

TIPIRING PRE-TRIAL AGAINST ACCORDING TO POLICE PERKAP ON TIPIRING TRAFFIC HANDLING

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Abstract: Traffic violations are one type of crime that is included in the category of minor crimes (Tipiring). Minor crimes are crimes that are light or harmless. This research uses normative legal research. The data used is secondary data, secondary data in this study were collected through document studies (library research). The type of approach used is a statutory approach with analytical descriptive techniques. The results of the study show that pretrials conducted by motorized vehicle drivers who received a ticket in the context of tipping, are carried out in stages: submitting an application to the head of the court, the application letter is registered for a pretrial case, the head of the court directly appoints the clerk and judge, examination of the case by a single judge, rules to examine related cases, and judges make decisions no later than 7 days. Law enforcement after the pretrial for traffic violations using the law of rapid examination procedure, which is regulated in Article 211 of the Criminal Procedure Code which states.

Keywords: Pretrial, Tipiring, Traffic

1. INTRODUCTION

In the complexity of everyday human life, it is inseparable from the means of transportation. Transportation is a very important and strategic means in facilitating the economy, strengthening national unity and unity and influencing aspects of the life of the nation and state. The increasing population and growing economy in developing countries such as Indonesia require people to have high mobility in order to meet their needs. To be able to have high mobility, people certainly need transportation tools or facilities, besides that currently the most widely used means of transportation by the community is land transportation, namely private transportation and public transportation.¹

Article 34 paragraph (3) of the 1945 Constitution states that "the State is responsible for the provision of proper health care facilities and public service facilities".² From this article, it can be interpreted that the government is the party that is required to provide proper transportation facilities for its citizens. Increasing the volume of private vehicles. The increasing volume of private vehicles, especially types of motorcycles on the highway and not accompanied by the addition of adequate road access to accommodate the number of vehicles at this time has a negative impact on all road users, congestion and high accident rates are evidence of the negative impact of the number of vehicles that pass passing on the highway, especially when people start and carry out their activities.³

The function of traffic can be equated with the function of blood circulation in the human body. Likewise with traffic. Security, order and smoothness of traffic that is not safe and not smooth as well as not orderly and efficient will bring various difficulties for the community. Managing traffic problems is not an easy thing, because in it there are several factors that determine and these factors must be considered, namely:⁴

1. human factor;
2. road factor;
3. Motor vehicle factor; and
4. Environmental factors.

In view of the important and strategic role of traffic and public transportation which controls the livelihoods of many people, traffic and public transportation shall be controlled by the state whose guidance is carried out by the government. In implementing the provision of public transportation, the government cannot automatically provide it independently. So in this case, the government is assisted by the private sector to work together to provide a public transportation fleet, for example with the existence of an autobus company that provides several fleets for public transportation.⁵

The highway in any form is open to traffic, as a means of transportation which is a basic need for the community. Every road user is involved and is responsible for creating an orderly, smooth and safe traffic situation and condition. In this case, in order to be free from all disturbances that hinder the purpose of using the highway regularly and peacefully or free from traffic accidents, serious attention is needed from various parties, not only law enforcement officers, but also road users, namely the community so that the number Traffic accidents can be reduced to a minimum because the sanctions imposed on the perpetrators of traffic violations are too light, so it is not surprising that more and more traffic violations occur.⁶

¹FD, Hobbs, Planning and Traffic Engineering, (Yogyakarta: Gadjah Mada University Press, 1995), 16.

²Yasir Arafat, 1945 Constitution of the Republic of Indonesia & its Amendments to I,II,III,IV, (Jakarta: Permata Press, 2008), 35.

³Ibid

⁴Samapto Setio Agus, Settlement of Criminal Cases Out of Court Against Alleged Crime Article 359 of the Criminal Code in Traffic Cases, Managerial Journal, Vol, 2, No.4, 2013, 12

⁵Ibid,.

⁶Kusmagi Marye Agung, Happy Driving On Highways, (Jakarta: PT. Gramedia, 2010), 76.

