

## Functional Role of Marine Police in Law Enforcement Crimes Occurring in Maritime Areas

**Mohammad Ridwan**

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: [ripwan40@gmail.com](mailto:ripwan40@gmail.com)

**Abstract:** *The purpose of this study is to determine and analyze the working system of the water police in enforcing maritime crime law. In this writing, the author uses a normative legal method with a descriptive analysis research specification. Law enforcement at sea is one of the important national issues, considering that Indonesia's marine resources are very abundant, both in terms of marine aspects, fisheries aspects, and marine-based technological innovation. This oceanic natural background makes the Indonesian nation and state maritime in nature. In addition, Indonesia is geographically strategically located between the intersection of two oceans and two continents, so that Indonesia's sea area is a very important sea lane for world trade routes and national and international shipping traffic. In order to create conditions in Indonesian waters that are safe from the threat of territorial violations, safe from the dangers of shipping navigation, safe from illegal exploitation and exploration of natural resources that are Indonesia's marine potential and environmental pollution, and safe from crimes and violations of the law, both from within the country and from abroad, it is necessary to implement law enforcement in marine areas. In Indonesia, law enforcement officers who have the authority to enforce the law in marine and water areas are in several institutions, one of which is the Water Police or known as POLAIR. In carrying out law enforcement functions at sea.*

**Keywords:** *Enforcement; Marine; Maritime; Police.*

### 1. Introduction

The issue of law enforcement at sea is one of the national issues that important, considering that Indonesia has very abundant marine resources, both from marine aspects, fisheries aspects, and marine-based technological innovations. This oceanic natural background makes the nation and state Indonesia has a maritime character.<sup>1</sup> Apart from that, Indonesia is geographically located strategically located between the intersection of two oceans and two continents, so that the region Indonesian seas are a very important sea lane for world trade routes and national and international shipping traffic.

With these geographical conditions, Indonesia has 4 strategic positions, namely Indonesia as strategic junction international shipping, Indonesia as strategic fishing ground, Indonesia as strategic potential business, and Indonesia as strategic key partner for big countries. From the position and potential that owned, Indonesia has a big opportunity to become a country maritime based on natural resources. This potential

can be a strength as well as challenges with a high level of vulnerability and can be disruptive security stability that could threaten the integrity of the Unitary State of the Republic Indonesia (NKRI). This is because Indonesia's position is very open to other countries. to enter Indonesian territory by sea and carry out activities in the territory Indonesia with various impacts that arise.

In order to create conditions in Indonesian waters that are safe from threats territorial violations, safe from navigational hazards, safe from exploitation and illegal exploration of natural resources that are Indonesia's marine potential and environmental pollution, as well as being safe from crime and violations. laws, whether originating from within the country or from abroad, are required the existence of law enforcement in maritime areas.

In Indonesia, law enforcement officers have the authority to enforce the law.

law in the maritime and water areas lies with several institutions, one of which is namely the Water Police or known as POLAIR. In carrying out its functions law enforcement at sea.<sup>4</sup>In order to prevent and prosecute criminal acts and several criminal acts that occur in these waters, then the role and

The presence of police ships and Polri aircraft is very necessary. Korpolaairud Baharkam Polri as an integral part of the Police which has the task carry out protection, care and service to the community and law enforcement, so as to anticipate any developments the threat of public order disturbances requires Korpolaairud to play an active role and participate through efforts or steps to improve operational capabilities, especially in water and air areas, in order to combat criminal acts in Indonesian waters. The vastness of Indonesia's territorial waters must always be protected and monitored. at any time from individuals or legal entities carrying out activities in waters. The Marine Police is one of the law enforcement officers responsible for as mandated by law to carry out duties because it has ship facilities as the main means to carry out patrol in water areas.

However, water patrols are not just about carrying out tasks. preemptive/early detection and guarding/preventive, but must also be able to carry out enforcement duties which include pursuit, stopping, inspection and arrest. Including carrying out police duties others for the sake of upholding the supremacy of law in the territory of the Republic of Indonesia.

Based on the description of the role of the Water Police in law enforcement functions the author conducted research related to the law as mentioned above.

