

Opportunistic Theft at Traffic Accident Scenes and the Limits of Victim Protection in Indonesian Criminal Law Enforcement

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ABSTRACT

Traffic accidents in Indonesia frequently create conditions of vulnerability that are exploited by opportunistic individuals to commit theft against incapacitated victims, constituting aggravated theft under Article 363 of the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana/KUHP). This study examines the law enforcement process against such offenses within the jurisdiction of Polres Gresik and identifies the factors that influence its effectiveness. An empirical juridical method with a socio-legal approach was employed, combining semi-structured interviews with law enforcement personnel from Unit Laka Lantas and Unit Reskrim of Polres Gresik with secondary data drawn from relevant legislation, institutional reports, and academic literature. The findings indicate that while enforcement procedures formally conform to the applicable legal framework, operational effectiveness is significantly constrained by limitations in personnel capacity, inadequate surveillance infrastructure, low levels of community legal awareness, and fragmented inter-agency coordination between police, transportation authorities, hospital services, and Jasa Raharja. In response, Polres Gresik has undertaken institutional improvements including rapid response unit deployment, officer training programs, and community legal education initiatives, though these measures remain insufficiently institutionalized to produce durable enforcement outcomes. The study concludes that achieving consistent legal protection for accident victims requires simultaneous reform across personnel development, surveillance infrastructure, community legal literacy, and inter-agency information management, guided by an integrated institutional framework that bridges the gap between formal procedural compliance and substantive enforcement effectiveness.

Keywords: *Aggravated Theft, Criminal Law Enforcement, Gresik District Police, Traffic Accident Victims, Traffic Law*

Pencurian Oportunistik di Lokasi Kecelakaan Lalu Lintas dan Batas Perlindungan Korban dalam Penegakan Hukum Pidana Indonesia

ABSTRAK

Kecelakaan lalu lintas di Indonesia kerap menciptakan kondisi kerentanan yang dimanfaatkan oleh pihak-pihak yang tidak bertanggung jawab untuk melakukan pencurian terhadap korban yang sedang tidak berdaya, suatu perbuatan yang dikategorikan sebagai pencurian dengan pemberatan berdasarkan Pasal 363 Kitab Undang-Undang Hukum Pidana (KUHP). Penelitian ini mengkaji proses penegakan hukum terhadap tindak pidana tersebut di wilayah hukum Polres Gresik serta mengidentifikasi faktor-faktor yang memengaruhi efektivitasnya. Metode yang digunakan adalah yuridis empiris dengan pendekatan sosio-legal, melalui wawancara semiterstruktur dengan personel Unit Laka Lintas dan Unit Reskrim Polres Gresik, didukung data sekunder berupa peraturan perundang-undangan, laporan kelembagaan, dan literatur akademik yang relevan. Hasil penelitian menunjukkan bahwa meskipun prosedur penegakan hukum telah sesuai dengan kerangka hukum yang berlaku, efektivitas operasional terhambat secara signifikan oleh keterbatasan kapasitas personel, minimnya infrastruktur pengawasan, rendahnya kesadaran hukum masyarakat, serta lemahnya koordinasi antarinstansi antara kepolisian, dinas perhubungan, layanan rumah sakit, dan Jasa Raharja. Sebagai respons, Polres Gresik telah melakukan berbagai perbaikan kelembagaan, antara lain pembentukan unit respons cepat, pelatihan personel, dan sosialisasi hukum kepada masyarakat, meskipun langkah-langkah tersebut belum cukup terlembaga untuk menghasilkan perbaikan penegakan hukum yang berkelanjutan. Penelitian ini menyimpulkan bahwa perlindungan hukum yang konsisten bagi korban kecelakaan memerlukan reformasi serentak di bidang pengembangan personel, infrastruktur pengawasan, literasi hukum masyarakat, dan manajemen informasi antarinstansi, yang dipandu oleh kerangka kelembagaan terpadu.

Kata kunci: *Kecelakaan Lalu Lintas, Korban Kecelakaan, Pencurian dengan Pemberatan, Penegakan Hukum Pidana, Polres Gresik*

INTRODUCTION

Traffic accidents constitute one of the most persistent public safety challenges in Indonesia, inflicting significant losses in both lives and material property each year. National data consistently records tens of thousands of traffic accident cases annually across the country's road network, with the highest incidence concentrated on provincial and national roads in densely populated regions. What makes this phenomenon particularly troubling from a criminal law perspective is that the chaotic and disorganized conditions at accident scenes have repeatedly been exploited by opportunistic individuals to commit theft against victims who are rendered physically incapacitated. Such conduct constitutes a compounding form of victimization in which persons already subjected to physical trauma are exposed to a secondary criminal harm.¹ This intersection of road traffic incidents and opportunistic criminal conduct thus creates a complex legal problem that existing law enforcement frameworks must be equipped to address.