The occurrence of cases of traffic violations on the highway by road users which tend to result in accidents, road user disorder and perceived traffic jams are increasing. The majority of traffic violations are in the form of violations of traffic signs, such as prohibitions on stopping and parking in certain places, breaking through red lights and others. Violations of traffic regulations by the community are increasingly concerning from year to year which in turn will result in an increase in traffic accidents with many deaths or injuries. In addition, the disorder will also disrupt the flow of traffic which will reduce the speed of travel. The high number of traffic violations is one of the causes of the high traffic accidents that occur, by taking firm action against traffic violations without exception will change the behavior of drivers in traffic and in turn improve traffic safety. Good traffic rules are useless if violations persist and are not enforced.⁷

Traffic violations are one type of crime that is included in the category of minor crimes (Tipiring). Minor crimes are crimes that are light or harmless. These minor crimes are not only in the form of violations but also include minor crimes written in Book II of the Criminal Code which consist of, minor animal abuse, minor insults, light maltreatment, minor theft, light embezzlement, minor fraud, minor damage, and light detention. ⁸

Utrecht in describing minor crimes uses the term light crime as the equivalent of the word *Lichte misdrijven* in Dutch or minor crime or which in this paper uses the term minor crime. The definition of minor crimes will be difficult to find in the Criminal Code, a fairly understandable definition of minor crimes can be found in the Criminal Procedure Code as a formal criminal law provision of the Criminal Code. Article 205 paragraph (1) of the Criminal Procedure Code which regulates the provisions for the quick examination process states that:⁹"Based on the sound of the article, it can be seen regarding the definition of a minor crime, which is a case that is punishable by imprisonment or imprisonment for a maximum of three months and or a fine of a maximum of seven thousand five hundred rupiah".

If further traced the sound of the articles contained in the Criminal Code, there are at least nine articles that are classified as minor forms of crime, namely Article 302 Paragraph (1) concerning minor abuse of animals, Article 352 Paragraph (1) concerning minor abuse, Article 364 concerning minor theft, Article 373 concerning light embezzlement, Article 379 concerning minor fraud, Article 384 concerning fraud in sales, Article 407 Paragraph (1) concerning the destruction of goods, Article 482 concerning light detention, and Article 315 concerning minor insults.¹⁰

Regarding minor crimes in traffic problems, traffic problems are a very important problem, because this problem is a difficult problem that must be solved together. If the traffic problem is not solved, then the community itself will bear the loss, and if this problem can be solved properly, then the community itself will take the benefits. The high number of traffic violations is one of the causes of the high traffic accidents without exception will change the behavior of drivers in traffic and in turn improve traffic safety. Good traffic rules are useless if violations persist and are not enforced.¹¹

Regarding traffic, there is always traffic management which in the sense of traffic management based on Law No. 22 of 2009 concerning Road Traffic and Transportation is defined as a series of businesses and activities that include planning, procurement, installation, regulation, and maintenance of equipment facilities. Roads in the context of realizing, supporting and maintaining security, safety, order and smooth traffic.

⁷Ibid

⁸Muhammad Soma, Adjusting the Limits of Minor Crimes and the Amount of Fines in the Criminal Code Against the Crime of Theft, *Cita Hukum Journal*, Vol. 1, No. 2, 2013, 4.

⁹Utrecht, Introduction to Indonesian State Administrative Law, Cet VI, (Jakarta: Balai Buku Ichtiar, 2007), 54.

¹⁰Ibid

¹¹Kusmagi Marye Agung, op.cit.,

2. RESEARCH METHODS

1. Types of research

The type of research used is normative legal research. Normative legal research is referred to as library research or document study, because it is mostly carried out on secondary data in the library.¹²

2. Data Type

The data used is secondary data, namely data obtained directly through library searches or from official documents. Secondary data are reviewed based on their binding strength, which are classified as below:

a. Primary Legal Material

The primary legal material that is the subject of study is in the form of statutory regulations, which include the following:

- 1) the Criminal Code;
- 2) Law Number 8 of 1981 concerning Criminal Procedure Law;
- 3) Law Number 22 of 2009 concerning Road Traffic and Transportation; and
- 4) Police Chief Regulation Number 6 of 2019 concerning Criminal Investigation.

b. Secondary Legal Material

Namely materials that provide an explanation of primary legal sources such as materials in the form of books, daily/magazines and scientific writings.

3. Data collection technique

Secondary data in this study were collected through document studies (library research). In document study, the researcher tries to collect as much information as possible related to the research topic, as well as to add information and to know the experience or opinion of the informant about something in depth.

