

# Law Enforcement against the Crime of Fraud through Funds Transfer (Study at Polrestabes Medan)

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## ABSTRACT

Fraud using SMS (short message services) is usually carried out by perpetrators by sending SMS to random recipients using a send-to-many system (more than one recipient of the message) or some kind of broadcast message. Then the perpetrator waits for several responses which are then followed up with lies and ruses so that the victim transfers some money. A crime that is still a complex problem is that criminals use SMS as a medium to find victims with the mode of asking the victim to transfer a certain amount of money with certain tricks until the potential victim actually follows the perpetrator's wishes. Based on this description, the authors found problems in this research, namely legal arrangements regarding the criminal act of fraud through the transfer of funds in Indonesia, law enforcement against the crime of fraud through the transfer of funds at the Medan Polrestabes. The purpose of the study is to find out the legal arrangements regarding the criminal act of fraud through the transfer of funds in Indonesia, to find out law enforcement against the crime of fraud through the transfer of funds at the Medan Polrestabes. The research method used is normative juridical research (positive law), data collection techniques are conducting library research by reading books, scientific works, legislation, lecture materials, as well as through internet media (websites), field research by conducting interviews with The related party is the Medan City Resort Police. From the results of the research conducted, the authors conclude that the legal regulation regarding the criminal act of fraud through the transfer of funds in Indonesia is Article 378 of the Criminal Code, the threat of which is a maximum of 4 years in prison, Article 28 paragraph (1) of Law Number 19 of 2016 concerning Amendments to Laws -Law Number 11 of 2008 concerning Information and Electronic Transactions, Article 82 of Law Number 11 of 2011 concerning Transfer of Funds, imprisonment for a maximum of 4 (four) years and/or a fine of a maximum of Rp. 1,000,000,000.00 (one billion rupiahs)). Law enforcement against criminal acts of fraud through transfer of funds at the Medan Polrestabes conducted an investigation into SMS media fraud with the mode of transfer of funds, officers immediately asked for the perpetrator's data to find out the identity of the perpetrator. Investigators study the traces left by the perpetrators, complete the facilities and infrastructure at the Medan Besar City Resort Police such as cyber tools and improve the ability of members related to technology understanding. The next legal process is the trial process.

## A. Background

Globalization has become the driving force for the birth of the era of information technology development. The phenomenon of the rapid development of information technology has spread

throughout the world. Not only developed countries, but developing countries have also spurred the development of information technology in their

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**KEYWORDS:** *Fraud, Fund Transfer*

respective societies, so that information technology has an important position for the progress of a nation.

Along with the development of the needs of people in the world, information technology (Information technology) plays an important role, both now and in the future. Information technology is believed to bring great benefits and interests to countries in the world.

As a result of such developments, information technology by itself has also changed the behavior of society and human civilization globally. In addition, the development of information technology has caused the world to become borderless and has caused significant social change to take place so quickly.

Victims of crime in the criminal justice system according to Stanciu, victims (in a broad sense) are people who suffer the consequences of injustice. Thus, continued Stanciu, there are two fundamental (inherent) characteristics of the victim, namely: Suffering (suffering) and Injustice (injustice). The emergence of victims cannot be transferred as a result of illegal actions, because the law (legal) can actually also cause injustice, in turn causing victims, such as victims due to legal procedures.

The concept of crime and who is the victim of a crime is the starting point for explaining the legal position of the victim. There are two concepts of crime. First, crime is understood as a violation of the state or public interest represented by the state's democratic instruments. Second, crime is understood as a violation of the interests of individuals and also violates the interests of the perpetrators themselves. The first concept is based on ideas based on the concept of retributive justice and the second concept is on the concept of restorative justice.

The use of information technology today is important for almost all community activities, including in the world of banking. Banking activities with electronic transactions (e-banking) through ATM machines, cellular telephones (phone banking) and internet networks (Internet banking), are some examples of banking transaction services using information technology. From a security standpoint, the use of technology can protect data and transaction security.

The rapid development of technology, besides having a positive impact can also have a negative impact, one of which is the development of crime in cyberspace known as Cybercrime. This of course also has an impact on the use of ATM technology which cannot avoid the potential for crime. To ensure that the transaction process using an ATM can be carried out properly and correctly, the security technique used is to use a personal identification number (PIN) so that only people who know the PIN number can make transactions at ATMs.

