

The Role of Sub Directorate of Cyber Crime

Agus Supriadi*)

*) Student of Master of Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: agussupriadi.ptik68@gmail.com

Abstract.

The cyber crime is understandable given the inherent characteristics of cybercrime, which are cross national boundaries. Indonesia has established a regulation on cyber crime in the Law on Electronic Information and Transactions (UU ITE). This writing aims to identify and analyze the roles and constraints of the sub-directorate for cyber crime in the investigation of cyber crime. The approach method used by the author in this study is a sociological juridical approach. The research specification uses descriptive analysis, data sources come from primary and secondary data. This writing discussion is analyzed using legal certainty theory and social control theory. The role of the sub-division cyber crime in conducting cyber crime investigations is to carry out investigations and investigations into special crimes (cyber) that occur in the form of summons, examinations, seizures, searches and arrests and detentions related to cyber cases being handled as well as providing assistance in the handling of cyber crime cases that are currently being handled by Regional ranks/Polres. The constraints of the sub-directorate for cyber crime in the investigation of cyber crime include: the data reported by the reporter is very minimal, it is easy to remove traces of the perpetrator, the lack of evidence for investigations, my human resources are still limited and special tools to support the investigation process, the arrest of suspects we often do not can determine exactly who did it.

Keywords: Cyber Crime; Role; Investigation.

1. Introduction

Information technology is believed to bring great benefits and interests to countries in the world. Thus, information technology has succeeded in triggering and spurring changes in the social and economic needs of the community, which in fact previously made transactions or socialized conventionally towards electronic transactions or socialization.¹ The parties involved in the transaction do not meet directly, only through computer and communication equipment, such a condition is a sign of the beginning of the cyber era in business.²

The development of information technology must be anticipated quickly by the laws that govern them. Negative impacts must be anticipated and handled by laws relating to the use of information and communication technology. By international law relating to the use of the term cyber law information technology

¹Sujana, I Gede. (2015). *Peranan Kepala Sub Direktorat Cyber crime Dalam Menanggulangi Penipuan Berkedok Investasi Online Di Kepolisian Daerah Bali*. Bali: Jurnal Universitas Dwijendra. p. 3

²Suparni, Niniek. (2009). *Cyberspace Problematika dan Aplikasi Pengaturannya*. Jakarta: Sinar Grafika.p. 1

crime law. Other terms are also used information technology law in virtual world and cyber law.³

According to Mansur and Gultom, Cybercrime is a relatively new form of crime when compared to other conventional forms of crime (Streetcrime). As stated by Ronni R. Nitibaskara, social interaction which minimizes physical presence is another feature of the information technology revolution. With this kind of interaction, social distortion in the form of crime will adapt its shape to a new character.⁴

If these illegal acts occur, the scope of the law must be expanded to cover these acts, such as data manipulation, hacking and fraudulent acts using facilities on the internet.⁵ Indonesia has established a regulation concerning crimes in the cyber world in Act No. 19 of 2016 concerning Amendments to Act No. 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as the ITE Law).

Based on the description of the background that has been described, the author will discuss the problem of the role of the sub-directorate for cyber crime in the investigation of cyber crime, and the constraints on the sub-division for cyber crime in the criminal case in investigating the crime of cyber crime.

2. Research Methods

The approach method used by the author in this study is a sociological juridical approach. In the sociological juridical approach, law as law in action is described as an empirical social phenomenon.⁶ The research specification used is descriptive analytical, which is to describe the results of the research with data that is as complete and detailed as possible.⁷ The data sources used are divided into two, namely primary data sources and secondary data sources.⁸ The data obtained were analyzed using qualitative techniques. This technique is used for data processing carried out based on various collected data, by always paying attention to the various facts identified.⁹

3. Result and Discussion

3.1. Role of Sub-Directorate of Cyber Crime, *Ditreskrimsus*, in Cyber Crime Investigating

A role is a set of behaviors that are expected to be owned by people in

³Morradi, Vitriano Aditya and Munsharif Abdul Chalim, (2019). *Criminal Law Enforcement Policies In Prevention Efforts of Information Technology Crime*. Jurnal Daulat Hukum, Vol. 2 Issue 2, hlm. 249

⁴Juliyanto, Eko. Dkk. (2018). *Profesionalisme Penyidik Cyber crime Di Subdit Siber Direktorat Reserse Kriminal Khusus Polda Sulut*. Jurnal, Sulawesi Utara.p. 27

⁵Wahid Abdul, and Mohammad Labib. (2005). *Kejahatan Mayantara (Cyber crime)*. Bandung: Refika Aditama.p. 23

⁶Soekanto, Soerjono. (2003). *Metodologi Penelitian Hukum*. Jakarta: Rajawali Pers.p. 38

⁷Sukmadinata, Nana Syaudih. (2007). *Metode Penelitian*. Bandung: UPI and Remaja Rosda Karya, Bandung.p. 60

