

LAW ENFORCEMENT AGAINST PERSONAL DATA LEAKS CARRIED OUT BY THE CENTRAL KALIMANTAN REGIONAL POLICE'S SPECIAL CYBER CRIMINAL RESEARCH DIRECTORATE

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Abstract

Development technology information increase collection and processing of personal data in potential digital services cause leaks . Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) becomes base law data protection and sanctions , however its implementation Still face constraints . Research This aim know enforcement law to personal data leak by the Cyber Criminal Investigation Directorate of the Central Kalimantan Regional Police and obstacles faced . Methods used is study law empirical with approach qualitative through interviews and studies literature . The results show enforcement law done through stage reports , inquiries and investigations based on the PDP Law and the ITE Law, however constrained proof electronics , use identity anonymously by the perpetrator , as well as limitations digital forensics .

Keywords: Law Enforcement , Personal Data Leaks , Cyber Criminal Investigation Directorate .

BACKGROUND

Development technology information and communication has push digital transformation . However , behind benefit said , digitalization also brings consequence Serious in the form of increasing collection , processing and storage of personal data need protection more laws strict Because condition the cause risk personal data leaks that can harming society so that required protection effective law .¹ Personal data own mark strategic Because load various information important about identity somebody . If the data is leaked or misused , the impact No only nature material , but also can cause loss immaterial in the form of violation right privacy , social stigma , to potential action criminal advanced like fraud and theft identity .²Therefore that , protection law regarding personal data become need urge in ensure right basic man on privacy in the digital age.³

As response to increasing risk personal data leak , the Indonesian government has approved Constitution Number 27 of 2022 concerning Further Personal Data Protection abbreviated as the PDP Law. The PDP Law provides base law comprehensive that regulates right data subjects , obligations controllers and processors of personal data , as well as mechanism sanctions administrative , civil , and criminal to violation personal data management .⁴ With thus , the law No only functioning as instrument administrative , but also as means enforcement justice through accountability criminal for perpetrator violation .

Enforcement law to violation personal data protection is stage crucial in ensure walking provision Constitution Number 27 of 2022 concerning Personal Data Protection in a way concrete . Enforcement law No only interpreted as the existence of criminal norms , but reflected from the handling process case by the authorities enforcer law since stage reception reports , investigations , inquiries , up to prosecution . In context this , success enforcement law is largely determined by ability apparatus in identify element criminal , collecting and assessing tool proof electronics , as well as determine subject responsible law answer on occurrence personal data leaks .

¹Sinta Dewi Rosadi, *Discussion Constitution Personal Data Protection* , Depok: Rajawali Pers, 2022, p . 14.

²Wahyudi Djafar & Wahyudi, *Personal Data Protection in Indonesia: Urgency and Regulatory Challenges* , Jakarta: ELSAM, 2021, p . 35.

³ Budi Agus Riswandi , *Personal Data Protection Law in Indonesia* , Yogyakarta: FH UII Press, 2022, p . 42.

⁴ Constitution Number 27 of 2022 concerning Personal Data Protection .

Accountability criminal in case personal data leak is instrument important For ensure compliance data management against obligation the law imposed to him . In context data protection , accountability criminal No only intended to individual perpetrators , but can also charged to corporation as manager system electronic if data leak occurred consequence negligence or failure in ensure data security and health data own level sensitivity tall so that the violation must positioned as serious and worthy deed subject to sanctions criminal law in order to provide effect deterrent as well as protection maximum for data subject .⁵ Effectiveness accountability criminal law is very dependent on the quality enforcement law enforced by the authorities enforcer law enforcement weak laws potential make criminal norms in Constitution only nature symbolic and not impact real . Denny Indrayana state that sanctions criminal in personal data protection own function preventive if implemented in a way consistent and supported by capabilities apparatus in proof as well as search crime based technology .⁶

Enforcement law to personal data leaks in the digital sector are still face challenge structural and technical apparatus enforcer local law often faced with limitations guidelines operational implementation articles criminal law of the PDP Law, so that handling case tend stop at the stage beginning or diverted use provision regulation other legislation . Conditions This show existence distance between arrangement law in a way normative with implementation enforcement law in a way empirical , especially in case digital health data leaks that require skill technical , proof based technology information , as well as coordination cross agency . However thus , based on practice enforcement laws found through interview with apparatus Directorate of Special Criminal Investigation Central Kalimantan Regional Police Cyber Division , leaks and misuse of personal data Still Enough rampant happened . Form frequent abuse found including registration card prime in a way illegal use the identity of another person who then used For action criminal online fraud . Conditions This show that even though the PDP Law has applicable , its implementation in the field Not yet fully optimal.

