

## **Prosecution of Traffic Violators According to Law**

### **Number 22 Year 2009**

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#### **ABSTRACT**

The 1945 Constitution of the Republic of Indonesia has mandated in article 1 paragraph (3) that our country is a state of law, so let it be law as its commander, especially in an era of democracy that craves law as its main pillar. The purpose of this study is to provide action to traffic offenders. The research method used is normative juridical law research, which is research based on literature study which includes primary legal materials, secondary legal materials and tertiary legal materials. The results of the research on the value of our legal awareness penetrate into the conscience and become the needs of every individual, of course in order to anticipate the low value of legal awareness, the government through institutions in charge of law must proactively improve the legal education system for citizens (department of justice through the Pos Komalu program, state police). Republic of Indonesia through awareness programs for security and public order and others), it is hoped that the value of legal awareness of citizens will increase so that they know and understand that if there are legal problems that befall them, they can exercise their rights before the law, especially regarding the issue of Law no. 22 of 2009 concerning road traffic and transportation.

**Keywords:** Violation, Traffic, UUD, Prosecution.

#### **1. INTRODUCTION**

The 1945 Constitution of the Republic of Indonesia has mandated in article 1 paragraph (3) that our country is a state of law, so let the law be its commander, especially in an era of democracy that craves law as its main pillar (Myranika, n.d.). However, phenomena in people's lives assume that the law has not been able to position itself as commander in chief. This is identified from the many anomalies in the application of law within the law enforcement apparatus, starting from the police as investigators, prosecutors as prosecutors, judges as adjudicators and correctional institutions as a place for fostering inmates (Wahyuningsih & Iksan, 2019).

The question arises why did that happen? Because many people now know let alone understand the law, so they do not know that everyone has the same rights and obligations before the law. Who is at fault? The government in this case the law enforcement institutions, the community or the system? What is clear is that the general public in general do not understand the law, so that if it is a case, the status of a victim, witness or suspect is up to the investigator and prosecutor. Why is there public apathy towards the law, so that it is reluctant to equip oneself, in every bookstore there are quite a lot of references about law, but some of them are consumption from students, the community and others, but about legal issues in everyday life are not yet available, even though the community really needs it (Prasetyono, 2022).



Thus, has the value of our legal awareness penetrated into the conscience and become a need of every individual, of course, in order to anticipate the low value of legal awareness, the government through institutions in charge of law must proactively improve the legal education system for citizens (the justice department through the Pos Komalu program, the police the Republic of Indonesia through awareness programs for security and public order and others), it is hoped that the value of legal awareness of citizens will increase so that they know and understand that if there are legal problems that befall them, they can exercise their rights before the law, especially regarding matters of law (Rusdiana et al., 2018). No. 22 of 2009 concerning road traffic and transportation which is the discussion in this thesis. Newspapers and television news are still current:

Minister of State-Owned Enterprises Dahlan Iskan together with electricians during the Tucuxi electric car accident in Magetan, East Java, Saturday 5/1. Dahlan admitted that he deliberately crashed the car into a cliff, then hit a power pole and hit the Isuzu Panther because the brakes failed when going down the hill, I took the initiative to crash the car into a cliff because the car was getting faster (moving) said Dahlan. Dahlan suspects that the accident occurred because he used the brakes too often when the road was going downhill, it could also be because the car uses the brakes as usual, this is an electric car without an engine, said Dahlan. He made sure his partner was in good condition, as well as the passengers in the panther car. Dahlan admitted that he would not give up and would continue the Tucuxi electric car, which means this dolphin, this is just the beginning, Dahlan said (Handono & Istinah, 2021).

During the journey from Solo to Magetan, the electric car driven by Dahlan Iskan was not under any control, until finally arriving at the Tawangunanan area which has elements of ups and downs, the road that is passed is relatively good with smooth asphalt conditions. But after making it through the incline and down the derivative the car went quite fast.

