

The Supervised Investigation and Submission Techniques in Combating Narcotics Crimes

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Abstract. *The existence of narcotics at the time already shifted and many people are abusing on it, which one it should be for necessity service health, science knowledge and technology, but they make circulation of Narcotics without permission and illegally, so it's need attention specifically by the Indonesian government in order to be able to finish the criminal cases which narcotics are in Constitution Investigator Number 35 of 2009 which explained the officer are given special authority for make investigation. This study was qualitative and used analysis descriptive method. The supervised investigation in handling of narcotics abuse in Semarang Regency are appropriate in Article 79 which reads: "Investigation techniques purchase veiled and submission under supervision as meant in Article 75 letter j is carried out by the Investigator on order written from leader". That is technique investigation purchase veiled (undercover buy) and techniques investigation supervised delivery (Controlled Delivery) obstacles encountered by investigator in the Semarang. With this, it is hoped that narcotics abuse violations can be controlled and reduced.*

Keywords: *Engineering; Investigative; Narcotics.*

1. Introduction

Narcotics are substances or drugs that are natural, synthetic, or semi-synthetic, which cause a decrease in consciousness, hallucinations, and excitability. Meanwhile, according to the Narcotics Law article 1 paragraph 1 states that narcotics are artificial substances or even those derived from plants that have hallucinatory effects, decrease consciousness, and cause addiction. These drugs

can be addictive if used excessively. Utilization of these substances is as a painkiller and provide peace. Misuse can be subject to legal sanctions. To find out what types and dangers of drugs are for health, see the following reviews.

The content contained in these drugs can indeed have a bad impact on health if misused. According to the Law on Narcotics, the types are divided into 3 groups based on the risk of dependence. Narcotics Category 1: Class 1 narcotics such as cannabis¹, opium, and coca plants are very dangerous if consumed because of the high risk of causing addictive effects. Narcotics Category 2: While class 2 narcotics can be used for treatment as long as they are in accordance with a doctor's prescription. There are approximately 85 types of this group, some of which are like Morphine, Alfaprodina, and others. Group 2 also has a high potential to cause dependence. Narcotics Category 3: And finally, class 3 narcotics have a fairly mild risk of dependence and are widely used for treatment and therapy.²³

The use and distribution of narcotics in Indonesia itself is legitimate existence by regulation. However only reserved for treatment or service health and development of knowledge in accordance with Article 7 of the Narcotics Act No. 35 of 2009 which states "Narcotics only can be used for interest service of health and/ or development of knowledge and technology". Use, procurement as well as circulation narcotics in Indonesia itself very restricted and only reserved for company or industry pharmacy that has own letter approval for export and import of narcotics and approved by the minister and has through an audit by the Supervisory Agency Drugs and Food.⁴ The crime of narcotics and forbidden drugs has become the crime of transnational⁵. The effect for abusers are wearer to in characteristic life, counter productively, lazy on study/work, morals destructive, etc.⁶

¹ Please Zafrullah, at a *Glance Regarding Narcotics, Psychotropics and Other Addictive Substances* (Palembang, 2006).

² S Santi, 'Supervised Submission Investigation Techniques and Covert Purchase Techniques of the Narcotics and Psychotropics Act', *Lex Crimen*, 2012.

³ Act No. 35 of 2009 concerning Narcotics'.

⁴ Juridical Studies and others, 'Indonesia Journal', 4.1 (2023), 55–64.

⁵ Transnational crime is an act of a group involving two or more countries where the act is a crime, at least according to one of the countries.

⁶ Chyndida Rezlila Mulyarsi and Mustikasari Sarwoningtyas, 'Under Cover Buy Investigation of Narcotics Cases', *Jurnal Verstek*, 2.1 (2014), 60–69.

Users who use these drugs in excessive doses, the effect actually makes the body too relaxed so that consciousness is reduced drastically. In some cases the wearer sleeps continuously and does not wake up. This loss of consciousness makes body coordination disturbed, often confused, and changes in behavior occur. The impact of drugs that are quite high-risk is memory loss, making it difficult to recognize the surrounding environment.⁷

The worst effects of drugs occur when the user uses these drugs in high doses or what is known as an overdose. The use of methamphetamine, opium and cocaine can cause the body to convulse and if left unchecked can cause death. This is the fatal consequence that must be faced if you get addicted to narcotics, your life is at stake.⁸ The dangers of drugs are not only bad for the condition of the body, the use of these drugs can also affect the quality of life, for example difficulty concentrating at work, experiencing financial problems, and having to deal with the police if proven to have violated the law.