4. Approach Type

The type of approach used in this research is the statutory approach. This approach is carried out by examining all laws and regulations related to the legal issues being handled, so that the ratio legis, ontological basis and philosophical basis of the regulation of the protection of geographical indications can be identified. For research for practical activities, this legal approach will open up opportunities for researchers to study the consistency and suitability of one law with other laws or the basic law with regulatory laws and laws.

5. Data analysis technique

This research is descriptive analytical, is a method used to describe an ongoing condition or situation whose purpose is to provide data about the object of research so that it is able to explore things that are ideal, then analyzed based on legal theory or applicable laws and regulations. ¹³Descriptive research is limited to efforts to reveal a problem or situation or event as it is so that it is merely to reveal facts (fact finding). The results of the study are emphasized on providing an objective picture of the actual state of the object under investigation. ¹⁴Research using qualitative analysis bases its justification on theories, doctrines, and opinions of legal experts and according to the formulation of legislation. ¹⁵

¹²Ediwarman, *Monograph of Legal Research Methodology*, (Medan: University of Muhammadiyah North Sumatra Press, 2014), 94.

¹³Zainuddin Ali, *Legal Research Methods*, (Jakarta: Sinar Graphic, 2009), 223.

¹⁴Hadari Nawawi, *Social Research Methods*, (Yogyakarta: Gadjah Mada University Press: 1993), 31.

¹⁵Ibid

3. RESULTS AND DISCUSSION

3.1. Pretrial Conducted by Motorized Vehicle Drivers Who Received a Traffic Ticket in the Context of Tipiring

The traffic and road transportation law has regulated various provisions regarding the completeness of motorized vehicle users in driving on the road, as for the obligations and prohibitions in terms of completeness of using motorized vehicles in Law Number 22 of 2009 concerning Traffic. Road Traffic and Transportation includes the obligation to use helmets for users of two-wheeled vehicles, and the obligation to complete the equipment for four-wheeled vehicles or more. The obligation to use helmets for users of two-wheeled vehicles is intended to protect important body parts, namely the head of the driver or passenger from a collision in the event of an accident, this obligation is written in Article 57 paragraphs (1) to (4).¹⁶

Driving that can interfere with traffic safety is regulated in Article 58, namely: Every Motorized Vehicle that is operated on the road is prohibited from installing equipment that can interfere with traffic safety.¹⁷ Motorized vehicles are also required to put up a motorized vehicle number sign determined by the Indonesian National Police which serves to mark the legal ownership of the motorized vehicle, as regulated in Article 68 paragraph (1) which states: Every Motorized Vehicle operated on the Road must be equipped with with a Motorized Vehicle Number Certificate and a Motorized Vehicle Number Certificate.¹⁸

Motorized vehicle users are also required to have a driving license (SIM), which is a letter indicating that the driver has obtained a license to drive a certain vehicle, as stipulated in Article 77 paragraph (1), namely: Everyone who drives a motorized vehicle on the road must have a driving license in accordance with the type of motorized vehicle being driven.¹⁹

In addition, motorized vehicle drivers are also required to have a Motorized Vehicle Registration Certificate (STNK) or Motor Vehicle Trial Certificate as stipulated by the State Police of the Republic of Indonesia as stipulated in Article 106 paragraph (5), namely: Motorized Vehicles on the Road every person driving a Motorized Vehicle is required to show:²⁰

- a. Motorized Vehicle Registration Certificate or Motor Vehicle Trial Certificate;
- b. Driver's license;
- c. Proof of passing periodic tests; and/or
- d. Other valid evidence.

One of the consequences of being disorderly in traffic is that vehicle users will receive a ticket issued by the police. For example, a motorbike driver who does not have a SIM or STNK, when an inspection is carried out by the Police, of course, he will get a ticket for not obeying traffic rules. In Article 1 point 4 of Government Regulation Number 80 of 2012 concerning Procedures for Inspection of Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations, defining a ticket/proof of violation is evidence of certain violations in the field of Traffic and Road Transportation with a certain format stipulated.²¹

Furthermore, the driver will be directed to follow a further process so that the STNK can be obtained again. According to the provisions of the Criminal Procedure Code, there are three examination procedures in resolving criminal cases, namely: the Ordinary Examination Procedure, the Brief Examination Procedure and the Quick Examination Procedure. The three examination procedures are carried out based on the type of case they receive, so that if the

¹⁶Djajusman, Police and Traffic, (Bandung: Seskoak Lembang, 2012), 76.

