Diversion Regulation for Public Transport Drivers in Criminal Justice to Enhance Road Safety

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Abstract

Introduction: Road transportation plays a vital role in Indonesia's economic mobility, where public transport drivers are responsible for safely moving people and goods. National data from Social Security Administration and the Indonesian National Police (Korlantas) shows that 61% of traffic accidents are caused by human error, including drivers' lack of skill, negligence, and reckless behavior, followed by 9% vehicle factors and 30% infrastructure and environmental factors. *Purposes of the Research:* This article examines the legal framework of diversion as an alternative settlement mechanism for traffic crime cases committed by public transport drivers within Indonesia's criminal justice system. It also analyzes the requirements of diversion under Articles 310 and 311 of Law Nomor 22 of 2009 and evaluates its implementation in Purwakarta Regency based on fairness, legal certainty, and restorative justice principles. *Methods of the Research:* This study employs an empirical legal research method to observe how the law operates in practice within society. Data were gathered through field observation, documentation, and analysis of traffic accident cases involving public transport drivers in Purwakarta. The empirical approach enables the researcher to examine the effectiveness of diversion policies within real criminal justice processes. *Findings of the Research:* The findings show that the regulation of diversion for public transport drivers in traffic accident cases has been effective in Purwakarta. In fatal accident cases, suspects are charged under Article 310(4) of Law Number 22/2009 jo. Article 77 of the Criminal Code. However, when the driver also suffers serious injuries requiring prolonged treatment, diversion may proceed, enabling restorative and legally certain case resolution within the criminal justice system.

Keywords: Diversion Regulation; Public Transport Drivers; Criminal Justice System; Road Traffic Safety.

INTRODUCTION

The preparation of this thesis is a mandatory academic requirement in the Master of Law Program. After submitting several proposed titles and undergoing academic review by the Head of the Study Program, the researcher received approval to conduct a study concerning the regulation of diversion for public transport drivers within the criminal justice system. Methodologically, this study applies a normative–empirical approach, in which the normative dimension examines statutory regulations, and the empirical dimension observes how legal norms operate in society. This paradigm allows the researcher to understand social phenomena, identify legal issues, and analyze data using scientific principles aligned with the aims and formulation of the research problem.[1]

Transportation is a vital sector in national life, as the mobility of people, goods, and services depends on adequate facilities, infrastructure, and competent human resources in land, sea, air, and rail transportation. The level of transportation quality reflects the degree

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[1] Creswell, John W. *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*. Thousand Oaks: Sage, 2018.

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of a nation's economic advancement. Developed countries tend to have efficient, fast, comfortable, and safe transportation systems, while developing countries still struggle with congestion, low safety levels, and inefficiency.[2] In Indonesia, the number of motor vehicles continues to increase significantly. Data from the Indonesian National Police (Korlantas Polri) recorded 153,400,392 active motor vehicles as of February 2023.[3] Such growth correlates with a heightened risk of traffic accidents, of which 61% are attributed to human error, including driver negligence and lack of competence, followed by vehicle conditions (9%) and infrastructure or environmental factors (30%).[4]

Traffic accident statistics consistently show an upward trend. In 2022, Indonesia recorded 139,364 traffic accident cases resulting in 28,131 fatalities, while in 2023 the cases increased to 148,575, although fatalities slightly decreased to 22,190 deaths.[5] As of mid-2024, the number of victims remains high, with thousands of recorded fatalities, serious injuries, and minor injuries. This situation prompted the government to establish a wide range of laws and regulations concerning transportation safety, including the 1945 Constitution, the Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), Law Number 22 of 2009 on Road Traffic and Transport, the Consumer Protection Law, the Manpower Law, the Road Law, the Company Law, and various technical regulations and ministerial decrees aimed at improving driver competence and enhancing public safety.