The Tucuxi electric car, which was undergoing a long-distance road test from Solo to Surabaya, had an accident in Ngerong Village, Magetan, East Java today. Magetan Police Chief AKBP Agus Santosa said the BUMN minister was safe. The East Java Police Traffic Directorate and the Surabaya Police Forensic Laboratory are still investigating the car accident, which was driven by SOE minister Dahlan Iskan.

The accident involved state officials or VIPs, so the Ditlantas Polda and the Forbidden Laboratory will intervene, said Magetan resort police chief, AKBP Agus Santosa, told reporters. After the accident, the Tucuxi electric car was secured at the Magetan resort police headquarters. According to him, the police had requested information from Dahlan after his car hit a cliff and an

electric pole and then hit the driver of a Toyota Kijang car, the police also asked for information from the owner of the Toyota car and several witnesses (Roesli et al., 2017).

Satlantas Magetan has also asked for information from witness Marsono, a resident of Biliton street, Magetan city, to better understand the incident, he said he was examined as a witness because he was with his family at the location. Based on the information gathered, the police suspect that the accident occurred because the car's brakes did not work. Police investigators immediately questioned the SOE minister regarding a traffic accident in Plaosan Magetan, East Java, Saturday, January 5. So far, the police have examined 9 witnesses. At the time of the incident, the minister immediately carried out state duties. Hopefully, his friends in East Java can conduct an investigation as soon as possible, said the head of the BPU at the National Police Headquarters, Police Commissioner Agus Rianto, Jakarta today.

Agus said the parties who had been questioned included the driver and passenger of the panther car who was involved in the accident, and Dahlan Iskan's staff. In addition, an employee who produces the car has also been examined, while the others are still directly involved, others will follow. Agus assessed that Dahlan may have violated Article 48 and Article 49 of Law No. 22 of 2009 concerning road traffic and transportation (Yuliantoro & Sulchan, 2021). However, he refused to mention the threats from those articles, the police will process the matter later which will state the judge's sanctions. Is it a minor, moderate or severe accident. Mild if material losses, moderate injuries, and severe if serious injuries to death (Seibert-Fohr, 2009).

Such as the traffic case as experienced by Dahlan Iskan, namely running the speed of vehicles inside the city or outside the city that exceeds the current speed and is allowed by regulations, stopping or parking vehicles in places prohibited by regulations, transporting passengers outside the terminals determined by the regulations. regulations, overtaking other vehicles without any need, not providing sufficient opportunity and space for other vehicles requesting to overtake, not explaining the lights which are far enough out of sight, from several other things it is a traffic law order and traffic manners traffic that can only apply solely depending on the human factor that plays a role in the vehicle with the position as the driver. The role of the driver in the field of traffic law and traffic manners has a tendency to have a high probability of accidents that violate traffic by causing property and human losses (Basuki & Ma'ruf, 2019). When it comes to this issue, a legal expert who is familiar with the application of the law in a philosophical, juridical, sociological manner must first turn to an approach through social legal engineering in the field of road traffic to all levels of society, by introducing them to what is called the traffic system. , traffic education, traffic engineering and traffic law enforcement, as part of the awareness of social life.

Although the government has tried to realize the goal of road transportation, namely to realize road traffic and transportation safely, safely, quickly, smoothly, orderly and regularly, comfortably and efficiently, being able to reach all corners of the mainland, by building various infrastructure facilities on the road including the following: traffic light (Wilson, 2009).

According to the provisions, if the red traffic light is on, it means the vehicle must stop. However, the reality in the field is that if there are no officers to supervise, road users tend not to stop and violate traffic signs (Rustam et al., 2022). As a result of bad habits committed by road users above can lead to accidents. What is done by road users who tend to violate traffic signs is very detrimental to themselves and others, because the losses incurred are not only material losses but even in the form of loss of life, namely death. In addition to harming people around the crime scene because of the congestion it causes (Prasetyono, 2022).

