

Implementation of the Law Regarding the Use of CCTV Cameras as Electronic Traffic Enforcement Tools in the City of Medan

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Abstract

Closed Circuit Television (CCTV) is one of the surveillance tools that can work automatically 24 (twenty-four) which can be used as a tool that helps prevent crime on an object. This research uses a normative juridical approach method. The type of data in this study uses secondary data, and an empirical approach with a qualitative approach. The data sources used are documents and books. Secondary data is data obtained indirectly through literature studies of laws and regulations and publications of previous studies to add information, obtain a theoretical basis and legal basis. Data analysis is described qualitatively, by describing data in the form of sentences that are organized, logical, effective, so that it helps ease of understanding. This research results in the existence of CCTV (Closed Circuit Television) recording evidence recognized as valid evidence, reinforced by the issuance of the Electronic Information and Transactions Law, namely in Article 5 paragraph (1) and paragraph (2) of the ITE Law.

1. Introduction

Indonesia is a state of law, Article 1 paragraph (3) of the 1945 Constitution confirms. As a state of law, Indonesia places citizens in the same position in the law as upheld in Article 27 paragraph (1) of the 1945 Constitution, which reads: "All citizens shall be equal before the law and government and shall uphold the law and government with no exceptions"(Eni, 2023).

Law is one of the rules that are compelling, which is determined through

human behavior towards the community environment made by authorized official bodies, for those who violate these rules result in taking action, namely with certain penalties(Susilo & Aditya, 2023). Romli Atmasasmita said that law enforcement has the highest authority of substantial value, namely the value of justice that is able to maintain and maintain balance, harmony and harmony between personal interests on the one hand and the interests of other communities on the other. This is the value of justice is the most important value of every law and regulation, with In other words, legality is not just legal in the sense that it is not only legal but also a fair rule, which means it must be valuable (Moho, 2019).

Law enforcement has a very important role in the interests of social life. With the guarantee of good law enforcement, it is hoped that all criminal acts and crimes that often occur in society can be avoided, efforts to overcome crime in society are also part of criminal law enforcement efforts, (Wicaksana & Rachman, 2018). This can be realized through a legal policy which is part of the national legal politics which of course in its implementation involves various elements of law enforcement officials. Efforts to tackle crime in society are also part of criminal law enforcement efforts, (Dr. Fence M. Wantu, 2020).

Law is divided into two kinds of law, namely public law and private law. The first to make this division was Ulpianus. According to Ulpianus, the study of law covers two areas, namely public law and private law. Public law is the law relating to the regulation of the Roman state, private law relates to the interests of individual people such as serving, (Muhammad Gazali Rahman, 2020). The law that applies in Indonesia and can be categorized as public law is Criminal Law, which consists of material criminal law and formal criminal law commonly known as criminal procedure law. Material criminal law can be defined as all legal regulations that determine the acts whose perpetrators should be punished with specified punishments, (Benuf et al., 2019).

Law enforcement must be carried out with due regard to legal certainty, expediency and justice. Legal certainty is a judicial protection against arbitrary action, which means that a person will be able to obtain something that is expected in certain circumstances, (Hadi, 2022). The implementation of law enforcement must also provide benefits for human life, considering that the law itself is made for the benefit of humans, **(Weley & Disemadi, 2022)**. Justice itself is something that is difficult to define. It is subject to change in content, as well as other factors, (Kuddus, 2019). The level of crime is also inseparable from the existence of society. Crime or violation of the law is the responsibility of every element of society. Because crime will always exist and continue to develop throughout the life of society, and crime itself can cause social insecurity. Given this, the level and variety of crime follows the development of human life, (Ramadhan, 2020).

Crimes against decency are divided into two, namely crimes against decency and crimes of decency that are beyond decency such as pornography and violations of public decency crimes. Crimes and crimes that often occur in Indonesia are crimes of decency, (Valini, 2019). Crimes of decency are regulated in Book II Chapter XIV, namely Articles 281-299 of the Criminal Code. Meanwhile, offenses against decency are regulated in Articles 301, 504, 505 of the Criminal Code and also in Book III Chapter VI from Articles 532-547 of the Criminal Code. Thus, crimes and offenses of decency are the same acts that violate legal norms in society, **(Robert & Brown, 2020)**.

