

The Law Enforcement Policy On Traffic Accident By Police

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Abstract.

The purpose of this research is to find out and analyze the law enforcement against traffic accidents by the police in the jurisdiction of the Batang Resort Police. To know and analyze the factors that hinder the settlement of traffic accident cases in the jurisdiction of the Batang Resort Police. To know and analyze the law enforcement policies by the police to handle traffic accidents in the jurisdiction of the Batang Resort Police. This study uses a sociological juridical approach, with a descriptive analytical research specification. The data used in this study are secondary data obtained from literature study. The data were analyzed in a qualitative juridical manner. The results of this study are Law Enforcement Against Traffic Accidents by the Police is law enforcement can be done penal and non-penal. Law enforcement efforts through the penal route focus more on the repressive nature (oppression/eradication/suppression) after the crime has occurred, while the non-penal route focuses more on the preventive nature (enforcement/deterrence/control) before the crime occurs. Basically law enforcement is the implementation of criminal policy (criminal policy) by using criminal policies carried out through the mechanism of the criminal justice system (criminal justice system). The factors that hinder the settlement of traffic accident cases are: Summoning or Presenting a Witness and Factors Lack of Legal Knowledge. Policies for Law Enforcement by the Police for Handling Traffic Accidents are by conducting blue patrols at violator-prone hours on the road, conducting cross patrols, socialization (security, safety, traffic order to road users), and installing banners at traffic accident-prone points.
Keywords: Accident; Enforcement; Policy; Traffic.

1. Introduction

As a country based on law in achieving the goals of national and state life, especially the achievement of community welfare in development as mandated by the Preamble to the 1945 Constitution of the Republic of Indonesia, the road traffic and transportation system has a strategic role as a means of facilitating the flow of goods and services transportation.¹Road Traffic and Transportation (LLAJ) must develop its potential and role to realize security, welfare, traffic order and road transportation in the context of supporting economic development and the development of science and technology, regional autonomy, and accountability for state administration.

The fatality rate of a traffic accident is measured by the consequences of the existing accident. The more victims who die as a result of accidents that occur, the higher the fatality of the traffic accident. This fatality rate is measured by certain coefficients. Similarly, in taking steps to reduce the number of accidents, the

¹Pietersz, (2010). *Karakteristik Surat Tilang dalam Penindakan Pelanggaran Lalu Lintas dan Angkutan Jalan*. Jurnal Sasi Vol. 16 No. 3 July – September 2010.

fatality rate of an accident must also be reduced, of course by paying attention and prioritizing the safety factor in driving by complying with the applicable rules.²

The human factor is the main cause of traffic accidents on the highway, this happens because of carelessness or negligence of the driver in driving his vehicle.³The driver's carelessness often causes victims, either the victim suffers serious injuries or the victim dies, and it often takes the soul of the driver himself.⁴Some traffic accidents that occur, can actually be avoided if the road users can behave in a disciplined, polite and respectful manner. The use of the road is regulated in Act No. 22 of 2009 concerning Road Traffic and Transportation (hereinafter abbreviated as UULAJR Law).⁵Some traffic accidents that occur, can actually be avoided if the road users comply with the rules set forth in the fourth section of traffic procedures and the first paragraph discusses order and security,⁶The Law on Traffic and Road Transportation, in particular the provisions of Article 105 and Article 106, states that: Article 105 of the UULAJR which reads, Everyone who uses the road must: a. Behave in an orderly manner; and/or, b. Prevent things that can hinder, endanger the security and safety of road traffic and transportation, or that can cause road damage.

Indications of high productivity and the economy in an area can be seen from the high traffic activity, according to the understanding of Act No. 22 of 2009 concerning Road Traffic and Transportation, Traffic is the movement of vehicles and people in the traffic room.⁷Traffic activity itself means an activity of the system which includes traffic, traffic network and road transport, traffic and road transport infrastructure, drivers, vehicles, other road users and their management.⁸ All of which are incorporated in a system called the traffic transportation system.⁹

One of the problems that are always faced in big cities is the problem of traffic. This is evident from the indications that the number of traffic accidents is always increasing. This situation is one manifestation of the development of modern technology. The development of traffic itself can have an influence, both negative and positive in people's lives. As is known, the number of vehicles

²Dadik Purnomo, Jawade Hafidz, (2018), *Peran Sat Lantas Polres Rembang Dalam Menekan Angka Kecelakaan Lalu Lintas*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 283, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2647/1991>

³Hendrawan, M. B., Syahrin, A., Ginting, B., & Mulyadi, M. (2015), *Hubungan antara Kesengajaan terhadap Pertanggungjawaban Pidana dalam Kasus Kecelakaan Lalu Lintas di Jalan yang Menyebabkan Hilangnya Nyawa Orang Seseorang*. *USU Law Journal*, 3(1), p. 56-73.

