

Law Enforcement Against Online Fraud Crimes: A Case Study at Police District Area of Wajo

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ABSTRACT

The Internet has brought new realities to every human life, the internet has also changed distance and time to infinity. crimes that often occur in the internet media is fraud on behalf of online businesses in the name of internet media. the purpose of the study was to analyze the barriers in law enforcement against online crimes as well as the effectiveness of law enforcement against online fraud crimes in the wajo police jurisdiction. the type of research used in this study is empirical law research located in wajo police jurisdiction. The results showed that obstacles in law enforcement against online crimes In terms of Personnel or Investigator Aspects, Aspects of Facilities and Infrastructure, Budget Aspects, and Community Aspects while the effectiveness of law enforcement against online fraud crimes in the Wajo Police Jurisdiction is 1) substance that in the law enforcement system needs to take decisive action or see the legal basis of the criminal, and the basis of law enforcement to optimize and maximize its performance is the legal basis of Law No. 19 of 2016 on amendments to Law No. 11 of 2008 on information and electronic transactions Article 28 paragraph (1) and Article 378 in the Criminal Code, and Article 390 of the Criminal Code and law enforcement that is before the investigation, certain crimes have been known but the crime is not yet clear and it is not yet known who did it.

Keywords: Criminal Acts; Fraud; ITE Law; Internet

1. Introduction

The Information and Electronic Transactions Act (ITE Law) is basically a legal umbrella in the field of telecommunications, computing, and *Entertainment* (media), which at first each still stands alone. This Law is made to provide legal certainty, so that when we transact electronically such as financial transactions using mobile phones/computers, from entering passwords, conducting financial transactions, until the transaction is completed or agreed, there is a guarantee for the transaction process." based on these considerations, the Law No. 111 of 2008 on Information and Electronic Transactions (hereinafter referred to as the ITE Law). The ITE Law guarantees the legal certainty of users in cyberspace (Safrin Salam, Nurwita Ismail, Faharudin, Nuragifah, Erni Dwita Silambi, Shinta Nurhidayati Salam, Rosnida 2020).

The development of computer technology, telecommunications, and information technology has been running in such a way that now it is very much different from previous years. The development of this technology brings changes to human life. (Idha Pratiwi Dyah Sinta Dewi, 2019). In this context the law becomes the main thing to regulate the change of human life through legal norms (Greetings, 2019). The position makes Indonesia a country of law (Rizki A et al., 2021).

The sophistication of electronic information technology today is enough to make it easier for everyone to communicate with each other, where electronic-based information technology is the main gateway to get other needs, so that any item is easier to get and access to get information very easily (Suparni, 2009).

The rapid development in the field of information technology today is the impact of the increasingly complex human need for information itself. The Internet has brought new realities to every human life, the internet has also changed distance and time to infinity. Internet media that can do business transactions, learn, shop, talk with colleagues around the world, even do other activities in real life. The relationship between information network technology and communication has resulted in a very wide cyberspace. Technology contains a collection of

information accessed by each person in the form of a computer network called an internet network as a media service or information provider (Arifandi, 2016).

Crimes that often occur in the internet media is fraud on behalf of *online* businesses on behalf of internet media that offer a wide range of products sold at below average prices. Online *business* is a business conducted through the internet as a marketing medium through the *website* as a catalog. Strict and clear enforcement of online business fraud is often the trigger for these fraud crimes. The Criminal Code (Criminal Code) and Law No. 11 of 2008 on Information and Electronic Transactions have imposed legal sanctions against online fraudsters. Such cases will be enforced using the law of Article 378 of the Criminal Code, and Article 28 paragraph (1) of Law No. 11 of 2008 concerning ITE (Abdul Wahid 2005).

In Dutch, crimes and offenses are referred to as *strafbaarfeit*, a compound term composed of the letters *straf*, *baar*, and *feit*. Among the terms, *straf* is defined as illegal and legal, *baar* as can and may, and *feit* as acts, occurrences, violations, and acts (Ilyas 2012).