The use of narcotic substances is only permitted for medical purposes under the supervision of a doctor and also for research purposes. The rest, these drugs do not have a positive impact on the body. What is there, the quality of life becomes disrupted, relationships with families are chaotic, health declines, and the worst is causing death. Therefore, do not try to use these dangerous items because the risk is very high for life and health.⁹

For the law enforcement the apparatus and investigator police are expected capable to help with the resolution process case violation followed on criminal of narcotics. The investigator function to know and determine incident what is real happens and make real report.¹⁰ The judicial process consisting of a crime on series stage start from investigation, investigation, arrest, detention, prosecution, examination at trial until punishment.¹¹

2. Research Methods

This study was qualitative study, with the method of description in forms of words and language, at a context special natural and with utilise various method

⁷ Aziz Syamsuddin, *Special Crimes* (Jakarta: Sinar Graphic, 2011).

⁸ Mulyarsi and Sarwoningtyas.

⁹ Shamsuddin.

¹⁰ Laden Marpaung, *Criminal Case Handling Process (Investigation and Investigation)* (Jakarta: Sinar Graphic, 2011).

¹¹ Andi Hamzah, *Criminal Code and Criminal Procedure Code* (Jakarta: Rhineka Cipta, 2007).

of natural. In this research the researcher is as key instrument, technique data collection is carried out with by triangulation method.¹²

3. Results and Discussion

3.1. The Supervised investigation and surrender techniques which are followed on narcotics abuse in Semarang

The term investigation as law term in 1961, that is since loaded in Constitution of Police No. 13 of 1961. Previously, the term of investigation which is translated from Dutch, that is *Opsporin*. Article 1 point 2 (Criminal Procedural Code) KUHAP elaborated that:¹³ "The investigation is series action by investigator in thing and according arranged way based on law, search and collect that evidence with proof, who make bright about crime cases that occurred and use find the suspect". Discuss about investigation none other than talk about problem investigation crime or offense, common Englishman call it with the term of "*criminal investigation*". This can be held after known that something incident has happen. In article 1 point 2 of the Criminal Procedure Code reads that investigation is series action investigator gather that evidence with proof get descriptions about:¹⁴

- 1) Followed criminal has done
- 2) When to act criminal has done
- 3) Where to act criminal has done
- 4) With What followed criminal has done
- 5) How followed criminal has done
- 6) Why followed criminal has done
- 7) Who maker

The discussion related with supervised investigation and submission in follow narcotics abuse in Semarang Regency will explained with Gustaf Radbruch's theory is more carry on explained as following:

First, meaningful certainty _ that certainty is demands law, that is so law become positive in meaning apply with sure. The law must obeyed, with thereby law truly

¹² Angki Aulia Muhammad, 'LEGAL AWARENESS OF THE MAHMUD VILLAGE COMMUNITY TO HAVE A CERTIFICATE OF ULAYAT RIGHTS: A Case Study In Mahmud Traditional Village, Mekarrahayu Village, Marga Asih District, Bandung Regency', *Indonesian University of Education*, 2013, 66–79.

¹³ Bayu Luthfi Ardiansyah, Faculty of Law, and Semarang State University, 'DRUGS CRIMINAL PERFORMED BY CHILDREN (Study at the Semarang Police) THESIS', 2017.

¹⁴ Ardiansyah, Hukum, and Semarang.

positive.¹⁵ Its means certainty law addressed to protect interest every individual order them know deed What only allowed and vice versa which actions are prohibited so that they protected from action arbitrariness government.

