

Role Of The National Narcotics Board Of The Republic Of Indonesia (BNN RI) In The Process Of Investigation In Narcotics Criminal Actions

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Abstract *The Indonesian people are currently faced with a very worrying situation due to the increasing prevalence of illegal use of various narcotics and psychotropics. This concern is getting sharper due to the increasingly widespread illicit traffic of narcotics and psychotropics which has spread in all levels of society, especially among the younger generation, even worse has entered the world of campuses, in student boarding houses. The approach used in this research is a normative juridical approach. The normative juridical approach is an approach that is carried out by examining the principles of criminal law, statutory regulations, and other regulations that are relevant to the problems studied. What are the obstacles faced by investigators from the National Narcotics Agency (BNN) related to the implementation of the Undercover Buy technique? Some of the internal obstacles in handling narcotics crimes committed using the Undercover Buy technique are as follows: 1) Lack of required amount of equipment, 2) Limited operational costs, 3) Investigators' constraints after making an undercover buy. While the external constraints in dealing with follow narcotics crimes committed by undercover buying techniques are as follows: 1) Obstacles in obtaining informants / espionage. 2) Constraints determine the location of covert purchase. The efforts of investigators from the National Narcotics Agency (BNN) in overcoming obstacles to carrying out undercover buying techniques. The internal efforts made are as follows: 1) Efforts to overcome the shortage of the necessary equipment. 2) Efforts to overcome limited operational costs. 3) Attempts made by investigators after making an Undercover Buy. While external efforts are as follows: a) Efforts to get informants and optimize roles suspect. b) Attempts to Determine Covert Purchase Locations.*

Keywords : *Role Of Narcotics Agency, Investigation Process, Narcotics Crime*

I. INTRODUCTION

The aspirations of the Indonesian people as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (1945 Constitution) are to protect the entire Indonesian nation and all of Indonesia's bloodshed and to promote public welfare, educate the nation's life and participate in carrying out world order based on freedom, eternal peace. and social justice. In order to achieve these goals and to maintain the continuity of national development in a safe and peaceful, orderly and dynamic atmosphere both within the national and international circles, it is necessary to increase control over matters that can disrupt national stability, including the abuse and illicit traffic of narcotics and psychotropics.

In anticipating these disturbances and threats, Indonesia is participating in efforts to increase cooperation between countries in the context of realizing people's welfare by paying special attention to the abuse of narcotics, psychotropics and other addictive substances without neglecting their benefits for medicine and science.

The Indonesian people are currently faced with a very worrying situation due to the increasing prevalence of illegal use of various narcotics and psychotropics. This concern is getting sharper due to the increasingly widespread illicit traffic of narcotics and psychotropics which has spread in all levels of society, especially among the younger generation, even worse has entered the world of campuses, in student boarding houses.

These matters greatly affect the life of the nation and state because the younger generation is the next generation of the nation and state that will continue the survival of this nation, because in their hands lies the future of the nation as heirs of this nation which will carry on the ideals of the nation.

Basically, the distribution of narcotics in Indonesia when viewed from a juridical aspect is legitimate. The Narcotics Law only prohibits the use of narcotics without permission by the law in question. This situation is at the empirical level, the use of narcotics is often misused not for the benefit of medicine and science. However,

far from that, it is used as a promising and rapidly growing business arena, where this activity has an impact on the physical and psychological damage of narcotics users, especially the younger generation.

The increasing and widespread illicit traffic of narcotics and psychotropics is inseparable from international criminal organizations operating in various countries which are international crime networks. From the trade in these dangerous drugs they get enormous profits, but the impact causes huge losses to the wider community.

Law enforcement against narcotics crimes has been widely carried out by law enforcement officials and has received many judge's decisions in court hearings. It is hoped that law enforcement will act as a deterrent to the spread of drug or narcotics trafficking, but in reality the more intensive law enforcement is carried out, the more the distribution of narcotics trade will increase.

In the process of examining cases of narcotics crimes at trial, it is very necessary to have the conviction of a judge supported by 2 (two) valid pieces of evidence, namely conformity between evidence and evidence, as well as evidence and evidence, so that there is agreement between evidence, evidence, and the judge's conviction is a very important organ in the settlement of narcotics crime cases, cannot be separated from one another.