⁴Sangki, A. (2012), *Tanggung Jawab Pidana Pengemudi Kendaraan yang Mengakibatkan Kematian dalam Kecelakaan Lalu Lintas*. *Lex Crimen*, 1(1), p. 33-47.

⁵Yuliantoro, Y. (2019), *Penerapan Unsur Kealpaan Dalam Proses Penyidikan Tindak Pidana Kecelakaan Lalu Lintas*. *Jurnal Hukum*, 35(1), p. 36-51

⁶Indawati, R. (2006), *Model Hubungan dan Estimasi Tingkat Kecelakaan Lalu Lintas*. *Berita Kedokteran Masyarakat*, 22(3), p. 100

⁷See Article 1 paragraph 3 of Act No. 22 of 2009 concerning Road Traffic and Transportation

⁸Compare with Article 1 paragraph 1 of Act No. 22 of 2009 concerning Road Traffic and Transportation,

⁹Bhakti Satriya Perdana Sugiyanto, Gunarto, (2018), *Peran Satlantas Polres Rembang Dalam Menanggulangi Tingginya Kecelakaan Akibat Parkir Liar (Studi Kasus di Kabupaten Rembang)*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 137, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2627/1976>

circulating from year to year is increasing. This clearly has an impact on traffic safety in the form of traffic violations that cause traffic accidents and traffic jams.

2. Research Methods

The approach method used by the author to discuss the above problems is to use a sociological juridical approach, namely a problem approach through legal research by looking at legal norms that apply in the community.¹⁰ Specifications research used in this research is descriptive analytical, namely describing, describing the state of the subject, the current research object based on the facts that appear as they are.¹¹ The data were analyzed in a qualitative juridical manner.

3. Result and Discussion

3.1. Law Enforcement Against Traffic Accidents by the Police

The traffic police as law enforcers must be able to be professional in carrying out their duties, especially for road users. This is in line with Soerjono Soekanto's statement which describes that law enforcers are those who are directly involved in the law enforcement process.¹²

The law enforcers harmonize the values, rules and behavior. So that to enforce and achieve legal certainty, the role of government officials, especially agencies that deal directly with legal issues, especially traffic violations, needs to be continuously improved in their work patterns, and achieve maximum results.¹³ For this reason, this is where the role of the Traffic Unit Police is needed in carrying out the mandate of Act No. 22 of 2009.

Traffic law enforcement is one of the traffic functions that has a role so that traffic laws are obeyed by every road user. Basically, traffic law enforcement activities can be grouped into two parts, namely traffic law enforcement in the preventive sector which includes traffic regulation activities, traffic control, traffic control and traffic patrols, where in practice these activities are a traffic security between one sub-system with other sub-systems cannot be separated.¹⁴

Law Enforcement Against Traffic Accidents by the Police in the Legal Territory of the Batang Police Resort is law enforcement can be done penal and non-penal. Law enforcement efforts through the penal route focus more on the repressive nature (oppression/eradication/suppression) after the crime has occurred, while the non-penal route focuses more on the preventive nature (enforcement/ deterrence/control) before the crime occurs. Basically law enforcement is the implementation of criminal policy by using criminal policies carried out through the mechanism of the criminal justice system.

¹⁰Soerjono Soekanto, (2010), *Pengantar Penelitian Hukum*, UI-Press, Jakarta, p. 12

¹¹Bambang Sunggono, (2009), *Metodologi Penelitian Hukum*, Raja Grafindo Persada, Jakarta, p. 134

¹²Soerjono Soekanto (II), (2008), *Sosiologi Suatu Pengantar*, Raja Grafindo Persada, Jakarta, p.4.

¹³Ilham Gunawan, (2008), *Penegak Hukum Dan Penegakan Hukum*, Angkasa, Bandung, p.18.

¹⁴Buku Hanjar, (2011), *Penindakan Pelanggaran Lalu Lintas*. Pusdik Lantas Serpong Lemdiklat polri, p. 21.