¹⁷Anton Tabah, Staring With the Eyes of the Indonesian Police, (Jakarta: PT Gramedia Pustaka Utama, 2012), 11

¹⁸Ibid, 41.

¹⁹Ibid, 42.

²⁰Ibid

²¹Article 1 point 4 Government Regulation Number 80 of 2012 concerning Procedures for Inspection of Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations.

type of case they receive is an ordinary case, it must also be resolved using the usual examination procedure. .²²

Quick examination procedures regulated in the Criminal Procedure Code include examinations for minor crimes and cases of traffic violations. Article 211 of the Criminal Procedure Code states that what is examined according to the traffic violation inspection procedure is certain traffic violations against traffic laws and regulations.²³

Based on the explanation of the provisions regulated in Article 211 of this Criminal Procedure Code, it can be seen that what is meant by certain violations are:²⁴

- a. Using the road in a way that can hinder, endanger the order or traffic safety or which may cause damage to the road;
- b. Driving a motorized vehicle that cannot show a driving license (SIM), vehicle number certificate, valid vehicle test certificate or other evidence required under the provisions of road traffic laws or he can show it but the validity period has expired;
- c. Allowing or permitting a motorized vehicle to be driven by a person who does not have a driver's license;
- d. Does not comply with the provisions of the road traffic laws and regulations regarding numbering, lighting, equipment, equipment, vehicle loading and conditions for collusion with other vehicles;
- e. Leaving motorized vehicles on the road without being equipped with a license plate for the vehicle concerned;
- f. Violation of the provisions regarding permitted sizes and loads, how to load and unload passengers and/or how to load and unload goods; and
- g. Violation of the route permit, the type of vehicle allowed to operate on the specified road.

That is in detail what is meant by cases of certain violations of road traffic, which are examined in court hearings by examining cases of road traffic violations carried out by means of quick examinations.²⁵

Motorcyclists who feel they have complied with traffic rules but are still being acted upon by the Police when carrying out joint operations can file a pre-trial. As happened in Central Jakarta, a motorcycle rider named Supriadi filed a pretrial lawsuit at the District Court Jakarta Center. The pretrial effort was carried out because Supriadi felt that the fine against him should not be valid. Boyamin as Supriadi's attorney said the reason for filing a pretrial, namely because there was an attempt to confiscate it by officers Police which is considered invalid. Supriadi's driver's license (SIM) was confiscated police because it crossed the motorway freeway on Jalan MH Thamrin, Central Jakarta. On that basis, Boyamin requested that the driver's license be returned and Supriadi was free from traffic violation fines.²⁶

Pretrial cases when viewed from the point of view of their entry into the court are different from other criminal cases that are both sourced from the Criminal Procedure Code, namely ordinary criminal cases, short criminal cases, and fast cases. The pretrial is the authority of the District Court to examine and decide.²⁷

- a. Whether or not an arrest or detention is legal;

²²Rusli Muhammad, Indonesian Courts and Controversial Decisions, (Yogyakarta: UII Pres, 2013), 63

²³Sampto Setio Agus, Op.cit.,

²⁴PAF Lamintang and Theo Lamintang, Discussion of the Criminal Procedure Code according to Criminal Law and Jurisprudence, (Jakarta: Sinar Graphic, 2013), 467.

²⁵M. Yahya Harahap, Discussion of Problems and Implementation of the Criminal Procedure Code, (Jakarta: Sinar Graphic, 2005), 434

²⁶Coverage 6, "Doesn't want to pay a ticket, this motorcyclist Files a Pretrial", accessed on 29 June 2022, 10:00 WIB.

²⁷Prinst Darwan, Pretrial and Its Development in Practice, First Issue, (Bandung: PT. Citra Aditya Bakti, 2022), 10.