Within the jurisdiction of *Polres Gresik*, this problem has become a matter of documented concern. Incident records and media reports have captured cases in which personal belongings, including mobile phones and valuables, were taken from victims while they remained incapacitated at accident scenes. Such acts fall within the scope of Article 363 paragraph (1) of the Indonesian Criminal Code (*Kitab Undang-Undang Hukum Pidana/KUHP*), which classifies theft committed during calamitous or emergency circumstances as aggravated theft carrying enhanced penalties. Despite this statutory provision, enforcement has remained inconsistent in practice, raising substantive questions about institutional capacity at the district police level. The urgency of this issue is further amplified by the fact that accident victims represent among the most legally and physically vulnerable individuals within the criminal justice context.²

Prior studies have examined law enforcement effectiveness within Indonesian policing from a range of theoretical and empirical standpoints. Manik investigated the imposition of criminal sanctions on police personnel who engaged in misconduct during the investigation process, demonstrating that institutional accountability mechanisms within *Polri* remain structurally incomplete and are frequently

¹ Mahrus Ali and Rena Yulia, "Finding the Factors and Proposing the Solution for Preventing Secondary Victimization," *Academic Journal of Interdisciplinary Studies* 12, no. 5 (September 5, 2023): 262, <https://doi.org/10.36941/ajis-2023-0150>.

² Budi Sastra Panjaitan and Adlin Budhiawan, "REALIZING JUSTICE, RELATIONSHIP BETWEEN ACTORS AND VICTIMS IN INDONESIAN CRIMINAL LAW ENFORCEMENT," *Russian Law Journal* 11, no. 2 (March 31, 2023), <https://doi.org/10.52783/rlj.v11i2.659>.

undermined by internal procedural barriers.³ That study highlighted that the quality of criminal investigations at the unit level is critically dependent on both individual officer competence and the strength of internal oversight systems. These findings are directly relevant to the present study's concern with the quality of investigative responses to theft cases arising at accident scenes.⁴

A second stream of prior scholarship has addressed the relationship between institutional coordination and the outcomes of criminal investigations in Indonesia. Adiyaryani and Sudiarawan conducted an analysis of surveillance functions in Indonesian law enforcement within the framework of the integrated criminal justice system, revealing that fragmented communication channels between units within and across law enforcement agencies significantly impede effective case handling.⁵ Their study concluded that enforcement quality is structurally shaped by the degree of procedural integration across institutional actors. This finding resonates directly with the coordination challenges identified in the Gresik context, where cases of accident-scene theft require simultaneous engagement from both traffic (*lalu lintas*) and criminal investigation (*reskrim*) units.⁶ The broader systemic dimension of this problem is further confirmed by Pangaribuan, whose dissertation-based research on *ego sektoral* in Indonesian criminal case processing documented how uncooperative institutional behavior between police, prosecutors, and other justice actors creates persistent inefficiencies that undermine the effectiveness of investigations at every level of the system.⁷

The theoretical foundation of this study draws primarily from Soerjono Soekanto's classical framework of law enforcement, which holds that effective legal enforcement depends upon the harmonization of five interdependent factors: the law itself, law enforcement personnel, supporting facilities and infrastructure, community participation, and legal culture.⁸ This model has been widely adopted in Indonesian legal scholarship as a diagnostic tool for evaluating institutional performance in criminal justice settings. Complementing this, Satjipto Rahardjo's notion of *hukum*

³ Sonya Isabella Manik, "Imposition of Sanctions Criminal Personnel for Torture in the Investigation Process," *Indonesian Journal of Criminal Law Studies* 6, no. 1 (May 31, 2021): 11–26, <https://doi.org/10.15294/ijcls.v6i1.28603>.

⁴ Manik.

⁵ Ni Nengah Adiyaryani and Kadek Agus Sudiarawan, "Surveillance Function in Law Enforcement in Indonesia: Integrated Criminal Justice System Perspective," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 10, no. 3 (September 30, 2021): 471, <https://doi.org/10.24843/JMHU.2021.v10.i03.p04>.

⁶ Adiyaryani and Sudiarawan.

⁷ Aristo Marisi Adiputra Pangaribuan, "Cooperation and Non-Cooperation in Indonesian Criminal Case Processing: Ego Sektoral in Action" (University of Washington, 2022), <http://hdl.handle.net/1773/49391>.

⁸ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Press, 2013).

progresif (progressive law) informs the study's analysis of how enforcement officers adapt operationally to social realities that statutory law does not fully anticipate, particularly in the context of emergency-situation crimes. Both frameworks have been consistently applied in Indonesian socio-legal studies as interpretive lenses for evaluating policing conduct.⁹ Suhendar and Aringga further demonstrate, through a juridical-empirical review of deviations in Indonesian law enforcement practice, that the principle of equality before the law remains structurally undermined by officer conduct and institutional culture, which bears direct implications for the impartial protection of accident victims.¹⁰

Indonesian law establishes a multi-layered normative basis for the enforcement conduct examined in this study. Law Number 22 of 2009 on Road Traffic and Land Transportation governs officer responsibilities at accident scenes, including the duty to secure the scene and protect the persons and property involved. *Peraturan Kapolri* Number 6 of 2019 on Criminal Investigation Management further prescribes procedural standards for evidence collection, witness handling, and case referral in criminal investigations, including those arising from extraordinary incidents. The simultaneous application of these two legal instruments in accident-scene theft cases requires officers to operate across both traffic management and criminal investigation functions, a dual institutional demand that has not been comprehensively addressed in existing police guidelines.¹¹ Panjaitan and Budhiawan argue that Indonesian criminal law must evolve to reflect more victim-centered approaches in which the justice system is capable of responding to the full spectrum of harm suffered by crime victims, including those who are victimized opportunistically under emergency conditions.¹²

This study aims to analyze the law enforcement process against theft of accident victims' belongings in the jurisdiction of *Polres Gresik* and to identify the factors that influence its effectiveness. The significance of this research lies in its contribution to a relatively underexplored area of Indonesian criminal law scholarship, specifically the intersection of traffic accident response and opportunistic property crime. By employing an empirical juridical approach with a socio-legal dimension, this study seeks to produce findings that are both legally grounded and practically oriented toward

⁹ Lita Tyesta Addy Listya Wardhani, Muhammad Dzikirullah H Noho, and Aga Natalis, "The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate the Prismatic Mixed Legal Systems," *Cogent Social Sciences* 8, no. 1 (December 31, 2022), <https://doi.org/10.1080/23311886.2022.2104710>.