Indonesia has arrange related with narcotics in Constitution Number 9 of 1976 concerning Narcotics. This Constitution become base special law for do investigation, prosecution and examination before the court to follow narcotics abuse. After promulgation Constitution that, in the international world more increase effort For eradicate abuse Narcotics in a manner international, among others with held Convention Union Nations about Eradication Circulation Dark Narcotics and Psychotropics that have ratified by Indonesia through Constitution Number 7 of 1997. Its ratified convention who make government looked need held new laws about narcotics. For that they has made Constitution Number 22 of 1997 concerning Narcotics. However, the Constitution Number 22 of 2007 concerning Narcotics replaced with Constitution Number 35 of 2009.

In the article 75 of the Act No. 35 of 2009 concerning Narcotics determine that in framework do investigation, investigators from the National Narcotics Agency (BNN) are authorized do actions specified from letter a to with letter s according to Article 75 letter j, in framework do investigation, BNN investigators are authorized do technique investigation purchase veiled and submission below on supervision.¹⁶ It is also regulated about expansion technique investigation tapping, technique purchase covert, and technique supervised delivery, as well investigation technique used track and uncover abuse and distribution dark Narcotics and Precursors Narcotics.

So, the two type of techniques are *undercover buy*, and language English from supervised delivery, that is *Controlled Delivery*.¹⁷

1) *Undercover Buy*

We can see its meaning in the field guide No. Pol. Juklap/04/VIII/1983 states that undercover buying is a special technique in investigating narcotics crimes and narcotics precursors, in which an informant or member of the police (under

¹⁵ O Notohamidjojo, *Basic Problems of Legal Philosophy* (Salatiga, 2011).

¹⁶ Act No. 35 of 2009 concerning Narcotics'.

¹⁷ 'View of INVESTIGATION TECHNIQUES FOR COVERT PURCHASING AND DELIVERY UNDER SUPERVISION ACCORDING TO LAW NUMBER 35 OF 2009 CONCERNING NARCOTICS'.

cover), acts as a buyer in an illicit transaction of buying and selling narcotics, by The intention is that when this happens, the seller or intermediary or people related to the supply of narcotics and narcotics precursors can be arrested along with the evidence as it is.

The implementation of this covert purchase is carried out by investigators of Narcotics Crime, but not all investigators may make this covert purchase. The implementation of covert purchases must be carried out by investigators who have received an order/assignment from the leadership to carry out covert purchases. In making covert purchases, investigators are protected by the Narcotics Law. In addition to the Narcotics Law, protection is also provided by the Criminal Procedure Code and the Police Law.

Meanwhile, the internal police regulations that protect every action taken by investigators in carrying out covert purchases in the field are Decree No.Pol SKep/1205/IX/2000/11 September 2000, 6 Field Instructions, No. Pol. Juklap/04/VIII/1983, "tactics and techniques for buying narcotics and psychotropic substances regarding the revision of the Association of Juklak and Technical Guidelines for the Criminal Investigation Process". The implementation of covert purchases cannot be separated from several interrelated investigative actions. These investigative actions include observation and surveillance. After carrying out several investigative actions, then the undercover buy technique can be carried out.

2) Controlled Delivery

The Narcotics Law recognizes several investigative techniques that are only regulated in the law, one of which is the controlled delivery investigation technique. The controlled delivery technique is contained in Article 75 of the Narcotics Law. In the Narcotics Law, this technique is regulated to dismantle narcotics networks, so that they are intended for illicit circulation, not solely for narcotics users for personal gain.

This consideration is also seen from an international perspective, that the expansion of non-conventional investigative techniques such as controlled delivery is aimed at dismantling networks or syndicates of illicit narcotics and narcotics precursors and the decision to use supervised delivery techniques is carried out on a case by case basis.

Unfortunately, techniques that aim to ensnare dealers, producers or drug dealers in networks that are difficult to dismantle are often used to ensnare narcotics users or addicts. The use of this technique to ensnare narcotics users can potentially be arbitrary and not in accordance with the designation of the regulation.

Act No. 35 of 2009 concerning Narcotics in no way regulates how controlled delivery is carried out in the context of procedural law. The law is limited to stating that the implementation of these two powers is carried out by the investigator on a written order from the leadership. This situation causes the exercise of this authority to depend on law enforcement initiatives in practice, which of course has consequences for the absence of a standard that can be referred to. Especially what if there is a violation of someone's rights and requires testing of the actions that have been carried out by investigators.