In Article 86 paragraph (1) and (2) of Law no. 35 of 2009 concerning Narcotics also regulates other evidence besides that contained in the criminal procedure law, namely in the form of: (a). Information spoken, sent, received, or stored electronically with optical devices or something similar; and (b). Recorded data or information that can be seen, read, and/or heard, which can be issued with or without the help of a facility, whether written on paper, any physical object other than paper or recorded electronically, including cellphones. and others, so they are not limited to: (1). writing, sound, and/or images; (2). maps, plans, photographs or the like; or (3). letters, signs, numbers, symbols, codes, or perforations that have meanings that can be understood by people who are able to read or understand them.

Whereas in Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP) as stated in Article 187, the evidence is only in the form of):

- (a). Witness testimony;
- (b). Expert testimony;
- (c). Letter; (d). Instructions;
- (e). Statement of the accused.

There are several differences between the material and formal law in the Narcotics Law and the provisions contained in the Criminal Code and Criminal Procedure Code, ranging from punishment, proof, investigation, investigation and even prosecution.

Where in the Narcotics Law there are several processes including investigations, investigations and prosecutions carried out also by the National Narcotics Agency (BNN) while in ordinary criminal cases the process is carried out by the police. Proof in the Narcotics Law also recognizes limited reversed proof, in which the accused or suspect must prove the origin of the assets in his possession. In this case, it will be questioned whether the assets were obtained from the proceeds of committing narcotic crimes or not.

In order to prevent and eradicate the abuse and illicit traffic of Narcotics and Narcotics Precursors whose modus operandi is increasingly sophisticated, this Law also regulates the expansion of wiretapping investigation techniques, under cover buy techniques, and controlled delivery techniques. delivery), as well as other investigative techniques to track and uncover the abuse and illicit traffic of Narcotics and Narcotics Precursors.

In Law Number 35 of 2009 concerning Narcotics, the National Narcotics Agency is given the authority to conduct investigations and investigations, which have not been regulated in the old law. Two authorities are deemed necessary to anticipate narcotics crimes with an increasingly complex modus operandi and are supported by a network of organizations. Not only the addition of authority, the institutional status of the National Narcotics Agency was also enhanced. The effectiveness of the enactment of this law is highly dependent on all levels of public enforcers, in this case all directly related agencies, namely the National Narcotics Agency and other law enforcers. On the other hand, what is very important is the need for legal awareness from all levels of society in order to uphold legal authority and especially against Law Number 35 of 2009, so the role of the National Narcotics Agency with the community is very important in assisting the law enforcement process against narcotics crimes which is getting bigger.

Law enforcement officials who have an important role in handling narcotics crimes are investigators. In this case it is BNN investigators, where investigators are expected to be able to assist in the settlement process of narcotics crime cases, in which investigators have various ways to be able to uncover these narcotic crimes. Some of the investigative techniques start from observation (review), surveillance (following), agent undercover, undervocer buy, controlled planning, and raid planning execution.

II. METHOD

Approach Method

The approach used in this research is a normative juridical approach. The normative juridical approach is an approach that is carried out by examining the principles of criminal law, statutory regulations, and other regulations that are relevant to the problems studied.

Data Collection Techniques

In accordance with the research stages mentioned above, the data obtained uses document study techniques, namely by:

- a. Library Research (library research), literature study was conducted to collect all documents in the form of primary legal materials, secondary legal materials and tertiary legal materials. These data were studied and obtained using documentation techniques.
- b. Field research (field research), to complement the data obtained through literature study, also conducted field research (field study) to obtain information related to the topic of the problem under study.

III.RESULT AND DISCUSSION

What are the obstacles faced by investigators from the National Narcotics Agency (BNN) related to the implementation of the Undercover Buy technique?

Legislative provisions governing narcotics issues have been drafted and enforced, however crimes related to narcotics have not been appeased. In many recent cases, dealers and dealers have been caught and given severe sanctions, but other actors seem to ignore them and are even more likely to expand their area of operations. Today's narcotics and drug crimes are transnational in nature, carried out with high modus operandi and sophisticated technology. Law enforcement officials are expected to be able to prevent and deal with these crimes in order to improve the morality and quality of human resources in Indonesia, especially for the next generation. nation.

Among law enforcement officers who also have an important role in the existence of narcotics crime cases is the National Narcotics Agency (BNN), which is expected to be able to assist the process of law enforcement against narcotics crimes. Narcotics crime is still a chronic problem that befalls Indonesia.