¹⁰ Suhendar and Rino Dedi Aringga, "Equality Before the Law in Law Enforcement in Indonesia," *Sinergi International Journal of Law* 2, no. 1 (January 9, 2024): 38–48, <https://doi.org/10.61194/law.v2i1.109>.

¹¹ Supriyono Supriyono, Ahmad Yulianto Ihsan, and About Author, "Criminal Liability in Prison Fire Case: A Case Study of Class I Tangerang Prison Fire," *Indonesian Journal of Criminal Law Studies* 7, no. 1 (May 31, 2022): 127–46, <https://doi.org/10.15294/ijcls/v7i1.35669>.

¹² Panjaitan and Budhiawan, "REALIZING JUSTICE, RELATIONSHIP BETWEEN ACTORS AND VICTIMS IN INDONESIAN CRIMINAL LAW ENFORCEMENT."

improving enforcement policy at the district police level, ultimately strengthening the legal protection available to accident victims.

LITERATURE REVIEW

The Legal Framework of Aggravated Theft in Indonesian Criminal Law

The criminal prohibition of theft under Indonesian law is codified in Article 362 of the *Kitab Undang-Undang Hukum Pidana* (KUHP), which defines the offense as the taking of another person's property with the intention of unlawful possession. The law extends this basic prohibition through Article 363, which elevates the classification of the offense to aggravated theft (*pencurian dengan pemberatan*) when certain qualifying circumstances are met, including commission during a disaster, calamity, or accident. The legislative intent underlying this provision reflects a recognition that victims in such circumstances are particularly vulnerable and that the deliberate exploitation of their incapacitated condition constitutes a morally and legally graver wrong than ordinary theft. Amri, Bawono, and Maerani, in their empirical study of motorcycle theft investigations at the Pati District Police, documented that low levels of community legal knowledge and the absence of adequate law enforcement presence at crime scenes were recurring factors that enabled perpetrators to act in environments of reduced institutional oversight, a pattern that closely mirrors the conditions observed at traffic accident scenes.¹³ Their findings underscore the importance of proactive enforcement mechanisms as a complement to existing statutory prohibitions.

The enactment of Law Number 1 of 2023 on the National Criminal Code (*Kitab Undang-Undang Hukum Pidana Nasional*) introduced structural reforms to the formulation of aggravated theft, which is re-codified under Article 477 of the new instrument. While the new code preserves the essential elements of the offense, it introduces clearer categorization of aggravating factors and a more proportional sentencing framework. Faisal, Darmawan, Rustamaji, Firdaus, and Rahmaddi argued that the legislative reform of sentencing policy in the new Criminal Code was oriented toward a principle of balance between retributive and rehabilitative objectives, a shift with direct implications for how courts approach the punishment of opportunistic property crimes committed in emergency contexts.¹⁴ These normative changes signal an evolving approach within Indonesian criminal law toward a more proportional and victim-sensitive framework. Tongat further argued that the new code's incorporation

¹³ Yusril Ilza Amri, Bambang Tri Bawono, and Ira Alia Maerani, "Criminal Investigation of Motorcycle Stealing Goods," *Law Development Journal* 3, no. 1 (March 11, 2021): 169, <https://doi.org/10.30659/ldj.3.1.169-174>.

¹⁴ Faisal Faisal et al., "Kebijakan Legislasi Pembaruan Pidanaan Kitab Undang-Undang Hukum Pidana," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 11, no. 4 (December 30, 2022): 928, <https://doi.org/10.24843/JMHU.2022.v11.i04.p15>.

of living law principles carries ambiguous implications for the consistent application of statutory penal provisions, a concern that is directly relevant when aggravated theft offenses must be proven under factual circumstances not expressly anticipated by the drafters.¹⁵

The application of aggravated theft provisions to accident-scene theft cases presents specific evidentiary and interpretive challenges that the statute does not fully resolve. Law enforcement officers must determine under time pressure whether the facts of a case satisfy the qualifying elements of aggravated theft, a task that requires concurrent engagement with both the factual investigation and the applicable legal standard. The absence of dedicated procedural guidelines for this specific offense category has been identified in the literature as a persistent source of inconsistency in enforcement outcomes, placing disproportionate reliance on the individual discretion of officers who may lack adequate training for such assessments.¹⁶ The normative complexity of this situation reinforces the need for institutional guidelines that bridge the gap between statutory provisions and field-level enforcement practice.