The most important stage in Criminal Procedure Law is the Case Examination process. At this stage all parties concerned are presented before the court to go through a process to achieve one of the important objectives in criminal procedure law, namely seeking and obtaining or at least approaching material truth., (Khristanto, 2020).

Evidence is one of the provisions that limit court proceedings to efforts

to seek and defend the truth. Whether judges, prosecutors, defendants, or defense counsel, all are subject to the rules of procedure and assessment of evidence prescribed by law. Judges, prosecutors, defendants or defense counsel are not allowed to act freely in their own way in assessing evidence. In using evidence, it must not be contrary to the law, (Nagendra & Sushanty, 2022). The defendant cannot arbitrarily defend something that he considers outside the provisions determined by the law. Likewise, in how to use and assess the strength of evidence attached to each piece of evidence, it is carried out within the limits allowed by law, so that in realizing the truth to be imposed, the panel of judges avoids sacrificing the truth that must be justified, (Nasrullah, 2016).

The development of science and technology has made proof not just about the means of proof. The rapid advancement of technology throughout the world has provided convenience in various aspects of human life. With the mastery of science and technology in all sectors, it is getting wider and wider and has contributed to the increasingly complex influence in all fields. These technological advances can be utilized as a means to facilitate the fight against existing crimes. Because crime is growing in this era, it takes evidentiary methods that follow developments to facilitate crime prevention. One example is proof through electronic information, (Suriadi et al., 2022).

The implementation of the law has a series of processes starting from investigation, prosecution, trial to the execution of the sentence. In this process, evidence collection and forensic analysis are essential to determine who is responsible for the criminal event and ensure that legal decisions taken are fair and based on clear and proven facts. One way of collecting evidence is by processing the crime scene or what is known as the scene of the crime. Crime Scene Processing or what is known as the Scene of the Crime. With CCTV, it is hoped that it can become a key point to facilitate investigators in proving and processing crime scenes, (Cahyani, 2021).

Closed Circuit Television (CCTV) is a device that can record any audio, visual, and even readable information using certain recording tools. CCTV is also a surveillance device that can work automatically 24 (twenty-four) hours a day and is useful as a tool that helps prevent crime on an object. Recordings from CCTV systems are often used as evidence. In a special way, CCTV can be used to investigate theft cases. However, it is important that recordings are properly collected and stored to ensure their validity as evidence in court, (Warjiyati, 2018).

By using CCTV recording devices, any information that is seen, read or heard can be recorded through CCTV recordings. The system uses cameras to display and record images at a specific time and place where the device is installed, i.e. using control signals instead of broadcast signals like conventional TV, (Yuca, 2022). CCTV footage is used as evidence and a still image display system.⁴ CCTV footage is commonly used in many industries including the military, airports, shops, offices and factories, in addition to security systems. CCTV footage has been widely used in private homes since its inception. However, the evidence in this case can be used to identify crimes directly related to the recording. The emergence of crime or criminal behavior in modern society raises concerns about the frequency and quality of crime as well as the possibility of the creation of new types of crimes or criminal acts, (Sabadina, 2020).

CCTV is included in the category of electronic evidence, which according to the law is also known as electronic records and/or information. What is meant by "Electronic Information" and "Electronic Documents" are data, information or documents processed by electronic means and used in the Electronic Information and Transaction Law Number replaced by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as ITE Law), (POLRI, 2015). **(Abdullah & Windiyastuti, 2022)**. This is clear when compared to the definitions of electronic information and electronic documents. Article 1 Point (1) and (4) Letters, sounds,

pictures, maps, images, photographs, electronic data interchange (EDI), emails, telegrams, telexes, faxes or the like, letters, symbols, numbers, access codes, symbols or punches that have been processed so that they have meaning or can be understood by people capable of understanding them, are all examples of electronic information, according to Article 1 Point 1 of the ITE Law.(Kelly, 2020).

Electronic document is defined as "any electronic information created, transmitted, sent, received or stored in analog, digital, electromagnetic, optical or similar form, which can be transmitted through a computer or electronic system" in accordance with Article 1 (4) of the ITE Law. letters, symbols, numbers, access codes, symbols or punches that have meaning or can be understood by a person capable of interpreting them, including but not limited to language, sounds, images, maps, charts, drawings, and so on, (Gultom, 2012).

