

## CRIMINAL LAW OFFENSE OF OMISSION

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Received : 10 October 2025

Revised : 15 November 2025

Accepted : 10 December 2025

Published : 27 December 2025

DOI : <https://doi.org/10.54443/ijerlas.v5i6.4855>

Link Publish : <https://radjapublika.com/index.php/IJERLAS>

### Abstract

Study This study accountability criminal for someone who knows existence agreement wicked For do dangerous crimes security general However No report it to party authorized . Research This use method juridical normative with statute approach and conceptual approach, as well as referring to the Criminal Code and literature law related . The object of the research is the case of YD who heard plan burning House service Head of Prison However No report until the event occurred . The results of the research show that YD fulfills elements of Article 164 of the Criminal Code, namely know existence agreement evil , have time For prevent , but intentionally not to inform to police or victim. YD is also considered capable responsible answer in a way law Because No proven own disturbance psychological . Research conclusions This confirm that YD's actions fulfill element accountability criminal in form intention ( *dolus eventualis* ). Findings This expected can increase awareness public will obligation report agreement evil and become references for prosecutor in formulate charges in the case similar .

**Keywords : Accountability Criminal , Conspiracy Evil , Omission Offense .**

### INTRODUCTION

Criminal law is rule law from the governing country ordered and prohibited actions , sanctions criminal for those who violate , and how implementation the criminal law that applies it forced by the state.<sup>1</sup> Based on the explanation above can understood essence from Criminal Law is rule laws made by the state, the contents of which contain commanded actions or forbidden accompanied by sanctions criminal for those who violate it . Sanctions Criminal is one of the sanctions law of a legal nature threatened misery or charged for goods who did it actions criminal offenses that can be bother or endanger interest general .<sup>2</sup> Sanctions criminal acts of a criminal nature misery need there to fix behavior perpetrator .<sup>3</sup> Miserable nature from sanctions criminal can seen in Article 10 of the Criminal Code which regulates criminal principal and criminal additional ones include :

1. Criminal Main points :
  - a. Penalty ;
  - b. Criminal Prison ;
  - c. Criminal Confinement ;
  - d. fines .
2. Criminal Addition :
  - a. Revocation rights certain ;
  - b. Expropriation goods certain ;
  - c. Announcement decision by the judge.

Sanctions criminal can charged for people who do actions criminal , besides that person must capable accountable actions the crime he committed has do , because of Criminal Law know existence accountability

<sup>1</sup>Hiariej, Eddy OS, Principles of Criminal Law Edition Adjustment of the National Criminal Code, (Depok: Rajawali Pers), 2024, p . 21

<sup>2</sup> Chazawi , adami and Ardi Ferdian , Act Information and Transaction Crime Electronics : Attack To Legal Interests of Utilization Technology and Transactions Electronics , (Malang: Bayumedia Publishing), 2011, p . 81

<sup>3</sup> Chairunissa , Siti, et al . ( 2022). The Judge's Considerations in Sentencing Sanctions Criminal Prison To Perpetrator Abuse Narcotics , Indonesian Law Journal , Vol. 1, No. 1, P. 27

criminal .<sup>4</sup> Accountability criminal is form not quite enough answer perpetrator when do an act criminal .<sup>5</sup> Accountability criminal own connection close with mistake , someone it is said capable accountable his actions if there is fault in himself . Someone own error if fulfill 3 (two) elements errors , namely :<sup>6</sup>

1. Do actions criminal ;
2. ability responsible ;
3. existence deliberate case or negligence .

Deeds criminal or offense is acts prohibited by law are threatened with criminal for goods who violated it . The basis of action referred to as an act criminal law is Article 1 paragraph (1) of the Criminal Code ( KUHP) which regulates principle legality , meaning nothing criminal without the power of legislation . Therefore That somebody in do something No Can convicted if the act is not regulated as an act criminal offenses by existing laws .

Ability responsible is element a mistake that emphasizes the situation normality psychological and maturity goods Who in do actions criminal law .<sup>7</sup> Van Hamel provides 3 ( three ) measures somebody considered capable responsible , namely :<sup>8</sup>

1. Able to understand in a way truly consequence from his actions ;
2. capable For realize that actions That contradictory with order society; and
3. capable For determine will do .

