

The Investigation Process in the Context of Enforcement of Narcotics Law

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Abstract. *This study aims to find out and analyze law enforcement against narcotics crimes at the Semarang Polrestabes and to find out the investigative process in the context of enforcing narcotics law at the Semarang Polrestabes. This research approach method is sociological juridical, descriptive analytical research specifications. The type of data uses primary data and secondary data so that the data collection method is through field research and library research. The method of data analysis is qualitative analysis. Based on the results of the study, it can be concluded that law enforcement against narcotics crimes at the Semarang Polrestabes is carried out through preventive and repressive efforts.*

Keywords: *Crime; Investigation; Narcotics.*

1. Introduction

Indonesia is a constitutional state (*rechtstaat*), not based on power (*machtstaat*).¹ This is as contained in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that Indonesia is a state based on law, so that there are several consequences to it.²

Law is a collection of coercive regulations, which determine human behavior in a social environment, which are made by official state bodies and contain strict sanctions for these regulations.³ The law defines what must be done, what can be done and what is prohibited. One of the crimes that is still rife is the crime of narcotics.

Narcotics were originally used for the benefit of mankind, especially for treatment and

¹CST Kansil, 1989, Introduction to Indonesian Law and Legal Studies, 8th Cet, Jakarta: Balai Pustaka, p. 346.

²Angga Dwi Arifian and Sri Kusriyah, "The Investigation on Criminal Acts of Corruption in the Jurisdiction of Rembang Police", Law Development Journal Volume 3 Issue 3, September 2021, h.460, url :<http://jurnal.unissula.ac.id/index.php/ldj/article/view/16086/5838>

³Ishaq, 2012, Fundamentals of Law, Jakarta: Sinar Graphic, p. 3.

health services. In the world of medicine, narcotics are widely used, especially in the anesthetic process before patients are operated on. In order for the use of narcotics to benefit human life, their distribution must be strictly monitored.⁴For this reason, the government passed Act No. 35 of 2009 concerning Narcotics (Narcotics Law).

Along with the times, narcotics no longer for the benefit of health services but misused for negative things that are against the law. The practice of narcotics abuse does not only occur in urban areas but has penetrated into rural areas and in all groups of people, whether rich, poor, old, young, and it is not uncommon for law enforcement officials to fall prey to narcotics abuse.

Abuse of narcotics is a criminal act. Crime in human life is a social phenomenon that will always be faced by every human being, society, and even the state. The fact has proven that criminal acts can only be prevented and reduced but difficult to eradicate completely. According to Moeljatno, a criminal act is an act that is prohibited by a legal regulation and is also accompanied by a certain criminal sanction.⁵

In Indonesia, narcotics crime is still relatively high. Based on data from the National Narcotics Agency (BNN), in 2020 there were 833 cases with a total of 1,307 suspects. Whereas in 2021 there were 766 cases with a total of 1,184 suspects.⁶

In Central Java, based on data from the Central Java National Narcotics Agency (BNN), drug cases in Central Java during the pandemic have actually increased, namely in 2020 there were 1875 drug cases, while in 2021 per semester (6 months) there were 1039 cases.⁷ Meanwhile, in the Semarang Polrestabes jurisdiction, data on the number of narcotics cases in 2020 were 172 cases with 217 people. In 2021 there were 185 cases with 255 suspects and in 2022 there were 183 cases with 239 suspects.

Law enforcement efforts against narcotics crimes are often constrained by societal developments and are a logical consequence of the development of world civilization.⁸In the context of law enforcement, if an incident occurs that is suspected or reasonably suspected to be a criminal act, the legal apparatus is obliged to take various actions in accordance with their respective authorities as determined by the applicable laws and regulations.⁹

⁴Directorate of Law Deputy for Law and Cooperation of BNN, 2016, Association of Regulations Concerning Narcotics and Other Regulations, Jakarta, h. 2

⁵Moeljatno, 2008, Principles of Criminal Law, Rineka Cipta, Jakarta, p. 54.

⁶Ali Mahmudan, Drug Cases in Indonesia Have Dropped in the Last 3 Years, <https://dataindonesia.id>, accessed November 15, 2022

⁷Central Java BNN Calls Drug Cases Experiencing an Increase during the Pandemic, <https://jogja.tribunnews.com>, accessed November 15, 2022.

⁸Rully Abdi and Piatur Pangarimbun, 2019, Perpetrators of the Crime of Illicit Trafficking of Non-Plant Narcotics, Yogyakarta: K-Media, p.6

⁹Kusfitono, Umar Ma'ruf and Sri Kusriyah, "Implementation of the Constitutional Court Decision Number 130/PUU-XIII/2015 Against the Process of Investigating Criminal Acts of Burglary at the

Polri is a law enforcement apparatus that acts as an investigator. In carrying out their duties as investigators, Polri has the authority regulated in Article 16 paragraph (1) of Act No. 2 of 2002 concerning the Indonesian National Police. This authority is to carry out investigations by investigators and then continue with investigations as an action to find and collect evidence so that the crimes found can become clear and can find and determine the perpetrators. Efforts to find and determine the perpetrators in a criminal event are very important to determine who should be criminally responsible for the criminal event.¹⁰In practice, the process of investigating narcotics crimes is often hampered by technological developments that make it difficult to uncover narcotics dealers.