⁸Soerjono Soekanto, Op. Cit., p. 52

⁹Moleong, Lexy J. (2000) *Metodologi Penelitian Kualitatif*. Bandung: PT Remaja Rosdakarya. p. 103

society. The position in this case is expected to be a certain position in society which is getting higher, more moderate or lower, that position is actually a forum, the contents of which are certain rights and obligations, while the rights and obligations are roles. Therefore, someone who has a certain position, usually called a role occupant, a right is actually the authority to do or not do, while an obligation is a burden or a task.¹⁰

Based on *Perkap* Number 6 of 2019 concerning Criminal Investigation Mechanism to initiate a criminal investigation, an Investigation Warrant is issued, the investigator or assistant investigator takes actions law against people, objects or goods that are related to the criminal act that occurred. Actions in an investigation include:

- *Summons*; Summons to the Suspect/Witness/Expert are carried out in writing by issuing summons based on Police Reports and Investigation Warrants and in accordance with statutory provisions.
- *Search*; A search is carried out by an investigator/assistant investigator equipped with a search warrant and a search warrant from the court, except in very necessary and urgent circumstances. The search for women's clothing and/or bodies is carried out by female police/female/female police officers who are trusted and appointed to be asked for assistance by the investigator/assistant investigator.
- *Foreclosure*; Confiscation is carried out by the investigator/assistant investigator of objects/items related to the case handled for the purpose of investigation.
- *Laboratory Examination*; Criminal laboratory examination of evidence is an examination of evidence obtained from searching, taking, confiscating, securing and sending National Police officers or other law enforcement agencies, which is carried out using scientific methods at the Police Laboratory, so that the evidence that has been examined can be made wrong of one valid evidence.¹¹
- *Arrest*; Arrest is an act by an investigator in the form of temporarily restricting the freedom of a suspect or defendant if there is sufficient evidence for purposes of investigation or prosecution and/or trial in matters and according to methods regulated in law. An arrest can be made by an investigator or assistant investigator against a suspect or by an investigator on the order of the investigator.
- *Detention*; Detention is the placement of a suspect or defendant in a certain place by an investigator or public prosecutor or judge by ruling, in matters and according to methods regulated in this law.

Based on the description of the role of the Sub Directorate of Cyber Crime, *Ditreskrim* in investigating cyber crime in the region, it has been running properly. Referring to the theory of legal certainty which emphasizes that laws or regulations are enforced as desired by the laws/regulations. Everyone expects that

¹⁰Darwin, Ilham Panunggal Jati. (2018). *Peran Kepolisian Dalam Penyidikan Tindak Pidana Penyebaran Berita Bohong (Hoax)*. Jurnal, Bandar Lampung: Universitas Lampung, p. 9

¹¹ Regulation of the Chief of Police of the Republic of Indonesia Number 10 of 2009 concerning Procedures and Requirements for Requesting a Criminalistic Technical Examination at the Crime Scene and Laboratory for Evidence to the Forensic Laboratory of the Indonesian National Police.

the law can be enacted in the event of a concrete event. How the law must apply, so that basically it is not permissible to deviate, even though this world is collapsing, the law must be enforced. This is what legal certainty wants.¹² Legal certainty as justifiable protection against arbitrary actions, which means that a person will be able to get something that is expected in certain circumstances. The public expects legal certainty, because with legal certainty, the community will be more orderly. Law has the task of creating legal certainty because it aims at public order.

Legal certainty according to Jan Michiel Otto defines the possibility that in certain situations:

- There are rules that are clear, consistent and easy to obtain, issued by and recognized because of the (power) of the country.
- The ruling (government) agencies apply these legal rules consistently and also obey and obey them.
- In principle, citizens adjust their behavior to these rules.
- Judges (judiciary) who are independent and do not think consistently apply these legal rules when they resolve legal disputes.
- Concrete judicial decisions are implemented.¹³
- In handling cyber crime cases, clear rules, consistent and easy to obtain, published and recognized because the (power) of the country and the role of the Sub Directorate of Cyber Crime are in accordance with the theory of legal certainty according to Jan Michiel Otto.

3.2. Obstacles in the Sub-Division of Cyber Crime in the Cyber Crime Investigation

Not all of the investigations of cyber crime are carried out easily and smoothly. Several times, the investigators of the Sub-Directorate for Cyber Crime, *Ditreskrimsus* experienced problems in carrying out their duties to resolve cases. Following are the obstacles experienced by the Cyber Crime Sub-Directorate for Criminal Investigation and Crime Investigation:

3.2.1 The data or information reported by the reporter is very minimal

When a reporter reports or complains to the Police, the data and/or information provided is often very limited, not detailed. This is because the reporter does not really know the reported party so that his data or identity cannot be known specifically.

3.2.2. Easy to remove traces of the perpetrator

Cyber crime cases carried out through the internet have an opening for perpetrators to erase their traces. The perpetrator can deliberately delete the social media account so that it cannot be contacted by anyone. This makes it quite difficult for the investigators to find the suspect.