- b. Whether or not the termination of the investigation or the termination of the prosecution is legal;
- c. Requests for compensation or rehabilitation by the suspect or his family or other parties or their proxies whose cases have not been brought to court. (Article 1 point 10 in conjunction with Article 77 of the Criminal Procedure Code);
- d. Whether or not the confiscation of evidence is legal (Article 82 paragraph 1 letter b of the Criminal Procedure Code).

Meanwhile, those who can apply for pre-trial are:²⁸

- a. The suspect, namely whether the act of detention against him is contrary to the provisions of Article 21 of the Criminal Procedure Code, or whether the detention imposed has exceeded the time limit determined by Article 24 of the Criminal Procedure Code;
- b. Investigators to check whether or not the termination of prosecution is valid;
- c. The Public Prosecutor or a third party with an interest in examining whether or not the termination of the investigation or the termination of the prosecution is valid. What is meant by a third party with an interest, for example a victim witness.

Pretrial in Law Number 8 of 1981 concerning Criminal Procedure Code is placed in Chapter X, Part One, as a part of the scope of the jurisdiction to adjudicate for the District Court. In terms of the structure and composition of the judiciary, pretrial is not an independent court institution. The pretrial institution is also not a judicial level institution that has the authority to give the final decision on a case of a criminal incident. Pretrial is only a new institution whose characteristics and existence are:²⁹

- a. exists and is a unit attached to the District Court, and as a court institution, is only found at the District Court level as a task force that is not separate from the District Court;
- b. pretrial is not outside or beside or parallel to the District Court, but is only a division of the District Court;
- c. judicial administration, personnel, equipment and finance are united with the District Court and are under the leadership and supervision and guidance of the Head of the District Court; and
- d. the administration of its judicial function is part of the judicial function of the District Court itself.

Drivers of motorized vehicles who obtain a speeding ticket in the context of a tipping may file a pretrial lawsuit, which shall be carried out in the following manner:³⁰

- a. Submit an application to the Chief Justice.
The first step that the Applicant takes is to submit an application first. The application is sent to the Head of the District Court which is made in writing. Applications can be submitted to the District Court according to the place where the arrest and detention took place.
- b. Application for Registration of Pre-Trial Cases
In submitting a pretrial application, it is registered in accordance with the case being submitted. This process can be done if the clerk has approved the application that has been submitted. Once approved, the Applicant must immediately register. The registration process is also not the same as in ordinary criminal justice. The applicant must separate his/her registration as well. In addition, in pretrial the Petitioner must also separate when filling out judicial administration from the usual case administration.
- c. Head of Court Directly Appoints Registrar and Judge
The Head of the District Court who will directly appoint the clerks and judges. The clerk himself is a person who becomes a court official. The clerk's job is to help the judge make

²⁸Ibid

²⁹M. Yahya Harahap, Op.cit., 434

³⁰Justika, "Correct and Appropriate Pretrial Submission Process", accessed on 27 June 2022, 15:49 WIB.

a report when the trial process takes place. After the Head of the District Court appoints a clerk and a judge, the next step is for the judge to immediately examine example of pretrial lawsuit that the Applicant provides.

- d. **Case Examination by Sole Judge**
The judge chosen by the Chief Justice in the trial activities is a single judge. Then the judge will examine the case that has been given to then be brought to the trial.
- e. **Rules For Checking Related Cases**
There is a court lawsuit pretrial object to be brought to trial. The examination process begins on the determination of the trial date after 3 days of receipt of the application. Then the judge immediately made a call
- f. **Judges Make Decisions No later than 7 Days**
After setting the trial date, Article 82 paragraph (1) has explained that the judge must immediately make a decision no later than 7 days. However, in the regulation, it is still unknown 7 days from when. Several interpretations that can be made in pretrial decisionie 7 days must make a decision usually done after the trial date. However, there are also those who say that 7 days start from when the application is registered by the Petitioner. Before deciding to file a court lawsuit, the Applicant must make his/her request in writing to the local District Court. The application is made and addressed to the Head of the local District Court. Then the Head of the District Court will approve the application and the Petitioner can immediately register. The registration process is different from the usual court cases. Then the final pretrial step is to appoint a judge who will make the decision.