This study aims to find out and analyze law enforcement against narcotics crimes at the Semarang Polrestabes and to find out and analyze the investigation process in the context of enforcing narcotics law at the Semarang Polrestabes.

2. Research Methods

This research approach method is sociological juridical namely in reviewing and analyzing problems based on legal principles and principles as well as their implementation in society.¹¹ The specification of the research is analytical descriptive, namely describing the subject and object of the research and then analyzing the conclusions drawn from the research results.¹² Types of data using primary data and secondary data so that the data collection method is a field study and literature study. The data analysis method uses qualitative analysis, which is a non-mathematical narrative analysis.

3. Results and Discussion

3.1. Law Enforcement of Narcotics Crime at Polrestabes Semarang

Law enforcement is all efforts and efforts to describe legal principles in people's lives, so that in this way the objectives of law can be implemented in society in the form of embodiment of the values of justice, equity, legal certainty, protection of rights, public tranquility and others.¹³

Law enforcement aims to uphold the law, achieve legal certainty, and realize justice. If law enforcement is bad, it is impossible to achieve that goal. Law enforcement as a process begins when legal regulations are made or created by law makers. The

Kendal Police Criminal Investigation Unit" Khaira Ummah Law Journal, Vol. 12. No. 4 December 2017, p.862, url : <http://jurnal.unissula.ac.id/index.php/jhku/article/view/2303>

¹⁰Ibid.

¹¹Ronny Hanitijo Soemitro, 1990, Legal and Jurimetric Research Methodology, Jakarta: Ghalia Indonesia, p.33.

¹²Mukti Fajar ND and Yulianto Achmad, 2010, Dualism of Normative and Empirical Legal Research, Yogyakarta: Student Library, p.183.

¹³Munif Fuady, 2003, Critical Law School, Legal Powerlessness Paradigm, Bandung: Citra Aditya Bakti, h. 39.

formulation of the thoughts of the legislators as outlined in the legal regulations will also determine how law enforcement is carried out. The failure or success of law enforcement begins when the legal regulations that must be implemented or enforced are made. If law makers make legal regulations that are difficult to implement, then it means that the law makers influence the failure of law enforcers to implement these legal regulations.¹⁴

Law enforcement against narcotics crimes is a matter that takes precedence over other cases. This is as stated in the provisions of Article 74 paragraph (1) of Act No. 35 of 2009 concerning Narcotics which states that cases of abuse and illicit trafficking of narcotics and narcotics precursors, including cases that take precedence over other cases to be submitted to court for a speedy resolution. Law enforcement of narcotics crimes starts from the level of investigation and investigation where the apparatus authorized to carry out investigative and investigative actions is the police.

Law enforcement against narcotics crimes at Polrestabes Semarang is carried out through preventive and repressive efforts.¹⁵ Preventive efforts are prevention efforts that emphasize efforts to eliminate opportunities for narcotic crimes to occur.¹⁶ This is in line with the provisions of Article 19 paragraph (2) of Act No. 2 of 2002 concerning Polri which states that Polri in carrying out its duties and authorities prioritizes preventive actions.

Preventive efforts in law enforcement against narcotics crimes are carried out through outreach activities or outreach to the public about the dangers of narcotics abuse both in the school environment and in the general public. Apart from that, they also made leaflets warning about the dangers of drugs.

Other activities carried out by the Semarang Polrestabes are carrying out drug operations, namely the 2021 Antique Temple Operation and the 2022 Shining Operation which were held by the Central Java Regional Police. The joint operation consisted of the Preemptive Task Force, the Banops Task Force and the Gakum Task Force which carried out a number of raids targeting nightlife venues in the city of Semarang raids on entertainment venues were also carried out on bus terminals and ports. Furthermore, the activities carried out are prevention, and counseling on the dangers of drugs.¹⁷

Law enforcement through repressive efforts is the last resort after the occurrence of narcotics crimes. In this case a series of investigative actions was carried out. Law enforcement of narcotics crimes through investigations guided by the Criminal Procedure Code, Act No. 35 of 2009 concerning Narcotics, and Police Perkap Number 6 of 2019 concerning Investigation of Criminal Acts.

Investigation according to the provisions of Article 1 number 2 of the Criminal Procedure

¹⁴Abdul Rachmat Budiono, Law Enforcement Management, Journal of Humanities & Education. Vol 2 No. 1, February, 2010.

¹⁵Interview with AKBP Edy Sulistiyanto as Head of Narcotics Unit of the Semarang Police, February 2, 2023

¹⁶M. Ali Zaidan, 2016, Criminal Policy, Jakarta: Sinar Graphic, h. 112.

