

## The Law Enforcement in Pressing Traffic Accident which Resulting Death

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**Abstract.** The aim of this study to know the strategy of law enforcement in suppressing traffic accidents that result in death at the Mojokerto City Police, to find out the factors that support and hinder the Mojokerto City Police in suppressing traffic accidents that result in death, and to find out solutions to obstacles in an effort to suppress traffic accidents resulting in death. The approach method used is juridical normative and juridical socio-logical method, the specifications in the research are descriptive analytical, population and sampling methods are all objects or all symptoms or all events or all units to be studied, data collection techniques use library research and interviews, data analysis used is qualitative. Application of criminal sanctions in cases of traffic accidents and road transportation based on Act No. 22 of 2009 concerning Road Traffic and Transportation. The perpetrator who causes the victim to die is subject to Article 310 paragraph (4) and Article 311 paragraph (1) of Act No. 22 of 2009. In Article 310 paragraph (4) the perpetrator is sentenced to imprisonment of up to 12 (twelve) years or a maximum fine of Rp. 24,000,000.00 (twenty four million rupiah). In Article 311 paragraph (1) the perpetrator is sentenced to imprisonment for a maximum of 1 (one) year or a maximum fine of Rp. 3,000,000.00 (three million rupiah). Factors that influence law enforcement in cases of driver negligence in traffic resulting in death are the legal factors themselves, law enforcement factors, facility factors or facilities that support law enforcement to run smoothly, community factors, namely the environment in which the law applies, cultural factors, criminal and non-penal policy factors. Efforts made by the Traffic Unit against obstacles in an effort to suppress traffic accidents that result in death, are as follows: Preemptive action, Preventive action (prevention), repressive action (repression).

Keywords: Strategy; Law Enforcement; Traffic Accidents; Death.

### 1. Introduction

Land transportation or road transportation need to be managed and regulated in a sustainable manner and continuously improved so that the coverage and services are wider to the community, taking into account the public interest and the capacity of the community, in preserving the environment, coordination between central, regional, sector authorities and related agencies and elements, It is necessary to increase cooperation in order to create security and order in carrying out road traffic and transportation, while at the same time realizing a reliable and integrated national transportation system.

Traffic in Indonesia is regulated in statutory regulations, namely Act No. 22 of 2009 concerning Road Traffic and Transportation, in which the law is made to ensure security, order and welfare in society which need to determine prohibited and

required actions.<sup>1</sup> Laws must be enforced and enforced. Everyone expects that the law can be stipulated in the event of a concrete event. How the law must apply, basically it should not be deviated: *fiat justitia et pereat mundus* (even though the world will collapse, the law must be enforced) is what legal certainty wants<sup>2</sup> in the jurisdiction of Mojokerto City.

The increase in road density is also one of the causes of the increasing number of road accidents that result in a lot of material loss, injury and death. One of the main causes of road traffic accidents is the human factor. However, the prevention of road traffic accidents (accident prevention) which starts from the planning and design stages of the road is one of the rational efforts to prevent traffic accidents.<sup>3</sup>

The issue of road traffic accidents is still a big job for the National Police, as confirmed by the Head of the Indonesian Police Traffic Corps, Inspector General Condro Kirono on one occasion in Jogjakarta that in addition to a drug emergency, Indonesia is also an emergency immediately. An average of 89 people die every day as a result of laka traffic. This figure is very concerning for all of us, so it is not an exaggeration if *Kakorlantas* uses the term emergency to conclude this condition.<sup>4</sup>

Traffic accidents in Indonesia can be illustrated from data over the last 10 years, showing that traffic accidents that occur in Indonesia have claimed an average of 10,000 lives per year. The fatality rate shows that around 332 people died out of 1000 accidents that occurred. As a result of traffic accidents in addition to causing casualties and property, it also causes financial/material losses, in Indonesia it is estimated at 41.3 trillion rupiah.<sup>5</sup>

In the jurisdiction of the Mojoketo City Police, traffic violation cases in 2018 experienced an increase compared to 2017. The increase reached 7.25% with a total of 38,689 cases, which is higher than direct violations in 2017 which reached 35,689 cases. Likewise, the number of traffic accidents, throughout 2018 there were 890 incidents. This number has increased compared to 2017 which only occurred as many as 840 incidents. Of the 890 cases in 2018, the number of victims who died reached 147 people. In 2017, the number of victims who died was 154. The triggering factor for traffic accidents was dominated by drivers who were not careful, the number reached 617 incidents.<sup>6</sup>

