

The Investigation Process of Drug Criminal Actions by Police Investigators

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Abstract.

The purpose of this study was to analyze the process of investigating narcotics crimes by investigators of the Narcotics Unit. To analyze the obstacles and solutions to the narcotics crime investigation process by the Narcotics Sat investigator. The method used by the researcher is sociological juridical approach to law and the specifications in this study are descriptive. The sources and types of data in this study are secondary data obtained from library studies. Data analyzed qualitatively. Based on the results of the study that The Narcotics Crime Investigation Process by the Narcotics Sat Investigator is to receive a report from the public of an alleged Narcotics crime then the Narcotics Sat Res makes a Police Report on the report after which an Investigation Order and Task Order are made then the Narcotics Sat Res member takes the first action at the scene then a case title is carried out to analyze the application of the article to be suspected, after that complete the administration of the investigation (making an Investigation Order). Then an examination is carried out as a suspect (the investigator makes an examination report), then detention is carried out for 20 (twenty) days. Then in the detention process, the investigator completes the case file and sends the case file which is declared complete (P-21), After that, the suspect is sent. The obstacle is that law enforcement has not been implemented systematically; Lack or lack of budget in uncovering narcotics crime cases; Difficulties in proving related to the qualifications of abusers, addicts, or victims of narcotics abuse. The solution is to take preemptive, preventive and repressive efforts.

Keywords: Crime; Drugs; Investigation; Narcotics.

1. Introduction

In accordance with the explanation of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), it is clearly stated "Indonesia is a State of Law". If the provisions are interpreted grammatically, then there will be consequences of a rule of law, namely that all forms of decisions, actions of state equipment, all attitudes, behavior and actions including those carried out by citizens, must have a legal basis or in other words all must have a basic legitimacy.¹

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 Narcotics Agency

¹Muhammad Adiel Aristo, Umar Ma'ruf, 2020, *Criminal Law Policy against Actor of Criminal Performance Persecution*. in Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 139 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8412/4062>, p. 139, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8412/4062>

(BNN) in preventing and eradicating drug trafficking in Indonesia.² Drug abuse can be dangerous, ultimately damaging the nervous system. If this trend continues, it will harm oneself, family, society and country.³

Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia in order to further strengthen the position and role of the Prosecutor's Office of the Republic of Indonesia as a Government institution that exercises state power in the field of prosecution must be free from any influence from any party's power.⁴

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 penalties 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. Treatment as an alternative punishment for perpetrators of drug abusers and addicts as victims of drug trafficking is very appropriate to use rather than a retributive and relative approach to the criminal justice system in Indonesia.⁵

Ratification of the 1971 Vienna Convention which regulates international cooperation in controlling, supervising the production, distribution and use of narcotics and psychotropics as well as preventing efforts to eradicate narcotics and psychotropic abuse, by limiting their use only for the benefit of medicine and science. This is an effort by the government to organize cooperation between other countries in the context of an effort to control, distribute and abuse psychotropic drugs and narcotics that provides direction on criminal juridical principles and rules regarding extradition.⁶

The types of narcotics among drug addicts also vary, along with the development of technology and information.⁷The emergence of narcotics abuse is due to the availability of narcotics not only in terms of health and scientific interests, but narcotics are used for the purpose of illicit narcotics trafficking.

²Bayu Puji Hariyanto, 2018, *Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indonesia*, dalam 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>

³Dudu Wawan Setiawan, Bambang Tri Bawono, 2019, *Disparity of Judge's Decision on Children Of Narcotics Crime Actors Study on Denpasar State Court Decision No. 3 / Pid.Sus.Anak / 2014 /PN.Dps. by Denpasar State Court Decision No. 14 / Pid.Sus.Anak / 2015 /PN.Dps.* Jurnal Daulat Hukum Volume 2 (4), Published Master Of Law, Faculty of Law Unissula, p. 580 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8434/3906>

⁴Andita Rizkianto, Gunarto, 2017, *Peran Jaksa Dalam Penanganan Pelaku Tindak Pidana Narkotika (Studi Kasus Penyalahgunaan Narkotika Golongan I Yang Ditangani Oleh Kejaksaan Negeri Kota Semarang)* Jurnal Hukum Khaira Ummah Vol. 12. No. 3

⁵Hera Saputra, Munsyarif Abdul Chalim, 2018 *Penerapan Sistem Pemidanaan Terhadap Pelaku Tindak Pidana Penyalahgunaan Narkoba (Studi Kasus di Polda Jateng)*, Jurnal Daulat Hukum Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 164-165 <http://jurnal.unissula.ac.id/index.php/RH/article/view/2630/1979>