Despite the presence of these regulations, many public transport drivers still lack the required technical, administrative, and safety competencies. Numerous incidents reveal inadequate driving skills, absence of proper certification, and unsafe operational practices. Drivers are often unable to identify risks effectively or control their vehicles properly, leading to traffic violations and accidents that may result in criminal liability. Importantly, most drivers involved in such accidents do not possess malicious intent (mens rea) but are implicated due to minor negligence or inadvertence. In this context, the legal concept of diversion - as a mechanism for resolving criminal cases outside formal judicial proceedings - becomes highly relevant. Diversion promotes restorative justice, emphasizing dialogue, mediation, and restoration of social relations. It is especially appropriate when dealing with first-time offenders or negligent acts that do not involve deliberate harm. Diversion aims to avoid unnecessary criminalization, reduce the burden on the justice system, uphold fairness, and protect the rights of drivers while still ensuring accountability and safety on the road.

Given the complexity of traffic safety issues and the human, social, and legal dimensions involved in public transport operations, the researcher deems it necessary to examine the following topic: "Diversion Regulation for Public Transport Drivers within the Criminal Justice System to Promote Road Traffic Safety: A Case Study in Purwakarta Regency, West Java." This research seeks to elaborate how legal norms on diversion are formulated, interpreted, and applied in practice, and to evaluate whether they align with principles of fairness, legal certainty, and restorative justice in real traffic-related criminal cases.

METHODS OF THE RESEARCH

The object of this research consists of all elements that become the central focus of observation and analysis in order to answer the formulated research problems. The research

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[2] Rodrigue, Jean-Paul. *The Geography of Transport Systems*. Routledge, 2020.
[3] Korlantas Polri. *Statistik Kendaraan Bermotor Nasional Tahun 2023*. (Jakarta: Kepolisian Negara Republik Indonesia, 2023).
[4] BPJS Ketenagakerjaan & Korlantas Polri. *National Traffic Accident Report*, 2023.
[5] Korlantas Polri. *Laporan Kecelakaan Lalu Lintas Tahun 2022–2023*. (Jakarta: Polri, 2024).

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examines the regulation of diversion as an alternative mechanism for resolving criminal cases committed by public transport drivers, the requirements and legal provisions governing diversion under the Road Traffic and Transportation Law, and the practical implementation of diversion within the criminal justice process using a restorative justice perspective. Sugiyono explains that an object of research relates to a scientific way of obtaining data for specific purposes, and such scientific characteristics must be rational, empirical, and systematic, meaning that the research must be logically acceptable, observable, and follow structured steps.[6] In this study, the formal object is the application of diversion in criminal traffic cases involving public transport drivers, while the material object is *District Court Decision of Purwakarta Number 8/Pid-Sus/IV/2025*. The subject of research is a public transport driver named Rouf, aged 43, who was sentenced to three years of imprisonment for violating Articles 310 and 311 of Law Number 22 of 2009 on Road Traffic and Transportation. This case is relevant because no diversion agreement was achieved for the adult offender, thus raising significant questions regarding the legal framework and practical challenges of restorative justice in traffic-related offences.

The research employs a normative–empirical legal method, combining doctrinal study of written legal norms with empirical observation of how those norms are applied in real situations. Empirical legal research is required to understand the actual operation of the law within society, while the normative component is essential for examining statutory regulations governing diversion, restorative justice, and traffic crimes.[7] The research adopts a qualitative descriptive design supported by a case study approach, enabling an intensive and in-depth examination of the legal process, judicial interpretation, and the social dynamics influencing the success or failure of diversion efforts. A qualitative research strategy assists the researcher in generating descriptive data through field observation, interviews, and document analysis, while allowing deeper exploration of phenomena without the constraints of rigid theoretical frameworks. According to Creswell, qualitative inquiry within a post-positivist paradigm allows researchers to build insight and meaning from real experiences and interactions.[8] The study uses several research approaches. The statute approach is applied by examining primary legal materials, including the 1945 Constitution, the Criminal Code, the Criminal Procedure Code, Law Number 22 of 2009 on Road Traffic and Transportation, Supreme Court regulations on restorative justice, and relevant ministerial regulations. A socio-legal approach is used to understand how legal rules on diversion are implemented within the community and criminal justice institutions. A conceptual approach is employed to analyze legal doctrines and theories concerning diversion, restorative justice, and criminal policy. In addition, a case approach is used to closely examine traffic crime cases involving public transport drivers, including the case handled by the Purwakarta District Court.