## **2. RESEARCH METHOD**

This research method is normative juridical law research, which is research based on literature study which includes primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials consist of binding legal materials. Secondary legal materials consist of documents or legal materials that provide explanations for primary legal materials. Tertiary legal materials consist of materials that provide instructions and explanations of primary and secondary legal materials. The research method used consists of various methods and activities carried out in order to collect the necessary data and materials. There are two approaches to the problem used, namely the statute approach and the conceptual approach. The statute approach is an approach that is carried out by identifying and discussing the applicable laws and regulations, which are related to the issues discussed.

## **3. RESULTS AND DISCUSSION**

### **The Examination Process Against Traffic**

#### **Violators 1. First Action at the Place of Case (TKTKP)**

In the provisions of Article 108 of the Criminal Procedure Code, it is stated that everyone without exception has the same legal obligations, in terms of experiencing, seeing, witnessing or being a victim of an incident. which is a criminal offence (Mondschein & Taylor, 2017).

1. If an individual has the right to report/complain to the investigator/police investigator.
2. If an individual whose status is as a state employee who is carrying out his duties is obliged to report to the investigator/police investigator.

So basically everyone (personal) without exception means that their personality is very individualistic, some are brave, some are afraid to take risks, some are apathetic. Therefore the law does not oblige, so you can not do it but as a good citizen you have to be brave because the Police will guarantee the confidentiality of the reporter and secure the whistleblower, while what is meant by every state employee in this case is the one who carries out order, peace and security of an organization. legal institutions are required to comply with the Regulation of the National Police Chief No. 24 of 2007 Article 6 they are given a role as enforcer of laws and regulations in their work environment/place.

Article 111 of the Criminal Procedure Code, every person in terms of determining a crime is caught red-handed:

1. If an individual (private) has the authority to arrest a suspect, both with evidence and without evidence.
2. If an individual carries out duties in the field of order, peace and security, he has the obligation to arrest the suspect, both with evidence and without evidence.

What is meant by being caught red-handed is a crime in which he is found to be carrying out an activity, when it is found that evidence is found or he is misguided, he is shouted at by the general public. As well as the legal obligations of individuals (private when they complain/report when they know of a crime they only have the authority, so it's okay not to do everything, it's very situational depending on the person, but is expected to actively participate (Clausen & Aspinall, 2021).

As for individuals who have a profession in the field of order , peace and security, especially those who work as security guards are obligatory, even given the authority to take limited police action. In every criminal act process in general there must be at least three statuses, namely as a reporter, as a witness and as a suspect where the position before the law is not the same:

- a. The reporter can be played by a victim witness, namely a person who is a victim of a criminal act, it can be someone who knows about a criminal act or someone who because of their position reports a criminal act, as a reporter they get legal protection, especially if yes. ng reported cases of accidents and others, which in the Criminal Procedure Code article 108 has been mandated.
- b. A witness can be played by a victim of a crime, a person who witnessed it with their own eyes, a person who hears from an expert witness (a statement from an expert related to a crime, such as a counterfeit money expert, forensic expert and others). Especially for witnesses related to criminal acts, they can change their status as suspects at any time, if

based on the results of the development of the investigation it is indicated that there is a direct connection with the case being investigated.

- c. A suspect, a person who is indicated by the reporter and/or witness as a perpetrator of a criminal act, at least someone can be designated as a suspect if:

There is a reporter who is also a victim.

There are at least two pieces of evidence.

Not necessarily every suspect in a litigation must be detained, the provisions meet objective elements (violating articles that carry a penalty of more than 5 years and or those stipulated in article 21 paragraph 4 letter b outside of these articles the suspect does not need to be detained.

#### A. Violation traffic Traffic

Violations with various consequences that can be caused (accidents, congestion) in terms of quality and quantity tend to increase every year along with the increase in traffic life in general. If a classification is made of road traffic violations that occur, they can be separated into :

- 1) Moving traffic violation, for example speed violation.
- 2) Traffic stop violations, for example violations of parking prohibition signs.
- 3) Other traffic violations, for example not having a driver's license to drive a motorized vehicle on the road.