With the enactment of the Information and Electronic Transactions Act on April 21, 2008, Law No. 11 of 2008 on Information and Electronic Transactions has set such a way related to violations that occur in technology that uses internet media, the ITE Law provides special criminal acts, this Law not only contains criminal law, but also contains arrangements regarding the management of Information and Electronic Transactions that occur at the National level (Chazawi, 2011).

In fact, the use of information technology, media, and communication has changed both the behavior of society and human civilization globally. The development of information and communication technology causes the world's relationship to be *borderless* and causes significant social, economic, and cultural changes to take place so quickly. Information technology today becomes a double-edged sword because in addition to contributing to the improvement of human welfare, progress, and civilization, it is also an effective target of unlawful acts (Maskun 2009).

Information and electronic transactions have opened the eyes of the world to a new world, the process of buying and selling through the internet is certainly familiar. The process of buying and selling through the Internet or Electronic Commerce is the process of buying and selling, transferring, or exchanging products, services, and information conducted through computer networks, including the internet. It is important to be reviewed in order to test the legal capacity in the development in cyberspace (Imron Rizki, Safrin Salam, 2019) Considering the above issues, the issue of this research is law enforcement against *online* fraud crimes in the Wajo District Police.

2. Methodology

This research is empirical legal research. This research departs from a thought that today there are still a group of indigenous legal people living in a certain area, especially in the Wajo Police Territory. Seeing the population is very large in number, so to facilitate this study, the authors applied the sampling technique using *purposive sampling* method.

Regarding the type and source of data to be used in this study using primary data, namely information obtained from respondents as well as the views of police, prosecutors, judges and the public, through an interview conducted directly found by the author in the field. As well as secondary data obtained in the form of ready-made (available) through publications and information issued various information issued by various agencies, companies or various journals and other researches that have been carried out previously. (Moeleong 2009). Techniques for reviewing and collecting primary data that will be conducted by way of interviews and literature studies. Withdrawal of conclusions, in which case the author draws conclusions and verifies them. The last step in analyzing qualitative data is the withdrawal of conclusions and verification, each initial conclusion is still a temporary conclusion that will change when new data is obtained in the next data collection. The conclusions obtained while in the field are verified during the research by rethinking and reviewing the field notes so that an affirmation of conclusions is formed.

3. Result and Discussion

3.1 Barriers in Law Enforcement Against Online Crimes.

The obstacles and obstacles in law enforcement against online fraud crimes based on interviews from Wajo Police Investigators, namely in terms of Personnel or Investigator Aspects, Aspects of Facilities and Infrastructure, Budget Aspects, and Community Aspects.

a. Personnel and auxiliary investigators

In the efforts of law enforcement and countermeasures of a criminal act in the field of ITE in particular, which contains elements of online fraud or *Cyber Crime* as referred to in Article 28 paragraph (1) "Everyone deliberately and without the right to spread false and misleading news that results in consumer losses in Electronic Transactions (Article 28 Paragraph 1 of Law Number 11 of 2008 concerning Information and Electronic Transactions).

Threatened with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp 1 billion rupiah. (Article 45A Paragraph 1 of Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions).

According to AKBP Wigino, S.H., M.H:

In law enforcement proses against *online* fraud crimes at this time only a few personnel who have the ability and skills in handling ITE (*Cyber Crime*) cases and only a few personnel have attended IT-related training and case handling training in the field of ITE. (The results of the interview with DIRECTOR SUMDA AKBP Wigino, S.H., M H. at the Wajo Police Satreskrim office. As of January 5, 2021).

b. Facilities and pre-facilities

At this time the obstacles wajo police investigators in the efforts to enforce and counter crime Information and Electronic Transactions *Cyber Crime* is a tool used to check evidence and determine whether based on checking the evidence can meet the elements of the article alleged, and required experts to assist investigators in handling cases in explaining the elements of the article to be suspected related to the handling of online fraud cases (The results of the interview with Kanit III tipidter AKP A. Irvan Fachri, S.H, at the Wajo Police Satreskrim Office. As of January 5, 2021)

c. Budget

The lack of budget support provided by the State is often used and justified by law enforcement officials to find sources of illegal funding for personal benefit resulting in discrimination against the community (Ansori, 2006).