Based on the explanation above can understood that ability responsible see condition psychic perpetrator crime . Someone No can convicted if condition his psyche disturbed because the person does not own ability For understand his actions , things This regulated in Article 44 of the Criminal Code that someone whose psyche disturbed No convicted and the judge can order the person to come in House Sick soul . Intentionally or intentional based on theory will , theory knowledge , and combination second the theory . The theory of will see intentional as a result of what has been desired as imagined as a goal , while theory knowledge looking deliberately from the consequences that have occurred known and acknowledged follow that knowledge .<sup>9</sup> Combined theory will and knowledge No see existence difference from second the theory because according to *memorie van toelichting* condition intentionality is knowing and wanting .<sup>10</sup> This means that someone said to be intentional if actions That done with knowing and wanting . Negligent or negligence is form errors caused from reckless , careless , or lack of Be careful somebody in do an act so that cause misfortune .<sup>11</sup> Crimes that contain element negligent own threat sanctions more criminal light than the crime that is lying element intentional , but No means negligent is light intention . The Criminal Code does not give definition about negligent , Sudarto give 3 ( three ) answers For determine neglect oneself a person , namely :<sup>12</sup>

1. The negligence of the person must be determined in a way normative with take size attitude the mind of people in general if There is in the same situation with perpetrator ;
2. people in general and not people who are careful , cautious , and expert ;
3. size somebody There is obligation For do others; and
4. do something that becomes necessity .

The Criminal Code regulates a number of type crime , for example offense crimes , violations , omissions, commissions , and so on . In general, the Criminal Code contains offense commission that is the offense that regulates prohibited acts .<sup>13</sup> The opposite from offense commission is an omission crime , namely No do ordered action .<sup>14</sup>

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<sup>4</sup> Darto , Afridus , et al . (2023). Accountability Criminal Penalties for Perpetrators Action Criminal Murder Lodger Disturbance Mental health in Criminal Law Perspective , Journal Wijaya Putra's Legal Studies , Vol.1, No.2, Pg . 259

<sup>5</sup> Hiarej , Op.Cit , P. 204

<sup>6</sup> Simanjuntak, Andreas Bilian , et al . (2021). Accountability Criminal To The Offering Actor Work Online Prostitution (Study of Decision No: 70/ Pid.Sus /2019/PN BJN), PATIK: Jurnal Hukum, Vol. 10, No. 1, P. 19

<sup>7</sup> Ramadhan, Fahmi and HR Adianto Mardijono . (2023). Ability Responsible People Who Have Mental Disorders Due to Do Action Criminal Narcotics , Harmonization: Journal Knowledge Social , Legal, and Economic Sciences , Vol. 1, No. 2, pp . 88-89

<sup>8</sup> Hiarej, Op.Cit , p . 200

<sup>9</sup> Hiarej, Op.Cit , p . 131

<sup>10</sup> Utoyo , Marsudi , et al . (2020). Intentional and Unintentional Acts in Indonesian Criminal Law . Lex Librum : Journal Legal Science , Vol. 7, No. 1, P. 75

<sup>11</sup> Novianto , Widodo Tresno . (2015). Interpretation of Law in Determine Elements Negligence Malpractice Medik ( *Medical Malpractice* ), Vol. 4, No. 2, Yustisia , pp . 492-493

<sup>12</sup> Hiarej, Op.Cit , p . 120

<sup>13</sup> Hiarej, Op.Cit , p . 210

<sup>14</sup> Hiarej, Op.Cit , p . 121

Example concrete the crime of omission is Article 164 of the Criminal Code which requires for goods who knows agreement wicked dangerous crimes state and public security For quick report to party authorities whose contents thus :

" Whoever knows agreement wicked For do the crime is Article 104, 106, 107, 108, 113, 115, 124, 187 and 187 bis, and at the time crime Still can prevented , intentionally not tell him to officials judiciary or police or to threatened , threatened , if crime So done , with criminal maximum one year imprisonment year four month or the biggest fine three hundred rupiah".