The three groups, the gradation will be determined by the consequences, including:

- 1) Causes traffic accidents.
- 2) Cause traffic jams.
- 3) Cause damage to infrastructure and road facilities.
- 4) Resulting in disorder and disorder.
- 5) Generating pollution related to environmental health.
- 6) Relating to crime.

Of the number of violations that were dealt with the most prominent were:

- 1) Violation of completeness of letters 37%
- 2) Violation of signs 29%
- 3) Violation of vehicle equipment 21%
- 4) Other violations 13%

It is something that worries us all when the situation of past violations traffic is increasing and growing steadily every year. Because in addition to this, it will certainly be able to disrupt the safety and security of road users, it can also reduce the image of the nation's cultural discipline in

the eyes of the international community, with the enactment of Law no. 22 of 2009 concerning road traffic and transportation.

The government's efforts to tackle traffic violations, both in the form of counseling and guidance as well as law enforcement for those who violate, have been implemented. These efforts are also directed as a tangible manifestation of realizing one of the noble goals and ideals of the nation, namely to protect the entire nation and the entire homeland of Indonesia. all corners of the country, with rules/sanctions that can touch all aspects related to safety, order, speed, efficiency and comfort in traffic into a law product, namely the Traffic and Road Transportation Law no. 22 of 2009.

### **Process of Enforcement Against Traffic Violators**

What is meant by traffic violations are deviations from the applicable traffic laws, for those who violate are subject to criminal sanctions and the process of filing a case uses a quick examination procedure in accordance with Article 205 of the Criminal Procedure Code, for make it easier for the sake of effectiveness and efficiency of the agreement between agencies (MAKEHJAPOL) model report in the form of evidence of certain traffic violations (tickets).

When law, the officer in carrying out vehicle inspections can be in 2 ways, namely: LLAJ theft of motorized vehicles, the number of traffic violations, drug trafficking, terrorism, etc.), if necessary, the implementation must be led by a first officer or senior non-commissioned officer.

Incidental inspection, inspection carried out at any time with the aim of supervising road users, the form of its activities through supervision at guard posts and/or traffic patrols (hunting system), its implementation does not always have to be in a unitary bond, but can be done individually, because each police officer is attached to a description, meaning that he can act alone without the approval of the leader according to his own judgment.

The inspection/action process for traffic violators, all certain traffic violations, the types of violations that are visually easy to prove are 27. For violators who are caught red-handed and admit their guilt, they are fined by making a note about the identity of the violator, a brief description of the violation, then affix a signature and be willing to be present on the trial day that has been determined, usually within 2 weeks of being ticketed. For someone who is on the way, they are given the convenience of being able to not attend the trial (verstek), but must deposit the candidate's money for the maximum fine listed for each article that is violated. If it turns out that the verdict is lower than the money deposited by the officer (registrar) the officer is obliged to notify the violator if within 1 year the violator does not take the remaining deposited fine money is submitted to the state treasury.

There are 2 functions of the pink ticket form for violators:





1. As a confiscation of STNK/STCK and/or SIM that can be used as a substitute.
2. As a sign of a call to attend the trial.

It is hoped that the driver who when driving only uses the ticket form as a substitute (SIM/STNK) not to commit another violation because the penalty will be doubled.

The confiscated vehicles used by the violators can be described as follows:

1. Vehicle confiscation and or vehicle confiscation is the authority of the Indonesian state police, but in carrying out police confiscations it is not necessarily based on the following considerations:

- Vehicles not equipped with STNK are suspected to be the proceeds of crime.
- Drivers who do not have a driver's license are feared not to be able to drive a motorized vehicle.
- Allegedly related to traffic and road transportation crimes (accidents victims are seriously injured/died).

