

# The Investigation Process of Children Suspects in Narcotics Crime in National Anti Narcotics Agency (BNN)

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## Abstract.

*The purpose of this study is to find out and analyze the process of investigating child suspects in narcotics crimes in National Anti Narcotics Agency (BNN) and to find out and analyze the obstacles in the process of investigating child suspects in narcotics crimes in National Anti Narcotics Agency (BNN) and its solutions. The approach method used in this research is a sociological juridical approach. The sociological juridical approach is identifying and conceptualizing law as a real and functional social institution in a real life system. The sources and types of data in this study are secondary data. The method of data collection was obtained from a literature study. The data were analyzed descriptively analytically. The results of this study are the process of investigating child suspects in narcotics crimes at the National Anti Narcotics Agency (BNN) of Central Java Province are: Investigations into narcotics crimes include investigations, arrests, detentions, searches, confiscations. Investigations conducted by the Central Java Provincial BNN are in accordance with the Criminal Procedure Code and Act No. 35 of 2009 concerning Narcotics. Obstacles in the Investigation of Child Suspects in Narcotics Crimes at the National Anti Narcotics Agency (BNN) and the Solutions is time consuming compared to investigations in adult cases, investigators hope that the parties who participate in assisting the investigation process are expected to cooperate cooperatively, the lack of public awareness to report so that the police are expected to provide counseling to the public about narcotics crimes, the lack of the role of the family environment, as a parents should play an active role in taking care of their children by following the development of information or counseling if any, whether organized by the National Anti Narcotics Agency, investigators, doctors. Because parents play an important role in the socialization process of children. Therefore, parents must devote attention to educating their children so that these children get the right pattern of social life.*

*Keywords: Agency; Investigation; Children; Crime; Narcotics.*

## 1. Introduction

Talks about children and their protection will never stop throughout the history of life, because children are the next generation of the nation and the successor of development, namely the generation that is prepared as the subject of implementing sustainable development and controlling the future of a country, Indonesia is no exception. Protection of Indonesian children means protecting the potential of human resources and building Indonesian people as a whole, towards a just and prosperous society, spiritual material based on Pancasila and the 1945 Constitution.

As a manifestation of the commitment of the State of Indonesia as stipulated in the 1945 Constitution of the Unitary State of the Republic of Indonesia, which is formulated in Article 28 B paragraph (2), in terms of providing protection for children and upholding the rights of children, the Government of the Republic of Indonesia has ratified the Convention on the Rights of the Republic of Indonesia. -

The Rights of the Child (Convention on the Rights of the Child) by Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child (Convention on the Rights of the Child).

In the era of codification, all laws have been established in law (written law) and each country makes national laws in the national language and the laws reflect the cultural aspirations and needs of the people of the country concerned. It is at this time that studying the law of a country that has been codified for legal experts in other countries is studying foreign law. In this era, comparative law was studied as a special branch of law.<sup>1</sup>

Talks about children will never stop throughout the history of human life because children are the next generation of the nation, namely the generation that is prepared as a continuation in the development of the nation as well as the holder of control of the future of a country. Child protection in Indonesia means protecting the potential of Indonesia's human resources towards a just and prosperous society, both materially and spiritually based on Pancasila and the 1945 Constitution.<sup>2</sup>

Along with the times, the demands of life encourage a variety of crimes committed by humans. One of the criminal acts that often occur today is narcotics abuse which is quite common among the public, even the current distribution of narcotics does not look at who is the user, regardless of the position, education and background of the person, ranging from ordinary people to officials. the state, from the adult community and even students at the age of students also fall into narcotics abuse.