Apart from the lack of report public related personal data leaks , authorities enforcer law also faces various obstacles , such as use account anonymous by the perpetrator , cross- regional occurrence action criminal , as well as complexity bureaucracy in requests and data exchange between agencies . This cause gap between arrangement normative in the PDP Law with reality empirical enforcement law in the field . The purpose of in study This is for analyze How enforcement law to personal data leak based on Constitution Number 27 of 2022 concerning Personal Data Protection at the Directorate of Special Criminal Investigation Central Kalimantan Regional Police Cyber Sector and what just obstacle in enforcement law to personal data leak based on Constitution Number 27 of 2022 concerning Personal Data Protection at the Directorate of Special Criminal Investigation Cyber Division of the Central Kalimantan Regional Police. Based on description said , research This important done For understand How form enforcement the law that is carried out apparatus enforcer law , as well as obstacles faced in implementation of the PDP Law. Research This expected can give contribution academic and practical in strengthening personal data protection .

METHOD

Study This use method study law empirical , namely research that examines implementation law in practice in society law in action. Research nature descriptive qualitative with approach sociological , which aims For understand accountability criminal as well as enforcement law to personal data leak based on Constitution Number 27 of 2022 concerning Personal Data Protection . Research conducted at the Directorate Detective Criminal Special (Ditreskrimsus) Cyber Division of the Central Kalimantan Regional Police as authorized institution handle action criminal cyber . Data sources consist of on the primary data obtained through interview with apparatus enforcer law , as well as secondary data obtained through studies literature in the form of regulation legislation , books , journals and literature relevant laws .

⁵Nurul Hidayah, “ Patient Health Data Protection in Cyber Law Perspective ,” *Journal Humanities Law* , Vol. 9 No. 1, 2022, p . 45.

⁶Denny Indrayana , “ Function Preventive Criminal Sanctions in Data Protection ,” *Ius Gentium Law Journal* , Vol. 5 No. 1, 2023, p . 67.

RESULTS & DISCUSSION

Law Enforcement Against Personal Data Leak Based on Constitution Number 27 of 2022 Concerning Personal Data Protection at the Directorate of Special Criminal Investigation Cyber Division of the Central Kalimantan Regional Police

Enforcement law to personal data leak based on Constitution Number 27 of 2022 concerning Personal Data Protection (PDP Law) is part from enforcement law criminal cyber that is in authority Directorate Detective Criminal Special (Ditreskrimsus) Cyber Sector . PDP Law in general firm classifying health data as personal data of a nature specific and sensitive so that need level more protection tall compared to personal data general . In context enforcement law to personal data leaks , provisions criminal in Constitution Number 27 of 2022 concerning Personal Data Protection in a way firm arranged in Article 67 and Article 68 which regulate prohibition obtaining , disclosing and using personal data in a way oppose law . In addition , Article 65 emphasizes that everyone is prohibited in a way oppose law get or collect personal data that is not his with Meaning profitable self Alone or other people. On the other hand , before the implementation of the PDP Law, the authorities enforcer law tend use Constitution Information and Electronic Transactions Article 35 which states " Every person with intentionally and without right or oppose law do manipulation , creation , alteration , removal , destruction Electronic Information and/ or Electronic Documents with the aim is that Electronic Information and/ or The Electronic Document considered as if the data were authentic ". Therefore that , in practice in Ditreskrimsus , implementation second Constitution the Still walk side by side as base in enforcement law to action criminal personal data leaks .

In practice at the Directorate of Special Criminal Investigation Cyber Division of the Central Kalimantan Regional Police, enforcement law to personal data leak started from existence report or complaint society . After report accepted , authorities enforcer law do stage investigation with objective identify incident data leaks , modus operandi, and the alleged party responsible answer . This process involving inspection beginning to system electronics , collection information witnesses , and search related digital footprint with digital health data management .⁷ Stage next is investigations conducted if found indication action criminal as arranged in the PDP Law. Investigators Directorate of Special Criminal Investigation The Cyber Sector carries out analysis forensics security digital cyber for prove existence actions oppose law , elements errors , as well as connection causal between negligence or action perpetrator with occurrence personal data leaks .⁸

In perspective principle *lex specialis derogatory legem generali* , Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) should become base main in enforcement law to personal data leak Because in a way special arrange about protection , management , and sanctions on personal data breach . Meanwhile that , the Law Information and Electronic Transactions (ITE Law) has more coverage general to actions oppose law in space cyber . Therefore that , if something actions in a way specific fulfil element action criminal in the PDP Law, then implementation of the PDP Law must prioritized compared to the ITE Law. However , in in practice , the authorities enforcer law Still frequently and tend to using the ITE Law as base entrapment Because factor convenience proof and experience implementation previously as well as experience officers who are more familiar with implementation of the ITE Law and Not yet availability guidelines detailed technical about implementation articles criminal law of the PDP Law, so that show that implementation principle *lex specialis* Not yet fully optimized in enforcement law personal data leaks in Indonesia and conditions This show that enforcement law to personal data leak Still is at in stage transition going to optimal implementation of the PDP Law . With Thus , its implementation Still face various challenge so that Not yet fully reflect effectiveness protection expected law enforcement consistent laws based on the PDP Law are needed so that give certainty law as well as effect deterrent .