2. Subjective reasons are based on the presence of confiscated goods safekeeping houses, certain vehicles (luxury and/or public transportation vehicles) can be confiscated at the place concerned.

3. The confiscation of a vehicle that has not been taken for more than 6 months by the owner must be announced through mass media at least twice a year. If within 1 year there is no owner, the police can submit an auction to the court to obtain a determination that the results will be submitted to the state through the state treasury.

Legal basis

- 1) Law no. 8 of 1981 concerning the Criminal Code.
- 2) Law no. 22 of 2009 concerning Road Traffic and Transportation and its implementing regulations.
- 3) Law No. 2 of 2002 concerning the Indonesian National Police.
- 4) Decree of the National Police Chief no. pol : Skep/443-445/IV/1998 dated 17 April 2002 regarding technical instructions for ticket blanks.

To provide convenience and breadth for violators. When a traffic violation occurs, the interaction between officers and customers at the scene creates three alternatives:

1. Understands and accepts the officer's suspicion and is willing to represent after receiving the officer's explanation, and then signs the ticket form, in this case the violator receives a blue ticket. to be used as a cover letter for depositors of money deposited at the bank, while the vehicle or vehicle documents are deposited with the officer as collateral. After depositing the deposited money with evidence of the signature of the bank officer and the bank stamp on the blue sheet of the ticket, the violator can take back the deposited goods which are guaranteed to the officer, either at the scene or at the local traffic unit office, by showing the blue ticket. In the event that the bank office is closed due to outside office hours,



holidays/holidays, and so on, the violator may deposit the deposit money at the local traffic unit office to a designated officer. Thus, violators can continue their journey without having to struggle, make sacrifices to wait and attend the trial because they have represented someone appointed by an officer who is not a National Police or ABRI civil servant).

3. The violator understands and accepts the officer's suspicion, but states that he or she is willing to attend the trial, according to the alternative in number 1 above, the violator is also given a red ticket (in addition to the blue color) to be used to participate in the trial whose time has been determined on the ticket sheet. the. Thus, violators can have full discretion to attend court or not.
4. The violator refuses what the officers suspect. In this case, the violator is only given a red ticket and signed by the officer (because of refusal), then the violator is obliged to submit documents (SIM/STNK) or his vehicle to be confiscated as evidence and attend the court hearing for the ticket. Thus, violators have the flexibility in addition to attending court hearings, but also denying the suspicions of officers in the field.
  - 1) To avoid negative prejudices against the violators against officers:
    - a. Early on, or at the time of being prosecuted for violating, the violator has been able to know about the possible amount of fines that will be imposed on him. Thus the prejudice/anxiety of violators over high fines will be bridged by the existence of a table of violations and the amount of money deposited.
    - b. The amount of money deposited written on the form of the ticket, the amount as stated, is deposited by the violator at the bank office. Thus, there is no negative prejudice against officers regarding the direction of the deposited money.
  - 2) In order to avoid the possibility of brokering in the trial court, ticketing:
    - a. The trend of the development of traffic violations every year tends to increase along with the tendency of the perpetrators to be reluctant/not to attend the trial, this situation makes certain people act as brokers which basically only harms the violators because, among other things, there are extra fees that must be paid. by the violator to the broker.
    - b. Having representatives prepared and paid by the government to represent violators at trial, in addition to providing convenience for violators in their onward journey, will also stem the emergence of brokers in the court of fines.

Organized settlement of certain road traffic violation cases in a short time, low cost and simple, by:

- a. It is possible for the violator to continue the journey after depositing the money in the bank.
- b. There are representatives prepared for violators in court.

To prevent a direct relationship between the customer and the officer, especially in the case settlement process, after the violator has deposited the deposit and taken the collateral, the violator can continue his journey because during the trial he has appointed a representative to represent him, so that in the case settlement process, the violator is no longer in contact with the officer. .