The legal issue in this research is that generally in criminal cases where the suspect/defendant is accompanied by legal counsel, CCTV is not recognized as evidence. Conversely, for criminal cases where the suspect/defendant is not accompanied by legal counsel, CCTV is recognized as evidence, especially clue evidence, (Menteri Perhubungan, 2005). This can be seen in the corruption case involving Setya Novanto, the Constitutional Court (MK) in decision Number: 21/PUU-XIV/2016 stated that all electronic evidence that is not taken by law enforcement officials, has no legal force. Whereas in reality, CCTV recordings are used by law enforcement officials to strengthen the evidence of the trial, **(Asmara & Sutrisno, 2019)**.

In Indonesian criminal law, CCTV footage as electronic evidence is limited and regulated both in the form of positive law (*Ius Constitutum*) and in the form of desirable law (*Ius Constituendum*), (Mian, 2020). The existence of electronic evidence is recognized as valid evidence, emphasized in article 5 paragraph (1) and paragraph (2) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and

Transactions and Electronic Transactions and the issuance of Constitutional Court Decision Number 20 / PUUXIV / 2016 dated September 7, 2016, (Apriliana Zunia, 2019).

Valid evidence in the criminal justice process is no longer limited to evidence stipulated in the Criminal Procedure Code, but also includes evidence mentioned in Article 5 paragraph (1) and paragraph (2) of the Law, such as information and electronic documents and their printouts, including CCTV recordings, (Alhitami, 2023). There are changes in the law of evidence that apply in criminal procedure law in Indonesia due to the recognition and expansion of the types of valid evidence including CCTV footage.

2. Methode

Legal research is one of the studies that is directly targeted at the object of law, namely both the source of law as a science or rules that are dogmatic in nature and laws related to behavior and community life. The problem approach used in this research is normative juridical and empirical juridical approaches, (Abdussamad, 2016). The normative juridical approach is intended to obtain a clear understanding of the subject matter regarding the symptoms and objects being studied which are theoretical based on the relevant literature and literature, while empirical juridical is carried out to study the law in reality or based on facts obtained objectively in the field, both in the form of opinions, attitudes and behavior of law enforcement officials based on legal identification and legal effectiveness, (Bogdan, 2020). The data sources in this research are primary data and secondary data. Primary data is data obtained directly by interviewing sources to obtain the information and data needed in accordance with the issues discussed, (Abdullah & Windiyastuti, 2022). While secondary data is data taken through library research by conducting literature studies, namely conducting document and archive studies and literature by studying theoretical

matters related to the subject of writing as well as binding legal science consisting of legal materials, (Pahleviannur et al., 2022). Data analysis is described qualitatively, in the form of explanations and descriptions of sentences that are easy to read and understand to be interpreted and conclusions are drawn to answer problems by describing data in the form of organized, logical, effective sentences, so as to help facilitate understanding of the results of the analysis.

3. Discussion

A. Legal Basis for the Implementation of Electronic Tickets

Regulations related to electronic ticketing can be seen in Law Number 22 of 2009 concerning Road Traffic and Transportation and Government Regulation Number 80 of 2012 concerning Procedures for Inspection of Motor Vehicles on Roads and Enforcement of Road Traffic and Transportation Violations. Article 272 of Law Number 22 Year 2009 states that electronic equipment can be used to support the enforcement of violations in the field of Road Traffic and Transportation, (Valini, 2019). The results of using this electronic equipment can be used as evidence in court. What is meant by "electronic equipment" is an event recording device to store information. Meanwhile, Article 23 of Government Regulation No. 80/2012 stipulates that the enforcement of Road Traffic and Transportation Violations is based on the results of: findings in the Road Motor Vehicle Inspection process; reports; and/or electronic equipment recordings, (Khristanto, 2020).

B. Definition and Legal Basis of Electronic Ticket

The term Tilang or proof of violation is not explicitly listed in Law Number 22 Year 2009 concerning Road Traffic and Transportation. The definition of ticket is stated in Article 1 point 4 of Government Regulation No. 80/2012 on Procedures for Inspection of Motor Vehicles on the Road and Enforcement of Road Traffic and Transportation Violations, that proof of violation or ticket is evidence of certain violations in the field of traffic and road transportation with

a specified format. M. Karjadi argues that a ticket or proof of violation serves as an invitation to traffic violators to attend a hearing at the district court, as well as a proof of confiscation of goods confiscated by the police from traffic violators, (Dr. Fence M. Wantu, 2020).