The topic has a research objective of knowing and analyzing the work system.

marine police in enforcing maritime crime law.

## **2. Research Methods**

The approach used in this research is normative or legal. written legal approach (legislation/statute approach). Approach normative juridical is an approach that is carried out based on primary legal materials by studying theories, concepts, legal principles and regulations legislation related to this research. This approach also known as the library approach, namely by studying books, laws and regulations and other

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documents related to  
this research.

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

#### **3.1. Marine Police**

In carrying out its duties, the Indonesian National Police Organization is structured in a hierarchical manner from central level to regional level. The Police organization at the central level called the Headquarters of the Republic of Indonesia National Police (Mabes Polri) which is located in led by the Chief of the Republic of Indonesia National Police (Kapolri) while the organization The Indonesian National Police at the regional level is called the Regional Police (Polda). led by the Regional Police Chief (Kapolda). In the Chief of Police Regulation State Law No. 22 of 2010 Article 1 point 3 explains that the Regional Police are the implementers duties and authorities of the Police in the Provincial Region under the Chief of Police. Polda in carrying out its main duties, especially in terms of implementing policing waters are assisted by the main task force subsection, namely the Water Police Directorate

(Directorate of Water Police).

The Directorate of Water Police (Ditpolair) is an integral part of the Indonesian National Police which carry out duties in water areas in order to maintain public order and security, enforcing the law, providing protection, patronage and service society, as an effort to create domestic security.

According to the Regulation of the Chief of the National Police No. 22 of 2010 concerning the Composition of Organization and Work Procedures at the Regional Police Level Article 1 number 26 which

referred to as the Directorate of Water Police, hereinafter abbreviated as Ditpolair is an element that carries out the main tasks at the Regional Police level which is located in under the Chief of Regional Police. Based on the Regulation of the Chief of National Police No. 22 of 2010 Article 6 letter f stipulates that the Regional Police (Polda) performs functions:

"Implementation of water policing, which includes patrol activities including

first handling of criminal acts, search and rescue accidents/Search and Rescue (SAR) in water areas, development of coastal or water communities in order to prevent crime and maintain security in water areas."

Ditpolair is an element that carries out the main duties of the Chief of Police the Region (Chief of Police), has the task of carrying out duties in the waters sector. organized by the Regional Police, as regulated in the Chief of Police Regulation State No. 22 of 2010 Article 6 letter (f). Director of Water Police (Ditpolair) wholed by the Water Police Directorate (Dirpolair) which is responsible to Regional Police Chief, and in daily implementation, Ditpolair is under the control of the Deputy Chief of Police Regional Police Chief (Wakapolda). In carrying out his duties, Dirpolair is assisted by by the Deputy Director of Water Police (Wadirpolair) who is responsible to Dirpolair.

#### **3.2. Marine Police Work System in Enforcing Maritime Crime Law**

In Article 67 paragraph 2 of the Chief of Police Regulation Number 23 of 2010 it is

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emphasized that the intended task of Satpolair itself, where Satpolair is tasked with carrying out functions water policing, which includes water patrols, law enforcement in waters, development of coastal communities and other waters, as well as SAR (SAR) *Search and Rescue*). Some of the divisions of tasks above are the main tasks of the police. jurisdiction in waters.

In carrying out its duties, the Indonesian National Police organization is structured in a hierarchical manner from from central to regional level:

1. Headquarters of the Republic of Indonesia National Police (Mabes Polri)

The operational elements of the Marine Police at the National Police Headquarters level below The Directorate of Water Police (Ditpolair) of the Indonesian National Police. Tasked with fostering and in the limits of authority determined to carry out police functions Central level waters in order to protect, shelter and serve, and maintain public security and order and enforce

law in the territorial waters of the Republic of Indonesia. In implementing in its duties, Ditpolair carries out the following functions:

- a. Organizing technical development and implementation of safeguards, escort and patrol of waters including law enforcement includes the pursuit and first handling of criminal acts and search and rescue (SAR) activities in water areas.
- b. Organizing coaching and implementing technical functions community health, including ensuring the continuity of implementation of security systems in waters.
- c. Carrying out shipping technology studies which include ship machinery, navigation and communication and ship building in ensuring the quality and suitability of equipment.