Obstacle In Law Enforcement Against Data Leak Based on Constitution Number 27 of 2022 Concerning Personal Data Protection at the Directorate of Special Criminal Investigation Cyber Division of the Central Kalimantan Regional Police

Enforcement law to personal data leak based on the PDP Law no let go from various obstacles of a nature normative , structural , and technical . One of them obstacle main is Not yet optimally readiness apparatus enforcer law in apply articles the relatively criminal PDP Law new . Terms criminal in the PDP Law still need deep interpretation and understanding , especially related element fault and responsibility data controller in system

⁷Edmon Makarim, Introduction to Telematics Law , Jakarta: Rajawali Pers, 2019, pp . 109–112.

⁸Budi Agus Riswandi , Personal Data Protection Law in Indonesia, Yogyakarta: FH UII Press, 2022, pp . 57–60.

complex electronics.⁹

In in practice, based on results interview with party Directorate of Special Criminal Investigation Central Kalimantan Regional Police Cyber Sector, obstacles faced apparatus enforcer law No only nature technical, but also operational. The main obstacles that often happen is perpetrator use account anonymous in do his actions so that complicates the identification and tracking process. In addition, the act criminal personal data leak generally done in other areas, so cause authority For to judge or uphold law and slow down the coordination process between regions. In addition that's it, it's complicated bureaucracy in inter-agency data requests and exchange government also becomes obstacle significant in the investigation process, in particular in obtain the necessary data as tool evidence. Condition This show that obstacle enforcement law No only lies in the aspect law, but also on the system coordination and governance between institution.

Significant obstacles is difficulty proof in case data leak. Digital evidence is spread across various system and location, so that make things difficult investigator in browse source leaks and determine responsible party answer in a way criminal. In addition, the characteristics crime cyber nature cross-regional also becomes constraint Serious in enforcement law. The perpetrator personal data leak often use identity false or account anonymous, even operate from outside the jurisdiction local. This is cause difficulty in determination *locus delicti* and coordination inter-enforcement law, especially when case data leaks involve system electronics managed outside area or overseas.¹⁰ Obstacle structural is also visible from limitations facilities and infrastructure digital forensics at the level area. Not all unit Work police own equipment adequate digital forensics and source Power human beings who have skill special in handling crime Cyber Limitations This impact on the length of the investigation process and the low amount case personal data leaks that can processed until stage prosecution and verdict criminal.¹¹ Beside that, the low awareness public For report incident personal data leak participate hinder enforcement law. Many data managers are reluctant report leakage Because worry to impact reputation and trust public. Effectiveness implementation of the PDP Law is still need improved through education, strengthening capacity apparatus, and formation culture supporting laws personal data protection.¹²

CONCLUSION

Enforcement law to personal data leak based on Constitution Number 27 of 2022 in practice Not yet running optimally, because use provision other regulations. This is show that implementation provision criminal in the Personal Data Protection Act Not yet implemented in a way effective in practice enforcement law. Not yet implemented provision criminal Constitution Personal Data Protection the caused by a number of obstacles, namely difficulty proof in case based proof electronics, characters perpetrator crime cyber nature anonymous and cross-regional, and not yet availability guidelines technical implementation articles criminal Constitution Personal Data Protection. So from that, the apparatus enforcer law need in a way consistent apply provision criminal in Constitution Number 27 of 2022 concerning Protection of Personal Data in cases digital health data leaks so that No Again depending on other regulations and can give certainty law as well as effect deterrent for perpetrator diverted to other regulations. Implementation directly important PDP Law For realize personal data protection as objective its formation. For overcome obstacle enforcement law, required compilation guidelines clear technical related implementation articles criminal Personal Data Protection Act, increase capacity apparatus in field digital forensics, as well as strengthening facilities and infrastructure supporters. Efforts to improve coordination inter-agency cooperation is also necessary strengthened For overcome character cross-border crimes. In addition that, it is necessary existence improvement awareness community and parties data managers to be more active in report incident data leaks to support effectiveness enforcement law.

⁹ Firm Prasetyo, *Accountability Criminal Law : Theory and Practice*, Yogyakarta: Pustaka Pelajar, 2021, pp. 54–56.

¹⁰ Edmon Makarim, *Introduction to Telematics Law*, Jakarta: Rajawali Pers, 2019, pp. 118–120.

¹¹ Soerjono Soekanto, *Factors that Influence Law Enforcement*, Jakarta: RajaGrafindo Persada, 2019, pp. 8–11.

¹² Wahyudi Djafar, “Challenges Enforcement of Personal Data Protection Laws in Indonesia,” *Journal Constitution*, Vol. 19 No. 2, 2022, pp. 312–315.

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