Criminals will never stop looking for ways to gain personal gain by shortcuts. Crimes that are still causing complex problems are criminals using SMS as a medium to find victims by instructing the victim to transfer a certain amount of money using certain tricks until the potential victim actually follows the perpetrator's wishes.

## **B. Problem Formulation.**

1. What are the legal arrangements regarding criminal acts of fraud through fund transfers in Indonesia?
2. How is law enforcement against criminal acts of fraud through fund transfers at the Medan Polrestabas?.

## **C. Research Objectives**

1. To find out the legal arrangements regarding the crime of fraud through fund transfers in Indonesia
2. To find out law enforcement against criminal acts of fraud through fund transfers at the Medan Polrestabas

## **D. Research Benefits**

1. Theoretical benefits, namely, as material for further study to produce scientific concepts that are expected to enrich the body of knowledge, add to and complete the treasury of scientific work and contribute ideas that highlight the crime of SMS with the mode of transferring funds, legal arrangements regarding criminal acts of fraud through fund transfers in Indonesia, law enforcement against criminal acts of fraud through fund transfers at the Medan Polrestabas
2. Practical Benefits, that is, for writers to deepen knowledge related to SMS crimes with the fund transfer mode, It is hoped that it can provide input and references for law enforcement officials in dealing with criminal offenses through electronic media.

## **E. Definition Of A Criminal Act.**

The term crime comes from a term known in Dutch criminal law, namely strafbaar feit or delict, in Indonesian in addition to the term criminal action for the translation of strafbaar feit or delict as used by R. Tresna and Utrecht in the book C.S.T Kansil and Christine S.T Kansil are also known several other translations such as Criminal Acts, Criminal Violations, Actions that may be punished or Actions that can be punished.

Terms that have been used both in existing laws and in various legal literature as translations of the term strafbaar feit are :

- A. Criminal acts, it can be said in the form of official terms in legislation. Almost all laws and regulations use the term criminal act.

- B. Criminal Events, used by several legal experts, for example MR. R Tresna in his book Principles of Criminal Law. The formation of legislation has also used the term criminal incident.
- C. Delik, derived from the Latin delictum is also used to describe what is meant by strafbaar feit.
- D. Criminal Violations can be found in the book Principles of Criminal Law written by Mr. M.H. Tirtaamidjaja.
- E. Actions that may be punished, this term is used by Mr. Karni in his book entitled "Summary of Criminal Law".

Criminal acts are acts that violate the prohibitions regulated by the rule of law which are threatened with criminal sanctions. The word crime comes from a term known in Dutch criminal law, namely strafbaar feit, sometimes the term delict is also used, which comes from the Latin delictum. The criminal law of Angxlo-Saxon countries uses the term offense or criminal act to mean the same<sup>12</sup>

Because the Indonesian Criminal Code (KUHP) originates from the Dutch W.v.S, the original term is the same, namely strafbaar feit (Actions prohibited by law which are punishable by punishment). In this case Satochid Kartanegara tends to use the term delict which is commonly used.

#### **F. Definition of Fraud.**

Bedrog Fraud (Oplichting), title XXV book II of the Criminal Code entitled "Bedrog" which means fraud in a broad sense, while the first article of that title, namely Article 378, concerns the crime of "oplichting" which means fraud but in a narrow sense, while the articles other articles of the title contain other criminal acts that are fraudulent in a broad sense

In a broad sense, fraud is a lie made for personal gain, although it has a deeper legal meaning, the exact details vary in different jurisdictions. The act of manipulating information to seek profit through internet media can be "interpreted" as a misleading act included in a fraud offense as stipulated in Article 378 of the Criminal Code and Article 379 a of the Criminal Code. Chapter XXV Book II of the Criminal Code contains various forms of fraud which are formulated in 20 articles. Among the forms of fraud that have their own special name, what is known as fraud is what is formulated in Article 378 of the Criminal Code.

