

ANALYSIS OF THE USE OF CCTV IN PUNISHING TRAFFIC VIOLATORS

Vincentius Patria Setyawan

Universitas Atma Jaya Yogyakarta

Jl. Mrican Baru No. 28, Depok, Sleman, Daerah Istimewa Yogyakarta, 55281, Indonesia

Email: vincentius.patria@uajy.ac.id

ARTICLE INFO

Article history:

Received

10 Januari 2024

Revised

15 Januari 2024

Accepted

29 Februari 2024

Kata Kunci: CCTV;
Pelanggaran Lalu Lintas; Alat
Bukti.

Keywords: CCTV; Traffic
Violations; Evidence.

Abstrak

Kemajuan teknologi informasi telah merambah ke berbagai aspek kehidupan masyarakat. Salah satu aspek yang tidak luput tersentuh oleh kemajuan teknologi adalah bidang penegakan hukum. Penegakan hukum di bidang pelanggaran lalu lintas saat ini sudah menggunakan CCTV untuk memotret ataupun merekam pelanggaran yang dilakukan oleh pelanggar aturan lalu lintas. Penelitian ini bertujuan untuk mengetahui peranan CCTV dalam pembuktian perkara pelanggaran lalu lintas, dan jaminan serta perlindungan hak privasi dalam hal penggunaan CCTV bagi pelanggar lalu lintas. Penulisan artikel ini menggunakan metode penelitian hukum normative dengan pendekatan konseptual. Bahan hukum yang dipergunakan dalam penulisan artikel ini berupa bahan hukum primer dan bahan hukum sekunder. Hasil penelitian ini menunjukkan bahwa rekaman CCTV merupakan bukti yang sah untuk diajukan guna membuktikan terjadinya pelanggaran lalu lintas, dan tidak bertentangan dengan hak privasi.

Abstract

Advances in information technology have penetrated various aspects of people's lives. One aspect that has not been untouched by technological advances is the field of law enforcement. Law enforcement in the field of traffic violations currently uses CCTV to photograph or record violations committed by traffic rule violators. This research aims to determine the role of CCTV in proving cases of traffic violations, and guaranteeing and protecting privacy rights in the case of using CCTV for traffic violators. This article was written using normative legal research methods with a conceptual approach. The legal materials used in writing this article are primary legal materials and secondary legal materials. The results of this research show that CCTV footage is valid evidence to be submitted to prove a traffic violation, and does not conflict with the right to privacy.

INTRODUCTION

As time goes by, technology is developing more and more rapidly every day. Thus changing human behavior and thought patterns. This has a big impact on the consequences it causes (Kusumawardani, 2019). For example, in society there are many social phenomena that arise as a result of the development of this technology. One of them is in the legal aspect, there are many serious cases that arise involving evidence related to technology. In terms of evidence, for example, the legal position will be in a dilemma because it is questionable how strong the evidence is.

The Criminal Procedure Code (KUHAP) does not yet explicitly regulate electronic evidence, so regulations regarding electronic evidence are widespread in various laws. For example, in the Terrorism and Corruption Laws as an example. Moreover, Article 5 of Law No.19 of 2016 is an amendment to Law No.11 of 2016 concerning Information and Electronic Transactions. In paragraph (1) it says "Electronic Information and/or Electronic Documents and/or printouts are valid legal evidence." It is emphasized again in paragraph (2) that "Electronic Information and/or Electronic Documents and/or printouts as referred to in paragraph (1) are an extension of one of the legal means of evidence, in accordance with the Procedural Law in force in Indonesia.

Best Evidence Rule, teaches that the content of a substantial proof of a document/photograph or recording must be done by bringing before the court the original document/photograph of the recording, unless the document/photograph does not exist (Aji, 2018). Apart from that, in order to be accepted as valid evidence, it must fulfill the formal and material requirements stated in the Information and Electronic Transactions Law. Also in explaining the originality and integrity of evidence, digital forensics and expert testimony are needed. If electronic information and documents do not meet formal or material requirements, the printed results are also considered invalid.

For example, evidence was obtained unlawfully (*bewijsvoering*) and did not meet the rules or parameters of evidence. *Bewijsvoering* is a theory that explains how to present evidence to judges in court. The way this evidence is presented is something that is quite important and gets attention, especially for countries that use the due process model in their criminal justice system (Isima, 2022).

Law No. 19 of 2016 amending Law Number 11 of 2008 concerning Information and Electronic Transactions is the right step as an effort to anticipate various possibilities of increasingly uncontrolled misuse of technology which could harm other people. One of the implementations of Law No. 19 of 2016, an amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions carried out by the government, is the application of recording technology such as CCTV (Closed Circuit Television). CCTV (Closed circuit Television) recordings have now become an inseparable part in all aspects of daily life.