Budget is a factor supporting the performance of investigators in the investigation and investigation process, especially the handling of cases in the field of IT or *Cybercrime* in this case in the form of the implementation of tasks outside the area that are often carried out by assistant investigators, including in order to conduct examinations of witnesses, implementation in asking for information experts namely Criminal Experts in Information and Electronic Transactions, Linguists, Forensic digital experts and if needed also Religious Experts in providing information in the investigation and investigation process. At this time the obstacles experienced during the investigation and investigation related to the Budget is the budget targeted in the annual budget plan or budget that has been determined every year often experiences a shortfall or the budget spent often exceeds the budget that has been determined for a year.

According to AKP A. Irvan Fachri, S.H:

"However, despite the obstacles described earlier, in order to provide legal certainty and create public order and security for information technology users, the police are working to overcome these obstacles. In overcoming obstacles in law enforcement efforts against *online* fraud crimes in the wajo police law area (The results of the interview with Kanit III tipidter AKP A. Irvan Fachri, S.H, at the Wajo Police Satreskrim Office. As of January 5, 2021).

d. Community

Society, which is the environment where the law is enforced or applied. Law enforcement comes from the community and aims to achieve peace in the community. Therefore the community can influence law enforcement Indonesian society is a plural society where there are many entnik groups and cultures that vary depending on the social environment and the point of view of society.

Public awareness and legal compliance is not merely an object of sociology. Public legal awareness is not only found through legal sociology research solely paying attention to social symptoms. People as citizens who need awareness and compliance with laws and regulations in order to support the implementation of legal

suppressors.

3.2 Effectiveness of Law Enforcement

a. Substation

The purpose of the law theoretically includes three things, namely justice, certainty, and benefit. Justice can be said to be the ultimate goal of *universal justice*. Justice is indeed an abstract conception, but nevertheless in the concept of justice contained the meaning of protection of rights, equality of degrees and position before the law, as well as the principle of proportionality between individual interests and social interests. The abstract nature of justice is because justice cannot always be born of rationality, but is also determined by a social atmosphere influenced by values and other norms in society. Therefore justice also has a dynamic nature that sometimes cannot be accommodated in positive law (MD 2009).

From the conception above it appears that fair law enforcement should include the following"

- 1) Protection of human rights.
- 2) Equality of rights and positions before the law.
- 3) The principle of proportionality between individual interests and social interests.

The principle of *democratic oversight* affirms that in carrying out its role and function, law enforcement must uphold the principles of transparency, accountability, *responsive*, *control* of democratic institutions that are the represents of *public* interests and open the participation of the public at large. In terms of reform of police institutions for example, referring to the concept of *democratic policing* at least police reform consists of six pillars that are interdependent, namely: Internal control of the security institution (police) concerned, government or executive control, parliamentary supervision, judicial oversight, and civil society *oversight* (Ansori, 2006).

Reform of law enforcement institutions should be aimed at *strengthening the rule of law*. The *rule of law* principle believes in a commitment to human rights norms. The rule of law-based institutional reform affirms that a law enforcement officer must not only enforce the law based on the prevailing positive law, but must also be *sensitive* to the principles of justice and the principle of humanity (Ansori 2006).

In the law enforcement system it is necessary to take decisive action or see the legal basis of the criminal, and the basis of law enforcement to optimize and maximize its performance is the legal basis of Law No. 19 of 2016 on amendments to Law No. 11 of 2008 on information and electronic transactions Article 28 paragraph (1) and Article 378 in the Criminal Code, and Article 390 of the Criminal Code. Of the three articles can be used as a legal basis for investigators and investigators to implement and optimize the enforcement of criminal law Information and Electronic Transactions (ITE), in the crime of *Cybercrime*, especially in law enforcement against *online* fraud crimes.

b. Law Enforcement

Investigation is a series of actions of investigators to find and find an event suspected as a criminal act to determine whether or not an investigation can be conducted in the manner set forth in this Law (Article 1 Number 5 KUHAP). The investigation is the initial stage of the start of the legal process conducted by the police against reports made by the community. The investigation conducted by wajo district police against the report of *online* fraud crime case is a first step taken to enforce the rules contained in Article 378 and 390 of the Criminal Code as well as in Article 28 paragraph (1) of Law No. 11 of 2008 concerning Information and Electronic Transactions.

