

The Police Actions in Handling Criminal Activities Collection Traffic Accidents that Caused the Victims Death

Eko Juni Susanto^{*)}, Umar Ma'ruf^{**)} and Siti Ummu Adillah^{***)}

^{*)} Indonesian National Police, E-mail: ekojunisusanto89@gmail.com

^{**)} & ^{***)} Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang

Abstract.

The purpose of this study is as follows: To find out and analyze the actions of the police in dealing with the crime of hit-and-run traffic accidents that resulted in the victim's death. The approach method used in writing this law is a normative juridical approach and the specification of the research used is descriptive-analytical. The sources and types of data in this study are secondary data obtained from library studies. Based on the results of the study that Police Actions in Handling the Crime of Hit and Run Traffic Accidents That Cause the Victim to Die mstarting from the first action at the crime scene, such as examining evidence, holding a photo shoot, looking for the direction of the vehicle or perpetrator. Up to follow-up actions such as informing other units, conducting inspections at places used to change identities.

Keywords: Actions; Crime; Traffic.

1. Introduction

The state of Indonesia is a state of law, this is stated explicitly in Article 1 paragraph (3) of the 1945 Constitution. The idea of a state of law was built by developing the legal apparatus itself as a functional and just system and fostered by building a culture and legal awareness in social life. So that all community activities must be based on the laws that apply in society. So the law cannot appear or arise if there is only one person. There must be 2 or more individuals (society) so that the law is created. When the law is created and runs well, the law will create protection for the community which leads to the realization of justice.

Road Traffic and Transportation has a strategic role in supporting development and national integration as part of efforts to promote public welfare as mandated by the 1945 Constitution of the Republic of Indonesia.¹Therefore, road traffic and transportation as part of the national transportation system must develop its potential and role to realize security, safety, order, and smooth traffic and road transportation in the context of supporting economic development and regional development. The definition of traffic itself is the movement of vehicles and people in the road traffic space.

Regarding hit-and-run, generally it has the understanding that the perpetrator or in this case the driver of a motor vehicle left the victim of a traffic accident and at that time did not stop the vehicle or the perpetrator fled irresponsibly for the consequences of his actions. Of course this is not in line with the rules and norms that apply in social life and as social beings.

Based on the legal basis in Indonesia, a criminal act is a form of behavior that violates the provisions of the criminal law. Therefore, any act that is not justified

¹Republic of Indonesia, Act No. 22 of 2009 concerning Road Traffic and Transportation, State Gazette of 2009 No. 96, Supplement to the State Gazette No. 5025, section weighing the letter (a).

according to the law must not be carried out and anyone who does it will be subject to punishment. Basically, the prohibitions and obligations that have been enacted must be obeyed and followed by every citizen because they have been written down in laws and government regulations, both at the central and regional levels.²

Criminal acts are all behavior that contains the following elements, namely: the behavior is prohibited by law (based on the formulation of the offense), has an unlawful nature and has no justification.³

There are three components of the occurrence of traffic, namely humans as users, vehicles and roads, which interact with each other in the movement of vehicles. The driver follows the traffic rules established based on the laws and regulations concerning road traffic and transportation, through roads that meet geometric requirements. Of the many accidents, fatigue and carelessness of the driver caused the accident. 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 the vehicle.⁴

The problem faced in traffic is the balance between the capacity of the road network, with the number of vehicles and people passing by using the road. If the capacity of the road network is almost saturated, let alone exceeded, then what will happen is traffic jams. This issue is often confused as a transportation problem. Meanwhile, transportation is the activity of moving people and/or goods from one place (origin) to another (destination) by using a vehicle (vehicle). What must be considered is the balance between the capacity of the mode of transportation, and the number of goods and people who need transportation. If the fleet capacity is lower than required, a lot of goods and people will not be transported, or both will be crammed into existing vehicles.⁵

Law enforcement must be fair, but law is not synonymous with justice. The law is general binding on everyone, is generalizing.⁶ And Justice is also interpreted as the fulfillment of individual desires in a certain level. Fulfillment of justice so that a situation deserves to be called fair is something that is difficult to answer based on rational knowledge. The answer to that question is a value justification.⁷ In Indonesia, the regulation of road traffic and transportation nationally is regulated in the Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ).⁸

The purpose of this study is as follows: To find out and analyze the actions of the police in dealing with the crime of hit-and-run traffic accidents that resulted in the victim's death.

²Wirjono Prodjodikoro, (2003), *Asas-Asas Hukum Pidana di Indonesia*, Refika Aditama, Jakarta, p. 2.

³Amir Ilyas, (2012), *Asas-Asas Hukum Pidana*, Rangkan Education & PuKAP-Indonesia, Yogyakarta, p. 28.