Theoretical Framework of Law Enforcement Effectiveness

The most widely applied theoretical framework for analyzing the effectiveness of law enforcement in Indonesian legal scholarship is that developed by Soerjono Soekanto, which identifies five interdependent factors that determine whether legal norms are effectively implemented in practice: the substance of the law, the quality and integrity of law enforcement personnel, the availability of adequate facilities and infrastructure, community participation, and prevailing legal culture.¹⁷ This framework has been applied in numerous empirical studies across Indonesian law faculties as a diagnostic tool for identifying specific sources of enforcement failure. Marsiawan, Wahyuningsih, and Bawono applied Soekanto's framework to an investigation of theft law enforcement in a district police jurisdiction and found that deficiencies in two of the five factors, namely personnel capacity and community legal awareness, accounted for the majority of enforcement failures observed at the case-handling level.¹⁸ Their empirical findings confirmed that Soekanto's five-factor model retains strong explanatory power for understanding enforcement outcomes in Indonesian district

¹⁵ Tongat Tongat, "The Ambiguous Authority of Living Law Application in New Indonesian Penal Code: Between Justice and the Rule of Law," *International Journal of Criminal Justice Sciences* 17, no. 2 (December 31, 2022): 188–209, <https://ijcjs.com/menu-script/index.php/ijcjs/article/view/529>.

¹⁶ Amri, Bawono, and Maerani, "Criminal Investigation of Motorcycle Stealing Goods."

¹⁷ Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*.

¹⁸ Hamdani Marsiawan, Sri Endah Wahyuningsih, and Bambang Tri Bawono, "The Law Enforcement on Crime of Motorcycle Theft," *LDJ: Law Development Journal* 4, no. 2 (2022).

police contexts, including those involving property crimes committed under opportunistic conditions.¹⁹

Complementing Soekanto's structural framework, Satjipto Rahardjo's concept of *hukum progresif* (progressive law) provides a normative orientation for evaluating how enforcement officers navigate situations where formal legal provisions do not fully address the social realities they encounter in the field. Progressive law holds that law must serve human beings rather than the reverse, and that officers are not merely mechanical appliers of rules but agents capable of exercising moral judgment in the service of substantive justice. This principle is particularly relevant in accident-scene theft cases, where officers must simultaneously manage emergency response, evidence preservation, and criminal investigation under conditions of institutional and informational uncertainty. Faisal et al. observed that Indonesian criminal law reform has increasingly incorporated this orientation through the legislative recognition of living law principles, though they cautioned that excessive flexibility in penal provision interpretation may undermine legal certainty in enforcement practice.²⁰ The productive tension between progressive legal thinking and the principle of *lex certa* therefore constitutes one of the central theoretical challenges for law enforcement in the context of this study.

The concept of restorative justice has also gained traction in Indonesian criminal law scholarship as a complementary paradigm for certain categories of property crime. Sukardi and Purnama that the Indonesian criminal justice system's continued reliance on purely retributive frameworks has constrained its capacity to deliver substantive justice for victims, and that restorative principles grounded in Indonesian legal and cultural values offer a more constructive resolution pathway in appropriate cases.²¹ The procedural basis for this approach is now formally established through *Peraturan Kapolri* Number 8 of 2021 on Restorative Justice in Criminal Case Handling. In accident-scene theft cases, however, the applicability of restorative justice remains circumscribed by the aggravated classification of the offense, which carries a stronger public interest dimension and greater evidentiary demands, limiting the scope for informal resolution.²²

Community Participation, Institutional Coordination, and Policing Capacity

Community participation constitutes one of the five factors in Soekanto's enforcement effectiveness framework and has been consistently identified in empirical

¹⁹ Marsiawan, Wahyuningsih, and Bawono.

²⁰ Faisal et al., "Kebijakan Legislasi Pembaruan Pemidanaan Kitab Undang-Undang Hukum Pidana."

²¹ Sukardi Sukardi and Hadi Rahmat Purnama, "Restorative Justice Principles in Law Enforcement and Democracy in Indonesia," *Journal of Indonesian Legal Studies* 7, no. 1 (June 1, 2022): 155–90, <https://doi.org/10.15294/jils.v7i1.53057>.

²² Sukardi and Purnama.

Indonesian studies as one of the most variable and structurally difficult dimensions to address. Ananda, Setyabudi, and Nita examined the use of restorative justice in criminal fraud and embezzlement cases within the Surabaya Police area and found that successful case resolution was strongly correlated with the voluntary cooperation of witnesses and community members with investigators.²³ Their findings demonstrated that passive bystander behavior, driven by low legal literacy and reluctance to engage with formal institutions, constituted one of the most significant practical obstacles to effective property crime enforcement, a dynamic that directly applies to accident-scene theft cases in which multiple bystanders are typically present at the scene.²⁴ The paradox of high witness availability alongside low witness cooperation reflects a deep structural challenge that enforcement institutions must address through community-oriented legal education rather than purely procedural responses.