As an organization that has been established by the Government, the National Narcotics Agency (BNN) has a mission to coordinate all efforts by the Indonesian people to free themselves from the dangers of drug abuse so that the vision of realizing an Indonesian society free of drug abuse can be achieved immediately. The task of coordinating the various components of the nation is not an easy job. The extent of Indonesia's geographical boundaries and the complexity of this problem have increased the complexity of BNN activities. Various activities and processes that are cross-sectoral and have multi-dimensional aspects color BNN's daily activities.

One of the keys to the success of BNN in carrying out its duties and functions lies in the availability of supporting infrastructure, ranging from political, legal, well-established institutional support, work facilities and infrastructure. The wide range of responsibilities and the geography carried out by BNN requires the attention of various parties to immediately realize the various components supporting the main tasks and functions of BNN. This feasibility study document is a study of the analysis of the needs of the National Narcotics Agency for the rehabilitation function of victims of drug abuse.

It is a hope that the presence of this document will be a starting point for the development of a Narcotics Abuse Victims Rehabilitation Center which can become a national referral center for the rehabilitation of victims of narcotics abuse.

The National Narcotics Agency (BNN) in the mechanism of investigating narcotics crimes has a legal umbrella in its implementation (formal law) which refers to Law no. 8 of 1981 concerning the Criminal Procedure Code (KUHAP).

Law No. 35 of 2009 concerning Narcotics in the provisions of Article 81 provides an explanation regarding investigations namely that Indonesian National Police Investigators and National Narcotics Agency (BNN) investigators have the authority to conduct investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursors based on this Law Article 84 provisions of the Law No. 35 of 2009 concerning Narcotics provides an explanation of the need for institutional coordination in terms of investigating narcotics crimes.

In carrying out investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursors, Indonesian National Police investigators shall notify BNN investigators in writing of the commencement of investigations and vice versa.

The provisions of Article 85 also explain technical investigations in conducting investigations into narcotics crimes. In carrying out investigations into the abuse of Narcotics and Narcotics Precursors, certain civil servant investigators (PPNS) coordinate with BNN investigators or investigators with the Indonesian National Police in accordance with the Law on Criminal Procedure Code.

The National Narcotics Agency (BNN) is involved in carrying out investigations of dealers in narcotics crimes in addition to being guided by the Criminal Procedure Code (KUHAP) normatively, the provisions are also regulated in the provisions of Law no. 2 of 2002 concerning the Indonesian National Police.

BNN in terms of handling a case must adhere to the legal rules that apply in Indonesia. Likewise, in the process of dealing with a drug crime, the National Narcotics Agency must implement the rules contained in the Criminal Procedure Code (KUHAP).

Undercover Buy (covered purchase) Understanding Undercover or Infiltration is an investigative operation which is closed and confidential in nature, this activity is disguised in such a way that the people who carry out and all their activities may not raise suspicions of people who are infiltrated. Undercover buying is regulated in Article 75 letter J of the Narcotics Law meaning that narcotics investigators and narcotics precursors have the right to carry out or act directly as buyers. Covert purchase (undercover buy) as a technique carried out by investigators in narcotics and narcotics precursor crimes.

Covert buying (undercover buy) is a technique specifically in the investigation of narcotics crimes and narcotics precursors, where an informant or member of the police (under cover), acting as a buyer in an illicit transaction of buying and selling narcotics, with the intention that when this happens the seller or intermediary or people related to the supply of narcotics and narcotics precursors can be arrested along with any evidence .

Prior to conducting undercover buying, activities are held in the form of meetings, negotiations with Narcotics dealers and Narcotics Precursors to enable covert buying techniques to be carried out. If possible, this covert purchase is made by more than one person. This depends on the situation and conditions. After the transactions are carried out and the opposing party has no suspicion of covert people, then the right time is determined to carry out the covert operation.

Good planning will determine good operations as well, so that the efforts made before will be able to enjoy its success. Failure in a narcotics and psychotropic operation will not only disrupt security and order in society but will also endanger the people involved in the operation. the.

Some of the internal obstacles that arise when BNN investigators handle narcotics and psychotropic crimes which are carried out using undercover buy techniques include:

Lack of the number of equipment needed to support activities

There is still a shortage of equipment used to carry out investigations and investigations, in this case, to carry out wiretapping. Without sufficient equipment, it can affect the speed and accuracy of investigators in collecting evidence regarding a narcotics crime. For example, in making covert purchases, investigators admit that they have difficulty wiretapping which will later be used as evidence, given that the evidence used in uncovering and dealing with narcotics crimes states that all forms of information, both electronic and recorded data or information that can be seen or heard then it will be used as legal evidence in court for that wiretapping is required.