3.2. Law Enforcement After Pretrial Against Tipiring According to Police Perkap Regarding Traffic Tipiring Handling

The application of law in society apart from depending on the laws and regulations, which is no less important is the legal awareness of the community itself to create an orderly legal culture in traffic. This legal awareness will certainly not appear in the midst of society without the encouragement of other parties such as law enforcement officers. Law enforcement officers can be intended as mouthpieces of laws that are given the task of enforcing the law in the midst of society, in other words if the performance of law enforcement officers is weak, it is certain that all laws and regulations will become meaningless sheets of paper.³¹

Law enforcement apparatus includes the notion of law enforcement institutions and law enforcement officers and law enforcement officers (persons) in a narrow sense, law enforcement officials who are seen as upholding the law, starting from witnesses, police (including PPNS as carrying out police functions), legal advisors, Prosecutors, judges and correctional officers. Each relevant apparatus and apparatus also includes the parties concerned with the parties concerned with their duties or roles, namely those related to reporting activities or complaints, investigations, investigations, prosecutions, proofs, sentencing and imposition of sanctions as well as efforts to re-initiate (resolve)) the convict. In the process of working the law, there are at least 3 (three) important elements that influence, namely:³²

- a. Law enforcement institutions along with various supporting facilities and infrastructure and institutional work mechanisms.
- b. Work culture related to the apparatus, including the welfare of the apparatus.
- c. The set of regulations that support both institutional performance and those that regulate legal materials that are used as work standards, both material law and procedural law.

Systematic law enforcement efforts must pay attention to these three aspects simultaneously, so that the process of law enforcement and internal justice itself can be realized

³¹Muhammad Rusli, Indonesian Criminal Justice System, First Printing, (Yogyakarta: UII Press, 2011), 54.

³²Peter Mahmud Marzuki, Introduction to Legal Studies, (Jakarta: Kencana, 2008), 158

in real terms. Indonesian people are still at the level of people who are afraid of the law (law enforcement officers) and cannot yet be categorized as law-abiding people. People who are afraid of the law will not obey the law if the law enforcers are weak, inconsistent and cannot be trusted.³³

The procedure for handling cases of minor traffic violations in Indonesia is currently regulated by referring to Law Number 22 of 2009 concerning Road Traffic and Transportation (UU LLAJ), Police Chief Regulation Number 6 of 2019 concerning Criminal Investigations and Law Number 8 of 1981 concerning the Criminal Procedure Code. In addition, there are several derivative regulations that complement the provisions in the law.

Traffic violations in the Criminal Procedure Code (KUHAP) are grouped together with minor crimes to follow the procedure for expediting proceedings. This arrangement is located in CHAPTER XVI, the sixth part of the second paragraph concerning the Procedure for Investigation of Cases of Road Traffic Violations. The use of a quick examination for cases of traffic violations is also stated in the LLAJ Law Article 267 paragraph (1): "Every violation in the field of Traffic and Road Transportation that is examined according to the quick examination procedure may be subject to a fine based on a court order".³⁴

It seems that the use of a quick examination procedure is to fulfill the principle of a fast, simple and low cost trial as stated in the general explanation of the Criminal Procedure Code. So that the settlement of traffic violations that are classified as minor will be simplified. Traffic violations in the LLAJ Law are one part of the regulation which is quite broad considering as stated in Article 3 of the LLAJ Law regarding the objectives of its implementation, namely:³⁵

- a. The realization of safe, safe, orderly, smooth, and integrated Road Traffic and Transportation services with other modes of transportation to encourage the national economy, promote public welfare, strengthen national unity and integrity, and be able to uphold the dignity of the nation;
- b. The realization of traffic ethics and national culture; and
- c. The realization of law enforcement and legal certainty for the community.

The traffic referred to in this LLAJ Law is the movement of vehicles and people in the road traffic space. So that the criminal provisions regulated in this Law relate to violations of all matters relating to the movement of vehicles and people in the road traffic space. Article 7 paragraph (2) point of the LLAJ Law states that, "government affairs in the fields of Registration and Identification of Motorized Vehicles and Drivers, Law Enforcement, Operational Management and Traffic Engineering, as well as traffic education, are carried out by the Indonesian National Police.