¹⁷Interview with AKBP Edy Sulistiyanto as Head of Narcotics Unit of the Semarang Police, February 2, 2023

Code is a series of investigative actions in matters according to the methods regulated by law to seek and collect evidence with that evidence to make it clear about the crime that occurred and to find the suspect. According to R. Soesilo, investigation comes from the word "sidik" which means clear, so investigation means clear crime. So that with the existence of these investigative actions it can be known that the criminal events that occurred and the people who have committed them.¹⁸

The dangers of narcotics are extraordinary for the future of the nation's next generation. This is because if the perpetrator is already addicted, it will have an impact on other crimes. This of course can disturb the security and public order. Therefore, the Semarang Polrestabes is trying to make various prevention efforts by educating and socializing the dangers of drug abuse to the public. However, this requires the active role of the community to participate in the fight against narcotics.

3.2. The Investigation Process in the Context of Enforcement of Narcotics Law at Polrestabes Semarang

The investigation in the context of enforcing narcotics law at the Semarang Polrestabes was carried out after a series of investigative actions. The investigation was carried out after the issuance of an Investigation Commencement Order (SPDP). On the basis of the SPDP, investigators are authorized to use investigative tactics and techniques based on the Criminal Procedure Code so that the investigation can collect evidence of narcotics crimes. After the investigation process is complete, the investigator must submit the case to the public prosecutor for the purposes of prosecution.¹⁹

The process of investigating narcotics crimes at Polrestabes Semarang is through the following stages:

In every action in investigative activities (forced efforts) starting from summoning witnesses and perpetrators, searches, confiscation of evidence, arrest of suspects, to detention of suspects accompanied by warrants and minutes of the event.

The process of investigating narcotics crimes at Polrestabes Semarang is through the following stages:

1. Police report
Police reports on narcotics crimes at the Semarang Polrestabes are usually made by members of the Polrestabes themselves after a closed investigation or the results of a raid.
2. Summons
On the basis of the police report, the suspect or witness will be summoned. Summons are intended to obtain information about a crime that occurred so.

¹⁸M. Yahya Harahap, 2007, Discussion of Problems and Application of Criminal Procedure Code of Investigation and Prosecution, Jakarta: Sinar Graphic, p.109.

¹⁹Hartono, 2010, Investigation and Criminal Law Enforcement through a Progressive Legal Approach, Jakarta: Sinar Graphic, h. 116

3. Search
Searches by investigators are regulated in Article 75 letter e of Act No. 35 of 2009 which states that investigators have the authority to examine, search and seize evidence of criminal acts in the abuse and illicit traffic of Narcotics and Narcotics Precursors. The search is guided by Article 32 to Article 37 of the Criminal Procedure Code.
4. Arrest of suspects
An arrest by a Polri officer is accompanied by an assignment letter and an arrest warrant stating the identity of the suspect and stating the reason for the arrest as well as a brief description of the crime suspected and the place where he is being investigated.
5. Detention of suspects
Detention of suspects is carried out for the purposes of examination. The length of detention time is 20 days and can be extended for a maximum of 40 days as stipulated in Article 24 paragraph (1) of the Criminal Procedure Code.
6. Seizure of evidence
The confiscation was carried out on evidence related to the narcotics crime being investigated.
7. Inspection
Examination is an activity to obtain information, clarity and identity of suspects or witnesses or evidence (Article 183 and Article 184 of the Criminal Procedure Code).
8. Examination of evidence in the laboratory
Examination of evidence of narcotics crime is carried out at the Semarang Forensic Laboratory or BPOM Semarang. This is aimed at explaining officially whether the narcotics evidence owned by the suspect contains narcotics or not as stipulated in the Attachment list of Act No. 35 of 2009 concerning Narcotics.
9. Settlement of case files
The next stage after coercion and interrogation is the completion of the case files which will be submitted to the public prosecutor within 60 days. After 60 days have passed, if the investigator cannot complete the case file, the investigator must release the suspect from detention for the sake of law (Article 24 of the Criminal Procedure Code).
10. Submission of case files, suspects and evidence to the public prosecutor
The investigation process is declared complete after the case file is received by the public prosecutor, then the suspect and evidence are handed over. Thus the responsibility shifts to the public prosecutor.

Based on the results of research at Polrestabes Semarang, the investigation process in the context of enforcing narcotics law is in accordance with the provisions of the applicable laws and regulations, namely the Criminal Procedure Code, the Narcotics Law and its implementing regulations.

4. Conclusion

Law enforcement against narcotics crimes at Polrestabes Semarang is carried out through preventive and repressive efforts. Preventive efforts emphasize prevention while

repressive efforts are carried out as a follow-up to the occurrence of narcotics crimes, namely through a series of investigative actions. Given the dangers of narcotics that haunt the younger generation, the police should intensify their prevention efforts in fighting narcotics.

5. References

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