Limited operational costs in Inquiry and Investigation activities

The process of investigating and investigating using undercover buy techniques by investigators in narcotics and narcotics precursor cases requires quite high operational costs when compared to investigations in conventional crimes.

Investigators received terror and became witnesses in the trial.

Members in this case are BNN investigators even though they have changing the appearance for camouflage of the members of the BNN are more easily recognized by the drug network, every time after arrest then automatically the member will become a witness in the judge. In a trial, a witness cannot be someone else

witness must know about the arrest, and that is a member of the BNN itself. Therefore, a member of the BNN who investigates drugs that have already made a covert purchase will be easily detected by friends of the suspect's group, which is a network. One of the members of the network usually attends and blends in with the community to be present at the trial of the theme that has been arrested so that BNN members who become witnesses in the trial will be detected and if they are going to make covert purchases again they will experience difficulties.

The external obstacles that arise when BNN handles criminal acts narcotics and narcotic precursors using undercover buy techniques, including:

a) Obstacles in obtaining informants/espionage

The informant himself is a person who has information about a subject he wants to know, in this case the informant is related to narcotics crime. These informants are people who can provide detailed and accurate explanations regarding what, who, where, when, how and why, in a narcotics crime case.

b) In some ways an informant is a person who

have a role in a network, so that BNN officers can easily get information about the network if they already have an informant.

Constraints in determining the location of undercover buys. One of the obstacles that must be faced by investigators is to determine the location of the undercover buy because investigators have to find a location that allows surveillance of the suspect's movements and the possibility of securing the perpetrators of undercover,

transaction money and avoiding places that are too crowded and open, there are not many places that can be used for this operation.

Efforts by investigators from the National Narcotics Agency (BNN) to overcome obstacles in carrying out undercover buying techniques.

The purpose of criminal justice is to decide whether a person is guilty or not. Criminal justice is carried out with procedures that are bound by strict rules of evidence that cover all constitutional boundaries and end in an examination process in court.

An integrated criminal justice system (integrated criminal justice system) in order to achieve the goal of maximally working the criminal justice subsystem must be supported by a substantially synchronized system and institutions between criminal justice subsystems which starts from the investigation stage and ends at the judge's decision stage. Investigation of criminal acts if the process is in accordance with applicable regulations then there will be no obstacles at the prosecution stage and will have a significant impact on the judge's decision later, namely to produce an objective decision.

In relation to the criminal justice system in this study, the authors found a problem in terms of the legitimacy of the formation of the investigative authority of the National Narcotics Agency (BNN) institutionally.

The legal basis for establishing the National Narcotics Agency refers to Article 67 and Article 149 of the transitional provisions of Law No. 35 of 2009 concerning Narcotics so that it is deemed necessary to form a National Narcotics Agency (BNN) based on Presidential Decree No. 87 of 2003 which was later replaced by Presidential Regulation No. . 23 of 2010 concerning the National Narcotics Agency.

The Investigative Authority of the National Narcotics Agency (BNN) is regulated in the provisions of Article 4 of Presidential Regulation No. 23 of 2010 concerning the National Narcotics Agency. Fuller in his Principles of Legality theory explains that there are eight requirements of good legislation, namely:

- 1) Laws/legal regulations must be general in nature. They may not apply specifically or to certain individuals.
- 2) Legal regulations are established to prohibit or permit certain types of behavior. Laws should also be widely promulgated.
- 3) Or accessible to the public. Legal publicity ensures that citizens become aware of what is required by law. The law must be prospective.
- 4) Laws must specify how individuals should behave in the future rather than prohibit behavior that has occurred in the past (laws must not apply retroactively). Legal regulations must be clear.
- 5) Citizens must be able to identify what is prohibited by law, what is permitted by law, or what is required by law. Laws may not conflict with one another. (The legal system must not contain contradictory rules)
- 6) An Act cannot prohibit but other laws and regulations permit. The law must not ask or order things that are impossible to do. The law must reach the ability of citizens to fulfill it.
- 7) Laws may not change frequently; what is required by law of citizens must be relatively fixed.
- 8) Finally, there must be conformity between what is written and stipulated by law and how the government enforces the statutes or regulations.

