

The Implementation of Regulations for the Management and Destruction of Evidence of Narcotics Crimes

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Abstract. *The purpose of this study is to: 1) To know and analyze the implementation of the management and destruction of evidence of narcotics crime. 2) To identify and analyze obstacles in the management and destruction of evidence of narcotics crime. 3) To find out and analyze the ideal model for managing and destroying evidence of narcotics crime in the future. The data used in this study are primary data, secondary data and tertiary data which can support the assessment, which are then analyzed using sociological juridical methods. Based on the results of data analysis it was concluded that: 1) The mechanism for storing Narcotics Confiscated Objects is carried out by submitting confiscated objects or evidence from the police to the prosecutor's office which is then stored at the Rembang State Prosecutor's Office in the Confiscated Objects Storage Room under the supervision of the Head of Evidence and Confiscated Goods Management Section The officer accompanied by the Head of General Crime Section at the Rembang District Prosecutor's Office was not in accordance with the provisions of the Law - Invitation. All types of confiscated goods should be stored in the State Storage for Confiscated Objects (Rupbasan) as stipulated in Article 44 of the Criminal Procedure Code. 2) the obstacles in the management of narcotics evidence are the location of the State Storage for Confiscated Objects that is not strategic, inadequate storage areas for confiscated objects, cost constraints, troublesome destruction procedures, The Time Allotted To Carry Out The Extermination Is Very Short. 3) make efforts such as the Central Java High Court coordinating with the Rembang District Prosecutor's Office in overcoming obstacles to storing and destroying confiscated goods, Proposing additional budget costs to the government for the storage and destruction of confiscated objects, Supervising confiscated objects stored at the Rembang State Prosecutor's Office and which is stored in the State Storage for Confiscated Objects (Rupbasan).*

Keywords: Authentic; Deed; Supervising.

1. Introduction

As we know that Indonesia is a country that obeys the legal system, with a high level of legal awareness in society, of course, they are familiar with some of the regulations that have been regulated in laws, both in the form of violations and criminal acts. Along with the increase in the variety of crimes that have occurred in Indonesia, the variety of cases handled by law enforcement officials related to crimes in the narcotics sector has been carried out with various operating models so that types of evidence have also developed, especially in narcotics crimes.

According to data received by the National Narcotics Agency (BNN), the number of victims caused by drugs has doubled from the previous year. This concern is increasingly sharpened by the issue of illicit circulation that has been running in all levels of society, from the old age group to the young age group.¹Therefore, Narcotics itself in our country is classified as a crime and it is feared that it will have an effect in the future.

According to Article 1 point 1 of Law no. 35 of 2009 concerning Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to loss of pain, and can cause dependence, which are differentiated into groups group as attached in this law.

Regarding the storage of evidence, Article 44 paragraph (2) of the Criminal Procedure Code, says that: "The implementation of confiscated objects is carried out as well as possible and the responsibility for them lies with the authorized official according to the level of examination in the judicial process and these objects are prohibited for anyone to use." Destruction is a series of investigative actions to destroy confiscated goods, the implementation of which is carried out after a decision from the head of the local District Attorney's Office to be destroyed and witnessed by the representative officials, elements of the prosecutor's office, the ministry of health and the drug and food control agency. In the event that the officials cannot attend, then the extermination is witnessed by other parties, namely officials or members of the local community.

The destruction of evidence of narcotics is regulated in Act No. 35 of 2009 concerning Narcotics and Regulation of the Head of BNN Number 7 of 2010 concerning Technical Guidelines for Safe Handling of Narcotics Confiscated Goods. Based on the provisions of the law, the destruction of confiscated narcotics should be carried out after a court decision has obtained permanent legal force. Article 45 of Act No. 8 of 1981 Concerning Criminal Procedure Code (KUHAP) in paragraph (4) confirms that confiscated

¹)Ahmad Taufik, Juridical Review of the Destruction of Evidence of Narcotics Abuse at the Rembang District Prosecutor's Office, Thesis, Rembang, 2020, p.4.

objects that are prohibited or prohibited from being distributed, are confiscated for use for other purposes or destroyed.²

However, in fact, there are still very many confiscated narcotics objects that have received their status determination and have been decided by a court that has permanent legal force. Because they were not immediately destroyed, the confiscated narcotics were stored in the state storage house for confiscated objects as stated in the provisions of Article 44 paragraph (1) of the Criminal Procedure Code. Of course this risks the occurrence of irregularities where the confiscated prohibited items can be circulated back to the community.