⁶Sepha Dwi Hananto, Anis Mashdurohatun, Jawade Hafidz, 2018, *Penegakan Hukum Pidana Terhadap Terdakwa Pengguna Narkoba Yang Menjalani Rehabilitasi Di Polda Jateng*, Jurnal Hukum Khaira Ummah Vol. 13. No. 1

⁷Gilang Fajar Shadiq, 2017, *Penegakan Hukum Terhadap Tindak Pidana Narkotika New Pshycoactive Substance Berdasarkan Undang-undang Nomor 35 Tahun 2009 Tentang Narkotika*, Jurnal Wawasan Yuridika, Vol.1, p. 36

Sociologically the impact of illicit narcotics trafficking is to capture as many narcotics abusers as possible, so that with the increase in narcotics abusers, it will have an impact on addiction, and the consequences of this addiction will increase the need for narcotics, then narcotics traffickers will benefit greatly from the illicit drug trafficking business.

According to Sudarto, the functions of criminal law are divided into two, namely general functions and special functions. The general function of criminal law is the same as the function of law in general, namely regulating social life or organizing order in society. The special function of criminal law is to protect legal interests against acts that want to rape them with criminal sanctions.⁸Based on the legal function proposed by Sudarto, it provides an understanding that criminal law functions as an instrument to regulate social life and organize order in society, as well as to provide protection of legal interests for perpetrators who commit such criminal acts, by providing sanctions in the form of punishment for perpetrators. On the other hand, if the implementation of the rule of law is not carried out by law enforcement officers properly, then the legal function will not be achieved.

One of the factors in law enforcement is law enforcement officers who are tasked with implementing the applicable legal rules. Providing fair services, providing protection to the public and witnesses, both for the purposes of investigation, prosecution and during examination in court, as well as the application of criminal sanctions is an operationalization of law (*ius operatum*) related to law enforcement authorities.⁹One of the law enforcement officers is the Prosecutor's Office as the public prosecutor. Like the *dominus litis* principle, the public prosecutor has a role as a case controller in handling a criminal case.

The purpose of this study was to analyze the process of investigating narcotics crimes by investigators of the Narcotics Unit. To analyze the obstacles and solutions to the narcotics crime investigation process by the Narcotics Sat investigator.

2. Research Methods

In writing this research, the author uses the empirical juridical method or the sociological juridical method, namely the approach taken to the applicable legal norms associated with the facts in the field. The research conducted by the author is descriptive research, intended to provide as detailed data as possible regarding the problem under study. The sources and types of data in this study are secondary data obtained from library studies. Data analyzed qualitatively.

3. Results and Discussion

3.1. Narcotics Crime Investigation Process by Narcotics Sat Investigator

Today, narcotics abuse is no longer a victimless crime, but is a crime that takes many victims and is a prolonged disaster to all mankind in the world.¹⁰In the

⁸Eddy. OS. Hiariej, (2016), *Prinsip-prinsip Hukum Pidana*, Cahaya Atma, Yogyakarta, p. 34

⁹Wisnu Djati Dewangga, 2014, *Penegakan Hukum Tindak Pidana Narkotika Dengan Pelaku Anggota Kepolisian*, Jurnal Jurisprudence, Vol.4, p. 67

¹⁰BNN RI, (2011), *Pedoman Pencegahan Penyalahgunaan Narkoba Bagi Pemuda*, BNN RI, Jakarta, p. 4.

last two decades, the use and distribution of illegal narcotics throughout the world has shown a sharp increase and has plagued all nations, and has claimed many victims.

In Indonesia, the law that supervises and controls the use of narcotics as well as overcoming the abuse of narcotics and the treatment of its victims is known as the narcotics law.¹¹ The law that regulates narcotics is very necessary considering its increasing distribution in various regions, both nationally and transnationally. The law governing the use of narcotics begins with the enactment of Act No. 9 of 1976. Then along with its development, the regulation regarding the supervision of the use of narcotics was replaced by Act No. 22 of 1997 concerning narcotics which was later updated and replaced again into Law Number 34 of 2009 because the old law was deemed insufficient in dealing with the spread and illicit trafficking of narcotics.

