report should use the structure prescribed by the 2015 Regulation and answer each legal question separately. Treatment recommendations should be explicit but kept distinct from the opinion on criminal responsibility.

Competence should be monitored at every procedural stage because it may fluctuate. A short competence finding during investigation should not be assumed to remain valid at trial after a new episode, a change in medication, or prolonged hospitalisation. The personal assessment under Government Regulation Number 39 of 2020 should be translated into a written accommodation plan shared with authorised officials and reviewed when the person's condition changes.

A reasoned-decision requirement should close the process. Investigators and prosecutors should record how the report affected coercive measures and case progression. Judges should identify the applicable substantive criminal-law provision, distinguish responsibility from competence, summarise the expert's functional findings, and explain the legal consequence. This approach improves reviewability and reduces the risk that stigma or a diagnostic label substitutes for proof.

When restorative justice is considered in a case involving a possible psychosocial disability, the file should separately record the legal basis, the voluntary and informed character of consent, fulfilment of the material and formal conditions, any support needed for meaningful participation, and the relationship between a care plan and public safety. A restorative process must not be used to avoid a necessary forensic examination, waive reasonable accommodation, or obtain agreement from a person who cannot participate

meaningfully.

Implementation remains a challenge. A 2026 Indonesian qualitative study reported limited mental-health training among legal practitioners, inconsistent use of psychiatric evaluation, restricted access to professionals, and difficulty translating clinical findings into legal reasoning (Raharjanti et al., 2026). The solution requires joint training, referral networks, protected forensic beds, standard report prompts, and regular audit. The Ministry of Health, the National Police, the Attorney General's Office, the Supreme Court, and professional organisations should issue coordinated guidance under Articles 81 and 83 of the 2023 Health Law.

Future implementing rules should also state the procedural consequence of temporary incompetence, the maximum interval for review, responsibility for treatment and transport, access by counsel to the report, standards for a second opinion, and safeguards against psychiatric admission functioning as indefinite custody. Clear rules would protect the person examined, the complainant, clinicians, and the legitimacy of the criminal process.

Conclusion

Forensic psychiatric examination is mandatory when the statutory threshold is met because it supplies evidence for two separate legal decisions: criminal responsibility at the time of the alleged act and competence to participate in current proceedings. Minister of Health Regulation Number 77 of 2015 requires a multidisciplinary, time-limited examination and a reasoned *Visum et Repertum Psikiatrikum*; Government Regulation Number 28 of 2024 confirms the institutional and referral structure under the current Health Law. A diagnosis, treatment request, family guarantee, or public label cannot replace the required functional and temporal analysis.

The YA case shows both the value and the limits of an expanded documentary record. Psychiatric observation, the outpatient-care request, later reconciliation, the restorative-justice application, and the official termination of investigation show that clinical care, forensic assessment, coercive measures, and restorative disposition unfolded on distinct tracks. The investigation ended effective 5 June 2025 on a restorative ground, not because the accessible documents established either absence of criminal responsibility

or procedural incompetence. Those forensic conclusions remain dependent on the complete psychiatric report and the competent legal authority.

The legal-philosophical justification is equally decisive. A structured examination reconciles Radbruch's demands of justice, legal certainty, and purposiveness; gives effect to culpability and answerability; and embodies the Pancasila ideal of *pengayoman* by combining protection with assistance. Its therapeutic value is legitimate only when treatment remains compatible with dignity, autonomy, proportionality, and due process. This framework rejects both punitive formalism and diagnosis-based impunity.

Because the psychiatric examination and initial treatment referral preceded 8 August 2023, Law Number 17 of 2023 and Government Regulation Number 28 of 2024 should not be applied retroactively to validate or invalidate the earlier procedure. The then-effective Mental Health Law and Minister of Health Regulation Number 77 of 2015 govern that stage. The later instruments nevertheless provide the current framework for future cases. Indonesia should require early referral, separate opinions on responsibility and competence, reasonable accommodation, periodic review, protected confidentiality, reasoned use of expert evidence, and a clearly documented basis for any restorative disposition.

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