Somebody can charged sanctions criminal as arranged in Article 164 of the Criminal Code after fulfil all elements , including :

1. Whoever ;
2. The acknowledged There is something agreement ;
3. For do crime based on articles 104, 106, 107, and 108, 113, 115, 124, 187, or 187 bus;
4. Still there is a time limit For prevent crime ;
5. intentionally not report it to party authorities or the person who threatened ; and
6. crime That implemented .

Study about accountability criminal offense for those who know agreement wicked For do combustion that causes danger general for other people's lives according to observation the writer is very difficult found , thing That cause ignorance public will his obligations For report agreement evil so that it can be created security general . Therefore That study This important For done with study accountability criminal for those who know agreement evil to dangerous crimes security general However No report to police . The purpose of study this is what is being studied accountability criminal for those who know agreement wicked For do dangerous crimes security general namely so that society aware will his obligations in guard security general with method report to police . In addition objective from study This For give view for the Public Prosecutor when give charges in the case similar . Research result This expected can give outlook for public will his obligations For report to police if know existence agreement wicked do dangerous crimes security general so that avoided from sanctions criminal research this is also useful for Public Prosecutor in formulate chapter when make an indictment in a case similar . It is expected The Public Prosecutor knows the existence of Article 164 of the Criminal Code as a crime of omission which requires somebody For report to police if know There is agreement wicked For do dangerous crimes security general with so Article 164 of the Criminal Code can taken into consideration Public Prosecutor in make charges in the case similar .

## RESEARCH METHODS

Research methods in study This use approach juridical normative , namely research conducted with method examine approach theories and concepts law , as well as study relevant laws and regulations with case study This is Bambang Sunggono see approach juridical normative as an approach that refers to existing laws and regulations .<sup>15</sup> The problem approach used in study this is an approach *statute approach* and *conceptual approach* . The *statute approach* is an approach that examines laws and regulations related laws with issue the law that becomes discussion , whereas *conceptual approach* is an approach to the problem with move on from views and doctrines , researchers find ideas that give birth understanding law , concepts laws and principles relevant laws with topic or issue current law become discussion (Marzuki, 2014). Legal materials in research consists of from material primary and secondary law . Primary legal materials used in study This is the Criminal Code which regulates about the crime of omission as regulated in Article 164 of the Criminal Code, along with give understanding about agreement evil . Besides that the judge's decision is also used as material related primary law with cases which are object research . Legal materials secondary used in research is books , literature law , and journals the law that explains about What do you mean with accountability criminal .

## RESEARCH RESULTS AND DISCUSSION

*Analysis Indictment Public Prosecutor in Decision District Court 28/ Pid.B /2022/PN Rap*

Chronology case based on fact law decision 28/ Pid.B /2022/PN Rap, YD which is inhabitant under the care of the Correctional Institution Class III Pinang City on July 11 , 2021, approximately at 13:00 WIB (Western Indonesian Time) heard conversation between Z which is correctional officer / warden Class III Kotapinang , with Y and X which are also inhabitant under the supervision of the Correctional Institution Class III, conversation That happening inside room cell YD . The conversation discussed plan burning to House service V, which is Head of Correctional Institution Class III Kotapinang . This was motivated by Z being annoyed with V because Z has raided

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<sup>15</sup> Sunggono , Bambang, Legal Research Methods, (Jakarta: Rajawali Pers), 2016, p . 12

by V when Z was using Narcotics types of crystal methamphetamine in correctional institutions Class III Kotapinang . Seeing Z upset Y gave him an idea to perform “shock therapy ” on V, hearing the conversation YD No do action Because YD No want to follow mixed . On July 15, 2021 , approximately o'clock 00:00 WIB Y ask for money YD amounting to Rp. 1,000,000,- with reason will used Y for pay school fees child , but Y used the money for finance operational manufacturing Molotov . Plan held on July 19, 2021 around at 00:00 WIB, burning House service done by A and B on Z's order , where A and B get money if carry out the plan . The burning done with A accompanied by B with climb motorbike , throwing bottle Molotov cocktails aimed to House V service . A bag of the action house and car service burnt .