To avoid abuse and misappropriation of officers, especially officers in the field by:

- a. There is a table of violations and the amount of money deposited as a fine.
- b. The existence of firm operational support for officers in the form of intensive grants obtained from the results of ticket fines.

### 3. Traffic Accident Investigation

As the definition of an accident, it is an event on the road that is unexpected and unintentional involving a vehicle or without other road users resulting in human casualties and/or property loss.

So the main element is negligence, so if there is an accident after being investigated, it is revealed that there was an element of intent, the problem is no longer a traffic accident but a planned murder with the motive of a traffic accident (it often happens).

a. The rights of the driver of a vehicle involved in a traffic accident:

- If you see a victim seriously injured and/or dead, they can leave the scene but immediately report to the nearest police station.
- If the result is only loss, only damage to vehicles and/or goods can be resolved outside the court through an agreement.
- For drivers who die, if the vehicle is equipped with documents, get compensation from PT. (Persero) raharja services for both the dead and the injured.

b. Obligations of the driver of the vehicle involved in the incident traffic accident

- Stop the vehicle.
- Provide assistance to victims.
- Report to the state police of the Republic of Indonesia and provide information related to the accident.

If there is a concern for his/her safety, the driver may (have the right) to leave the scene of the incident but immediately report to the nearest state police of the Republic of Indonesia.

c. The driver's obligation to the victim of a traffic accident while in the process

The driver, the owner of the company is obliged to provide assistance to the victim, if the victim dies through the heirs to give mourning money for funeral costs, if the victim is injured and hospitalized to provide medical expenses assistance, it is necessary to understand that the rock is

not a peace money that is expected to abort the case, but is only a form of participation in the form of humanity.

Associated with the authority of investigators of the state police of the Republic of Indonesia, it is not a right but only an authority to be able to detain a suspect. Taking into account that traffic accidents are unpredictable events, and the perpetrators are not criminals, investigators in treating drivers are accompanied by considerations, among : othersevidence, and repeat his actions, investigators do not need to detain. If for reasons of safety they still have to be detained, their implementation should not be combined with criminal prisoners, then they have the right to apply for a suspension of detention either through a lawyer or close relatives (husband/wife, children, etc.), this is natural and not contrary to the principle of equal rights before the law, but instead enforces the principle of legal protection from the practice of torture.

2. Confiscation, every vehicle involved in a traffic accident, any evidence at trial must be confiscated, which is a problem for the police of the Republic of Indonesia until now there is no house for storing confiscated goods, so the safety of evidence, especially luxury vehicles, is doubted by vehicle owners. Although it is the investigator's obligation to confiscate vehicles involved in accidents, they must pay attention to the safety aspect, if in doubt because the vehicles involved are classified as luxurious, the implementation can be confiscated at the vehicle owner's house, if the confiscated bus can be prosecuted for civil aspects if the bus is confiscated for a long period of time.

In accordance with Law No. 2 of 2002 concerning the Police, the task of the National Police is to act as a tool of the state for law enforcement, especially maintaining security and order, which includes preventive measures before taking action against violators if necessary. The implementation of the traffic police function in the form of traffic law enforcement activities, public education about traffic, applicable traffic engineering, the ability of law enforcement officers to take actions, traffic facilities provided and the condition of road users. If these things are considered good, then the law as intended can function effectively and efficiently, so that the scope of the assignment given can be adequately covered. The pattern of community security culture or a self-help system, where the community can secure themselves proportionally is a very vital potential in supporting the successful implementation of the tasks carried out by the Police.

In addition to officers from the state police of the Republic of Indonesia, certain civil servants within the department whose scope of duties and responsibilities include guidance in the field of traffic and road transportation, are given special authority as investigators as referred to in Law Number 8 of 1981 concerning criminal procedure law. (KUHAP) to investigate criminal acts in the

field of traffic and road transportation. Investigators and prosecution of traffic and road transportation violations are carried out by:

1. Investigators of the Indonesian National Police and
2. Investigators of certain civil servants who are given special authority according to Law no. 22 of 2009 Article 259.