2. Regional Police (Polda) Level

Operational elements of the Water Police at the Regional Police level under the Directorate of Water Police Regional Police. Based on the Regulation of the Chief of National Police No. 22 of 2010 Article 202 paragraph (2) stipulates that the task of Ditpolair is to organize the function of the water police includes patrols, first aid measures in Crime Scene (TPTKP) in waters, Search and Rescue (SAR) in water areas, and Community Guidance (Binmas) for beaches or waters and development of the function of the water police within the Regional Police environment. In carrying out the duties as referred to in paragraph (2), Ditpolair performs functions:

- a. maintenance and repair of ship facilities and infrastructure in the environment Regional Police;
- b. implementation of patrols, law enforcement escort in the region waters, and coastal Binmas in the jurisdiction of the Regional Police;
- c. providing SAR assistance at sea/waters;
- d. implementation of police transportation in waters;
- e. implementation of telecommunications and informatics in waters; and
- f. data collection and processing and presentation of information and documentation of Ditpolair activity programs.

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### 3. Resort Police Level (Polres)

Operational elements of the Police at the Polres level under the Unit Water Police (Satpolair) / Polres Polair Unit. Based on Regulation Head of State Police No. 23 of 2010 Article 67 paragraph (2) stipulates that Satpolair is tasked with carrying out the functions of the water police, which includes water patrols, law enforcement in waters, coaching coastal communities and other waters, as well as SAR. In carrying out the task as referred to in paragraph (2), Satpolair carries out the following functions:

- a. implementation of patrols, law enforcement escort in the region waters and coastal community development in the jurisdiction of the Police;
- b. providing SAR assistance at sea/waters; and
- c. implementation of police transportation in waters.

The organizational structure hierarchy from the National Police Headquarters level to the regional level territoriality is emphasized in the division of legal areas and responsibilities in order to achieve organizational goals, where each level has its own structure the organization itself has a vertical relationship from top to bottom (*top down*) and with a bottom-up accountability system (*bottom up*).

The Ditpolair at the National Police Headquarters level is given coaching and managerial authority to manage the Regional Police and the Resort Police, because the scope of its authority covers all Indonesian waters, the Indonesian National Police's Ditpolair has the task of handling problems in society that cannot be handled by the Regional Police or the Police or cases involving two or more regions. Things that can be done taken over by the National Police Headquarters are difficult and very difficult cases, where These criteria have been explained in Article 18 paragraph (3) and paragraph (4) of the Head Regulation Republic of Indonesia National Police Regulation Number 14 of 2012 concerning Management Criminal Investigation, namely the criteria for difficult cases include: (a) witnesses do not directly aware of the crime that occurred; (b) the suspect has not whose identity is known or whose health is disturbed or who holds a certain position;

(c) the suspect is protected by a certain group or part of the perpetrators of the crime organized; (d) evidence that is directly related to difficult cases obtained; (e) expert testimony is required to support the disclosure. case; (f) special equipment is required to handle the case; (g) act the crime committed occurred in several places; and (h) requires time sufficient investigation. Meanwhile, the criteria for very difficult cases include: (a) not yet witnesses were found who were directly related to the crime; (b) witnesses have not whereabouts are known; (c) witnesses or suspects are abroad; (d) the crime scene is several countries/cross countries; (e) the suspect is abroad and there is no extradition agreement; (f) the evidence is abroad and cannot be confiscated; (g) the suspect's identity is unknown or his health is disturbed or he has certain positions; and (h) requires a relatively long investigation period.

Prominent crimes in the water sector include: illegal fishing, illegal logging, illegal money, then ship piracy. In general, crimes in the waters are very related to other types of crime, especially organized crime and crime of stealing state assets. Therefore, he continued, Polair is an element which is strategic for protecting the country's wealth,

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especially that which is related to state sovereignty.