Inter-agency coordination represents a second structural determinant of enforcement quality in the Indonesian policing context. Accident-scene theft cases require simultaneous engagement from traffic units (*Unit Laka Lantas*), criminal investigation units (*Unit Reskrim*), hospitals, *Jasa Raharja*, and transportation authorities, yet the communication protocols and information systems connecting these actors remain fragmented at the district police level. Marsiawan et al. documented that inadequate coordination between investigative units and supporting institutions in property crime cases resulted in evidence documentation gaps and delayed case handling, findings that are consistent with the broader pattern observed across Indonesian district police jurisdictions.²⁵ The absence of unified case management systems that link first-responder data with downstream prosecutorial and civil compensation processes creates structural inefficiencies that reduce the probability of successful criminal prosecution and leave victims without adequate legal recourse.²⁶

The operational capacity of police personnel to perform at the required standard constitutes the third structural variable examined in this section. Amri et al. highlighted that investigative officers at the district police level frequently lacked specialized training in evidence collection and witness management for theft cases arising in complex factual settings, resulting in uneven case quality that disadvantaged victims in the prosecutorial process.²⁷ The introduction of restorative justice frameworks through *Peraturan Kapolri* Number 8 of 2021 has added a new procedural layer to case

²³ Adjie Rizky Ananda, Chairul Muriman Setyabudi, and Surya Nita, "Exploring the Use of Restorative Justice in Criminal Cases of Fraud and Embezzlement: A Study in Surabaya Police Area, Indonesia," *International Journal of Social Science Research and Review* 6, no. 4 (April 13, 2023): 652–58, <https://doi.org/10.47814/ijssrr.v6i4.1231>.

²⁴ Ananda, Setyabudi, and Nita.

²⁵ Marsiawan, Wahyuningsih, and Bawono, "The Law Enforcement on Crime of Motorcycle Theft."

²⁶ Marsiawan, Wahyuningsih, and Bawono.

²⁷ Amri, Bawono, and Maerani, "Criminal Investigation of Motorcycle Stealing Goods."

management that officers must navigate alongside existing criminal investigation obligations, further increasing demands on individual competence and institutional coordination. In the *Polres Gresik* context, these capacity constraints are compounded by limitations in surveillance infrastructure, including restricted CCTV coverage along accident-prone road corridors, which increases dependence on witness testimony as the primary evidentiary source and makes the quality of first-responder conduct at the scene especially consequential for downstream enforcement outcomes.²⁸

RESEARCH METHODOLOGY

This study employs an empirical juridical (*yuridis empiris*) research method supported by a socio-legal approach.²⁹ Budianto argues that legal research should no longer maintain a rigid dichotomy between normative and sociological inquiry, as the legal system is inherently a product of community values and social practice, a position that directly informs the methodological orientation adopted in this study.³⁰ The empirical juridical approach treats law not merely as a body of abstract norms but as a living practice that must be evaluated against the social conditions in which it operates. Nurhayati, Ifrani, and Said further explain that while normative research focuses on legal norms, principles, and doctrines at the level of ideal legal architecture, empirical legal research is non-doctrinal in character and is conducted through field research, with data collected and processed according to qualitative analytical techniques in order to describe the factual condition of law as it operates in reality.³¹ The combination of both orientations in this study allows for a comprehensive examination of both the legal standards governing law enforcement conduct at accident scenes and the actual implementation of those standards within the *Polres Gresik* jurisdiction.

Primary data for this study were collected through structured and semi-structured interviews with law enforcement officers stationed at *Polres Gresik*, specifically personnel from *Unit Laka Lantas* (Traffic Accident Unit) and *Unit Reskrim* (Criminal Investigation Unit), as well as relevant officials from the *Kejaksaan Negeri Gresik* (Gresik District Prosecutor's Office). The interview method was selected because it enables direct access to the practical knowledge and experiential accounts of

²⁸ Ananda, Setyabudi, and Nita, "Exploring the Use of Restorative Justice in Criminal Cases of Fraud and Embezzlement: A Study in Surabaya Police Area, Indonesia."

²⁹ Dr. Suyanto Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan* (Gresik: Unigress Press, 2022).

³⁰ Agus Budianto, "Legal Research Methodology Reposition in Research on Social Science," *International Journal of Criminology and Sociology* 9 (April 5, 2022): 1339–46, <https://doi.org/10.6000/1929-4409.2020.09.154>.

³¹ Yati Nurhayati, Ifrani Ifrani, and M. Yasir Said, "METODOLOGI NORMATIF DAN EMPIRIS DALAM PERSPEKTIF ILMU HUKUM," *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (January 17, 2021): 1–20, <https://doi.org/10.51749/jphi.v2i1.14>.

individuals who are actively involved in the enforcement process under examination. In the hierarchy of primary data sources for socio-legal research, interviews occupy a significant position alongside national and international journal articles, academic papers, and court decisions, as they provide contextually rich data that cannot be derived from document analysis alone. Secondary data were drawn from a review of national legislation, *Peraturan Kapolri*, institutional reports, and academic literature relevant to the study's theoretical and legal framework. The purposive selection of informants was based on their direct involvement in handling traffic accident cases within the study period, ensuring that interview responses were grounded in concrete professional experience rather than generalized institutional knowledge.

Data analysis was conducted using a descriptive qualitative method, through which the primary and secondary data obtained were systematically organized, interpreted, and evaluated in relation to the applicable legal framework and theoretical constructs. This analytical approach is consistent with the nature of empirical juridical research, which aims to produce descriptive accounts of legal practice that reveal the gap between *das Sollen* (law as it ought to be) and *das Sein* (law as it actually operates). Susilowati, applying a similar methodological framework in an empirical study of minor offense sentencing in Indonesia, he demonstrated that qualitative legal analysis grounded in field data and statutory interpretation is an effective instrument for identifying the structural and operational sources of enforcement inconsistency at the institutional level.³² The findings of the analysis are presented in a manner that connects field-level observations directly to the theoretical framework established in Section 2, enabling a systematic evaluation of whether enforcement practice at *Polres Gresik* satisfies the conditions identified in Soekanto's five-factor model as prerequisites for effective law enforcement.