Then what will be described in this discussion is the procedure for managing criminal (drug) assets at the Rembang District Prosecutor's Office, Central Java along with the maintenance of criminal (narcotics) assets at the Rembang District Prosecutor's Office, Central Java, so that confiscated objects are more secure and protected from damage or loss of confiscated objects. It is also important to increase public trust in law enforcement officials in managing and maintaining confiscated objects.

2. Research Methods

In this study, the authors used a juridical approach sociological, namely identifying and conceptualizing law as a real and functional social institution in a real life system. What is meant by juridical legal research is research that refers to existing literature studies or to the secondary data used. Meanwhile, legal research is analytical descriptive in nature, namely to provide data that is as precise as possible regarding a situation or other symptoms.

3. Results and Discussion

3.1. Implementation of Management and Destruction of Evidence in Narcotic Criminal Actions

In terms of the authority to store confiscated objects or evidence, the District Attorney does not have the authority to store evidence, but regarding the storage of evidence, the Rembang District Prosecutor's Office has full authority. The District Attorney's Office through the prosecutor who handles Narcotics Crime Cases only has the authority to prove it in court. With regard to stored evidence, the prosecutor can take and issue evidence stored in the evidence repository for the purposes of proof at trial with a permit to release evidence from the court judge.³

²) Article 45 of the Criminal Procedure Code (KUHP).

³ibid.

In practice, after the evidence is in the hands of the Public Prosecutor, the evidence that leaves the storage area is fully the responsibility of the Public Prosecutor until the evidence is returned to the storage room. In addition, the prosecutor also has authority over evidence after obtaining a judge's decision in court and has permanent legal force, so the prosecutor has the authority as the executor of the judge's decision to make the stipulations of the decision.

If in the rules the storage of confiscated objects or evidence must be kept in Rupbasan, but in the research process using the interview method that was carried out, the practice that took place in the field was not like that. The evidence that should have been stored in the State Storage for Confiscated Objects located in the city of Semarang as stipulated in Article 44 of the Criminal Procedure Code was not carried out properly. If in the rules all types of evidence must be stored in Rupbasan as the only place for storing evidence, but the evidence that was confiscated by the authorities is not all stored in Rupbasan, but stored at the Rembang State Prosecutor's Office. In practice, evidence is indeed not stored at Rupbasan and as much as possible it can be stored at the Rembang District Prosecutor's Office, this is due to its effectiveness when compared to Rupbasan, storing evidence at the District Attorney's Office is more effective both because the distance of the Rembang District Prosecutor's Office is closer to the Rembang District Court and maximizes time because every time the trial evidence must be removed and brought to trial at the request of the Judge. The confiscation of evidence was initially from police investigators and then handed over to the Rembang District Prosecutor's Office, then the Head of the Rembang District Prosecutor's Office issued a stipulation of evidence to be used in the interests of proving cases, in the interests of developing science and technology, in the interests of education and training, and/or for destruction.

After the submission of evidence and suspects from the police to the prosecutor's office, the evidence is then matched with the list of evidence received witnessed by the investigator and the suspect to ensure that the evidence is in accordance with the list received and then stored in the storage room at the Rembang District Attorney's Office.

In addition, the Head of BNN Regulation 7/2010 not only regulates the destruction of confiscated goods, but also regarding the safe handling, destruction and disposal of the remaining destruction by investigators in several ways as stated in the Appendix to the Head of BNN Regulation 7/2010 as an integral part of the Head of BNN Regulation 7/2010.

However, in practice, the destruction of evidence that has permanent legal force is not immediately destroyed according to the set time limit because there are obstacles that prevent the destruction from being carried out immediately. Regarding evidence of narcotics and other dangerous goods, the Rembang District Prosecutor's Office through a decree from the Head of the Rembang District Prosecutor's Office stipulates that narcotics evidence must be destroyed within a

period of 1 (one) month from the issuance of a judge's decision that has permanent legal force.