Other causes of accidents include factors such as drivers and other road users, poor road construction, vehicles that do not meet the requirements, unclear traffic signs and so on.<sup>7</sup>

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<sup>1</sup> Muhammad Dani Hamzah, *Penegakan Hukum Pada Kasus Tindak Pidana Kecelakaan Lalu Lintas Yang Menyebabkan Hilangnya Nyawa Orang*, Jurnal Daulat Hukum, Vol 1 No 1 March 2018, p. 43

<sup>2</sup> Umar Ma'aruf dan Aga Wigana, *Telaah Bukti Penyadapan Telepon Dalam Perkara Tindak Pidana Korupsi*, Badan Penerbit UNISSULA PRESS, 2020, p. 19

<sup>3</sup> Mukhammad H. Saputra, "Analisis Sistem Informasi Faktor Risiko Kecelakaan Lalu Lintas Di Dinas Kesehatan Kota Mojokerto", *Medika Majapahit*, Vol 8. No. 2, September 2016, p. 48

<sup>4</sup> Opini, (<http://m.riaupos.co/4084-opini-.html>, accessed on 20 May 2019)

<sup>5</sup> Marka, "Keselamatan Lalu Lintas" Edisi XXV/2004, p. 14

<sup>6</sup> Tritus Julan, "2018 Angka Kecelakaan Lalu Lintas Mojokerto Meningkat jadi 890 Kasus", <https://daerah.sindonews.com>, accessed on 20 May 2019.

<sup>7</sup> Danu Anindhita, Ira Alia Maerani, *Kebijakan Hukum Terhadap Pelanggar Lalu Lintas Oleh Anak di wilayah Polda Jawa Timur*, Jurnal Hukum Khaira Ummah, Unisulla, March 2018

In the event of a traffic accident that causes death, the police as investigators must work hard. Traffic accidents that cause death are included in criminal acts as stipulated in the elements in Article 310 paragraph (4) of Act No. 22 of 2009 concerning Road Traffic and Transportation, which are as follows:<sup>8</sup> Every person drives a motorized vehicle due to his negligence and Which resulted in other people dying.

The elements in Article 310 paragraph (4) of Act No. 22 of 2009 concerning Road Traffic and Transportation are as follows:<sup>9</sup>

- Each person
- Driving a motor vehicle due to negligence
- Which resulted in other people dying

Polri has implemented various policies/strategies to reduce the number of traffic accidents, one of which is law enforcement, both through preventive and curative efforts. Preventive efforts are through efforts to prevent traffic accidents, while curative efforts are efforts to enforce the law after a traffic accident has occurred. In curative efforts the police are guided by Act No 8 of 1981 concerning the Criminal Procedure Code (KUHP), Act No. 2 of 2002 concerning the National Police of the Republic of Indonesia, Act No. 22 of 2009 concerning Road Traffic and Transportation and Regulation of the Head of the National Police of the Republic of Indonesia Number 15 of 2013 concerning Procedures for Handling Traffic Accidents.

Based on the description above, the authors are interested in conducting research with the title: "Law Enforcement Strategies in Suppressing Accidents That Result in Death at the Mojokerto City Police. This study aims to determine the strategy of law enforcement in suppressing traffic accidents that result in death at the Mojokerto City Police, to determine the factors that support and hinder the Mojokerto City Police in suppressing traffic accidents that result in death, and to find out solutions to obstacles in an effort to reduce traffic accidents that result in death.

## 2. Research Methods

The approach method used in this research is juridical sosilogis, because in this research, in addition to using a legal science approach, it also tries to apply other social sciences. This means that in determining the data, it is emphasized on its juridical aspect, while social science is used as an assistant, namely by making a direct approach to some people who occupy certain positions in accordance with the object of research.