Article 1 paragraph (1) KUHAP "Investigators are state police officers of the Republic of Indonesia or certain civil servant officials who are specially authorized by law to conduct investigations." Article 1 paragraph (4) kuhap "Investigators are officials of the state police of the Republic of Indonesia authorized by law to conduct investigations." Article 1 paragraph (5) kuhap "Investigation is a series of actions of investigators to find and find an event suspected as a criminal act to determine whether or not an investigation can be conducted in the manner stipulated in the Law.

Article 1 paragraph (2) KUHAP "Investigation is a series of investigative actions in the case and according to the manner stipulated in the Law to find and gather evidence that with that evidence makes light of the crimes

that occurred and in order to find the suspect. Based on the formulation of Article 1 point 2 kuhap, the elements contained in the understanding of the investigation are:

1. An investigation is a series of actions that contain actions that are interconnected with each other;
2. The investigation was conducted by a public official called investigators.
3. The investigation is conducted based on the laws and regulations.
4. The purpose of the investigation is to find and gather evidence, which with that evidence makes light of the crimes that occurred and find the suspect.

Based on these four elements can be concluded that before the investigation, it has been known that there is a certain crime but the crime is not yet clear and it is not yet known who did it. The existence of an unlit crime is known from the investigation (Chazawi, 2011).

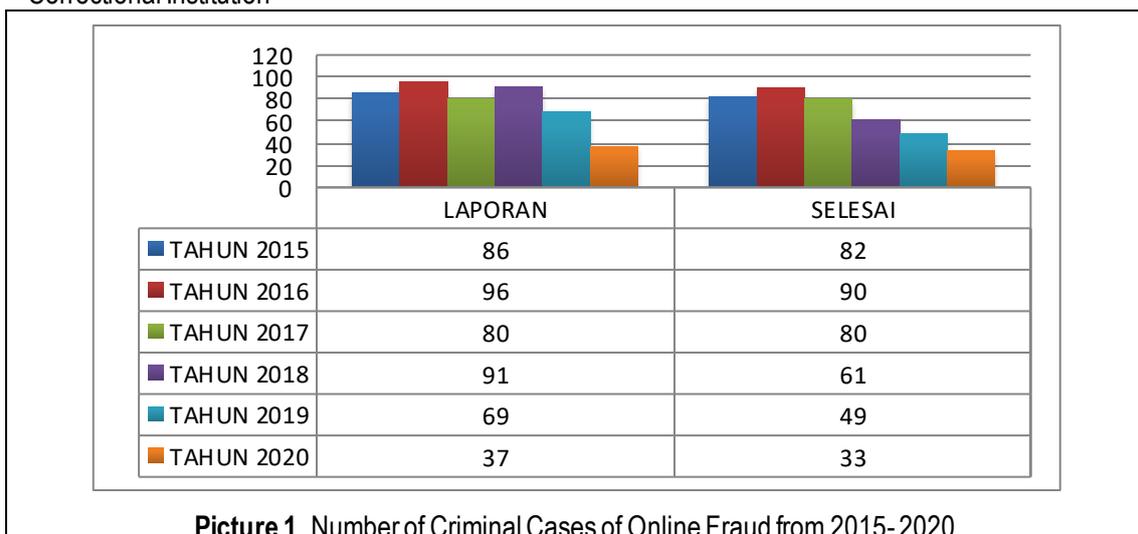
Kuhap further regulates the investigators in Article 6, which provides limits on investigative officers in criminal proceedings. The limitations of officials in the investigation stage are police investigators and civil servants (Article Law No. 8 of 1981).

In addition to the stipulated in Article 1 point to 1 KUHAP and Article 6 KUHAP, there is another Article 10 that regulates the existence of additional investigators in addition to investigators (Harahap, n.d.). To know who is entitled as an investigator is reviewed in terms of agencies and ranks, affirmed in Article 6 KUHAP. In the Article determined the agency and the rank of an investigating officer. Point to the provisions of Article 6 KUHAP

Article 117 paragraph (1) of KUHAP states that: The description of the suspect and or witness to the investigator is provided without pressure from anyone and or in any form. Here are the results of research from respondents related to reports of *online* fraud cases coming in from 2015 to 2020.