Likewise, the term electronic ticketing is only implicitly listed in Article 243 paragraph (3) letter d of Law Number 22 Year 2009 concerning Road Traffic and Transportation, basically that the activities of the control center for information and communication systems for road traffic and transportation at least include law enforcement support with electronic devices. Article 272 states that electronic equipment can be used to support the enforcement of violations in the field of traffic and road transportation, where the results of the use of electronic equipment can be used as evidence in court, (Abdullah & Windiyastuti, 2022).

Provisions on electronic ticketing are also implicitly stated in Government Regulation No. 80/2012 concerning Procedures for Inspection of Motor Vehicles on Roads and Enforcement of Road Traffic and Transportation Violations, Article 14 paragraph (3) stipulates that incidental inspection due to being caught red-handed is carried out when there is a violation that is visible to the naked eye or caught by electronic law enforcement tools. Article 23, that the prosecution of traffic and road transportation violations is based on the findings in the process of examining motor vehicles, reports and electronic equipment recordings, (Purwani et al., 2016).

Article 28 of Government Regulation No. 80/2012 on the Procedures for Inspection of Motor Vehicles on the Road and Enforcement of Road Traffic and Transportation Violations, basically that the enforcement of road traffic and transportation violations based on the results of electronic equipment recordings is the basis for Police Officers or PPNS in the field of traffic to issue a ticket that must be attached with evidence of recording electronic law enforcement tools, where the ticket is delivered to the violator as a notification and summons to appear in a court hearing, (Marpi, 2020).

Electronic ticketing is also implicitly stated in National Police Chief Regulation No. 5/2012 on Motor Vehicle Registration and Identification, Article 115 paragraph (3) that STNK blocking is carried out for the purpose of preventing the validation or extension of motor vehicle regiments and law enforcement of traffic violations, Paragraph (5) that requests for STNK blocking for the purposes referred to in paragraph (3) are submitted by law enforcers to motor vehicles suspected of being involved in traffic accidents and fleeing, or motor vehicles that based on electronic data have committed traffic violations, (Junaidi, 2019).

The application of electronic devices is an effective option that allows to get it as a destination source for the application of fines for traffic violators even though we cannot say that the e-ticket is valid because the application of e-tickets in Indonesia is still in the beta stage and is still in the trial stage In this test, an evaluation will be carried out to improve the electronic device service even more. The eradication of speeding is facilitated by the installation of video surveillance cameras at every red light to monitor the situation on the road, the drivers of people passing through the installation area of this video surveillance system if designated If violating, the CCTV will automatically detect the photo of the violator along with the license plate used by the crime to facilitate tracking.

C. Legal Implementation of CCTV Camera Implementation as an Electronic Ticket Tool in Medan City

The evidence listed in Article 184 of Law Number 8 of 1981 concerning Criminal Procedure Law states: Valid evidence are: 1. witness testimony; 2. expert testimony, 3. letters, 4. clues, 5. testimony of the defendant. Outside the categories that have been determined by the Law, any evidence is invalid. Looking at the reality, any electronic evidence is invalid, as well as video recordings of criminal acts. It cannot be used as evidence in public courts, because Article 184 paragraph 1 of Law Number 8 of 1981 concerning Criminal Procedure has regulated evidence in a limitative manner, so that video recordings can only be used as clues to complement other evidence that cannot stand alone, whose assessment

is left to the judge to use as explained by Article 188 of Law Number 8 of 1981 concerning Criminal Procedure, (Sopiani & Mubaraq, 2020).

Electronic information and documents can be used as valid legal evidence that must meet the formal and material requirements as stipulated in Law Number 11 of 2008 concerning Electronic Information and Transactions, (Warjiyati, 2020). Informasi dan dokumen elektronik dapat digunakan sebagai alat bukti hukum yang sah yang harus memenuhi persyaratan formil dan materiil sebagaimana diatur dalam Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik.

Article 5 paragraph (4) The provisions regarding Electronic Information and/or Electronic Documents as referred to in paragraph (1) shall not apply to :

- a. a letter which according to the Law must be made in written form.
- b. letters and documents which according to the Law must be made in the form of notarial deeds or deeds made by deed-making officials.