The most important law enforcement in Indonesia is criminal law enforcement where the criminal regulates prohibiting and imposing sanctions on legal actors. Criminal law enforcement is expected to be a deterrent factor against the spread of narcotics trafficking, but in reality, the more intensive law enforcement is, the more it increases. trafficking in narcotics and psychotropics,¹² which means that special attention is needed on narcotics crimes.

In order for narcotics crimes to be controlled, laws and various regulations are made to control narcotics crimes, namely:

- Criminal Code.
- Act No. 35 of 2009 concerning Narcotics.
- Government Regulation No. 27 of 1983 concerning the Implementation of the Criminal Procedure Code, and
- Government Regulation No. 23 of 2010 concerning BNN.

Investigation is the most important part of the Criminal Procedure Code, which in its implementation often has to offend the dignity of the individual, which is sometimes supposed to be mandatory. An important motto in the Criminal Procedure Code is that the nature of criminal case investigations is to clarify matters and at the same time prevent innocent people from taking actions that should be charged to them. Therefore, the investigation process carried out by investigators often takes a long time, is tiring and may also cause a psychological burden, trying to stop the investigation.

In the course of conducting an examination of a suspect, the investigator must fulfill the provisions stipulated in Article 51, Article 53, Article 114, Article 115, and Article 133 of the Criminal Procedure Code. The witness is a very decisive evidence in the judicial process. Because the witness is someone who can provide information about a crime that has occurred, where he heard, saw and experienced the event himself. Witnesses are examined separately, but they may be met with one another and they are obliged to provide true information.

The process of investigating a narcotics crime case is a system or method of investigation carried out to search for, and collect evidence with that evidence to

¹¹Hari Sasangka, (2003), *Narkotika dan Psicotropika dalam Hukum Pidana*, Mandar Maju, Bandung, p. 4.

¹²Siswanto Sumarto, (2004), *Penegakan Hukum Psicotropika dalam Kajian Sosiologi Hukum*, Rajagrafindo Persada, Jakarta, p. 7.

make clear about the crime that occurred and to find the suspect in accordance with the method regulated in the Criminal Procedure Code.¹³

There are many things that can weaken the evidence, one of which is that the existing evidence cannot be accepted in court (not admissible at court). There are many things that cause evidence that cannot be accepted as evidence in court, the process of extracting or taking evidence is unprofessional, there is no match between the case and the evidence displayed, or other things that are the fault of the investigator.

As the implementation of the unit of investigation and investigation of narcotics crimes and dangerous drugs, the narcotics work unit works on the basis of the rules set by the National Police Chief based on police reports.¹⁴

One of the administrative completeness after an investigation is carried out is an Investigation Order or Sprindik. The function of the Sprindik is as an administrative completeness that must exist in the settlement of narcotics crimes in accordance with the provisions of the legislation as a form of accountability for the implementation of the duties of the investigator. According to Article 109 paragraph (1) of the Criminal Procedure Code, in the event that an investigator has started to investigate an event which constitutes a criminal act, the investigator shall notify the public prosecutor. The function of the Sprindik as a "technical letter" can be seen from 4 (four) perspectives, namely the reporter, the reported party, the investigator and the public prosecutor. The authority of police investigators in handling narcotics crime cases, among others, are as follows:

- Summoning
- Arrest
- Detention
- Search
- Foreclosure

The Narcotics Crime Investigation Process by the Narcotics Sat Investigator is receive a report from the public of an alleged Narcotics crime then make a Police Report on the report after which an Investigation Order and an Assignment Order are made then the Narcotics Sat Res Member takes the first action at the scene, then a Case Title is carried out to analyze the application of the Article that will be suspected, After that, complete the investigation administration (make an Investigation Order) then carry out an examination as a suspect (the investigator makes a Minutes of Investigation), then Detention is carried out for 20 (twenty) days. Then in the detention process, the investigator completes the case file and sends the case file which is declared complete (P-21), after which the suspect is sent.

3.2. Obstacles and Solutions to Narcotics Crime Investigation Process by Narcotics Sat Investigators

Our country already has a special Law on Narcotics with a fairly severe threat

¹³ Andi Tentri Wali Putri Takdir Patarai, 2013, *Proses Penyidikan Tindak Pidana Penyalahgunaan Narkotika*. Article in "Jurnal Hukum Acara Pidana".No.1, p.66

¹⁴Syaefurrahman Al-Banjary, (2005), *Hitam Putih POLISI Dalam Mengungkapkan Jaringan Narkoba*, Restu Agung, Jakarta, p. 19.

to violators, but the problem of narcotics crime has not been completely prevented. This is because narcotics have a very high selling value, thus stimulating some people who do not have a strong mental attitude, to get wealth by shortcut to become narcotics traffickers, even though the dealers and dealers know for sure that the criminal threat is very heavy, namely by threats death penalty.