The criminalization of narcotics abuse must be accompanied by law enforcement for the perpetrators through the criminal system adopted in Indonesia, one of which is the criminal system by implementing and imposing punishment for the perpetrators through a Judge's Decision which aims to restorative justice based on treatment, not retaliation as is commonly adopted by the criminal system in Indonesia in the form of imprisonment.<sup>3</sup>

Narcotics and psychotropic crimes as referred to in Act No. 5 of 1997 concerning Psychotropics, and Act No. 22 of 1997 concerning Narcotics provides fairly heavy criminal sanctions, however in reality the perpetrators of crimes are actually increasing, and for the convicts in reality it is not a deterrent and there is a tendency to repeat it again. This can be caused by the existence of a criminal factor that does not have an impact or deterrent effect on the perpetrators.<sup>4</sup>

Basically, narcotics have a function that is intended as a drug that is used legally in the fields of health and science, such as the use of narcotics as a sedative, painkiller and other drugs whose use must be under the supervision of doctors and

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<sup>1</sup>Sri Endah Wahyuningsih, (2013), *Perbandingan Hukum Pidana Dari Perspektif Religious Law System*, Unissula Pers, Semarang, p. 3

<sup>2</sup>Nashriana, (2011), *Perlindungan Hukum Pidana Bagi Anak di Indonesia*, Rajawali Pers, Jakarta, p.1.

<sup>3</sup>Hera Saputra, Munsyarif Abdul Chalim, 2018, *Penerapan Sistem Pemidanaan Terhadap Pelaku Tindak Pidana Penyalahgunaan Narkoba (Studi Kasus di Polda Jateng)*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 164, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2630/1979>

<sup>4</sup>Indah Lestari, Sri Endah Wahyuningsih, 2017, *Penegakan Hukum Pidana Terhadap Pengguna Narkoba Di Polda Jateng*, *Jurnal Hukum Khaira Ummah* Vol. 12. No. 3, <http://jurnal.unissula.ac.id/index.php/jhku/article/view/1889/1433>, p. 601-602

medical personnel.<sup>5</sup> Thus, if narcotics are consumed and abused by someone, then the act can be classified as a criminal act or a violation of the law.<sup>6</sup>

Various aspects there are many problems that are of concern, especially regarding the behavior of some of our young people who are trapped in drug abuse. Narcotics spoken words often give clues about unwanted effects, this is because drugs used to be synonymous with crime, forbidden and breaking the rules.<sup>7</sup>

The problem of drug abuse is a complex problem that requires comprehensive prevention efforts involving working with a multidisciplinary, multisectoral, and actively participating community. The rise of drug abuse is not only in big cities, but has penetrated into small-scale cities including Magelang. One of the components of law enforcement in Indonesia is the Attorney General's Office (hereinafter referred to as the Attorney General), where one of the roles of the Attorney General is in prosecuting criminal acts.<sup>8</sup>

The purpose of this study is to find out and analyze the process of investigating child suspects in narcotics crimes in National Anti Narcotics Agency (BNN) and to find out and analyze the obstacles in the process of investigating child suspects in narcotics crimes in National Anti Narcotics Agency (BNN) and its solutions.

## 2. Research Methods

The approach method used in this research is a sociological juridical approach. The sociological juridical approach is identifying and conceptualizing law as a real and functional social institution in a real life system. The sources and types of data in this study are secondary data. The method of data collection was obtained from a literature study. The data were analyzed descriptively analytically.

## 3. Result and Discussion

### 3.1. The Investigation Process of Child Suspects in Narcotics Crimes at the National Anti Narcotics Agency (BNN)

The issue of authority can become an institutional polemic that deserves attention. Authority concerns the issue of institutional integrity and there are always efforts to prevent the reduction of power. The reduction in power can lead to a misperception of the institutions that accept the reduction. Institutions can be considered incapable and incompetent to carry out the powers granted by the law

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<sup>5</sup><https://bnn.go.id/pengertian-narkoba-dan-bahaya-narkoba-bagi-kesehatan/>, accessed on 9 August 2019.

<sup>6</sup>Siswanto, (2012), *Politik Hukum Dalam Undang – Undang Narkotika; Undang – Undang Nomor 35 Tahun 2009*, Rineka Cipta, Jakarta, p. 29.