This technological development has made a number of changes in the law enforcement process in Indonesia. An example is law enforcement in the traffic sector. The Republic of Indonesia Police at the end of 2016 launched a more effective and efficient traffic violation enforcement system in order to provide security and comfort for road users. The system for prosecuting traffic violations, called E-Tilang, is currently still being developed and perfected by law enforcement. Regarding the legal basis for electronic tickets, it can be seen in Law Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ) and Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Taking Action against Traffic and Road Transportation Violations (PP 80/2012).

In Article 272 of the LLAJ Law, it is stated that to support activities to take action against violations in the field of Road Traffic and Transportation, electronic equipment can be used. The results of using this electronic equipment can be used as evidence in court. What is meant by "electronic equipment" is an incident recording device to store information. Based on the rules above, law enforcement in the traffic sector using the E-Tilang system will utilize CCTV (Closed Circuit Television) as a tool to record all violations that occur. Later, the recording results will be used as evidence in court to determine violations committed by road users.

CCTV (Closed Circuit Television) in the E-Tilang system is able to make drivers feel that they are being watched continuously so that later it will foster an awareness that all the actions and movements of road users change into behavior that is aware of the law and legal discipline (Concept Panopticon). This awareness of being watched and controlled will give rise to the effect of obedience and even fear. The Panopticon concept designed by Michael Foucault above explains that a direct surveillance system has a psychological effect on each target subject to always feel watched, so that it

will create an awareness and discipline effect for intentions and violations that will and have been committed.

Based on the above, the author tried to conduct research on the role of CCTV (Closed Circuit Television) in the E-Tilang system. In particular, the impact arising from the installation of CCTV (Closed Circuit Television) on the prosecution of traffic law violations and public behavior as subjects of the E-Tilang system.

RESEARCH METHOD

The research method used is normative legal research which is prescriptive and applied. The approach used is a conceptual approach. The source of legal material used is secondary legal material, with a deductive legal material analysis technique using the syllogism method. The legal material collection technique used is library research (Jonaedi Efendi dan Johnny Ibrahim, 2018).

RESULTS AND DISCUSSION

The Panopticon was originally a prison building concept designed by the English philosopher and social theorist Jeremy Bentham in 1785. The prison design concept allows a supervisor to monitor (-opticon) all (pan-) prisoners, without the prisoner being able to know whether they are being observed. Therefore, the Panopticon concept conveys what one architect called “the sentiment of invisible omniscience.” Bentham's Panopticon was intended as a model of a prison that was cheaper than other prisons of his time, as it required only a small staff (Sofyan, 2020).

In its later development, the Panopticon was no longer just an architectural design, but it became a model for monitoring and disciplining society, which is also applied to the present day. The philosopher who reviewed the problem of social discipline using the Panopticon model was Michael Foucault. This Panopticon design was mentioned by Michael Foucault in his book *Surveiller et punir: Naissance de la Prison* (1975) which was published in France, and then translated into English with the title *Discipline and Punish: The Birth of the Prison* (1977). The book outlines the ways in which discipline is applied and has been for the past few centuries. The Panopticon design serves as a metaphor for modern “disciplinary” society and its pervasive tendency to police and normalize (Couch, Robinson, & Komesaroff, 2020).

The term panopticon was taken by Foucault from the model of a prison called the Panopticon developed by Jeremy Bentham (1791). This prison is shaped like a large circle and has several layers of detention cells. Right in the middle of the circle stood a watchtower equipped with a lamp that glowed very hard. Like a lighthouse, the lights on this tower will continue to rotate along each level of the detention cell. Day and night, every prisoner will feel constantly watched, even though they don't know whether there is actually an officer on guard in the tower (Elden, 2003).

With a panopticon system, surveillance can be carried out completely and totally, nothing can be covered up. Because all the activities of the prisoners in the cells can be seen naked. Through this Panopticon system, discipline enforcement can be carried out more easily and efficiently. The Panopticon as we know was created to monitor all objects with just one observation

The effect of this Panopticon system is the awareness that the self is always under surveillance and the awareness that the body is seen permanently (the body in this concept also becomes a passive object). This awareness ensures that the function of power (authority) continues automatically. The Panopticon system allows surveillance to be carried out irregularly, but the effect is that the awareness of the feeling of being watched is continuous and permanent. Foucault said that the Panopticon system is a system where power relations are total even though they are not physical. Physical presence, or supervision, is only occasional. This system is hiding, whether it is there or not. Like the analogy of an officer monitoring a panopticon tower who may not be in the tower and is enjoying taking a break drinking coffee. But the prisoners are not given the opportunity to know, what they do know is that they are being watched 24 hours a day.