⁴Zainuddin Ali, (2008), *Sosiologi Hukum*, Sinar Grafika, Jakarta, p. 62.

⁵Mardjono Reksodiputro, (2007), *Kriminologi dan Sistem Peradilan Pidana (Kumpulan Karangan, Buku Kedua)*, Pusat Pelayanan Keadilan dan Pengabdian Hukum (d/h Lembaga Kriminologi) Universitas Indonesia, Jakarta, p. 85.

⁶Wirjono Prodjodikoro, Op.cit, p. 20.

⁷Mukhlisin, 2020, Keadilan dan Kepastian Hukum: Menyoal Konsep Keadilan Hukum Hans Kelsen Perspektif "al-,adl" dalam Al-qur'an, *Jurnal Ilmu Hukum Media Keadilan*, Volume 11, No. 1, p. 56-57.

⁸Zainal Asikin, (2012), *Pengantar Ilmu Hukum*, Grafindo Persada, Jakarta, p. 21.

2. Research Methods

The approach method used in writing this law is a normative juridical approach and the research specification used is descriptive-analytical. The sources and types of data in this study are secondary data obtained from library studies.

3. Result and Discussion

3.1. Police Actions in Handling the Crime of Traffic Accidents Hit and Run That Caused the Victim to Die

Law Enforcement in Indonesia is known by several terms outside of law enforcement, such as the application of law.⁹ The performance of the police has been running as it should according to the laws that govern it.¹⁰

Road Traffic and Transportation has a strategic role in supporting national development and integrity as part of efforts to improve people's welfare, but it is on this highway that traffic accidents often occur. The high number of traffic accidents, including human factors (human error), utility factors such as vehicle failure, road damage, excessive road loads, and other supporting facilities play a role in the occurrence of traffic accidents.¹¹

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.¹²

Specifically in Act No. 22 of 2012 does not mention the definition of hit and run, it's just that every time an accident occurs when the perpetrator runs away, does not stop the vehicle, does not help, and does not report to the nearest police, violates Article 312 of the Act No. 22 of 2009. The hit-and-run was originally an accident due to negligence, in which negligence in driving has been regulated in Article 310 of Act No. 22 of 2009, as explained in the previous chapter. Accidents are largely determined by the driver factor. The driver has a big role in the occurrence of traffic accidents. Drivers who do not anticipate or are unable to predict the dangers can cause traffic accidents. Traffic accidents that have occurred

⁹ Anton Susanto, Ira Alia Maerani and Maryanto, 2020, *Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction)*, dalam *Jurnal Daulat Hukum Volume 3 (1)*, Published Master Of Law, Faculty of Law Unissula, p. 23 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8402/3928>

¹⁰ Riyanto, 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*, dalam *Jurnal Daulat Hukum Volume 3 (1)*, Published Master Of Law, Faculty of Law Unissula, p. 268 <http://jurnal.unissula.ac.id/index.php/RH/article/view/9385/4154>

¹¹ Iman Faturrahman, and Bambang Tri Bawono, 2021, *Application of Restorative Justice to Solution of Traffic Accidents*, dalam *Jurnal Daulat Hukum Volume 4 (1)*, Published Master Of Law, Faculty of Law Unissula, p. 28, <http://jurnal.unissula.ac.id/index.php/RH/article/view/13881/5377>

¹² Muhammad Dani Hamzah, 2018, *Penegakan Hukum Pada Kasus Tindak Pidana Kecelakaan Lalu Lintas Yang Menyebabkan Hilangnya Nyawa Orang*, dalam *Jurnal Daulat Hukum Volume 1 (1)*, Published Master Of Law, Faculty of Law Unissula, h 44 <http://jurnal.unissula.ac.id/index.php/RH/article/view/2563/1920>

so far are caused by negligence, negligence, carelessness experienced by the driver.¹³

Then the act of negligence that resulted in the victim being accompanied by an irresponsible act, namely leaving the victim or running away. As in Article 312 of Act No. 22 of 2009.

Everyone who drives a motorized vehicle involved in a traffic accident and intentionally does not stop his vehicle, does not provide assistance, or does not report a traffic accident to the nearest Indonesian National Police as referred to in Article 231 paragraph (1) letter a, letter b, and letter c without good reason, shall be sentenced to a maximum imprisonment of 3 years or a maximum fine of IDR 75,000,000, (seventy five million rupiah)

This shows that negligence is only one element of a hit-and-run. Then running is an element of intentional, namely ignoring responsibility after an accident. So it cannot be called a hit-and-run if there is no negligent element as a manifestation of an accident, and running away.

There is the word "deliberately not stopping the vehicle, not providing assistance, or not reporting a traffic accident to the nearest Indonesian police force..." in article 312 above. The word expressly states that if the act is carried out it is a hit-and-run crime. This provision is the basis if the driver involved in the accident does not stop, does not help the victim, or does not report to the police, the driver's actions are hit and run.