RESULTS AND DISCUSSION

The Law Enforcement Process Against Theft of Accident Victims' Belongings at *Polres Gresik*

The law enforcement process at *Polres Gresik* in handling theft of accident victims' belongings follows a procedural sequence that begins with public reporting (*pelaporan*), continues through crime scene examination (*olah TKP*) by the *Unit Laka Lantas*, advances to criminal investigation (*penyidikan*) by the *Unit Reskrim*, and concludes with case referral (*pelimpahan perkara*) to the *Kejaksaan Negeri Gresik*. This procedural chain is governed by Law Number 22 of 2009 on Road Traffic and

³² Christina Maya Indah Susilowati, "Sentencing of Minor Offences in Indonesia: Policy, Practice and Reform," *International Journal of Criminology and Sociology* 10 (April 8, 2021): 778–83, <https://doi.org/10.6000/1929-4409.2021.10.92>.

Land Transportation and operationalized through *Peraturan Kapolri* Number 6 of 2019 on Criminal Investigation Management. Field interviews conducted with personnel from both *Unit Laka Lantas* and *Unit Reskrim* confirmed that officers generally follow the prescribed procedural framework, with initial scene management focused on victim evacuation, scene security, and preliminary evidence documentation before transitioning to the formal investigative phase. Hutahaeen and Indarti demonstrated that the Indonesian National Police's investigative framework, while institutionally sound at the normative level, consistently faces implementation gaps at the operational unit level when institutional supervision is inadequate, a pattern that was observable in the *Polres Gresik* findings as well.³³

The evidentiary basis for prosecution in accident-scene theft cases at *Polres Gresik* relies primarily on three categories of proof: witness testimony, physical evidence recovered from the scene, and digital evidence where available, particularly CCTV footage from nearby installations. Officers reported that witness testimony constitutes the most frequently available but also the most unreliable form of evidence, given that bystanders at accident scenes are often in a state of stress, have limited observation angles, and are reluctant to commit to formal witness statements. Physical evidence, including stolen items recovered through subsequent arrests, provides a more reliable evidentiary basis but is contingent on the speed of initial response and the officer's capacity to secure the scene before it is disturbed. Sitorus and Amal observed that professionalism in Indonesian police investigation units is directly correlated with the adequacy of personnel training and the consistency of institutional supervision, and that gaps in either dimension predictably result in evidentiary weaknesses that compromise prosecution outcomes.³⁴ These findings are consistent with the evidence management challenges documented at *Polres Gresik* through the present study's field interviews.

The classification of the offense as aggravated theft under Article 363 paragraph (1) of the KUHP requires investigators to establish, as part of the evidentiary record, that the theft occurred during an accident or calamity and that the perpetrator was aware of the victim's incapacitated condition at the time of the act. This requirement imposes a specific evidentiary burden that ordinary theft investigations do not carry, demanding that officers document the temporal and circumstantial relationship between the accident event and the theft with sufficient precision to support prosecutorial charging.

³³ Armunanto Hutahaeen and Erlyn Indarti, "Implementation of Investigation by the Indonesian National Police in Eradicating Corruption Crime," *Journal of Money Laundering Control* 23, no. 1 (January 23, 2020): 136–54, <https://doi.org/10.1108/JMLC-12-2018-0075>.

³⁴ R Y Malondo Sitorus and Bakhrul Khair Amal, "Police Professionalism in Prevention of Violent Criminal Acts by the Police in Indonesia," *Randwick International of Social Sciences (RISS) Journal* 3, no. 1 (2022): 102–15.

Idy documented that Indonesian police members who deviate from proper investigative procedures are themselves subject to criminal liability, a finding that reinforces the institutional stakes of ensuring procedural compliance in cases where the evidentiary standard is elevated by the aggravated classification of the offense.³⁵ The present study's findings indicate that this requirement is understood by *Polres Gresik* officers at the conceptual level but is inconsistently translated into investigative practice due to time constraints and resource limitations at the scene.

Factors Affecting the Effectiveness of Law Enforcement

The effectiveness of law enforcement against accident-scene theft at *Polres Gresik* is constrained by a convergence of internal and external factors that correspond closely to Soekanto's five-factor model of enforcement effectiveness. Among the internal factors, the most significant is the limitation in personnel capacity, both in terms of the number of officers available for simultaneous deployment across multiple accident sites and in terms of the specialized competence required to manage accident scenes that present concurrent traffic, criminal, and victim welfare dimensions. Hutahaeen and Indarti identified that institutional investigative capacity within Indonesian district police units is systematically shaped by the effectiveness of internal supervision and personnel development mechanisms, and that weaknesses in these mechanisms directly translate into field-level enforcement failures.³⁶ At *Polres Gresik*, this limitation is reflected in the reliance on the same personnel to perform both traffic management and criminal investigation functions simultaneously, without dedicated protocols governing the transition between these two institutional roles.