In the current development of the digital world, the panopticon is no longer just an architectural design, but has become a model for monitoring and disciplining society, one example of which is Closed Circuit Television or CCTV. This tool can be a replacement for the watch tower in the classic panopticon system, namely the tower where the guards monitor the behavior and movements of prisoners while in

prison. Thus, it can be made an analogy that CCTV is a recording device which is a means of monitoring the authorities in controlling people's behavior in traffic.

Nowadays, many cities in Indonesia have installed traffic CCTV. The CCTVs installed are placed at road intersections, central roads and several public roads which are prone to traffic violations. In the surveillance system using recording devices, CCTV installed on street corners is installed and connected to the surveillance area, in this case called TMC (Traffic Management Center). This place is the center of several CCTVs installed to see and monitor every action of the public while passing through. It is from this place that recordings of every activity carried out by the community are recorded and stored in the data center.

Closed Circuit Television or CCTV is something that makes people feel that their every move is being watched while passing through traffic. Indirectly, people who feel they are being watched will be disciplined because they are afraid that if they violate it, it will be recorded on CCTV and they will later be fined by the authorities. So in the panopticon concept it can be translated that a watchtower or CCTV can monitor prisoners in prison or the public in traffic, thereby creating awareness for those being watched not to commit violations and tend to do things accordingly rule.

Nowadays, modernization brings many changes to social life. This is no exception in the field of law enforcement on the road. After the methods were outdated and did not have a positive impact on traffic behavior, a system was created that had the same goal, only the form and methods were different. Both use tools as a medium for monitoring, the difference is that the tools currently used are modern tools and are able to make monitoring easier and more efficient. A recording device was chosen in the form of a surveillance camera, namely Closed Circuit Television, or what is often known as CCTV.

CCTV in its application really fulfills the panopticon concept, which is an extension of the eyes of law enforcers when carrying out their duties of monitoring and prosecuting traffic violations. This tool functions as a means of remote monitoring which makes it easier for law enforcers to carry out their duties. Officers do not need to go to the streets to carry out regular supervision, just use a large number of tools to create an efficient monitoring model.

The concepts used above influence more the psychological elements of society. In order to monitor and regulate people's orderly patterns in their activities on the road, methods are needed that directly have a big impact on a person's psychology. The panopticon concept explains that this method can have a psychological effect on a person, because it makes the person's movements feel like they are being watched continuously as long as they are within the range of the monitoring device.

The effects that arise using the above method have both good and bad sides. The positive effect is that people's activities while on the road can be monitored closely and consistently. Apart from that, because the tool used is a recording device in the form of CCTV which is capable of storing recordings of events in their entirety so that they can be used for law enforcement purposes or for certain conditions that require recordings from this device. In the end, electronic recording devices or CCTV become a very important element in carrying out supervision and teaching disciplined and law-abiding behavior.

In the event that closed circuit television or CCTV is used as a tool to obtain, collect and record evidence of violations by law enforcement officers, it is a method that does not violate people's private rights. In Government Regulation Number 80 of 2012 concerning Procedures for Inspecting Motorized Vehicles on the Road and Taking Action against Traffic and Road Transport Violations, article 28 paragraph 1 explains "The action against traffic and road transport violations is based on the results of electronic equipment recordings as intended in article 23 letter c , Officers of the State Police of the Republic of Indonesia or Civil Servant Investigators in the field of Road Traffic and Transportation can issue tickets." The above regulation states that recording electronic equipment, namely CCTV, is permitted for use in implementing government regulations

This is the case in Law Number 22 of 2009 concerning Road Traffic and Transportation article 272 paragraph 2 which states "The results of the use of electronic equipment as referred to in paragraph (1) can be used as evidence in court. From the statutory provisions above, it can be ascertained that electronic devices, in this case closed circuit television or CCTV, can be used as a tool to obtain, collect and convey evidence to court.

The software in question is an application program that can store information on every traffic rule violation carried out by the public in a database, and when the violation is repeated by the same person, the application program or information system can find out what violations were committed previously (Setiyanto, Gunarto, & Wahyuningsih, 2017).

Along with advances in technology and information, ticketing now uses an electronic system known as the E-ticketing system. This system will replace the manual ticketing system which uses blanks/tickets, where drivers who violate will be recorded via an application owned by law enforcement officers (Aditya & Safriani, 2020). The E-tilang system above is one of the processes for resolving traffic violation cases in lieu of regular tickets in accordance with the Regulations of the Supreme Court of the Republic of Indonesia concerning Procedures for Resolving Traffic Violation Cases which was launched on December 15 2016 and implemented in January 2017.

The latest breakthrough in the development of evidence can be seen in Law Number 19 of 2016, an amendment to Law Number 11 of 2008. This law is the answer to the main problem in the development of information technology-based crime (cyber crime) and is able to accommodate the tools. The most necessary evidence in this crime is electronic evidence in the form of electronic information and electronic documents (Apriliana, 2019).