¹²Sanjaya, A. W. (2015). *Kewenangan penyidikan tindak pidana pencucian uang yang dilakukan oleh anggota Tentara Nasional Indonesia*. Tesis. Jember: Faculty of Law, Universitas Jember. p. 169-170

¹³Soeroso. (2011). *Pengantar Ilmu Hukum*. Jakarta. Pt. Sinar Grafika, p. 9

3.2.3. Lack of evidence for investigation

Article 184 of the Criminal Procedure Code states that valid evidence is the testimony of witnesses, expert statements, letters, instructions and statements of the defendants. In the system of proof of criminal procedural law that adheres to the negative *wettelijk* system, only evidence tools that are legal according to law can be used for proof. In the case of cyber crime, sometimes there are no witnesses who see or hear because the actions were carried out privately on social media. Besides, the hints obtained did not have perfect evidentiary power.

3.2.4. There are still limited human resources and special tools to support the cybercrime investigation process

Generally investigator of National Police is still very minimal in their computer operational mastery and understanding of computer hacking and the ability to conduct investigations into these cases. Some of the most influential factors (determinants) are:

- Lack of computer knowledge.
- The technical knowledge and experience of investigators in handling cybercrime cases are still limited.
- Factors of the proof system that make it difficult for investigators.
- In uncovering cyber crime cases, facilities that are capable of supporting the performance of the police are needed. This facility is in the form of a computer forensic laboratory which is used to uncover digital data and record and store evidence in the form of soft copies (images, programs, html, sound, etc.). Computer forensics is a branch of forensic science that deals with legal evidence found in computers and digital storage media. Computer forensics is known as digital forensics. The aim is to secure and analyze digital evidence, as well as obtain various objective facts from an incident or security breach of the information system. These various facts will be used as evidence in the legal process. Example, Through Internet Forensics, we can find out who are the people who send us emails, when and where the senders are. In another example, we can see who the complete website visitor is with IP address information, the computer he uses and his whereabouts and what activities are carried out on our website.

Digital forensic capabilities use facilities that only computer forensic laboratories have. In relation to this, the Central Java Police's cyber crime unit does not yet have facilities in the form of a computer forensic laboratory, which hampers efforts to investigate cyber crime in the jurisdiction of the Central Java Regional Police.

In the framework of law enforcement, the facilities and facilities must be adequate because often the law is difficult to enforce because it is collided with the factor of inadequate or even non-existent facilities. With a lack of facilities and supporting facilities, law enforcement will be hampered and of course, law enforcement officers cannot actually maximize their role. Means or facilities that are quite effective in law enforcement can be in the form of certainty in handling cases and speed of processing the case, because the impact here will be more real when compared to the increase in negative sanctions. If the level of certainty and speed

of case handling is increased, then negative sanctions will have a frightening effect that will prevent both crime and recidivism from increasing.

3.2.5. Arrest suspects often we can't pinpoint who the culprit

It is because they do it through enough computer which can be done anywhere without anyone knowing it so that no witness will know firsthand. The most distant tracking results can only find the IP address of the perpetrator and the computer used. It will be even more difficult when using the cafe because nowadays there are still very few cafes that register their service users so that we cannot know who used the computer at the time of a crime.

3.2.6. Foreclosure Evidence

It has encountered a lot of problems because usually the reporter is very slow in reporting, this makes the attack data in the server logs deleted, usually occurs in cases deface, so that investigators have difficulty finding the statistical logs contained on the server because usually the server automatically deletes the logs to reduce server load. This makes investigators unable to find the data needed to be used as evidence while statistical log data is one of the vital evidence in a hacking case to determine the direction of the attack.

3.2.7. There are still many people who do not understand about cybercrime

Globalization is a process by which the world's people can reach out to one another or are interconnected in all aspects of their lives, be it in culture, economy, politics, technology or the environment. The result of globalization is the internet, which is one of the most advanced technologies that connects users around the world.

The internet helps its users get information and interact with other users through social media. Social media is a channel or means of social interaction online in cyberspace. Indonesia is a country with a high public consumption of social media. The social media used by the community are very diverse, including Facebook, Twitter, path, line and so on.

Social media circulating around the world has a positive and negative influence. The positive influence is that users can communicate educatively where users can provide opinions and exchange information with fellow users so as to provide knowledge. However, on the other hand, there are many negative effects. The use of social media has resulted in changes in communication styles as well as community characteristics such as over-pride for what one has by uploading self-portraits with strange styles, and greedy behavior.

Another negative influence is social media as a place to interact which is actually used for negative things, such as fake online buying and selling, pornography via the internet, spreading fake news, and so on.

4. Conclusion

The role of the Central Java Police's sub-district cyber crime in investigating cyber crime is carrying out investigations and investigations into special crimes (cyber) that occur in the Central Java Regional Police's jurisdiction in the form of

summons, examinations, seizures, searches and arrests and detentions related to cyber cases handled and providing assistance in the handling of cyber crime cases that are being handled by the ranks/*Polres*. Investigation begins with a police report or complaint, summons of suspects/witnesses/experts, searches, confiscation, laboratory examination, arrest, detention, and transfer of files to the prosecutor's office.

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