The deficit in surveillance infrastructure constitutes a second major internal constraint on enforcement effectiveness. CCTV coverage along roads within the *Polres Gresik* jurisdiction is concentrated in urban commercial areas and does not extend to the majority of road segments that record the highest accident frequency. In the absence of digital surveillance evidence, investigators are almost entirely dependent on witness accounts and physical evidence that may have been compromised by the time formal investigation begins. Sitorus and Amal observed that the adequacy of technological support directly influences the professional capacity of Indonesian police units to conduct investigations that meet evidentiary standards required for successful prosecution.³⁷ This observation aligns with the field findings of the present study,

³⁵ Muhammad Yunus Idy, "Law Enforcement Against Members of The Indonesian National Police Commit Crimes," *Substantive Justice International Journal of Law* 5, no. 2 (October 19, 2022): 143, <https://doi.org/10.56087/substantivejustice.v5i2.194>.

³⁶ Hutahaeen and Indarti, "Implementation of Investigation by the Indonesian National Police in Eradicating Corruption Crime."

³⁷ Sitorus and Amal, "Police Professionalism in Prevention of Violent Criminal Acts by the Police in Indonesia."

which identified the absence of body-worn cameras and real-time digital reporting systems as operational deficiencies that reduce evidence quality at the most critical phase of the enforcement process, namely the period immediately following the incident.

From an external perspective, the most consistently identified obstacle to effective enforcement was the low level of legal awareness among community members at accident scenes. Field interview data from *Polres Gresik* officers revealed a recurring pattern in which bystanders who had witnessed or participated in the removal of victims' belongings declined to provide statements, either because they were unaware that such conduct constituted a criminal offense or because they feared legal consequences for their own involvement. Idy, Hutahaeen and Indarti identified the relationship between community legal literacy and enforcement outcomes as a structurally significant variable in Indonesian criminal justice contexts, noting that enforcement institutions that invest in preventive legal education consistently achieve better evidentiary cooperation from communities than those that rely solely on reactive investigation.³⁸³⁹ In the *Polres Gresik* context, the absence of a systematic community legal education program targeting accident scene conduct was identified as a gap that directly limits the volume and quality of witness cooperation available to investigators.

Institutional Responses and Proposed Improvements

In response to the identified enforcement challenges, *Polres Gresik* has implemented a series of institutional measures aimed at improving both the quality and speed of law enforcement responses to accident-scene theft. These measures include the formation of rapid response units (*unit respons cepat*) assigned to road segments with high accident frequency, periodic training programs for *Unit Laka Lantas* and *Unit Reskrim* personnel on evidence collection procedures and victim protection protocols, and the conduct of community legal education (*sosialisasi hukum*) at the village and subdistrict levels to increase awareness of the criminal status of taking victims' property at accident scenes. Sitorus and Amal argued that sustainable improvements in Indonesian police professionalism are contingent on systemic rather than ad hoc institutional responses, specifically the institutionalization of performance standards, training curricula, and accountability mechanisms that are applied consistently rather than intermittently.⁴⁰ The measures adopted by *Polres Gresik* reflect

³⁸ Idy, "Law Enforcement Against Members of The Indonesian National Police Commit Crimes."

³⁹ Hutahaeen and Indarti, "Implementation of Investigation by the Indonesian National Police in Eradicating Corruption Crime."

⁴⁰ Sitorus and Amal, "Police Professionalism in Prevention of Violent Criminal Acts by the Police in Indonesia."

an awareness of this principle but remain insufficiently institutionalized to produce durable improvement in enforcement outcomes.

Inter-agency coordination between *Polres Gresik* and supporting institutions including *Dinas Perhubungan*, hospital emergency services, and *Jasa Raharja* has been identified as a priority area for structural improvement. Field interviews revealed that the most significant coordination gap lies in the absence of a unified incident reporting system that links first-responder data from the accident scene to downstream case management processes within the criminal investigation unit and the prosecutorial office. This gap creates information discontinuities that delay the formal opening of criminal investigations and reduce the evidentiary completeness of the case file by the time it reaches the *Kejaksaan Negeri*. Hutahaeen and Indarti demonstrated, in their study of police investigation implementation in corruption cases, that the integration of institutional data systems and the standardization of inter-agency communication protocols are prerequisite conditions for achieving consistent investigative quality across complex, multi-actor case environments.⁴¹ The application of this principle to the accident-scene theft context at *Polres Gresik* would require the development of a joint standard operating procedure (*SOP bersama*) between all relevant agencies and the implementation of a shared digital incident management platform.

The application of restorative justice principles under *Peraturan Kapolri* Number 8 of 2021 to cases of accident-scene theft presents both an opportunity and a normative challenge for *Polres Gresik*. While restorative approaches may offer a more constructive resolution pathway in cases where the perpetrator has a prior relationship with the victim, the aggravated classification of the offense under Article 363 KUHP creates a public interest dimension that limits the appropriateness of purely restorative resolution. Idy noted that law enforcement against police misconduct in Indonesia reveals the tension between formal procedural compliance and substantive justice outcomes, a tension that is equally present in the application of restorative frameworks to aggravated offense categories.⁴² The present study's findings suggest that *Polres Gresik* has not yet developed a principled institutional position on when restorative justice approaches are appropriate in accident-scene theft cases and when the aggravated nature of the offense demands full criminal prosecution, a gap that should be addressed through the development of a clear internal case-classification protocol.

The findings of the present study both corroborate and extend the conclusions of prior scholarship cited in the Introduction. The enforcement challenges documented at *Polres Gresik*, including personnel limitations, infrastructural deficiencies, low community legal awareness, and inter-agency coordination failures, are directly

⁴¹ Hutahaeen and Indarti, "Implementation of Investigation by the Indonesian National Police in Eradicating Corruption Crime."