In its implementation, the electronic ticketing system uses electronic recording hardware, namely CCTV, which is capable of recording traffic violations and collecting them in a system database which will later be used as evidence in court to impose sanctions on people who commit violations. In its implementation, CCTV obtains electronic recordings of violations committed by people in the CCTV monitoring area. Then the recording results are collected in a database system. The stored data will later be used as evidence. Evidence is anything that is related to an act, where with these pieces of evidence, it can be used as evidentiary material to give rise to the Judge's confidence in the truth of the existence of a criminal act that has been committed by the Defendant.

Traffic violation cases are simple cases so they are categorized as quick investigations. Rapid examination procedures regulated in the Criminal Procedure Code include examinations of minor crimes and traffic violation cases. Article 211 of the Criminal Procedure Code states that what is examined according to the traffic violation examination procedure are certain traffic violations of traffic laws and regulations. The E-Tilang trial adheres to the principle of a quick examination procedure as stated in KUHAP article 211.

In the trial process, electronic recording evidence obtained from the police using CCTV equipment will be submitted as evidence, where this evidence fulfills the elements of *bewijsvoering*. Evidence in the form of electronic recordings obtained without violating the law and the rights of the community is what determines sanctions for traffic violators. So that the electronic ticketing system or E-Tilang run by law enforcement can be used as a system whose implementation aims to enforce the law more effectively and efficiently. With the many conveniences obtained from the devices used, how to obtain them, and also how to prove them in court. If evidence is obtained illegally (illegally obtained evidence) it is not appropriate to be used as evidence in court.

CONCLUSION

The electronic Tilang system or E-Tilang implemented by law enforcement officers is an application of the Panopticon concept. Where this concept provides an overview of the process and methods of monitoring community activities in traffic on the road. With the Panopticon concept, monitoring becomes more effective and efficient. Namely by using an electronic recording device, Closed Circuit Television or CCTV. The implementation of E-Tilang legally does not violate applicable norms and rules in terms of obtaining evidence of violations. CCTV as a tool for recording traffic violations is sufficient to fulfill the elements of *wijsvoering*, where the method of obtaining, collecting and conveying evidence of traffic violations does not violate applicable rules and norms. Closed Circuit Television is a tool that makes the law enforcement process more effective and efficient. So that E-Tilang can become a law enforcement system that is easier to monitor and provide sanctions for traffic violations.

REFERENCE

- Aditya, S., & Safriani, A. (2020). "Problematika Penerapan Tilang Elektronik dalam Mengurangi Pelanggaran Lalu Lintas". *Alauddin Law Development Journal*, 2 (1). <https://doi.org/10.24252/aldev.v2i1.13274>.

- Aji, P. B. (2018). "Keabsahan CCTV (Closed Circuit Television) Sebagai Alat Bukti Menurut Hukum Indonesia". UNTAG Surabaya.
- Apriliana, L. Z. (2019). "Efektivitas Penggunaan E-Tilang Terhadap Pelanggaran Lalu Lintas di Polres Magelang". *Jurnal Komunikasi Hukum (JKH)*, 5 (2). <https://doi.org/10.23887/jkh.v5i2.17595>.
- Couch, D. L., Robinson, P., & Komesaroff, P. A. (2020). "COVID19 Extending Surveillance and the Panopticon. *Journal of Bioethical Inquiry*". 17 (4). <https://doi.org/10.1007/s11673-020-10036-5>.
- Elden, S. (2003). Plague, panopticon, police. *Surveillance and Society*, 1 (3). <https://doi.org/10.24908/ss.v1i3.3339>.
- Isima, N. (2022). "Kedudukan Alat Bukti Elektronik dalam Pembuktian Perkara Pidana". *Gorontalo Law Review*, 5 (1).
- Jonaedi Efendi dan Johnny Ibrahim. (2018). *Metode penelitian hukum: normatif dan empiris / Jonaedi Efendi, Johnny Ibrahim*. Kencana, 2 (Hukum).
- Kusumawardani, Q. D. (2019). "Hukum Progresif Dan Perkembangan Teknologi Kecerdasan Buatan". *Veritas et Justitia*, 5 (1). <https://doi.org/10.25123/vej.3270>.
- Setiyanto, Gunarto, & Wahyuningsih, S. E. (2017). "Efektivitas Penerapan Sanksi Denda E-Tilang Bagi Pelanggar Lalu Lintas Berdasarkan Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan (Studi Di Polres Rembang)". *Hukum Khaira Ummah*, 12 (4).
- Sofyan, A. (2020). "Pengawasan Klien Pemasarakatan Pada Program Pembebasan Bersyarat Oleh Pembimbing Kemasyarakatan". *Jurnal Health Sains*, 1 (7). <https://doi.org/10.46799/jsa.v1i7.133>.