<sup>7</sup>Heni Agustiningih and Sri Endah Wahyuningsih, 2018, *Decision of Linked with Narcotics Convicted in Act No. 35 Of 2009 in The District of Sumber Court*, in *Jurnal Daulat Hukum* Volume 1 (3), Published Master Of Law, Faculty of Law Unissula, p. 597, <http://jurnal.unissula.ac.id/index.php/RH/article/view/3343/2471>

<sup>8</sup>Arif Hidayat and Sri Endah Wahyuningsih, 2018, *Role Of Prosecutor General Prosecution Of Actors In The Implementation Of Abuse Of Narcotics Crime (Case Study in Magelang District Attorney)*, in *Jurnal Daulat Hukum* Volume 1 (3), Published Master Of Law, Faculty of Law Unissula, p. 446, <http://jurnal.unissula.ac.id/index.php/RH/article/view/3290/2423>

and are even considered to have never provided adequate accountability in accordance with the expectations of the community, especially since this authority is related to power. It is like the elimination of power is a show of power, the result is institutional arrogance as well as structural egoism so that it will interfere with the comprehensive law enforcement process on narcotics crimes.<sup>9</sup>

Investigations into narcotics cases can be carried out by the police in collaboration with BNN. In conducting an investigation, the police must coordinate with the National Anti Narcotics Agency (Article 70 point c of the Narcotics Law), and notify the National Anti Narcotics Agency related to the investigation carried out on narcotics cases (Article 84 of the Narcotics Law). The police have some of the same powers as the investigative authority of BNN. Some of these authorities are to prevent the distribution and abuse of narcotics, to confiscate narcotics, to notify the District Attorney's Office of the confiscation, set aside a small part of the confiscated goods as samples in the laboratory, and destroy narcotics. Abdul Gaffar Ruskhan stated that in addition to the existence of BNN, within the police body there are also units that handle narcotics, namely the Narcotics Task Force, Narcotics Unit V, Narcotics Unit I Polda Metro Jaya, Narcotics Directorate Polda Metro Jaya, and the Narcotics Directorate at Police Headquarters.

The implementation of a criminal investigation is carried out after it is known that an event that occurred is a criminal act. After it is known that an event that occurred is suspected or constitutes a criminal act, an investigation is immediately carried out through investigation, prosecution, examination and settlement and submission of case files.

Examining children's cases is not carried out like examining adult cases, but is carried out in a family and special place as well. If the investigator does not understand something, the investigator can ask for an adviser as stipulated in Article 42 paragraph (2) of Act No. 3 of 1997 concerning Juvenile Court. The results of the examination must be kept confidential, because it is to protect the future of the child and the good name of his family.<sup>10</sup>

The process of investigating child suspects in narcotics crimes at the National Anti Narcotics Agency (BNN) are: Investigations into narcotics crimes include investigations, arrests, detentions, searches, confiscations. Investigations conducted by the Central Java Provincial BNN are in accordance with the Criminal Procedure Code and Act No. 35 of 2009 concerning Narcotics.

### **3.2. Obstacles in the Investigation of Child Suspects in Narcotics Crimes at the National Anti Narcotics Agency (BNN) and the Solutions**

The problem of drug abuse in Indonesia in general and in Aceh in particular is something that is urgent and complex. The impact of narcotics abuse not only threatens the survival and future of the abuser, but also the future of the nation and state, regardless of social, economic, age or education strata.<sup>11</sup>Narcotics crime is an

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<sup>9</sup>Indriyanto Seno Adji, 2003, *Dwang Middelien dan Ide Arah Hakim Komisaris*, on Media Hukum, Volume 1 No. 5, Persatuan Jaksa Republik Indonesia, Jakarta, p. 77-78

<sup>10</sup>Faisal, Moch, (2005), *Hukum Acara Peradilan Anak di Indonesia*, Mandar Maju, Bandung.

<sup>11</sup>M. Arif Hakim, (2016), *Bahaya Narkoba Alkohol Cara Islam Mengatasi, Mencegah, dan Melawan*, Nuansa, Bandung, p.7.

international crime with a neat mode, namely utilizing the development of advanced technology in telecommunications and transportation. The threat of narcotics danger has grown rapidly and is troubling and has shaken the lives of families and Indonesian society in general.