Finished throw Molotov A and B escape to road highway . V who is in the room Sleep realize existence fire after the fire alarm sounds , with immediately V saves self so that V congratulations . Knowing house and car service burned , Z asked for money YD amounting to Rp. 2,000,000,- where the money will be shared to A and B. Due to this incident YD charged with indictment subsidiary namely Article 187 Paragraph (2) of the Criminal Code in conjunction with Article 56 Paragraph (2) of the Criminal Code or Article 187 Paragraph (1) of the Criminal Code in conjunction with Article 56 Paragraph (2) of the Criminal Code . Based on the indictment The Prosecutor general sue YD with criminal prison for 4 ( four ) years Because has proven do actions criminal offenses regulated in Article 187 paragraph (2) of the Criminal Code in conjunction with Article 56 paragraph ( 2 ) of the Criminal Code. At the level of Supreme Court Charges and demands Public Prosecutor based on accusation to YD who gives chance or means for it to happen fire that brought danger general for goods or danger death for others. Author see there is error Public Prosecutor in formulate the charges made base demands Because YD's actions are not fulfil element demands and charges . Following elements of Article 187 paragraph (2) or (1) of the Criminal Code in conjunction with Article 56 paragraph (2) of the Criminal Code:

1. Whoever ;
2. intentionally set fire , cause explosion , or flood Because the above actions arise danger general for goods or other people;
3. who deliberately gave opportunity , means or information For do crime .

Element “ **Intentionally set fire , cause explosion , or flood Because the above actions arise danger general for goods** ”. R. Soesilo in his comments explain what is meant with danger general for the item is dangerous for goods owned by two or more people more , or a number of Lots goods belonging someone . <sup>16</sup>SR Sianturi also has same meaning according to him danger general for goods if If items covered fire That Enough many ( not only One goods only ) and basically No only owned by one person.<sup>17</sup> Based on the explanation of the two experts above , can understood that fire , explosion , or flood must cause danger for people's goods in general general , meaning No only endanger goods one person only . YD based on chronology existing cases No Once do burning to Element “**who deliberately gave opportunity , means or information For do crime** ” . Article 56 Paragraph (2) of the Criminal Code regulates question assistance . Assistance can done at the time before or at the time occurrence actions criminal assistance a servant must give significant impact for its implementation actions criminal main or connection causal . The assistance provided must also be based on the intention of the perpetrator and provide profit for perpetrator See the explanation above seen charges and demands The Public Prosecutor did not based on . Based on chronology existing cases YD explained that He since beginning No want to involved in plan For burn House official and car Head of the prison , then YD's action of giving Rp. 1,000,000,- For cost operational manufacturing bomb Molotov cocktail done on YD's ignorance . Therefore That intention For help do actions criminal No proven . In addition based on fact existing law YD does not get profit after house and car service Head of Prison burnt .

*Accountability Criminal Law for Persons Who Know of the Conspiracy Wicked For Do Dangerous Crimes Public Safety for Others* Accountability criminal is form accountability somebody to actions crimes that have been done . Someone who is able to responsible on his actions can charged sanctions criminal , with so accountability criminal see condition or psychic someone who has do actions criminal . According to Moeljatno, a person can accountable on his actions if has fulfill 3 ( three ) elements following :<sup>18</sup>

1. Do actions criminal ;
2. capable responsible ;
3. existence error in deliberate or unintentional form negligent .

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<sup>16</sup> Soesilo , R., Criminal Code ( KUHP ): And its comments complete article by article , (Bogor: Politeia), 1995, p . 30

<sup>17</sup> Sianturi , SR, Action Criminal Acts in the Criminal Code Below Description , (AHM-PTM Alumni), 1983, p . 43

<sup>18</sup> Moeljatno, Principles of Criminal Law , (Jakarta: Rinerka Cipta), 2009, p . 21



YD knows existence agreement evil , namely plan For burn House service prison chief , however from June 11, 2021 to implementation the agreement on June 19 , 2021, YD deliberately did not to inform the plan to police nor the actual victims is officer police or justisia . Following explanation elements of Article 164 of the Criminal Code which have been fulfilled by YD:

1. Whoever ;
2. the acknowledged existence agreement wicked ;
3. For do one of the the crime in question in articles 104, 106, 107, and 108, 113, 115, 124, 187, and 187 bis;
4. currently Still there is a time for prevent crime That ;
5. intentionally not to inform with Enough about matter it's at the right time to employee justice or police and to si threatened ; and
6. If so crime That done .