Research specifications, namely descriptive analysis by focusing on the problem then processed and analyzed to draw conclusions.<sup>10</sup> The specification in this study is analytical descriptive, namely a study that aims to determine the strategy of law enforcement in suppressing accidents that result in death at the Mojokerto City Police. The sampling method used was purposive sampling, namely the sampling technique by

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<sup>8</sup> Agus Supriyadi, Aris Mashdurohatun, *Analisa Hukum Terhadap Lalu Lintas Yang Mengakibatkan Hilangnya Nyawa Orang Lain Yang Dilakukan Oleh Orang Karena Pengaruh Minuman Keras*, Jurnal Unisulla, Juni 2016

<sup>9</sup> Ibid

<sup>10</sup> Saifuddin Azwar, *Metode Penelitian*, Pustaka Pelajar, Yogyakarta, 2014, p. 7

taking a certain group of subjects from the population to be studied. Data collection methods, namely dprimary data: interviews and secondary data: relevant literature studies, either in the form of theories or opinions from experts documented in literature.<sup>11</sup> Data Analysis Methods: qualitative analysis, namely by describing data in the form of regular, logical and effective sentences.<sup>12</sup>

### **3. Results and Discussion**

#### **3.1. Law enforcement in reducing traffic accidents**

The state of Indonesia is a state of law (*recht staats*), so everyone who commits a crime must be accountable for his actions through a legal process. Law enforcement implies that a criminal act is an act that is prohibited by a rule of law, where the prohibition is accompanied by a threat (sanction) in the form of a certain crime as responsibility. In this case it has to do with the principle of legality, in which no act can be punished but has been regulated in law, then for those who violate the prohibition and the prohibition has been regulated in law, the perpetrators may be subject to sanctions or punishment, while the threat of punishment is directed at the person who caused the incident, there is also a close relationship.

Examples of cases of driver negligence are as follows:

Police Report Basis No. Pol: LP/15.05/29/II/2017/Traffic, 02 February 2017; Task Order Number: SprinGas/29/II/2017/Traffic, 2 February 2017; Investigation Warrant No.: Sprin Dik/29/II/2017/Traffic, 2 February 2017.

From the results of the examination of the suspect, witnesses, expert witnesses, and existing evidence as well as the above discussion, the investigator is of the opinion and concludes that the suspect is named Mr. Yanto, TTL Kediri, 08-08-1971, 45 years old, Male Sex. -Male, Private Employee Occupation, Islam Religion, Address Jl. Empunala No. 60-D Rt. 01 Rw. 03 Ex. Balongsari Kec. Magersari, Mojokerto City, could be sued for driving a motorized vehicle which due to his negligence resulted in a traffic accident causing another person, namely the victim, Mr. Dedi Rahmat Hari Yanto passed away, as referred to in Article 310 (4) of Act No. 22 of 2009 concerning LLAJ, and the victims Br. Mahfudin, suffered a fracture wound in his left shoulder, as referred to in Article 310 (3) of Act No. 22 of 2009 concerning LLAJ.

With regard to cases in Mojokerto City Police, law enforcement based on the provisions of Article 310 of Act No. 22 of 2009 concerning Road Traffic and Transportation, it can be seen that if a traffic accident occurs which causes another person to die, the perpetrator can be punished with imprisonment of up to 6 (six) years and/or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah).

#### **3.2. Factors affecting law enforcement in cases of driver negligence in traffic resulting in death.**

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<sup>11</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Raja Grafindopersada, Jakarta, 1985, p. 66.

<sup>12</sup> Bambang Waluyo, *Penelitian Hukum dalam Praktek*, Sinar Grafika, Jakarta, 2002, p. 78.

Based on the results of interviews with traffic traffic officers at the Mojokerto City Police that law enforcement against cases of negligence of drivers in traffic that result in death generally have problems that occur and hinder the smooth handling of the driver's negligence. The obstacle faced by the Mojokerto City Police in law enforcement is the lack of evidence and sufficient witnesses at the scene of the case, while witnesses who know about the incident are reluctant to provide information to the police.

In a criminal procedure, at least 2 valid pieces of evidence to proceed with the case to court, the handling case against the traffic accident perpetrator leaves little evidence to find the perpetrator, and the presence of few or no witnesses who know about the incident. Law enforcement will be hampered if one of the factors that influence it does not work well. These factors include:

- The legal factor itself is limited from the enactment of the law regarding the principles and objectives of having a positive impact
- Law enforcement factors, namely the parties who form and implement laws
- Factor of means or facilities that support law enforcement so that it runs smoothly
- The community factor is the environment in which the law applies
- Cultural factors, namely as a result of work, creativity and taste based on human initiative in social life.