Thus, it is very difficult to test which acts of supervised surrender are legal and which are not. Likewise, the problem of examining the difference between covert purchases and supervised delivery by entrapment is prohibited by criminal procedural law and court decisions. This investigative technique does not have a testing mechanism for its implementation, especially regarding reasons and sufficient evidence for using this investigative technique and at an extreme point, this then has an impact on the magnitude of the opportunity for abuse of power.

Even though the regulations are minimal, ICJR believes that law enforcement officials in carrying out controlled delivery investigation techniques should focus on more massive narcotics networks or syndicates, not on narcotics users for personal gain even if they are state officials.

3.2. The Obstacles that arise in supervised investigation, submission and execution which followed on narcotics abuse in Semarang

As for the inhibiting factors in enforcing the prevention of drug abuse in Semarang, they are as follows:

1) The weakness of human resources

The weakness of human resources lead to a lack of effectiveness in carrying out surveillance and the lack of skills of members of the police often leads to failure in carrying out field investigations.

2) The uncomplete facilities and infrastructure

The completeness of police facilities and infrastructure greatly influences the success rate of law enforcement in preventing narcotics cases, because speed and timeliness as well as communication tools are one of the determining factors in the success of an investigation.¹⁸

Apart from the above, there are also other things that are very important in handling narcotics abuse in the city of Semarang:

1) Preventive Effort (prevention)

It is activities carried out in a manner systematic, planned, and directed for guard against delinquency that no happen, attempt preventive more big the benefits from effort of reflective. As for effort police resort Semarang Regency in overcome dealer narcotics with give tithe and socialization about danger dealer narcotics and abuse narcotics for example in schools through seminar and education. This method is carried out in preventing a negative thing before an unpleasant incident occurs. As for what is done as follows:

- a. Campaign against drug abuse
- b. Counseling on the ins and outs of narcotics is different from campaigns which are only
- c. Peer group education and training
- d. Efforts to supervise and control the production and distribution of drugs in society.
- e. Curative

2) Repressive Effort (Enforcement)

In its efforts to tackle narcotics abuse, of course the police have many factors to face. The factors are:

- a. Factors from legislation (Legal Substance), Weaknesses in terms of the Narcotics law cannot impose criminal sanctions on perpetrators of new types of narcotics or are not in the law, so drug dealers can do whatever they want because there are no laws -A new type of Narcotics Law in the Narcotics Law. In the case of this single organ, many perpetrators consumed these narcotics from home, so many police who were there did not find what kind of evidence they used. So it is difficult to prove that they are guilty.
- b. Factors from the community itself, why from the community itself? Because not all people support this, many of them are not yet aware of the dangers of

¹⁸ Andri Winjaya Laksana, 'JURIDICAL ANALYSIS OF TRESPASSER AGAINST NARCOTIC'S VICTIM BASED ON UTILITARIANISM JUSTICE VALUES', *Paragraph*, 2, 118.

narcotics. Many people, if they hold a single organ party, don't issue a permit to gather, and close road access at will. So it's hard for the police to control it all. Even though in terms of the law it has been explained that the public must play an active role in assisting law enforcement officials in carrying out their duties, especially in terms of eradicating narcotics abuse cases.

c. Factors from police officers. Not all police officers are good and not all police officers are bad. There must be a handful of individuals who commit irregularities for personal gain, not only among the public who like single police officers, there are some who use them. There are also several members who play a role in helping the circulation of narcotics for their personal interests and they even become dealers even though they are not big. This is a weakness from within (internal) Polri in terms of complaints or reporting, most of them don't care if there is a case involving their citizens, only a few residents report and even then only a few.

d. Cultural Factors, the most inhibiting factor is the cultural factor. What we know in Indonesia, especially in the area of Pemamaran, is that if there is a celebration, he will definitely hold a single organ. It was held until late at night so that many people used narcotics, especially among the people in Pedamaram. If someone held a solo organ at night, many sold liquor around there.

4. Conclusion

The capability of officers as investigators, facilities and infrastructure are tools source becoming power support in implementation of work programs and activities to reduce the narcotics abuse. Apart from that, law enforcement regarding the prohibition of narcotics abuse and the government and strict sanctions also play an active role in eradicating drug crimes.

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