Restorative justice can be implemented in the criminal justice system through the examination phases (Akub 2018), which are as follows:

- a. Investigation stage
- b. Prosecution stage
- c. Court examination stages
- d. Correctional Institution



Data Source: Primary Results Of Interviews With Satreskrim Wajo Police.

Based on statistical data and tables obtained by the authors, shows that from 2015 to 2020 the success rate of wajo police in handling cases of online fraud crimes is quite successful. In 2015 cases were reported a total of 86 cases and completed 82 cases, in 2016 cases were reported 96 and completed 90 cases until 2020 cases

were reported a total of 37 cases and completed 33 cases. The total number of cases from 2015 to 2020 amounted to 459 reported cases and 395 cases were resolved. While the cases that were not resolved a total of 64 cases.

According to AKP A. Irvan Fachri, S.H:

Cases that have not been resolved in the current year are usually those cases in the following year, this is usually caused by the time of the case that comes at the end of the year or the degree of difficulty in handling the case. Cases that are difficult in handling are common because of the lack of human resources in the police who master technology and lack of facilities and infrastructure, evidence, budget and the public who do not want to report if there is a case of fraud (Results of Interview with Kanit III Tipidter AKP A. Irvan Fachri. S.H. at wajo police station. On January 5, 2021).

Basically the enforcement of *online* fraud cases in Wajo District is still not perfect seen from 2015 to 2016 that there are still unresolved cases according to AKP A. Irvan Fachri, S.H. who stated that the settlement of fraud cases is very difficult to perfect enforcement because of the lack of human resources (HR) that master the technology, but every person always provides maximum service and efforts even though it can be said that it has not reached the stage of perfection.

The police are state institutions that have a related role in providing protection and maintaining security within the scope of society and the State (Article 5 paragraph 1 of Law No. 2 of 2002 concerning the State Police of the Republic of Indonesia), which also plays a role in law enforcement and issue a policy and anticipate things that can make a state of unconduciveness related to public order and security. However, law enforcement against online fraud crimes does not always run smoothly as already targeted.

According to KOMPOL Jasardi S,Sos.,M.H:

During law enforcement against *online* fraud crimes will always require a sufficient budget because during proses investigations and investigations are often insufficient in proses a, the budget is one of the obstacles that hinder law enforcement against online fraud crimes (Results of Interview with DIRECTOR OPS KOMPOL Jasardi S,Sos.,M.H. at the Wajo Police Satreskrim Office. On January 5, 2021).

Related to the explanation above, the researcher concluded that obstacles or obstacles are something that can hinder the progress or achievement of a goal of implementation that has been set so that the enforcement and handling of a case becomes more effective. In particular, related in law enforcement against *online* fraud crimes in the wajo police jurisdiction, in providing legal certainty and security and tranquility to the community.

4. Conclusion

Based on the results of the research conducted by the author, it can be concluded that the obstacles in law enforcement against online crimes in terms of Personnel or Investigator Aspects, Aspects of Facilities and Infrastructure, Budget Aspects, and Community Aspects while the effectiveness of law enforcement against online fraud crimes in the Wajo Police Jurisdiction is 1) substance that is in the law enforcement system needs to take decisive action or see the legal basis of the criminal, and the basis of law enforcement to optimize and maximize its performance is the legal basis of Law No. 19 of 2016 on amendments to Law No. 11 of 2008 on information and electronic transactions Article 28 paragraph (1) and Article 378 in the Criminal Code, and Article 390 of the Criminal Code and law enforcement that is before the investigation, certain crimes have been known but the crime is not yet clear and it is not yet known who did it. Advice is required special event law that can regulate such as legal evidence tools in the case of *Cyber Crime*, special authorization to investigators in carrying out some necessary actions in the framework of the investigation of cyber *crime* cases, especially online fraud.

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