Element "**goods who**" . Phrase goods who in the Criminal Code refers to the subject law criminal , namely humans , because until currently the Indonesian Criminal Code only know humans as subjects law criminal elements goods Who based on considerations of the judge at the Rantau Prapat District Court Number 28/ Pid.B /2022/ Pn Rap in question goods who is "as who only one must made into defendant / dader or everyone as a subject laws that can requested accountability in all his actions ". Based on explanation judge's consideration , meaning must There is the defendant who can requested accountability in all his actions . In case This YD has fulfil element goods who , because YD is humans , besides that YD is suspected do actions criminal that is , intentionally not to inform plan For burn House service prison warden to the victim or party police . Therefore That referring to the explanation above and the judge's considerations .

Element "**the acknowledged existence agreement evil**" . SR Sianturi explain what is meant with "the one who knows " is a person witness so that know incident certain . <sup>19</sup>This means that the perpetrator know Because witness ( hear ) the agreement evil . Conspiracy wicked That Alone regulated in Article 88 of the Criminal Code, namely " conspiracy " wicked considered there is , if just two people, or more agree wicked For do crime that ". R. Soesilo in his comments explain that which is meant with agreement evil "is a conspiracy For do crime all talks or negotiations For stage agreement That Not yet enter in understanding ". R. Soesilo explain that can he said agreement wicked if there are two or more people agree or gather For do crime , but two or more people gathered For talk about or negotiate an agreement wicked No can said to be a conspiracy evil . YD on chronology case known has listen conversation between Z, Y, and X who are planning For burn House service Head of Prison . Discussion between Z, Y, and X can categorized as conspiracy wicked Because existence agreement For do crime , namely burn House service Head of Prison . This means that YD has fulfil the element of " knowing " existence agreement evil " YD has proven know agreement evil Z, Y, and X for burn House service Head of Prison .

Element "**For do one of the the crime in question in Articles 104, 106, 107, and 108, 114, 115, 124, 187, and 187 of the Criminal Code**" . Article 164 limits articles that can charged criminal if intentionally not report to the victim or Police . R. Soesilo in his comments explain that " that person must know There is agreement wicked For do one of the the crimes mentioned in chapter that ( other crimes do not applies )".<sup>20</sup> If associated with explanation above , agreement wicked For burn House service Head of Prison has occurred on June 19, 2021, carried out by A and B who threw Molotov cocktails and cause fire . A and B have fulfills Article 187 of the Criminal Code, namely intentionally causing fire that caused danger general for goods or people's lives . Therefore explanation above , YD is proven fulfil element " for do one of the the crime in question in Articles 104, 106, 107, and 108, 114, 115, 124, 187, and 187 of the Criminal Code" because crimes under Article 187 of the Criminal Code have implemented .

Element "**currently Still there is a time for prevent crime that**" . There is still time for prevent crime , SR Sianturi have an opinion that address reporting must also be in accordance with that specified in the article this . Previous address delivered it is better to who can act more fast For prevent the crime . If he No use the fastest way and time or to inform to the furthest address , then action That Still covered by article 164. <sup>21</sup>SR Sianturi No give explanation about term time required For prevent crime so as not to happened , as did R. Soesilo who also did not give term or sufficient time For prevent occurrence crime . If based on SR Sianturi's explanation of the time period determined by address reporting that can act more fast For prevent occurrence crime . YD based on chronology case from June 11, 2021 to occurrence burning House service Head of Prison namely on June 19 2021, YD did not do action For prevent crime that . Therefore that YD has fulfil the element " medium" Still there is a time for prevent crime That ".