Data were obtained from two main sources, namely primary and secondary data. Primary data were collected through field research, including in-depth interviews with law enforcement officials such as police investigators of Darangdan Sector Police in Purwakarta, officers of the Class I Purwakarta Correctional Center (Bapas), prosecutors at the Purwakarta District Attorney's Office, and legal mediators representing the parties. Observations were also conducted to understand the procedural steps taken in processing traffic crime cases and assessing whether opportunities for diversion were explored.

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[6] Sugiyono, *Metode Penelitian Kualitatif, Kuantitatif, dan R&D* (Bandung: Alfabeta, 2019), 3–5.
[7] Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 2006), 51.
[8] Creswell, John W, *Op. Cit.*

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Secondary data consist of primary legal materials (laws and regulations), secondary legal materials (books, academic journals, expert opinions, research reports), and tertiary legal materials (dictionaries and encyclopedias). All data were then verified, classified, and organized to support systematic analysis.

The collected data were analyzed through a qualitative method consisting of three interconnected stages: data reduction, data presentation, and conclusion drawing. Data reduction was carried out to select and categorize information relevant to the research focus. Data presentation was conducted by arranging the findings into coherent narrative descriptions to facilitate interpretation. The final stage involved drawing conclusions inductively based on the patterns, relationships, and meanings that emerged from the field data and normative materials. This analytical process aims to produce academically accountable answers to the research problems and to provide a clear understanding of the effectiveness of diversion policies for public transport drivers within the Indonesian criminal justice system.

RESULTS AND DISCUSSION

A. Results

The implementation of diversion for public transport drivers within the Indonesian criminal justice system reflects a substantive shift toward restorative justice, emphasizing the prevention of future harm and the protection of road users. Diversion—previously developed in juvenile justice—has been progressively adopted as a mechanism to resolve minor criminal cases outside the formal adjudication process while still upholding accountability and legal certainty. This approach aligns with the theoretical foundation of restorative justice, which prioritizes restitution and reconciliation over punitive sanctions.[9] In practice, the application of diversion for public transport drivers serves to reduce the burden on formal courts and encourages rapid settlement of traffic-related incidents while maintaining safety as a primary objective.

The regulatory landscape governing diversion is anchored in the Criminal Procedure Code (KUHAP) and is strengthened by statutory developments emphasizing the balance between public interests and the rights of drivers involved in traffic incidents. The Traffic and Road Transport Law (LLAJ Law) explicitly mandates that road safety must be upheld by applying a proportional enforcement approach against drivers whose actions may result in traffic violations or accidents. However, inconsistencies between the normative provisions and the operational practices of law enforcement officers indicate gaps in harmonization, particularly in determining which cases involving public transport drivers qualify for diversion. Such inconsistencies require analytical scrutiny to evaluate whether current regulations effectively protect both driver welfare and passenger safety.

Empirical findings from interviews, police reports, and case documentation demonstrate that diversion is most commonly applied in cases of negligence resulting in minor injuries or property damage. These findings correspond with earlier studies on discretionary policing practices, which highlight the importance of proportionality and public interest as determinants in diversion decisions.[10] However, unlike juvenile diversion - where procedural standards are well established - the diversion mechanism for adult offenders such as public transport drivers still lacks a standardized operational guideline. This

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[9] John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford University Press 2002).
[10] David Smith, "Discretion in Criminal Justice" *Journal of Criminal Law* 46 (2018): 202–219.

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regulatory vacuum leads to variability in implementation across regional police departments, affecting the legal certainty expected in criminal justice proceedings. From a practical standpoint, the adoption of diversion correlates with measurable improvements in case settlement time and reduced caseloads in district courts. Table 1 presents summary data showing the annual distribution of traffic-related cases involving public transport drivers and the proportion resolved through diversion mechanisms in selected jurisdictions in 2020–2024.

Table 1. Traffic Cases Involving Public Transport Drivers and the Use of Diversion, 2020–2024

Year	Total Traffic Cases	Cases Involving Public Transport Drivers	Cases Settled through Diversion
2020	3,241	812	146
2021	3,510	904	178
2022	3,774	1,021	231
2023	4,066	1,118	264
2024	4,211	1,204	310

Source: Primary Data (Processed), 2025.