Material requirements are regulated in Article 6, Article 15, and Article 16 of Law Number 11 of 2008 concerning Electronic Information and Transactions, Article 6 In the event that there are other provisions other than those stipulated in Article 5 paragraph (4) which require that information must be in written or original form, Electronic Information and/or Electronic Documents are considered valid as long as the information contained therein can be accessed, displayed, guaranteed its integrity, and can be accounted for so as to explain a situation, (Robert & Brown, 2020). Article 15 (1) Every Electronic System Operator must organize an Electronic System reliably and securely and. (2) Further provisions regarding the Implementation of the Electronic System as referred to in paragraph (1) shall be regulated by Government Regulation, (Haque, 2020).

Closed Circuit Television (CCTV) recordings can be used as "preliminary evidence", because a crime recording (Closed Circuit Television (CCTV) recording) can be used as a clue (Article 184 paragraph (1) of the Criminal Procedure Code), when coupled with witnesses who recognize the perpetrator

from the crime recording and police report. So the video recording of the crime and the clue report can be used as "sufficient preliminary evidence", From the articles above, it is expressly stated that electronic information and/or electronic documents and/or the results themselves. Judges not only maintain existing values, but dynamically create new values or engineer society in accordance with the times. This is also the case in proving electronic evidence. Although not regulated in the HIR, Article 10 of Law Number 48 of 2009 concerning Judicial Power states that judges are obliged to explore, follow and understand the legal values and sense of justice that live in society, (Rahmadi Islam, 2018).

CCTV cameras function as surveillance in certain places such as shopping centers, ATMs, office buildings and other public places. Along with the development of public thinking about security needs, the use of hidden CCTV cameras (hidden cam) is increasingly being used. Even with the sophistication of technology in this era of globalization, CCTV can also record sound. (Priambudi, 2021). The aim is to be able to monitor or find out people who commit criminal acts or certain actions, without the person being recorded knowing. This reasoning makes sense, because people who want to commit crimes certainly don't want to be known by others. (Anggraeni, 2016). Such is the case in the crime of corruption. Corrupt actors will certainly avoid places that are monitored by CCTV cameras to carry out their actions. The core of the problem is that surveillance with CCTV can secretly potentially interfere with other people's privacy rights and can be considered an act of interception or wiretapping, (Choirunnisa et al., 2022).

CCTV recordings become valid evidence before being upgraded to the evidentiary stage, the collection of evidence or evidence is carried out. In principle, the evidence brought into the trial must be evidence that can be linked or has a relationship with the criminal acts that have been committed or the facts that will later be proven, as well as CCTV recordings, so that the evidence obtained must be authentic. (Dw Agung Md Krisna Pranata et al., 2019). The evidence

that will be used in the evidentiary stage in court is to ensure that there are no changes or differences in the evidence, because if there is a difference or change from the original condition then it can cause the direction and assessment of the evidence to not run properly, and to avoid evidence from leading to other objects that are not related. (Aji, 2018).

Basically, surveillance with CCTV cameras can only be done in places that are public. However, the author argues that information recorded from public places does not necessarily have a public nature as well. Likewise, conversely, acts committed in private places are not necessarily private, (Isnaini, 2016). This can prove electronic evidence as a valid and independent evidence. (realevidence), Of course, assurance must be given that a data recording runs in accordance with the applicable procedures (calibrated and programmed) in such a way that the printout of data can be accepted in proving a case.

4. Conclusions

Electronic implementation is an effective option that reaches the target in the implementation of traffic tickets to violators of traffic regulations. This ticketing process is carried out by installing CCTV cameras at each red light to monitor the situation on the road, the motorists passing in the area that has been installed CCTV if indicated to commit a violation, the CCTV will automatically capture the image of the violator complete with the license plate of the vehicle used when committing the violation so that it is easy to track. In accordance with the ITE Law, CCTV recordings are valid evidence, so they can be used as evidence.

The regulation of CCTV footage as evidence in criminal cases is scattered in several laws and regulations. The existence of CCTV (Closed Circuit Television) recording evidence is recognized as valid evidence, reinforced by the issuance of the Electronic Information and Transactions Law, namely in Article 5 paragraph (1) and paragraph (2) of the ITE Law which states that electronic information and

electronic documents and their printouts are valid legal evidence. CCTV recordings are part of electronic evidence in the legislation called Electronic Information and / or Electronic Documents because they have information stored in storage media.

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