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<sup>19</sup> Sianturi , SR, Op.Cit , p . 22

<sup>20</sup> Soesilo , R., Op.Cit , p . 34

<sup>21</sup> Sianturi , SR, Op.Cit , p . 21

Element “ **intentionally not to inform with Enough about matter it's at the right time to employee justice or police and to si threatened** . In general intentional shared into 3 ( three ) types , namely :<sup>22</sup>

1. Intentionally as an intention
2. On purpose with awareness about certainty
3. On purpose with awareness possibility very happen or *dolus eventualist* .

Intentionally is form error , because of it is intentionally related with condition psychic perpetrator . YD based on chronology case No to inform existence agreement wicked to victims, employees justice or police . If associated with explanation above , YD can categorized has intentionally not to inform with Enough about it was at the right time ” . Explanation That based on YD which is not want to involved related agreement evil among Z, Y, and X , so YD is intentionally not to inform agreement wicked That or No perform an action . YD actions include in *dolus intentional* form *eventualist* or *intentional conditional* . Hiariej explains what is meant by *dolus eventualist* is “ a person do actions However No want as a result . It can be said that although somebody No want as a result , however the act remains done ...” .<sup>23</sup>YD has do actions For No to inform to party authorities , however based on chronology YD case no want burning House service prison warden . Therefore that YD has fulfil the element “ not intentionally to inform with Enough about matter it's at the right time to employee justice or police and to si threatened ”

Element “ **if crime That happened** ” . Regarding element This is R. Soesilo have an opinion that “ crime That must So done ( if no people no punished )” .<sup>24</sup>Article 164 of the Criminal Code limits articles crime in order to be able to he was convicted somebody if No do action For prevent the crime . The crimes in question are articles 104, 106, 107, and 108, 113, 115, 124, 187, and 187 bis. Based on chronology case , YD has fulfil the element “ if” crime That occurs because agreement wicked For burn House service Head of Prison has implemented . Element “ **ability responsible** ” . Elements ability responsible answer is one of the element accountability criminal offenses that must be fulfilled , Pompe argued that “ ability responsible focused on the situation ability think sufficient perpetrator capable For realize the meaning of doing and not doing do ” (Hiariej, 2024). According to Pompe's explanation of capabilities think is aspect somebody can it is said capable responsible , meaning ability responsible relate with soul a person . The Criminal Code does not formulate ability responsible to in a formula crime , so that No need proven , but there is the principle that states that everyone is looked at Healthy his soul until proven on the contrary . Based on explanation on can understood that ability responsible relate with soul someone who doesn't need proven Because No regulated in the Criminal Code, however if felt mental health somebody disturbed so that No capable responsible so need proven with help psychiatry . Van Hamel provides size somebody own ability For responsible , namely :<sup>25</sup>

1. understand truly consequence from his actions ;
2. capable For realize that his actions That contradictory with order society ; and
3. capable determine will do .

Pompe also provides a measure for someone it is said own ability For responsible , namely :<sup>26</sup>

1. An ability think of the maker who made it possible maker control his mind and determine his will ;
2. because of that , maker can understand meaning and consequences his behavior ; and
3. because of That's also what the data maker determines his will in accordance with his opinion ( about meaning and consequences his behavior ) .

The Criminal Code does not formulate ability responsible in a way positive , but in a way negative as regulated in Article 44 of the Criminal Code, which states : 54 “(1) goods Who do something actions , which are not can accountable to him Because not enough perfect his mind or Because Sick change of mind No may punished . “(2) If it is real actions That No can accounted for to him Because not enough perfect his mind or Because Sick changed reason so then the judge may order put he is at home Sick Crazy forever and ever One year For examined ”. R. Soesilo in his comments explain that which is meant with reason is “ power” mind , power mind , intelligence mind ” .<sup>27</sup>It means someone who does not can accountable is the person who has strength mind , power mind , or intelligence disturbed mind . Disturbed person his mind Because drunk alcohol and other No can viewed including the ' less ' group perfect his mind ' , but if can proven that drunk can remove his awareness in a way comprehensive .<sup>28</sup>Disturbed people his soul Of course No can requested accountability criminal because that person No can differentiate between

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<sup>22</sup>Hamzah, Andi, Indonesian Criminal Law , (Jakarta: Sinar Grafika ), 2017, pp . 116-118