The data indicate a consistent increase in the application of diversion each year, suggesting that law enforcement and prosecutors increasingly view diversion as an effective mechanism for resolving traffic cases without prolonged judicial proceedings. Nevertheless, the absence of uniform assessment criteria raises concerns about unequal treatment, particularly in cases where victims demand formal prosecution. The role of victim participation—central in restorative justice theory - thus becomes a key determinant in assessing the legitimacy of diversion outcomes.[11] As such, strengthening regulatory guidelines and formalizing diversion procedures are essential steps to ensure equitable application and uphold the overarching goal of road safety.

Another critical issue relates to the integration of road safety principles within the diversion framework. Theories on traffic safety stress that legal interventions must not only address the legal violation but also promote behavioral change among drivers to prevent recurrence.[12] Accordingly, diversion programs for public transport drivers often incorporate mandatory safety training, written statements of responsibility, and supervised mediation with victims. These measures reflect a hybrid model of legal enforcement and educational correction consistent with the state's responsibility to minimize traffic risks. Despite these developments, monitoring mechanisms remain insufficient, as follow-up evaluations are rarely conducted to assess the long-term behavioral impact of diversion agreements. Overall, the results of this study indicate that diversion for public transport drivers, when properly regulated and consistently implemented, can enhance the effectiveness of the criminal justice system while maintaining road safety. However, reform is needed to harmonize statutory provisions, strengthen operational guidelines, and ensure transparency in decision-making. Comparative analysis with previous studies reveals that Indonesia's approach still lags behind jurisdictions where adult diversion has been institutionalized within national legal frameworks.[13] Strengthening the regulatory basis and

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[11] Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2015).
[12] Leonard Evans, *Traffic Safety* (Science Serving Society 2004).
[13] Mark Findlay, *Contemporary Issues in Criminal Justice* (Routledge 2019).

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embedding restorative justice principles more firmly into traffic law enforcement would contribute to more consistent implementation and ultimately improve transportation safety outcomes.

B. Discussion

The regulation of diversion for public transport drivers within the Indonesian criminal justice system represents an emerging legal development aimed at strengthening road traffic safety while ensuring fairness for drivers who become involved in traffic-related criminal cases. Public transport drivers constitute a professional group essential to national mobility and economic continuity, as they facilitate the movement of people and goods across regions.[14] Because of the nature of their work, drivers are continuously exposed to operational risks on the road, which may lead to unintentional traffic violations or accidents. The existing legal framework - particularly the Consumer Protection Law and the broader criminal justice system - has begun to incorporate forms of legal protection for drivers who face criminal allegations arising from traffic incidents. Diversion, understood as the redirection of criminal settlement from formal adjudication to restorative, non-litigation processes, becomes increasingly relevant not only for child offenders but also for adult drivers involved in traffic cases.

Although diversion is expressly regulated under the juvenile justice system, its extension to adult public transport drivers is supported by the principles of restorative justice embedded in several statutes and institutional regulations. Traffic violations governed by Law Number 22 of 2009 on Road Traffic and Transportation (LLAJ), particularly Articles 310 and 311 concerning negligence and intentional misconduct, do not explicitly mention diversion. However, the law does not prohibit non-litigation mechanisms, thereby opening the possibility of restorative approaches when assessed in conjunction with other supporting regulations. The introduction of the new Criminal Code (KUHP) under Law Number 1 of 2023 further reinforces this position. Articles 45–54 of the new Criminal Code formally recognize restorative justice and allow termination of prosecution for adult offenders under certain conditions, especially when the offense results in minor harm or limited material loss. These provisions demonstrate the increasing normative legitimacy of diversion for adult offenders, including public transport drivers.

Additional regulatory instruments strengthen the operationalization of restorative justice within the criminal process. The Indonesian National Police Regulation Number 8 of 2021 provides a procedural basis for police investigators to apply restorative justice during the investigation stage. Similarly, the Regulation of the Attorney General Number 15 of 2020 authorizes prosecutors to terminate prosecution based on restorative justice when statutory requirements are met. More recently, Supreme Court Regulation Number 1 of 2024 offers guidance for judges in handling cases through restorative mechanisms, ensuring that restorative settlement may be recognized and validated by courts. Although these regulations do not explicitly establish "adult diversion" as a distinct procedural category, they collectively construct an enabling environment for its application.

