

**Review Article****LEGAL ANALYSIS OF SP3 (ORDER TO DISCONTINUE INVESTIGATION) BY THE POLICE IN CAST CASES WHERE THE VICTIM DIED AND WAS DETERMINED TO BE A SUSPECT;**¹ M.Riffani Akbar Harahap, ²Abdul Hakim, ³Maya JannahEmail : riffaniakbar08@gmail.com ² abdulhakim1846@gmail.com, ³mayaeriadi@gmail.com**Article History**

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Journal homepage:<https://jurnal.arjunajusticia.com/index.php/ijeck>**Abstract:**

An Investigation Termination Order, abbreviated as SP3, is the authority granted by law to investigators, both Polri investigators and Polri civil servant investigators. SP3 refers to Article 109 Paragraph (2) of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP). The termination of a criminal investigation must fulfill three conditions: First, there is not enough evidence. Second, it is not a criminal offense. Third, stop it by law. This research uses normative legal research methods. Results and discussion: the issuance of SP3 by the Indonesian Police usually refers to Article 109 of Law no. 8 of 1981 concerning the Criminal Procedure Code which in paragraph (2) reads: 1. If it is a National Police investigator who stops the investigator, notification of the termination of the investigation is given to the public prosecutor and the suspect or his family. 2. If it is a civil servant investigator who stops the investigation, then notification of the investigation is given to the Police investigator and the public prosecutor. The legal basis for issuing SP3 in cases of traffic accidents that occur is to create a sense of justice for victims and suspects. In accordance with Article 77 of the Criminal Code, it is stated that prosecution of criminal cases is stopped by law because the suspect dies, which is also in accordance with Article 73 of the Republic of Indonesia Police Chief Regulation Number 15 of 2013 concerning Procedures for Handling Traffic Accidents which states that the Basis for Terminating Traffic Accident Investigations is Article 73 (1) Consideration for terminating a traffic accident investigation for the following reasons: a. insufficient evidence; or b. by law. (2) Termination of traffic accident investigations for legal reasons as intended in paragraph (1) letter b includes: a. Suspect dies; b. the case has exceeded the expiration date; or c. nebis in idem;

Keywords: SP3 (Order to Stop Investigation), Traffic Accidents, Victims;

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INTRODUCTION

An Order to Stop Investigation or hereinafter abbreviated as SP3 by the Police is a letter of notification from the investigator to the public prosecutor that the investigation of the criminal case has been stopped. SP3 is the authority granted by law to investigators, both Polri investigators and Polri civil servant investigators. SP3 refers to Article 109 Paragraph (2) of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP).

There are many cases that occur in the police and three main requirements have been fulfilled so that SP3 can be implemented. The three conditions are: First, there is not enough evidence. Second, this case is not a criminal act. Third, the investigation process was stopped by law. However, it is not uncommon for there to be several cases where the case has entered the investigation stage and in the end both parties choose the path of reconciliation, namely between the complainant and the suspect. The final result of the peace agreement is the revocation of the report by the reporter, but even though the final result is the action of withdrawing the report, it does not necessarily mean that the case handling process that has been carried out can be stopped, the process is still ongoing, unless the termination is based on article 109 paragraph (2) of the Criminal Procedure Code.

SP3 in traffic accident cases which often occur in the police are usually where the perpetrator dies so that the victim cannot claim their rights against the perpetrator. However, in this position it rarely happens where the person who died was the victim, but after an investigation it turned out that the victim was determined to be a suspect. This has become a question mark among the public as to why a deceased person was named a suspect. And how to carry out legal proceedings against someone who has died. Hasn't the position of the deceased always been on the victim's side? It turns out that this assumption is wrong, that the victim is not always someone who dies, but the victim could be the one who survived the accident. Based on the description above, this research wants to discuss the legal analysis of the issuance of an order to stop an investigation by investigators in a traffic accident case where the victim died and was named a suspect..

RESEARCH METHODS

This research uses normative legal research methods. Normative legal research is researching law from an internal perspective with the object of research being legal norms. In other words, legal research places law as a building system of norms. The norm system in question is about principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). This research uses a statutory approach and a conceptual approach. The statutory approach is used to obtain an overview of the Legal Analysis of Sp3 (Order to Stop Investigation) by the Police in a traffic accident case where the victim died and was named a suspect;

RESULTS AND DISCUSSION

1. Order to Stop Investigations by the Police in Traffic Accident Cases Where the Victim Died and Was Named a Suspect;

The issuance of SP3 after the determination of a person as a suspect. SP3 by the Police is a notification letter from the investigator to the public prosecutor that the investigation of the case has been stopped. If referring to the Criminal Procedure Code, terminating an investigation

is the investigator's authority as regulated in Article 109 paragraph (2) of the Criminal Procedure Code.