Investigators of the state police of the republic of Indonesia in the field of road traffic and transportation as referred to in article 259 paragraph 1 letter a of Law no. 22 of 2009 consists of:

- a. Investigator.
- b. Assistant investigator.

In the provisions of Article 260 paragraph 1 of Law no. 22 of 2009 regulates the authority of police investigators, namely in terms of prosecution of violations and investigation of criminal acts, investigators of the state police of the republic of Indonesia other than those stipulated in the criminal code of law and the law on the state police of the republic of Indonesia, in the field of traffic and road transportation. authorized:

- to stop, prohibit or delay the operation and temporary confiscation of motorized vehicles that are reasonably suspected of violating traffic regulations or are tools and/or proceeds of crime.
- To examine the truth of information related to the investigation of criminal acts in the field of traffic and road transportation.
- Requesting information from drivers, motorized vehicle owners, and/or public transportation companies.
- Seize the driver's license, motorized vehicle, cargo, motor vehicle STNK, motor vehicle trial certificate, and/or test pass as evidence.
- Take action against criminal acts of traffic violations or crimes according to the provisions of the legislation.
- Make and sign the inspection report.
- Stop the investigation if there is not enough evidence.
- Make detentions related to traffic crimes and/or
- Take other actions according to the law in a responsible manner.

The assistant investigator as referred to in Article 259 paragraph 2 letter b of Law no. 22 of 2009 has the authority as referred to in Article 260 paragraph 1, except regarding detention as referred to in Article 260 paragraph 1 letter h which must be granted by delegation of authority from the investigators of the State Police of the Republic of Indonesia in the field of traffic and road transportation. Authority to investigate, civil servant investigators as authorized to:

- Conduct inspections on violations of permits for the transportation of people and/or goods with public motorized vehicles.
- Conduct inspections of violations of the load and/or dimensions of motorized vehicles at weighing stations that are installed permanently.
- Prohibiting or delaying the operation of motorized vehicles that do not meet the technical requirements and are roadworthy.
- Requesting information from drivers, motorized vehicle owners or public transportation companies for violations of technical and roadworthy requirements, motor vehicle testing and licensing.
- Seize the certificate of passing the examination and/or permit for the operation of public transportation for violations as referred to in letters a, b and c by making and signing the official report of the examination.

The authority of civil servant investigators as referred to in Article 262 paragraph 1 of Law no. 22 of 2009 is carried out at the terminal and/or the weighing equipment which is permanently installed. In terms of the authority as referred to in Article 262 paragraph 1 of Law no. 22 of 2009 is carried out on the road, civil servant investigators are obliged to coordinate with and must be accompanied by officers of the state police of the republic of Indonesia.

#### 4. Criminal Provisions and Sanctions Criminal

Law as a law of sanctions. Criminal sanctions are of the many sanctions used to maintain norms and public order. To maintain public order does not always have to be with the rules of criminal law, because there are other sanctions such as civil sanctions or other sanctions in the form of actions.

From this statement, it can be understood that the criminal law gets opposition from outside and within itself, wherever it hopes for public order, but it causes misery. So that it gives rise to daydreams so that criminal law is abolished from the legal environment or because of its bad nature, it is only exposed to criminal law when sanctions in other legal environments are not suitable.

Because of its ugly nature, there is a temporary opinion that the law with criminal sanctions is a correction and reaction to something in the form of a violation of criminal law.

In the treasury of dogmatic law, it is said that criminal laws with sanctions have the nature of retaliating for losses/revendicative. However, after criminal law is open to social and community realities, where humans live together at a cultural level, it turns out that criminal law cannot be abolished. Although people continue to focus on criminal law from all angles, in essence it is still

about crime and crime as two things that face each other with various alternatives to the idea of decriminalization and depenalization.