In the Polair mechanism for enforcing the law at sea there are procedures - procedures aimed at preventing arbitrary action which can damage the law enforcement process itself. Furthermore, regarding procedures for handling criminal acts at sea or in waters can be carried out with the following stages:

1. Ship Detection

(a) Carrying out surveillance activities in water areas prone to criminal acts based on the information obtained. (b) Target recognition using existing means (Radar, sonar, binoculars, radio communications, or signals). (c) The assessment of the intended target to assess and determine the target of the suspected object.

2. Ship Investigation

a) Vessel Termination

If the ship is suspected of committing a violation/criminal act based on sufficient preliminary evidence, a termination is held on the grounds that the ship committed a violation/criminal act as regulated in the law.

b) Ship inspection

After the ship was stopped, the next step was carried out action: inspection on the orders of the Commander, the ship docked at patrol boat or vice versa. Things to consider in inspection process at sea (a) Inspection at sea must use legitimate means with clear and identifiable characteristics and recognized as a patrol ship or government authorized ship to carry out the action; (b) The inspection team must wearing a complete uniform and equipped with a warrant; (c) The inspection must be witnessed by the ship's captain or crew.

examined; (d) The examination must be carried out in an orderly, firm, thorough manner, fast, no loss, no damage and no violations inspection procedures.

After completing the inspection, the things that must be paid attention to are (a) Make a written statement and have it signed by the ship's captain, which explained that the results of the inspection were carried out in an orderly manner, there were no incidents violence, damage and loss; (b) Making a written statement and signed by the ship's captain, stating the results of the inspection ship's letters/documents stating the place and time; (c) Recording

in the journal book of the ship being inspected which contains: time and position of inspection, opinion on the results of the examination, the examining officer signs the results examination of the ship's journal book, of the captain of a foreign ship who cannot in Indonesian, upon arrival at the nearest base/port you will be given complete and detailed explanation regarding the case with the assistance of a translator before further investigation is carried out.

In the 1982 Law of the Sea Convention, territorial boundaries have been regulated. country, this regulation is intended to provide legal certainty regarding scope of the state territory, authority to manage the state territory, and rights sovereign. Based on

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this Convention, Indonesia has sovereignty over its waters. interior, archipelagic waters, territorial sea, additional zone, Economic Zone Exclusive (EEZ) and continental shelf.

Marine Police in the implementation of supervisory activity authority and law enforcement in Indonesian waters is limited to sea areas territorial only, namely in areas up to 12 miles from the outermost coastline.

The Marine Police cannot handle problems that reach the EEZ. So if you have to capture a foreign-owned ship or a ship owned by an Indonesian citizen in the territory ZEE, the Police must hand it over to the Ministry of Maritime Affairs and Fisheries (KKP) or Indonesian National Army Navy (TNI-AL).

The follow-up to the results of Polair's investigation is if there are none sufficient evidence or strong indications of the existence of a crime then: The ship allowed to continue the voyage, in the voyage journal it was recorded that it had been an inspection was carried out by stating the position and time, requesting a letter in person

written to the ship's captain about the absence of violence, damage and loss during the examination and a statement of not filing a lawsuit. Then if there is sufficient evidence or strong indications that there has been a violation/criminal act has occurred: The examining officer informs the captain said that a criminal act had occurred and for that reason the ship would be taken specified base/port, ask the ship's captain to provide signatures on the position map of the Pursuit Situation Picture and Termination. Then the Commander of the patrol boat issued an order to take ships and people to the nearest base/port and have determined.

#### **4. Conclusion**

In the Polair mechanism for enforcing the law at sea there are procedures - procedures aimed at preventing arbitrary action which can damage the law enforcement process itself. Furthermore, regarding procedures for handling criminal acts at sea or in waters can be carried out with the following stages: (1) Ship Detection; (2) Investigation Ships which consist of Stopping the Ship if the ship is suspected of committing violations/criminal acts based on sufficient preliminary evidence, are held termination on the grounds that the ship has committed a violation/criminal act which is regulated in the law. Then the inspection of the ship which After the ship stopped, then the next step is to carry out an inspection on the order Commander, the ship docks with the patrol boat or vice versa.

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(Mohammad Ridwan)

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