Then those related to traffic are emphasized by the presence of Article 312 regarding hit and run as above. Various criticisms from various parties regarding the hit-and-run, made the authorities not remain silent. They conduct investigations and investigations to find the perpetrators and collect evidence, especially hit-and-run, which is a case that must be revealed, so that it can be known whether the act is classified as a hit-and-run or if there are other motives, such as premeditated murder using the hit-and-run mode regulated in article 340 of the Criminal Code, as follows "Whoever deliberately and with a premeditated plan to take another person's life, is threatened, because of murder with a plan (moord), with a death penalty or imprisonment for life or for a certain time, twenty years at the most." As also regulated in Article 311 of Act No. 22 of 2009, as follows:

The investigation and investigation carried out to uncover the hit-and-run incident by the police and authorized officials has been in such a way, as has been mentioned in the previous chapter, namely with a separate discussion in its disclosure.

With regard to investigations and investigations, then in Article 312 of Act No. 22 of 2009 which relates to hit and run states: "everyone who drives a motorized vehicle is involved in a traffic accident ...". Anyone who is involved in an accident on the highway, in other words, humans are legal subjects. "... and intentionally did not stop the vehicle, did not provide assistance, or did not report a traffic accident to the nearest Indonesian police force...". It is a provision that

¹³ Preliyanto Puji Utomo, Umar Ma'ruf, and Bambang Tri Bawono, 2020, *Application Of Act No. 22 Of 2009 As A Traffic Accidents Countermeasures Management In The Blora Police Law Area*, dalam *Jurnal Daulat Hukum* Volume 3 (2), Published Master Of Law, Faculty of Law Unissula, p. 259 <http://jurnal.unissula.ac.id/index.php/RH/article/view/9373/4140>

requires drivers involved in an accident to stop, it is in the interest of investigators to find the culprit.

The above formal provisions contained in Article 312 of Act No. 22 of 2009 will not say much without a process of investigation and investigation. Article 312 of Act No. 22 of 2009 only contains provisions at an early stage, which still require investigation and investigation to prove whether an accident that occurred was really a hit and run. So that the editorial of the article uses the word "Everyone who drives a motorized vehicle involved in a traffic accident...", not "a person who crashes..." for example, or so on.

Apart from investigation and investigation, hit-and-run is an immoral act, as discussed earlier. Regarding this hit and run can be classified as a crime, as stated in Article 316 paragraph (2). Hit and run was originally an offense that resulted in someone's loss. Namely crashing due to negligence, where the act is not wanted by the perpetrator or there is no intention to do so. As with the provisions regarding negligence driving above. Then there is the element of intent which is part of the hit-and-run element, namely the driver does not stop the vehicle, does not help, does not report to the nearest police, as stated in Article 312 above.

From the above explanation hit and run in Act No. 22 of 2009 is regulated separately, namely negligence causing an accident is regulated in article 310 and the act of running away in article 312. Thus it can be said that hit and run is a concurrent crime (Concurcus)¹⁴, which violates Article 310 regarding negligence in driving, then violates Article 312, namely leaving the victim or not reporting to the nearest Police. Regarding Concurcus from hit-and-run actions, it is classified as Concurcus realis, because there are two incidents, namely crashing and leaving the victim. In contrast to Islamic law, which recognizes the existence of acts such as intentional. So that the act of hit-and-run can be included in a criminal act that is carried out with a deliberate resemblance.

Crime does not stand alone, it only means when there is criminal responsibility. This means that anyone who commits a crime does not automatically have to be punished. In order to be convicted, there must be criminal liability. Criminal liability is born with the continuation of objective reproaches (verwijtbaarheid) against acts that are declared as criminal acts based on applicable criminal law, and subjectively to the maker who meets the requirements to be subject to a criminal offense because of the act. Criminal liability itself is the continuation of objective and subjective reproaches that exist in criminal acts and subjectively to someone who meets the requirements to be subject to a criminal sentence because of his actions.¹⁵ Starting from the opinion above, in the Traffic and Road Transport Law, the formulation of a criminal offense uses the word "everyone". What is meant by "everyone" in the provisions of Article 312 of Act No. 22 of 2009 concerning Road Traffic and Transportation is that there is someone who does it, namely the driver whose act is against the law, "...deliberately does not stop the vehicle, does not give assistance, or not reporting traffic accidents to the nearest Indonesian National Police..." as regulated in Article

¹⁴Barda Nawawi Arief, (1993), *Sari Kuliah Hukum Pidana II*, Badan Penyediaan Bahan Kuliah Fakultas Hukum Universitas Diponegoro, Semarang, p. 49

¹⁵ Dwidja Priyatno, (2009), *Kebijakan Legislasi Tentang Sistem Pertanggungjawaban Pidana Korporasi di Indonesia*, Utomo, Bandung, p.40.