⁴² Idy, "Law Enforcement Against Members of The Indonesian National Police Commit Crimes."

consistent with the findings reported by Manik, Adiyaryani and Sudiarawan, whom identified structural accountability gaps and institutional fragmentation as the primary determinants of enforcement quality at the Indonesian district police level.⁴³⁴⁴ The present study confirms that these structural conditions are not limited to the specific institutional contexts examined in prior research, namely misconduct investigation and surveillance function analysis, but manifest with equal force in the specific and underexplored context of opportunistic property crime at accident scenes. In this respect, the present findings provide empirical validation for the generalizability of Soekanto's five-factor enforcement framework and the progressive law orientation advanced by Rahardjo, both of which proved analytically productive in accounting for the observed pattern of enforcement inconsistency at *Polres Gresik*.

At the same time, the present study diverges from prior scholarship in one important dimension. While Ali, Yulia, Panjaitan, and Budhiawan emphasized the victim-centered normative direction of Indonesian criminal law reform and called for systemic measures to prevent secondary victimization, the present study's field findings reveal that institutional practice at the district police level has not yet meaningfully internalized this normative orientation.⁴⁵⁴⁶ The *Polres Gresik* enforcement response remains primarily reactive and procedurally oriented rather than proactively victim-protective, and the community legal education programs that prior studies identified as a necessary precondition for reducing secondary victimization are present only in incipient form. This gap between normative aspiration and operational reality constitutes the central contribution of the present study to the existing literature. It demonstrates that the victim-centered reforms advocated in recent Indonesian criminal law scholarship will not translate into improved enforcement outcomes without concurrent institutional capacity building at the district police level, targeted investment in surveillance infrastructure, and the development of integrated inter-agency protocols that reduce the information discontinuities that currently undermine the quality of criminal investigations in this specific offense category.

CONCLUSION

This study has demonstrated that law enforcement against theft of accident victims' belongings within the jurisdiction of *Polres Gresik* has been carried out in procedural conformity with the applicable legal framework, encompassing the

⁴³ Manik, "Imposition of Sanctions Criminal Personnel for Torture in the Investigation Process."

⁴⁴ Adiyaryani and Sudiarawan, "Surveillance Function in Law Enforcement in Indonesia: Integrated Criminal Justice System Perspective."

⁴⁵ Ali and Yulia, "Finding the Factors and Proposing the Solution for Preventing Secondary Victimization."

⁴⁶ Panjaitan and Budhiawan, "REALIZING JUSTICE, RELATIONSHIP BETWEEN ACTORS AND VICTIMS IN INDONESIAN CRIMINAL LAW ENFORCEMENT."

provisions of Article 363 of the *Kitab Undang-Undang Hukum Pidana* (KUHP), Law Number 22 of 2009 on Road Traffic and Land Transportation, and *Peraturan Kapolri* Number 6 of 2019 on Criminal Investigation Management. The enforcement process follows a structured sequential procedure from initial scene management and evidence documentation through to criminal investigation and case referral to the prosecutorial office. However, procedural compliance at the formal level has not translated into consistent enforcement effectiveness at the operational level, as the quality and outcomes of individual cases remain significantly influenced by factors that lie beyond the scope of procedural prescription, including the speed of initial response, the availability of physical and digital evidence at the scene, and the degree of witness cooperation secured by investigating officers in the immediate aftermath of the incident.

The effectiveness of law enforcement in this specific offense category is constrained by a convergence of structural deficiencies that operate across both internal and external dimensions of the enforcement environment. Internally, limitations in personnel capacity, insufficient surveillance infrastructure, and the absence of dedicated protocols governing the transition between traffic management and criminal investigation functions have produced recurring evidentiary weaknesses that reduce the quality of case files submitted for prosecution. Externally, persistently low levels of community legal awareness regarding the criminal status of taking victims' property at accident scenes, combined with the absence of a systematic inter-agency information management system connecting first-responder data to downstream prosecutorial processes, have further compounded the enforcement gap. These structural deficiencies reflect the same interdependent dimensions identified in Soekanto's five-factor model of law enforcement effectiveness, confirming that no single institutional intervention will be sufficient to produce durable improvement in enforcement outcomes without simultaneous progress across all five dimensions of the framework.

Addressing the identified enforcement gap requires a coordinated institutional reform agenda that operates at multiple levels simultaneously. At the personnel level, the development and mandatory implementation of specialized training curricula for officers assigned to accident scene management should be prioritized, with particular emphasis on the evidentiary requirements of aggravated theft prosecution and victim protection protocols. At the infrastructural level, targeted investment in surveillance technology along high-frequency accident road corridors and the adoption of body-worn cameras and digital incident reporting systems would substantially improve the evidentiary basis available to investigators. At the community and inter-agency level, the institutionalization of regular legal education programs targeting local communities and the development of a unified standard operating procedure and shared digital platform connecting *Polres Gresik* with *Dinas Perhubungan*, hospital emergency

services, and *Jasa Raharja* are essential preconditions for closing the coordination gaps that currently impede the full realization of legal protection for accident victims. Future research should examine the implementation of these reform measures across multiple district police jurisdictions in order to produce findings with broader generalizability and stronger policy relevance for the national law enforcement reform agenda.

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