M. Yahya Harahap stated that the ratio of being given the authority to stop an investigation is as follows:¹

- a) To uphold the principles of fast, simple and low-cost justice, and at the same time to uphold legal certainty in people's lives. If the investigator concludes that based on the results of the inquiry and inquiry there is not enough evidence or reason to prosecute the suspect/defendant at trial, it is better for the investigator to officially declare the termination of the investigation in order to immediately create legal certainty for both the investigator himself, especially the suspect and the public.
- b) To avoid demands for compensation, because if the case continues but there is not enough evidence or reasons to sue, this automatically gives the suspect/defendant the right to demand compensation based on Article 95 of the Criminal Procedure Code.

There are at least 3 reasons for the issuance of SP3 from the Police, namely as follows:

1. Lack of sufficient evidence
2. Evidence of a criminal case
3. Terminated by law

Ad.1 There is not enough evidence

Basically, to be able to process a criminal case, investigators must have at least two valid pieces of evidence. Where, the evidence referred to is witness testimony, documentary evidence, and expert testimony. So if after completion of the examination results it turns out that at least two of these pieces of evidence were not found, the case can be stopped on the grounds that there is not enough strong evidence to settle a case.

Ad.2 Evidence of criminal cases

After carrying out the case title, it turned out that the investigator concluded that the case being processed was not a criminal offense but a civil case, so indirectly the case could be stopped on the basis that it was not a criminal case.

Ad.3 Discontinued by law

Either formally, the case does not meet the legal requirements to proceed on the basis that the case has been processed before and there has been a decision. So, when the suspect dies and has expired, then on this basis the case is stopped by law. There are four categories for calculating expiry date, namely one year has passed for printing crimes, 6 years have passed for crimes which are punishable by a fine, imprisonment or imprisonment of not more than 3 years, 12 years have passed for crimes which carry a penalty of more than 3 years, and after 18 years for crimes that carry the threat of death or life imprisonment.

¹ M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP : Penyidikan dan Penuntutan*, (Jakarta : Sinar Grafika, 2012) hlm. 150.

In criminal procedural law, investigators in determining suspect status for perpetrators of criminal acts require at least consideration, where the consideration concerns the quality and quantity of evidence. If at least 2 valid pieces of evidence are not found, the investigation can be stopped on the grounds that there is not enough evidence.

SP3 issued by the Indonesian Police usually refers to Article 109 of Law no. 8 of 1981 concerning the Criminal Procedure Code which in paragraph (2) reads:

1. If it is a National Police investigator who stops the investigation, notification of the termination of the investigation is given to the public prosecutor and the suspect or his family.
2. If it is a civil servant investigator who stops the investigation, then notification of the investigation is given to the Police investigator and the public prosecutor.

Traffic accidents according to Government Regulation Number 43 of 1993 concerning Road Infrastructure and Traffic, in Article 93 paragraph (1), namely: "An incident on the road whether unexpected or unintentional involving vehicles with or without other road users, resulting in human casualties or property loss."

A traffic accident is an unexpected and unintentional event involving vehicles or other road users which can cause casualties and/or property loss. Traffic accidents can happen anytime and anywhere, they cannot be predicted. Traffic accidents can not only cause trauma, injury, minor injuries, serious injuries or disabilities but can result in death.²

It can be seen that traffic accidents basically have several elements in traffic accidents. The elements in a traffic accident include the presence of an incident, it occurs on the road, there is an element of accident, it involves a vehicle, with or without other road users, and results in property and/or human casualties..³

Traffic accidents have characteristics according to the number of vehicles involved:

- 1) Single Accident: An accident that only involves one motor vehicle and does not involve other road users at all. Examples include a vehicle skidding or rolling over due to a burst tire.
- 2) Multiple Accident: A traffic accident involving more than one motor vehicle or with other road users experiencing an accident at the same time and place.

The legal basis for issuing SP3 in cases of traffic accidents that occur is to create a sense of justice for victims and suspects. In accordance with Article 77 of the Criminal Code, it is stated that the prosecution of criminal cases is stopped by law because the suspect dies, which is also in accordance with Article 73 of the Republic of Indonesia Police Chief Regulation Number 15 of 2013 concerning Procedures for Handling Traffic Accidents which states that:

Basis for Termination of Traffic Accident Investigation Article 73

- (1) Consideration for terminating a traffic accident investigation for the following reasons:
- a. insufficient evidence; or

² C.S.T, Kansil dan Christine S.T. Kansil, 1995, *Disiplin Berlalu Lintas di Jalan Raya*, Jakarta, Rineka Cipta, hlm. 35

³ *Kepolisian RI, Standar Oprasional dan prosedur Penanganan Kecelakaan Lalu Lintas dan Angkutan Jalan*, Badan Pembinaan Keamanan Polri Direktorat Lalu Lintas hlm. 55

b. by law.

(2) Termination of traffic accident investigations for legal reasons as intended in paragraph (1) letter b includes:

- a. Suspect dies;
- b. the case has exceeded the expiration date; or
- c. *nebis in idem*.