3.2. Legal Consequences of Syari'ah Deed Made by a Notary Based on Article 15 Paragraph (1) of Act No. 2 of 2014 Concerning the Office of a Notary

From the results of interviews with the Rembang District Prosecutor's Office, the inhibiting factors that become obstacles to the prosecutor's office in terms of storing and destroying confiscated narcotics include:

- a. The location of the State Confiscated Objects Storage House is not strategic
The place for all types of confiscated objects based on the provisions of Article 44 of the Criminal Procedure Code must be stored in the State Storage for Confiscated Objects (RUPBASAN). However, in practice, because the Rupbasan location is far from the court location, the Narcotics and other confiscated objects are stored at the Rembang District Attorney.
- b. Inadequate Storage of Confiscated Objects
The storage space for confiscated objects or evidence is still far less adequate than it should be, there is still a lot of evidence that cannot be accommodated at the Rembang State Prosecutor's Office, even Rupbasan, for example in cases other than narcotics, a lot of evidence such as ships that should be placed at the State Storage for Confiscated Objects but cannot be placed, so the Attorney General's Office must take its own steps in collaboration with outside agencies to overcome this. Things like this often make it difficult for prosecutors to handle cases of evidence.
- c. Cost Constraints
At very little cost, the Attorney General is forced to carry out and solve the problem without causing any problems. In carrying out the extermination, often times the prosecutor's office has to do it voluntarily and even pay personal expenses. However, in order to avoid problems in the future, the prosecutor's office must do this. This is what has become a national secret where the custom of work demands must be carried out according to the rules but the issue of cost has always been the main factor as an obstacle.
- d. Troublesome Extermination Procedure
The implementation of the destruction of narcotics evidence which is carried out after a decision has been made by the Head of the local District Attorney for destruction must be witnessed by officials representing elements of the Attorney General's Office, the Ministry of Health and the Drug and Food Control Agency. The extermination procedure with a series of ceremonies that must be carried out is not just annihilation. This is an obstacle in carrying out an extermination with very little implementation cost.

e. **The Time Allotted To Carry Out The Extermination Is Very Short**

In the rules as contained in article 92 of Act No. 35 of 2009 concerning destruction must be carried out 7 days after receiving a stipulation from the Head of the local District Attorney. However, based on the results of interviews with the Head of Evidence Management and Confiscated Goods at the Rembang State Attorney's Office, in practice there is still very little implementation in accordance with statutory regulations. This is due to the large number of narcotics cases handled by the prosecutor's office so that sometimes judges' decisions related to narcotics evidence come in close time. So that if within a period of 7 (seven) days the narcotics evidence must be destroyed, then almost every day the prosecutor must destroy narcotics evidence which has been decided by the court and has permanent legal force.

The small amount of narcotics evidence which, if destroyed immediately with a series of ceremonies that must be prepared and carried out, is also an obstacle because it can cost too much money. So that the meager evidence of narcotics is stored first in the storage room and destroyed at once.

3.3. The Ideal Model of Management and Destruction of Evidence in Narcotics Criminal Acts in the Future

Of all the obstacles faced in the scope of storage and destruction of confiscated narcotics. The Rembang District Prosecutor's Office has made efforts to overcome these obstacles. Efforts to be made in the future include:

- a. The Central Java High Court is coordinating with the Rembang District Prosecutor's Office in overcoming obstacles to storage and destruction of confiscated goods.
- b. Propose a budget for additional costs to the government for the storage and destruction of confiscated objects.
- c. Supervise confiscated objects stored at the Rembang District Attorney and those stored at the State Storage for Confiscated Objects (Rupbasan).
- d. Evaluate the constraints faced in the field.

4. Conclusion

The mechanism for how to store Narcotics Confiscated Objects is carried out by submitting confiscated objects or evidence from the police to the prosecutor's office which is then stored at the Rembang State Prosecutor's Office in the Seized Objects Storage Room under the supervision of the Head of Evidence and Confiscated Goods Management Section Officer accompanied by the Head of

General Crimes Section of the Rembang State Prosecutor's Office is not in accordance with the laws and regulations. All types of confiscated goods should be stored in the State Storage for Confiscated Objects (Rupbasan) as stipulated in Article 44 of the Criminal Procedure Code.

5. References

Act No. 35 of 2009 concerning narcotics

Ahmad Taufik, Juridical Review of the Destruction of Evidence of Narcotics Abuse at the Rembang District Prosecutor's Office, Thesis, Rembang, 2020, p.4.

Civil Procedure Code

The 1945 Constitution of the Republic of Indonesia