The urgency of introducing diversion for public transport drivers is grounded in the characteristics of the offenders and the socio-economic implications of formal criminal prosecution. Most accidents involving public transport drivers arise from negligence rather than malicious intent. The formal criminal process, which may include arrest, detention,

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[14] A. Syafruddin, *Transport and Human Resources Development* (Jakarta: Pustaka 2018).

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and prolonged adjudication, can disrupt the driver's livelihood and create economic instability for their families. Diversion, therefore, offers an alternative that maintains accountability while incorporating remediation, compensation, safety training, and mediated dialogue with victims.[15] In addition, diversion aligns with the broader goals of road traffic safety, as it allows the inclusion of corrective measures—such as re-education, safety workshops, and behavioral monitoring—designed to prevent recurrence of violations.

While there is no single law explicitly regulating diversion for adult drivers, the current legal framework provides substantial normative support for its application. Nevertheless, several juridical problems remain. First, the LLAJ Law lacks express provisions on diversion, leading to interpretive inconsistencies. Second, the criminal justice system remains heavily influenced by retributive logic, which prioritizes punishment over rehabilitation or restitution.[16] Third, there are no standardized operating procedures (SOPs) specifically tailored for diversion involving adult drivers, which results in uneven application across different law enforcement agencies. Finally, the transportation sector agencies—such as the Ministry of Transportation and regional transport authorities—are not yet systematically involved in the settlement process, despite their relevance to road safety and driver competency. A concrete diversion scheme for public transport drivers is especially feasible in cases involving minor negligence under Article 310(1)–(2) of the LLAJ Law, where there are no fatalities or severe injuries, and material loss can be compensated voluntarily by the driver. Diversion in such cases may include acknowledgement of responsibility, compensation to the victim, mandatory enrollment in safety training programs, issuance of written agreements, and monitoring by police or transportation agencies. Implementation requires a coordinated decision-making framework among law enforcement institutions, particularly the police, prosecutors, courts, and transportation regulators. For diversion to function effectively and uniformly, legal reform is required at both legislative and regulatory levels. A more comprehensive regulation - potentially through amendments to the LLAJ Law or the drafting of a Government Regulation—should explicitly recognize adult diversion for traffic cases. This reform would require institutional collaboration involving the House of Representatives (Commission III), the National Police, the Supreme Court, the Attorney General's Office, the Ministry of Transportation, legal academics, practitioners, and transportation associations.[17] Such coordination would ensure that diversion supports both legal certainty and national road safety objectives, integrating restorative justice into a coherent and sustainable framework for handling traffic offenses.

CONCLUSION

The findings of this study demonstrate that the development of a diversion framework for adult public transport drivers within the Indonesian criminal justice system is both urgent and normatively justified. Traffic accidents involving public transport drivers are significantly influenced by complex factors such as vehicle safety, driver competence, road conditions, and spatial planning. These realities indicate that a purely retributive approach is insufficient to maintain road safety. Instead, a restorative justice–based diversion mechanism - supported by constitutional principles, the new Criminal Code (Law Number 1/2023), consumer protection law, labor protections, and public welfare regulations—offers

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[15] Howard Zehr, *Op. Cit.*
[16] Mark Findlay, *Op. Cit.*
[17] R. Santoso, "Restorative Justice and Multisectoral Legal Reform" *Journal of Indonesian Law Reform* 12 (2023): 55–72.

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a proportional, corrective response for cases involving minor negligence that do not result in death or serious injury. This approach aligns with the goals of traffic law enforcement: fostering legal awareness, preventing repeat offenses, and strengthening a culture of safety among public transport drivers. Based on the normative, empirical, and progressive legal perspectives explored in this research, the implementation of adult diversion regulation for public transport drivers should be institutionalized through explicit legal reform. This includes amending Law Number 22/2009 on Road Traffic and Transport, issuing implementing regulations such as a Government Regulation or Chief of Police Regulation, and integrating structured training, mediation, and risk evaluation into the diversion process. Practical application can begin incrementally starting in 2026, synchronized with the full enactment of the new Criminal Code. In the medium and long term, collaboration between the legislature, the executive, law-enforcement institutions, the Ministry of Transportation, professional driver associations, and academic experts is essential to ensure that diversion becomes an effective instrument for reducing the burden on the criminal justice system while enhancing public safety and driver professionalism.

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