In traffic accidents that occur between the victim and the suspect, not only the victim is harmed, but the suspect can also be in a position to be harmed. Considering that the suspect's losses were apparently greater than the victim's losses. For example, this is a traffic accident where the victim is driving a vehicle that is larger than the suspect, but in the accident it turns out that the damage to the suspect's vehicle is more serious. However, after the case was held, it turned out that the suspect was at fault for the accident. This is also the same as the position of the case where initially the victim suffered a lot of losses due to a traffic accident and died, then when an investigation was carried out it turned out that the victim who died was named a suspect because of an accident that occurred due to the victim's negligence in driving his vehicle. So the issuance of SP3 was carried out because the position of the case was that the suspect had died. This means that the victim cannot sue legally or even demand compensation because the suspect died.

One of the cases that went viral in 2022 was the determination by the police of a student at the University of Indonesia (UI) named Muhammad Hasya Atallah Syaputra, who had died in an accident as a suspect. Based on the chronology of the incident and the testimony of witnesses, the traffic accident started with a motorcyclist, who was riding a motorbike fast, with the exhaust having been changed. The police said that Hasya died as a result of an accident in Jagakarsa, South Jakarta due to his own negligence. This was not due to the negligence of the Pajero driver who was also involved in the accident on October 6 2022. The victim's position is not always correct. This is based on most frequent traffic accidents, that motorbike versus car accidents occur due to negligence by the driver, for example someone going against the flow, zig-zagging, sometimes speeding or fast, even though we know that motorbikes and cars are often bicycles. Motorbikes are more damaged than cars. However, in this case the car driver is not always wrong and the motorbike driver is not always right, unless the opposite happens. In this case, the motorbike was traveling very fast, so it braked suddenly and the motorcyclist ended up falling and hitting the car. The experts gave a rational opinion in determining the victim as a suspect, that according to them it was legal, because it is not always the driver of a larger vehicle who is at fault, it could be the motorcyclist who is at fault. So being named a suspect and the victim dies means the investigation ends automatically. However, even so, the victim's family can still take legal steps through pre-trial to prove whether the car driver or motorbike driver is at fault..⁴

Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ), indicates that the crasher is not always a suspect. It could be the other way around, or by looking at the causes and effects. Where, investigators must see the position of the incident, sequence the incident, and look for facts from the statements of eyewitnesses at the scene. The victim was named a suspect. However, the suspect dies, so indirectly this case must be stopped and a Termination of Investigation Order (SP3) issued by the police with the aim that SP3 provides legal certainty for the victim.

⁴ <https://banten.antaranews.com/berita/237150/pengamat-penetapan-tersangka-korban-kecelakaan-di-jagakarsa-sudah-logis> diakses pada tanggal 22 Nopember 2023 pukul 18.31 wib

The implementation process for determining SP3 for traffic accident cases is that the case title is first carried out 3 (three) times, namely the case title at the initial stage of investigation, the case title at the middle stage of investigation, and the case title at the final stage of investigation in accordance with Article 58 of the Head Regulation. Indonesian Police Number 15 of 2013 concerning Procedures for Handling Traffic Accidents. Using the SP3 form refers to Attorney General's Decree No. 518/A/J.A/11/2001 dated 1 November 2001 concerning Amendments to the Republic of Indonesia Attorney General's Decree No. 132/JA/11/1994 concerning Administration of Criminal Cases.

CONCLUSION

The legal basis for issuing SP3 in cases of traffic accidents that occur is to create a sense of justice for victims and suspects. In accordance with Article 77 of the Criminal Code, it is stated that prosecution of criminal cases is stopped by law because the suspect dies, which is also in accordance with Article 73 of the Republic of Indonesia Police Chief Regulation Number 15 of 2013 concerning Procedures for Handling Traffic Accidents which states that the basis for Terminating Traffic Accident Investigations is Article 73 (1) Consideration for terminating a traffic accident investigation for the following reasons: a. insufficient evidence; or b. by law. (2) Termination of traffic accident investigations for legal reasons as intended in paragraph (1) letter b includes: a. Suspect dies; b. the case has exceeded the expiration date; or c. *nebis in idem*. Determining the victim as a suspect is a valid thing, because it is not always the driver of a larger vehicle who is at fault, it could be the motorcyclist who is at fault. If the victim is determined to be a suspect, and the suspect dies, it means the investigation ends automatically. The issuance of SP3 by the Indonesian Police usually refers to Article 109 of Law no. 8 of 1981 concerning the Criminal Procedure Code which in paragraph (2) reads: 1. If it is a National Police investigator who stops the investigation, notification of the termination of the investigation is given to the public prosecutor and the suspect or his family. 2. If it is a civil servant investigator who stops the investigation, then notification of the investigation is given to the Police investigator and the public prosecutor.

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