#### **G. Definition of Transfer.**

Law of the Republic of Indonesia Number 3 of 2011 concerning Fund Transfers Article 1 point (1) what is meant by "Fund transfers are a series of activities that begin with an order from the original sender that aims

to transfer a certain amount of funds to the recipient specified in the fund transfer order until receipt funds by recipients"<sup>17</sup>

Fund transfer transactions in the banking sector have developed rapidly with various means. These developments in practice have resulted in various conveniences for customers and have also created various forms of modus operandi for criminal acts that have resulted in losses for customers. Such a large number of frauds that use bank accounts as a medium to receive the proceeds of crime have sued the bank for can act quickly in protecting the interests of customers who are victims of fraud.

#### **H. Definition of Banking.**

Banking institutions are the core of the financial system of every country. A bank is a financial institution that is a place for individuals, private business entities, state-owned enterprises, and even government institutions to store their funds. Through lending activities and various services provided, banks serve financing needs and launch a payment system mechanism for all sectors of the economy.

Banks are some of the company's main sources of funding, the failure of a bank can also affect companies other than financial sector companies. Banks as third party fund collectors have a role in providing loans in the form of credit for companies. Credit given by banks comes from the public. Communities and investors entrust their funds to invest in the banking sector.

#### **I. Research Methodology**

##### **1. Type of Research**

This research is a juridical type research, namely the research conducted aims to examine the application of statutory provisions invitation (positive law) relating to the termination of investigations in fraud cases. The data used are secondary, namely research data sources obtained through intermediary media or indirectly in the form of books, notes, existing evidence, or archives, both published and not published in general. In other words, researchers need to collect data by visiting libraries, study centers, archive centers or reading books related to their research.

##### **2. Nature of Research**

This research is descriptive in nature, namely research that seeks to describe a symptom, event, incident that is happening now.

##### **3. Data Source**

A. Library research (library research) is by conducting research on various reading sources such as books, law journals and opinions of scholars, lecture materials and internet media (websites).

- B. Field research, namely by conducting direct studies on the Medan City Police
- C. Interview with employee staff at the Medan City Police.

#### 4. Data Analysis

The process of data analysis is actually a job to find themes and formulate hypotheses even though there is actually no definite formula for formulating hypotheses.

#### J. Research Results

##### 1. Factors Causing Crime of Fraud Through Fund Transfers.

Today's criminal acts are increasingly common in Indonesia. This is closely related to various aspects, especially the economic aspect. One of the reasons for the rise of criminal acts is that economic needs must be met urgently, while the available jobs cannot meet all the needs of the Indonesian people to work and earn a steady income.

Crime can be said to never stop as long as human civilization continues. Human behavior is very difficult to predict and ascertain about its good and bad traits, anyone can change at any time, because humans are born with these traits and it is very difficult to control their passions. Lack of religious knowledge is also a very influential factor. However, in reality, what we often hear about is that the factor that most often becomes the reason for the perpetrators of crimes is the economy.

One of the most common crimes is fraud. This is because acts of fraud are not difficult to do, only by capitalizing on one's ability to convince others through a series of lying or fictitious words, promises or giving lures in any form, either to something that can give (magical) power or to wealth.

Behind the convenience and comfort of internet and cellphone services, there are threats that are troubling and disrupt the security of data and information that can be misused or vulnerable to various forms of crime, including fraud by using cellphones via the SMS (Short Message Service) feature. This mode of fraud by using SMS occurs a lot in society, both the lower class and the upper class society. However, cases like this, which are known as Cybercrimes, are still difficult to catch the perpetrators because the cards used will be immediately destroyed by the perpetrators after the transaction is completed and this makes it difficult to trace who the perpetrators of these crimes are.

##### 2. Procedures for Investigating Fraud through Transfer of Funds at the Medan Polrestabes.

Advances in information technology have changed human views about various activities that have been

monopolized by physical activities. The birth of the internet changed the paradigm of human communication in socializing and doing business. The internet also changes distance and time drastically so that the world becomes small and has no boundaries. The development of information technology including the internet provides its own challenges in the development of law in Indonesia, which is required to be able to adapt to social developments and changes in society. Because crime grows and develops in society as a form of development of human behavior so that the law is often late in keeping pace with the development of information technology crimes.

Chapter X Article 42 of Law No.19 of 2016, regulates investigations into criminal acts of Electronic Transactions and the investigation procedures are carried out based on the provisions of the Criminal Procedure Code (KUHAP). According to Article 1 paragraph (1) of Law No. 8 of 1981 (KUHAP) Investigators are officials of the Indonesian National Police and/or certain civil servants who are given special authority by law to conduct investigations. Paragraph (2) Investigation is a series of investigative actions in matters and according to the methods regulated in this Law to seek and collect evidence with which evidence makes clear the criminal acts that have occurred.