Discussing the problems regarding the obstacles in the effort to overcome narcotics crime, the legal system theory proposed by Lawrence M. Friedman can be used. The legal system includes: Legal structure, namely the moving parts in a system mechanism or facility that exists and is prepared in the system. For example the police, prosecutors, courts; Legal substance, namely the actual results published by the legal system, for example the judge's decision based on the law; Legal Culture (Legal Culture), namely public attitudes or values of moral commitment and awareness that drive the operation of the legal system, or the overall factors that determine how the legal system finds a logical place within the cultural framework of the community.¹⁵

Thus, in order to be able to operate the law properly, the law is a unit (system) which can be emphasized as follows:

- Structural includes the container or form of the system which includes the order of formal legal institutions, the relationship between these institutions, rights and obligations.
- The substance includes the content of legal norms and their formulation as well as the method of enforcement that applies to law enforcement and justice seekers.
- Culture basically includes values that underlie applicable laws, values which are abstract conceptions of what is considered good and what is considered bad. Values reflecting the two extremes must be harmonized.

Implementation of law enforcement Soerjono Soekanto also said there are several factors that affect the enactment of the law. These factors are as follows:¹⁶

- The legal factor itself.
- Law enforcement factors, namely the parties that form and apply the law.
- Factors of facilities and facilities that support law enforcement.
- Community factors, namely the environment in which the law applies or is applied.
- Cultural factors, namely as a result of work, creativity and taste based on human initiative in social life.

In order for the legal system to function properly, Parson has an idea, which seems to be a kind of alternative, he mentions that there are 4 (four) things that must be resolved first, namely:¹⁷

- The issue of legitimacy (which is the basis for the arrangement to the rules).
- Interpretation problem (which concerns the matter of determining the rights and obligations of the subject, through the process of applying certain rules).

¹⁵Otje Salman and Anton F. Susanto, (2004), *Teori Hukum Mengingat, Mengumpulkan dan Membuka Kembali*, Refika Aditama, Bandung, 153.

¹⁶Soerjono Soekanto, (2004), *Faktor-faktor yang Mempengaruhi Penegakan Hukum*, Raja Grafindo Persada, Jakarta, p. 8.

¹⁷Ibid., p. 15.

- The problem of sanctions (asserting what sanctions are, how they are applied and who applies them).
- The juridical problem that determines the line of authority for those in power to enforce legal norms and what groups are entitled to be regulated by the set of norms.

Obstacles to the Narcotics Crime Investigation Process by the Narcotics Sat Investigator are: Law enforcement has not been implemented systematically; Lack or lack of budget in uncovering narcotics crime cases; Difficulties in proving related to the qualifications of abusers, addicts, or victims of narcotics abuse.

Related to the obstacles above, the efforts to overcome them are: By carrying out preemptive efforts, which are prevention efforts that are carried out early, among others include the implementation of counseling activities with the aim of creating a situation that makes people aware of the dangers of narcotics so that people have awareness of the threat of narcotics. By carrying out preventive efforts, which is the implementation of functions directed at preventing the occurrence of such abuse. This program is aimed at healthy people who are not familiar with drugs so that they know the ins and outs of drugs, so they are not interested in abusing them. By carrying out repressive efforts, which are efforts to prosecute and eradicate drug abuse through legal channels, which are carried out by law enforcers or security forces assisted by the community.

4. Conclusion

The Narcotics Crime Investigation Process by the Narcotics Sat Investigator is to receive a report from the public of an alleged Narcotics crime then the Narcotics Sat Res makes a Police Report on the report after which an Investigation Order and Task Order are made then the Narcotics Sat Res member takes the first action at the scene then a case title is carried out to analyze the application of the article to be suspected, after that complete the administration of the investigation (making an Investigation Order). Then an examination is carried out as a suspect (the investigator makes an examination report), then detention is carried out for 20 (twenty) days. Then in the detention process, the investigator completes the case file and sends the case file which is declared complete (P-21), After that, the suspect is sent. The obstacle is that law enforcement has not been implemented systematically; Lack or lack of budget in uncovering narcotics crime cases; Difficulties in proving related to the qualifications of abusers, addicts, or victims of narcotics abuse. The solution is to take preemptive, preventive and repressive efforts.

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