312 of Act No. 22 of 2009 concerning Road Traffic and Transportation is a crime punishable by a maximum imprisonment of 3 (three) years. Therefore, if the driver violates the provisions of the article,

Police Actions in Handling the Crime of Traffic Accidents in Hit and Run That Caused the Victim to Die in the Legal Territory of the Jepara Police mstarting from the first action at the crime scene, such as examining evidence, holding a photo shoot, looking for the direction of the vehicle or perpetrator. Up to follow-up actions such as informing other units, conducting inspections at places used to change identities.

4. Conclusion

From the results of research conducted in the field that has been described in the discussion of the study, the authors can conclude that: Police Actions in Handling Crime of Traffic Accidents That Caused the Death of a Hit-and-Run Traffic Accident mstarting from the first action at the crime scene, such as examining evidence, holding a photo shoot, looking for the direction of the vehicle or perpetrator. Up to follow-up actions such as informing other units, conducting inspections at places used to change identities.

5. References

Journals:

- [1] Anton Susanto, Ira Alia Maerani and Maryanto, 2020, *Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction)*, dalam *Jurnal Daulat Hukum Volume 3 (1)*, Published Master Of Law, Faculty of Law Unissula, p. 23 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8402/3928>
- [2] Iman Faturrahman, and Bambang Tri Bawono, 2021, *Application of Restorative Justice to Solution of Traffic Accidents*, dalam *Jurnal Daulat Hukum Volume 4 (1)*, Published Master Of Law, Faculty of Law Unissula, p. 28, <http://jurnal.unissula.ac.id/index.php/RH/article/view/13881/5377>
- [3] Muhammad Dani Hamzah, 2018, *Penegakan Hukum Pada Kasus Tindak Pidana Kecelakaan Lalu Lintas Yang Menyebabkan Hilangnya Nyawa Orang*, dalam *Jurnal Daulat Hukum Volume 1 (1)*, Published Master Of Law, Faculty of Law Unissula, h 44 <http://jurnal.unissula.ac.id/index.php/RH/article/view/2563/1920>
- [4] Mukhlisin, 2020, *Keadilan dan Kepastian Hukum: Menyoal Konsep Keadilan Hukum Hans Kelsen Perspektif "al-,adl"* dalam *Al-qur'an, Jurnal Ilmu Hukum Media Keadilan*, Volume 11, No. 1, p. 56-57.
- [5] Preliyanto Puji Utomo, Umar Ma'ruf, and Bambang Tri Bawono, 2020, *Application Of Act No. 22 Of 2009 As A Traffic Accidents Countermeasures Management In The Blora Police Law Area*, dalam *Jurnal Daulat Hukum Volume 3 (2)*, Published Master Of Law, Faculty of Law Unissula, p. 259 <http://jurnal.unissula.ac.id/index.php/RH/article/view/9373/4140>
- [6] Riyanto, 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, dalam Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 268
<http://jurnal.unissula.ac.id/index.php/RH/article/view/9385/4154>

Books:

- [1] Amir Ilyas, (2012), *Asas-Asas Hukum Pidana*, Rangkan Education & PuKAP-Indonesia, Yogyakarta
- [2] Barda Nawawi Arief, (1993), *Sari Kuliah Hukum Pidana II*, Badan Penyediaan Bahan Kuliah Fakultas Hukum Universitas Diponegoro, Semarang
- [3] Dwidja Priyatno, (2009), *Kebijakan Legislasi Tentang Sistem Pertanggungjawaban Pidana Korporasi di Indonesia*, Utomo, Bandung
- [4] Mardjono Reksodiputro, (2007), *Kriminologi dan Sistem Peradilan Pidana (Kumpulan Karangan, Buku Kedua)*, Pusat Pelayanan Keadilan dan Pengabdian Hukum (d/h Lembaga Kriminologi) Universitas Indonesia, Jakarta
- [5] Republik Indonesia, *Undang-Undang No. 22 Tahun 2009 Tentang Lalu Lintas dan Angkutan Jalan, Lembaran Negara Tahun 2009 No. 96, Tambahan Lembaran Negara No. 5025, bagian menimbang huruf (a).*
- [6] Wirjono Prodjodikoro, (2003), *Asas-Asas Hukum Pidana di Indonesia*, Refika Aditama, Jakarta
- [7] Zainal Asikin, (2012), *Pengantar Ilmu Hukum*, Grafindo Persada, Jakarta
- [8] Zainuddin Ali, (2008), *Sosiologi Hukum*, Sinar Grafika, Jakarta