<sup>23</sup>Hiariej, Op.Cit , p . 114

<sup>24</sup> Soesilo , R., Op.Cit , p . 12

<sup>25</sup>Hiariej, Op.Cit , p . 20

<sup>26</sup>Hiariej, Op.Cit , p . 12

<sup>27</sup>Hiariej, Op.Cit , p . 111

<sup>28</sup>Hiariej, Op.Cit . Pg . 12

prohibited acts with what is permitted, Moeljatno thinks that people whose souls disabled in growth or experience disease No can differentiate between permissible actions or prohibited acts.<sup>29</sup> Determination somebody can stated his soul disabled or affected by a disease must from psychiatrist. This is based on Because existence connection causal between condition soul with deed. Durham argues “ increasingly big deviation psychic, increasingly small level his mistake ”.<sup>30</sup> Outside required psychiatrist For determine somebody disabled his soul or sick, but evaluation to connection on is the authority of the judge in to judge the matter as regulated in Article 44 paragraph (3) of the Criminal Code. YD based on consideration Panel of Judges of the State Court 28/ Pid.B /2022/PN Rap and Decision Supreme Court 1217 K/Pid/2022 YD no proven own history disturbance soul or disturbed YD's psyche with his awareness No want to involved in plan For burn House service Head of Prison, with so YD is able responsible on His actions were not intentional report to Police when hear agreement wicked so that occurrence crime That although He No want occurrence the crime.

## CONCLUSION

Based on results research and discussion, YD can requested accountability criminal on his actions that are not report agreement wicked For burn House service Head of Prison to police because of the following:

First YD has fulfil element do actions criminal, namely acts regulated in Article 164 of the Criminal Code, namely

1. **“Whoever”**. Whoever in the Criminal Code is human. Humans are subject law criminal offenses that can be do an act criminal so that can requested accountability. YD is subject law criminal human beings who can requested accountability criminal Because intentionally not to inform existence agreement wicked to police or victims.
2. **“The acknowledged existence agreement evil**. Conspiracy wicked arranged in Article 88 of the Criminal Code, YD has proven know existence agreement wicked with listen plan wicked between Z, Y, and X who want burn House service Head of Prison, For do one of the the crime in question in Articles 104, 106, 107, and 108, 113, 115, 124, 187, and 187 bis of the Criminal Code. The crimes planned by Z, Y, and X are regulated crime in the article 187 paragraph (1) or (2) of the Criminal Code, namely cause dangerous fire general for people or goods.
3. **“Still in progress there is a time for prevent crime that”**. YD has range time For report agreement wicked For burn House service Head of Prison, but on July 11, 2021 until occurrence burning House service Head of Prison namely on July 19 2021, YD deliberately did not to inform this matter to police or victims for prevent occurrence crime.
4. **“Intentionally not report agreement wicked to Police or victims”**. YD knows agreement wicked For burn House service The prison chief on July 11 deliberately did not report this matter to Police and victims. This is proven with YD saying “no want to involved in the plan”.
5. **“If crime happened**. The agreement wicked For burn House service Head of Prison has happen namely on July 19, 2021. With so YD has fulfil the element “if” crime happen”.

Second the element of “capable” responsible”. YD based chronology case good on the Decision District Court 28/ Pid.B /2022/PN Rap and Decision Supreme Court 1217 K/Pid/2022 No proven in a way knowledge psychiatry as a disabled person his soul or own disturbance psychic, meaning YD in do actions intentionally not report agreement wicked to party authorities or victim, is actions taken on his will based on condition healthy soul or No disabled his soul, YD at least understand that his actions possibility Can cause agreement wicked That implemented. Therefore that YD stated capable responsible answer. Third element existence error in form intentional or negligence. YD has error in form deliberate, because YD deliberately did not report existence agreement wicked to police or victims, so that happen burning to House service Head of Prison. The intention in question in matter This must seen as deliberate shaped *dolus eventualis*, because YD is basically No want occurrence burning to House service Head of Prison

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<sup>29</sup>Moeljatno, Op.Cit. Pg. 83

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