Every traffic violation will be dealt with by investigators based on their authority. In the quick procedure examination for cases of road traffic violations there is no report of the examination (Article 212 of the Criminal Procedure Code) so that the proof of violation (ticket) is directly sent to the court by the investigator. The ticket states the time and place of the trial. The authority of investigators is further regulated in Government Regulation Number 80 of 2012 concerning Procedures for Inspection of Motorized Vehicles on the Road and Enforcement of Traffic and Road Transportation Violations which replaces Government Regulation Number 42 of 1993 concerning Inspection of Motorized Vehicles on the Road. Penalties for violators can be in the form of fines or imprisonment.³⁶

Based on the Decree of the Chief of Police No. Pol.: SKEP/443/IV/1998 concerning the Technical Guidebook on the Use of Blank Tickets, the violator has the right to reject the alleged violation with the consequence of confiscation of certain goods by the investigator until the

³³Ibid

³⁴Article 267 paragraph (1) Law Number 22 of 2009 concerning Road Traffic and Transportation.

³⁵Ibid, Article 3

³⁶Sadjijono, Police Law Series and Good Governance, (Surabaya: Laksbang Mediatama, 2014), 97.

trial is complete, or to accept the allegation followed by depositing the maximum fines stipulated by law. LLAJ through a Bank appointed by the Government without any confiscation. Confiscation can be carried out by police investigators as a guarantee that the violator will attend the trial.

According to Article 205 Paragraph 1 of the Criminal Procedure Code, cases are punishable by imprisonment or imprisonment for a maximum of three months and/or a fine of up to Rp. 7500 and light insults except those specified in paragraph II (road traffic violations). That each District Court has set a schedule for examining minor criminal cases on a predetermined day in one month and the frequency depends on the number of cases that are delegated to the District Court. In Article 206 of the Criminal Procedure Code, it is stated that "The court determines a certain day in seven days to hear cases by examining minor crimes".³⁷

In addition, Article 10 paragraph (2) Police Chief Regulation Number 6 of 2019 concerning Criminal Investigation also mentions:³⁸ "In terms of investigating minor crimes and traffic violations, the investigation activities consist of:

- a. inspection;
- b. notify the defendant in writing of the day, date, time and place of the trial;
- c. submit files to court; and
- d. bring the accused together with the evidence before the court.

The investigator shall notify the defendant in writing of the day, date, hour and place he must appear before the court session and this is properly recorded by the investigator, then the notes together with the file are sent to the Court. The notification is intended so that the defendant can fulfill his obligation to come to the court session on the day at the time, date and place specified. Cases with an examination procedure for minor crimes that are accepted must immediately be tried on the same day.

It is sufficient that a case examination without a trial examination report and indictment is recorded in the register book which is also considered and used as a trial examination report. In Article 205 Paragraph (3) of the Criminal Procedure Code which states "in the examination procedure as referred to in paragraph 10 of the Criminal Procedure Code, the Court hears with a single judge at the first and last level, except in the case of a criminal deprivation of liberty the defendant can be appealed".³⁹

Based on Article 205 Paragraph 3 of the Criminal Procedure Code, a conclusion can be drawn, namely:

- a. The trial of the case with a light examination with a single judge;
- b. Judge's decision consists of two kinds, including:
 - 1) The decision is in the form of a fine and the convict cannot appeal against the decision.
 - 2) The decision in the form of deprivation of liberty, the convict is given the right to appeal to the High Court.

4. CONCLUSION

Pre-trial conducted by motorized vehicle drivers who have received a ticket in the context of a tipping, is carried out in the following stages:

- 1) Submitting an Application to the Chief Justice
- 2) Application for Registration of Pre-Trial Cases
- 3) Head of Court Directly Appoints Registrar and Judge
- 4) Case Examination by Sole Judge
- 5) Rules For Checking Related Cases
- 6) Judges Make Decisions No later than 7 Days

³⁷ Article 206, the Criminal Procedure Code.

³⁸ Article 10 paragraph (2) Police Chief Regulation Number 6 of 2019 concerning Criminal Investigation

³⁹ Article 205 Paragraph (3), the Criminal Procedure Code.

Law enforcement after the pretrial for traffic violations using the law of rapid examination procedure, which is regulated in Article 211 of the Criminal Procedure Code which states "what is examined according to the examination procedure in this paragraph is a case of certain violations of road traffic laws". In addition, post-trial law enforcement against traffic violations is also regulated in Article 10 paragraph (2) of Police Chief Regulation Number 6 of 2019 concerning Criminal Acts.

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