Narcotics abuse is a crime that is very detrimental to individuals, society and is a great danger to the joints of human life and the life of the state in the fields of politics, security, economy, social, culture and national resilience of the Indonesian nation. Therefore, the handling of narcotics abuse and illicit trafficking is not only borne by the government, but must involve all components of society. Prevention efforts are an effort that is prioritized over eradication efforts, in this prevention efforts, efforts are needed to eliminate the factors that cause the abuse in question, both through formal and informal educational institutions, through government institutions and social institutions.

Considering the dangers of narcotics for those who abuse it, the Government issued Act No. 35 of 2009 concerning Narcotics. The enactment of this Law is to prevent and eradicate abuse and illicit trafficking of narcotics which is very detrimental and endangers the lives of the community, nation and state, because narcotics crimes are no longer committed individually, but involve many people who together, even constitute one an organized syndicate with an extensive network that works neatly and very confidentially both at the national and international levels.

Drug abuse is still a chronic problem that afflicts Indonesia, cases of shabu trafficking and the many arrests of international drug dealers in recent years are evidence that Indonesia is in a state of drug emergency. The Indonesian government puts forward the role of the Police and the National Anti Narcotics Agency (BNN) in preventing and eradicating drug trafficking in Indonesia. The efforts to prevent and eradicate drugs are carried out in three stages, namely first, preemptive, namely prevention efforts that are carried out early. Second, Prevention is an effort that is strategic in nature and is a medium-term and long-term action plan, but must be seen as an urgent action to be implemented immediately.<sup>12</sup>

The child protection is an effort to provide conditions and situations that allow the implementation of children's rights and obligations in a positive human manner which is also the embodiment of justice in a society. Thus, child protection must be sought in various fields of life and state life, community and family based on law, for the sake of right, fair treatment and the welfare of children.

Legal protection for children in narcotics cases in the trial process generally lies in the testimony of witnesses who can be heard and attended by child defendants and then the punishment based on Act No. 35 of 2009 concerning narcotics and the provision of rehabilitation for child defendants in narcotics cases.

The process of investigating children is almost the same as the process of investigating adults. Child investigation is carried out after it is known that a criminal act has occurred, the crime can be known when there is a report, complaint, caught red-handed and/or known directly by the officer.

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<sup>12</sup>Bayu Puji Hariyanto, 2018, *Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indonesia*, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 201, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2634/1983>

The investigators hope that the parties who participate in assisting the investigation process are expected to cooperate cooperatively, the lack of public awareness to report so that the police are expected to provide counseling to the public about narcotics crimes, the lack of the role of the family environment, as a parents should play an active role in taking care of their children by following the development of information or counseling if any, whether organized by the National Anti Narcotics Agency, investigators, doctors. Because parents play an important role in the socialization process of children. Therefore, parents must devote attention to educating their children so that these children get the right pattern of social life.

Efforts to be made further are by collaborating with relevant agencies such as NGOs, Government Agencies, Cooperating with the community, Conducting routine raids for motorized vehicles in every city border lane, Conducting raids and routine Unie tests, Installing billboards about the dangers of drugs, Collaborating with institutions medical rehabilitation and social rehabilitation.

#### 4. Conclusion

The process of investigating child suspects in narcotics crimes at the National Anti Narcotics Agency (BNN) of Central Java Province are: Narcotics crime investigations which include investigations, arrests, detentions, searches, confiscations. The obstacles in the Investigation Process of Child Suspects in Narcotics Crimes at the National Anti Narcotics Agency (BNN) and the solution is time consuming compared to investigations in adult cases, so that the police are expected to provide education to the public about narcotics crimes, the lack of role in the family environment, as parents should play an active role in taking care of their children by following the development of information or counseling if any, whether organized by the National Anti Narcotics Agency, investigators, doctors. Because parents play an important role in the socialization process of children. Therefore, parents must devote attention to educating their children so that these children get the right pattern of social life.

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