Based on an interview with Iptu Sukaren, it was stated that there are factors that influence law enforcement against driver negligence in traffic accidents. These factors are penal and non-penal factors. Penal policy is a form of crime prevention that focuses on repressive action after the occurrence of a criminal act, while non-penal policy emphasizes preventive action before the occurrence of a criminal act.

If the settlement of a traffic accident that causes the victim to die is resolved through a non-penal policy, the payment process for fines is adjusted to the law. The penalty is given to the victim's family. However, solving traffic accidents that cause victims to die using a non-penal policy is not effective in providing a deterrent effect on the perpetrators and does not make a positive contribution to handling traffic accidents that cause victims to die

### **3.3. What is the solution to obstacles in an effort to reduce traffic accidents that result in death**

The efforts made by the Traffic Unit against obstacles in an effort to reduce traffic accidents that result in death are as follows: Preemptive measures (early detection); Preventive Measures (prevention) and Repressive Effort (repression).

#### *3.3.1. Preemptive measures (early detection)*

Pre-emptive measures are initial efforts made by the police to prevent criminal acts, traffic that causes other people to die in the area of the Traffic Unit at the Mojokerto City Police, which states that:

"Efforts are made by implementing community education activities (dikmas), such as: Child friendly police, police goes to school, socialization in schools, campuses, communities, organized and unorganized communities, traffic safety campaigns, driving training, driving safety, safety riding, and other socialization activities to

provide an understanding of traffic ethics. And even those activities are carried out regularly”.

Efforts like this are very important, considering preemptive efforts through optimization of community service activities in order to create awareness, and to foster and create security, safety, order and smoothness in traffic.

This effort can be carried out through the following ways, the implementation of the 'Police Sahabat Anak' program, Police goes to school, Police goes to camp, organized training for the community and Dikmas then through social media networks such as Twitter, Instagram and Facebook, and carrying out the installation. calls for orderly traffic through mediabaliho, banners, videotron, etc. and the involvement of other agencies outside the Police is often neglected, even though this activity has an important role, considering that the problem of traffic accidents is a complex problem.

### 3.3.2. Preventive Efforts

Preventive is a follow-up to pre-emptive efforts. In preventive efforts, the emphasis is on eliminating the opportunity to commit crimes. In other words, preventive measures (prevention) are intended as an effort to make positive changes to the possibility of traffic disruption on the road. In this case, the presence of police at each post then on the road, can close the opportunity for motorists to commit traffic violations.

According to the results of interviews the author conducted with members of the Traffic Unit at the Mojokerto City Police, that:

"The usual preventive or preventive measures such as guarding at police posts, patrols, and so on".

One form of traffic accident prevention, namely by increasing the presence of traffic members in the community. This approach can be implemented in several ways including: *Turjawali*. The function of regulating, guarding, escorting and patrolling is carried out by optimizing the roles of traffic unit members, such as: Regulation, Guard, Escort and Patrol.

### 3.3.3. Repressive Approach

The repressive approach is the duty of the police in the aspect of law enforcement, but this is the last resort after preemptive and preventive measures have been implemented. The repressive approach explicitly prioritizes violations that have the potential for traffic accidents. The repressive approach commonly used by the Mojokerto City Police Traffic Unit includes Routine Operations.

## 4. Closing

Application of criminal sanctions in cases of traffic accidents and road transportation based on Act No. 22 of 2009 concerning Road Traffic and Transportation. The perpetrator who causes the victim to die is subject to Article 310 paragraph (4) and Article 311 paragraph (1) of Act No. 22 of 2009. In Article 310 paragraph (4) the perpetrator is sentenced to imprisonment of up to 12 (twelve) years or a maximum fine of Rp. 24,000,000.00 (twenty four million rupiah). In Article 311 paragraph (1) the perpetrator is sentenced to imprisonment for a maximum of 1 (one) year or a

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Law enforcement officials should be able to apply criminal sanctions for perpetrators of negligent driving cases that cause the victim to die in accordance with applicable statutory provisions to create a deterrent effect on the perpetrator. The non-penal policy should be implemented in cases of traffic accidents where the victim only suffered material losses, while for victims who have died, the applicable criminal law should be applied.

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