3.2. Factors That Inhibit the Settlement of Traffic Accident Cases

Discipline in individual traffic is a form of behavior of a person's responsibility to the rules or norms that apply on the highway as a manifestation of individual awareness which is a learning process from his social environment so that disciplinary behavior can lead to a safe, smooth and controlled traffic atmosphere. Awareness of traffic discipline from an early age must be started, both in the school and family environment. The inclusion of the traffic curriculum in schools is a positive step to provide understanding to students to be careful on the highway. In the Traffic Engineering Diktat, traffic signs contain various functions, each of which contains the following legal consequences:¹⁵

- Command, which is a clear and firm form of regulation without any other interpretation that must be carried out by road users. Because of the nature of the command, it is not true that there is an additional command that opens up the possibility of other interpretations. For example: a left turn sign accompanied by a left turn sign may continue to be a wrong form.
- Prohibition, which is a form of prohibition that strictly forbids road users to stop at road points that are indeed prohibited and have been given a prohibition sign, but often motorists violate it, this is what results in frequent road accidents.
- Warning, this indicates the possibility of danger on the road to be traversed. Warning signs in the form of a square with a yellow base and black symbols or writings.
- Suggestions, which are forms of regulation that are appealing, may or may not be carried out. Drivers who do or do not follow these recommendations cannot be blamed and will be penalized.
- Instructions, which provide instructions regarding the direction, road conditions, situation, the next city, the existence of facilities and others. The shapes and colors used in traffic signs are used to distinguish different categories of signs but provide convenience for the driver and make the driver react faster.

The main problem of traffic violations actually lies in the factors that may affect it. These factors have a neutral meaning, so that the positive or negative impact lies in the content of these factors. A person who violates traffic rules is not always a criminal. A motorist who violates traffic is someone who is negligent in limiting the abuse of his rights. Installing the right signs to warn drivers that there is a dangerous bend in front of them will prevent accidents.¹⁶

The main problem of law enforcement actually lies in the factors that influence it. These factors have a neutral meaning, so that the positive or negative impact lies in the content of these factors. These factors, are as follows:¹⁷

- The legal factor itself is limited to the law.
- Law enforcement factors, namely the parties that form and apply the law.
- Factors of facilities or facilities that support law enforcement.

¹⁵P. Hary, (2008), *Diktat Rekayasa Lalu Lintas*, Beta Offset, Malang, p. 35.

¹⁶M. Karjadi, 2008, *Crime of Violations and Accidents*, Politeia, Bogor, p. 66.

¹⁷M. Karjadi, (2008), *Kejahatan Pelanggaran dan Kecelakaan*, Politeia, Bogor, p. 8

- Community factors, namely the environment in which the law applies or is applied.
- Cultural factors, namely as a result of work, creativity, and taste based on human initiative in social life.

These five factors are closely related, because they are the essence of law enforcement, and are also a measure of the effectiveness of law enforcement.

The factors that hinder the settlement of traffic accident cases are:

- **Summoning or Presenting a Witness**
In a criminal case, there must be witnesses who know the crime. However, in the criminal case process, it is undeniable that there are obstacles faced by the police when carrying out this process. One of them is by calling or presenting witnesses who know the case. Moreover, if the attempt to present a witness does not come true. This is the biggest obstacle for us as officers.
- **Factors Lack of Legal Knowledge**
Lack of legal awareness of the public, ignorance and care¹⁸ The community really has an impact on the legal process that occurs, this is where the role of the community is needed and can assist the police in uncovering hit-and-run accidents, where if the public understands their concern and knows the incident and is willing to provide information that will actually facilitate the police process in follow up and look for existing evidence, so it is very necessary for a cooperative community to understand the law and take part in helping law enforcement agencies.

3.3. Law Enforcement Policy By Police Handling Traffic Accidents

Road traffic and transportation are very important in increasing the social mobility of the community. So that the state feels it is important to regulate it in accordance with the times so that the rights of citizens in road traffic and transportation activities are maintained and guaranteed. Act No. 22 of 2009 concerning Highway Traffic and Transportation is a legal product that becomes the basic and main reference that regulates all forms of traffic and road transportation aspects in Indonesia.