Decriminalization and depenalization are not something that is too foreign in the view of alternative criminal law which contains legal principles whose content is relatively constant which has the potential to grow as principles that are not rigid and static, thus providing a place for relatively dynamic content to grow systems. legal system under the hands of competent legal officers according to the demands of social realities. Even the consequences of such a mindset are not foreign to the occurrence of criminalization according to the values of society.

### **Elements of communication assistance and tactical assistance through highway patrol units (PJR).**

An example of a fatal accident: an accident occurred around the beginning of 1988, at that time Buchari's brother (a 28-year-old driver) was driving pick up no. pol. 2018 L, accompanied by several colleagues, one sitting beside him and 2 people in the back. The journey through the main route (Kertoarjo towards Kebumen) from east to west. In front of the pick-up, you can see a rickshaw and a wooden cyclist (Suroso rider, pembonceng Manino). When suddenly driving, the friend behind him asked to be lowered, Buchari spontaneously overtook the rickshaw and bicycle in front of him and then stopped at the far left side of the road, not long after lowering his partner, there was a sound of impact. .

Before they tried to stand up from the location, suddenly from the opposite direction a box truck slid at a high speed so that they did not have a chance to avoid it, and both of them were crushed after being hospitalized and died. The case was processed by investigators and advanced to trial with the indictment of Article 359 of the Criminal Code because his negligence caused the loss of another person's life.

Judicial process: after studying the case file, the first judge decided to release the defendant conscious buchari (pick up chopsticks), because it was considered that the guilt was not legally proven. The basis for the balance is that the pick-up chopsticks overtake and stop in front of the cyclist, so that the cyclist is shocked and hits the pick-up so that the element of negligence is proven, the results of the visum et repertum that the death of both cyclists (suroso and sweet) were caused by being run over by a driven box truck. Suyatno (Vr from Purworejo Hospital signed by expert witness Dr. Ulfah Hidayat). With the decision handed down to the defendant, Buchari (the driver), the public prosecutor filed an appeal for cassation.

The Supreme Court of the Republic of Indonesia: after studying the case file and legal considerations in deciding the case, the judex facti decision (the judge adjudicating the case) is deemed guilty in applying the law, therefore the judex facti decision must be annulled, the

Supreme Court will judge itself. The decision of the Supreme Court: based on the causal factor, namely if the pick-up driver does not overtake and stops suddenly, it is impossible for the motorbike rider to crash and fall onto the right side of the road. Juridically, the death of a motorbike rider is not due to the negligence of the box driver, but due to the negligence of the pick-up driver who overtakes and stops suddenly. Decide: declare the defendant legally and convincingly guilty of committing a crime because his negligence caused another person to die, punishing the defendant for that with a prison sentence of 1 year.

### **Jurisprudence**

Based on legal facts accompanied by expert statements (forensic documents, scientific forensics). The judge of cassation based the theory of objective evidence, which held that the closest cause of death was because the cyclist could not anticipate the sudden stop of the pick-up, which resulted in him crashing into the pick-up and bouncing on the highway, arguing that the road situation gave the driver the opportunity to go at high speed. high, so the box driver may not be able to anticipate. So it doesn't have to be the driver who directly runs over the victim who is blamed, but the vehicle that is the main cause that tends to be blamed is the AA 2018 C pick-up driver (Purworejo district court no. 081/b/PN. Pwr, April 28, 1988, MA RI no. 1351 K/Pdt/1988 dated September 18, 1988).

## **4. CONCLUSION**

The causes of traffic accidents mostly occur due to the negligence of drivers who do not comply with traffic rules, in addition to factors that affect the law enforcement process as well as community and cultural facilities or infrastructure. And Based on Law no. 22 of 2009 concerning Road Traffic and Transportation, the police have the authority to carry out inspections, provide a sign of receipt of evidence of violation for the person concerned, starting from submitting a ticket to submitting evidence.

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