In general, the process of investigating criminal acts of fraud online is the same as the process of investigating other conventional crimes. The difference is only in terms of the process of arresting criminals and coordination with certain parties. Handling criminal acts of fraud online is more difficult than conventional crimes, because you must first coordinate with certain parties to get certainty that this is really a crime or not. Meanwhile, in determining suspects for online fraud, it has a lower level of difficulty than conventional crimes, by looking at evidence in the form of cellphone numbers or social media addresses owned.

Cybercrime cases are special cases where the method of investigation can be different from investigations in general cases. In carrying out its duties and roles, the detective function, especially the cybercrime unit, is based on several laws related to the cybercrime crimes that occurred. One of them is as a guideline for evidence, namely the provisions in Article 184 of the Criminal Procedure Code, where what is meant by evidence is witness statements, expert statements, letters, instructions, and statements of the accused.

Criminal policy as an effort to deal with cyber crime can be interpreted as an effort to eradicate crime, both through penal policies (eradication of crime using criminal law) and non-penal policies (eradication of

crime without using criminal law). From a criminal policy point of view, efforts to deal with crime, namely cybercrime, cannot be carried out solely partially with criminal law (means of penal), but must also be pursued with an integral/systematic approach. As a form of high-tech crime that can cross national borders (transnational/transborder in nature), it is only natural that efforts to tackle cybercrime must also be pursued with a technological approach (techno prevention). Apart from that, a cultural/cultural approach, a moral/educational approach, and even a global approach (international cooperation) are also needed.

In addition to the above, the policy for overcoming crimes through non-penal channels is more of a preventive action before a crime occurs. Considering that efforts to deal with crime through non-penal channels are more in the nature of preventive measures for the occurrence of crime, the main goal is to deal with the factors conducive to the occurrence of crime. These conducive factors, among others, focus on problems or social conditions that can directly or indirectly give rise to or foster crime. Considering that efforts to deal with crime through non-penal channels are more in the nature of preventive measures for the occurrence of crime, the main goal is to deal with the conducive factors that cause it crime occurs. Thus, seen from the perspective of criminal politics at a macro and global level, efforts occupy key and strategic positions in all criminal political efforts.

Non-penal policies can be pursued by improving the national economy, conducting character education for everyone both formally and informally, especially those who are prone to committing crimes, improving the community's mental health system, streamlining international cooperation in eradicating cybercrime, improving computer security systems, and make administrative law and civil law related to the administration of internet systems and networks effective

## K. Conclusion

1. Legal arrangements regarding criminal acts of fraud through fund transfers in Indonesia are regulated in the Criminal Code (KUHP) in Article 378 and law number 19 of 20126 concerning Electronic Transactions and Information, law number 11 of 2011 concerning Transfer of funds. Article 378 of the Criminal Code carries a maximum penalty of 4 years in prison. Article 82 Law Number 11 of 2011 Concerning Transfer of Funds is a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)”

2. Law enforcement against criminal acts of fraud through fund transfers at the Medan Polrestabas includes investigative activities which are carried out in stages including: investigations; SPDP delivery; forced effort; inspection; case title; settlement of case files; Submission of case files to the public prosecutor; submission of suspects and evidence; and termination of the investigation. In conducting an investigation into SMS media fraud with the fund transfer mode, the officer immediately asked for the perpetrator's data to find out the identity of the perpetrator. Investigators study the traces left by the perpetrator, because every time he takes action it is certain that the perpetrator will leave traces that can be used as evidence such as cell phone numbers and proof of transfers and ask for information from the victim

## L. Suggestion

1. As a suggestion from the author that the legal arrangements related to fraud via SMS with the fund transfer mode are very adequate, it remains only for the police to increase efforts so that this crime can be eradicated or minimized such as preventive measures that are prevention of victims and the occurrence of a crime
2. Suggestions related to law enforcement for criminal acts of fraud via sms with the fund transfer mode, so that the police increase human resources and complete all infrastructure such as sophisticated equipment (ciber technology tools) and do not see the size of the losses experienced by victims, be swift in handling any criminal act indiscriminately.

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