Traffic accidents from year to year are increasing. Apart from increasing mobility or the number of community activities, the number of motorized vehicles is also increasing. This causes the number of fatalities due to land, sea and air accidents to also increase. Therefore, the State does not only play a role in preventing accidents that occur today. However, the state must provide guarantees for victims of traffic accidents.¹⁹

Law enforcement in modern society is not only interpreted in a narrow sense but also in a broad sense, as in Indonesia law enforcement is associated with the human element and the social environment.²⁰Law enforcement efforts are in line

¹⁸Rinto Raharjo, (2014), *Tertib Berlalu Lintas*, Shafa Media, Yogyakarta, p. 67-69

¹⁹Cahya Primarta, (2018), *Analisis Undang-Undang Nomor 40 Tahun 2014 Tentang Perasuransian Terhadap Jaminan Sosial Korban Kecelakaan Lalu Lintas di PT. Jasa Raharja (Persero) Cabang Jawa Tengah*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula p. 212-213, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2635/1984>

²⁰Bambang Poernomo, (2001), *Kapita Selekta Sistem Peradilan Pidana*, Universitas Jayabaya, p. 3.

with the principles of the Unitary State of the Republic of Indonesia, namely Pancasila. The enforcement of the law is a prerequisite for a state of law, law enforcement always involves humans in it and thus will involve human behavior as well. Criminal law enforcement efforts are essentially also part of law enforcement efforts and are often referred to as politics or criminal law policies which are part of law enforcement policies.²¹

Traffic in Indonesia is regulated in laws and regulations, namely Act No. 22 of 2009 concerning Road Traffic and Transportation, where these regulations are made to ensure security, order and welfare in society which need to be determined regarding prohibited and required actions. Meanwhile, the violation of these provisions is punishable by criminal sanctions. The frequent occurrence of traffic violations, both intentional and unintentional, may be due to the fact that the sanctions imposed on the perpetrators of traffic violations are too light, so it is not surprising that more and more traffic violations are occurring.²²

The role of the police in the structure of community life is to protect the community, enforce the law, have legal responsibilities, have a special responsibility to maintain public order and deal with crime, both in the form of taking action against crime and preventing crime so that community members can live and work in safe conditions and peaceful. In other words, police activities are related to a symptom that exists in the social life of a community which is suggested as a burden or a nuisance that harms members of the community.²³

The performance of the police has been running as it should according to the laws that govern it. Many police achievements are recorded, documented and reported, but they have not been able to overcome the negative image that has developed. Often the police institution suffers from image degradation caused by one or two people alone.²⁴

Policies for Law Enforcement by the Police for Handling Traffic Accidents are by conducting blue patrols at violator-prone hours on the road, conducting cross patrols, socialization (security, safety, traffic order to road users), and installing banners at traffic accident-prone points.

4. Conclusion

Law Enforcement Against Traffic Accidents by the Police is law enforcement can be done penal and non-penal. Law enforcement efforts through the penal route focus more on the repressive nature (oppression/eradication/suppression) after the crime has occurred, while the non-penal route focuses more on the preventive

²¹Barda Nawawi Arief, (1996), *Bunga Rampai Kebijakan Hukum Pidana*, Citra Aditya Abadi, Jakarta, p. 29.

²²Muhammad Dani Hamzah, (2018), *Penegakan Hukum Pada Kasus Tindak Pidana Kecelakaan Lalu Lintas Yang Menyebabkan Hilangnya Nyawa Orang*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 44 <http://jurnal.unissula.ac.id/index.php/RH/article/view/2563/1920>

²³Efendi Bahtiar, (2004,) *Sejarah Kepolisian Republik Indonesia*, UGM. Yogyakarta, p.2.

²⁴Riyanto, Umar Ma'ruf and Sri Kusriyah, (2020), *Implementation Of Police Role In Countermeasures Of Traffic Criminal Acts Of Traffic Violations In Efforts To Establish Police Images As Community Guidelines*, in *Jurnal Daulat Hukum* Volume 3 (2), Published Master Of Law, Faculty of Law Unissula, p. 268, <http://jurnal.unissula.ac.id/index.php/RH/article/view/9385/4154>

nature (enforcement/deterrence/control) before the crime occurs. Basically law enforcement is the implementation of criminal policy (criminal policy) by using criminal policies carried out through the mechanism of the criminal justice system (criminal justice system). The factors that hinder the settlement of traffic accident cases are: Summoning or Presenting a Witness and Factors Lack of Legal Knowledge. Policies for Law Enforcement by the Police for Handling Traffic Accidents are by conducting blue patrols at violator-prone hours on the road, conducting cross patrols, socialization (security, safety, traffic order to road users), and installing banners at traffic accident-prone points.

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