Lon Fuller's legal theory above by elaborating the ideas contained in his thoughts so that the authority of the National Narcotics Agency (BNN) in establishing and implementing investigative powers in laws goes well, it is necessary to consider several aspects of the principles of legality theory, namely those contained in points to 3, 4 and point 8 namely the law must provide future prospects, the law must be clear and there must be conformity between what is written and stipulated by law and how the government enforces the statutes or regulations.

The perspective in point 3 gives the meaning that a law or regulation must be able to reach the future and must have a progressive value.

In the notion of progressive means the law is for humans. Even though the law starts from the text, then the legal work is taken over by humans. This means that humans will seek deeper meaning from the text of the law and make decisions. Judging progressively can also be interpreted as testing the limits of legal ability.

Law No. 35 of 2009 concerning Narcotics does not yet reflect legal progress, bearing in mind that there are still weaknesses from the unclear factor of the birth of the investigation authority of the National Narcotics Agency (BNN) with its characteristics, administrative laws with criminal sanctions which cannot delegate investigative authority and the absence of an article clause which states that the investigation of criminal acts narcotics crimes, especially narcotics containing new substances that are not regulated in the annex to narcotics classes and derivatives based on Law no. 35 of 2009 an investigation can be carried out based on the results of a forensic laboratory test by a team of the National Narcotics Agency forensic laboratory integrated service unit.

The investigative authority contained in the provisions of Article 4 of Presidential Regulation Number 23 of 2010 concerning Narcotics cannot cause legal consequences in an investigation carried out by the National Narcotics Agency because only laws can cause legal consequences by referring to the normative provisions of Article 7 Law 48 2009 concerning Judicial Power and the meaning of the principle of legality.

The principle of legality serves as a standard in criminal law enforcement. In connection with the investigation, it is determined in the provisions of Article 7 of Law 48 of 2009 concerning Judicial Power which states that no one can be subject to arrest, detention, search and confiscation, except for a written order from a

lawful authority in matters and according to the manner regulated in the the law. This means that what is meant by "legitimate power" is law enforcement officials who are authorized to carry out investigations and investigations based on the law. In the process of investigation and investigation, this also includes wiretapping.

The investigative authority contained in the provisions of Article 4 of Presidential Regulation Number 23 of 2010 concerning Narcotics cannot cause legal consequences in an investigation carried out by the National Narcotics Agency because only laws can cause legal consequences by referring to the normative provisions of Article 7 Law 48 2009 concerning Judicial Power and the meaning of the principle of legality.

Criminal law in the study of the legitimacy of a legal issue regarding investigative authority must be based on the principle of legality, what is determined must be in line with its implementation. in the application of criminal law.

Related to the efforts made by investigators to overcome internal obstacles are as follows:

1. Efforts to overcome the shortage of necessary equipment.
Efforts that can be made by investigators in optimizing performance are by making efforts to maximize Human Resources so that they can use the equipment needed in the investigation to the fullest.
2. Efforts to overcome limited operational costs
Investigators' efforts to overcome the obstacle regarding the lack of operational costs in this case is money because it is often successful in arresting narcotics and psychotropics because they buy them by displaying a large amount of money to attract dealers, the costs for carrying out this operation must be adequate. In narcotics cases the operational costs required are quite large, this limited operational cost is also a problem for investigators if they are going to uncover larger narcotics crime cases that require greater costs and more sophisticated equipment, the tools for carrying out this operation must be adequate tools .
3. Investigators must act professionally
Investigators who will carry out this undercover buy technique must act professionally and carefully in carry out their duties, and minimize mistakes or even don't to make a mistake in the task, because only by a little mistake, the lives of investigators and other members will be threatened hazard or the operation will fail. In doing the technique Undercover buying is a very big risk.

The efforts of investigators to overcome external obstacles are as follows:

Efforts to obtain informants and optimize the role of suspects

The intended effort to optimize the role of informants here is to collect information using informants (spies) and make covert purchases using couriers or suspects who have been caught. These informants usually come from mischievous people, in this case the informants are in in an environment or community that is familiar with drug use.

The way to make an undercover buy does not have to always use an informant, there are times when you do it (undercover buy) the officers did it via the cellphone belonging to the paramedics suspects who have been arrested, in this case usually a mobile phone belonging to suspected drug users.

The cellphone of the drug suspect which was then confiscated by the BNN officers will be identified, and then police investigators will find evidence of transactions that have been carried out by the suspect because these drug buyers/users usually buy drugs from not just one dealer, usually around 2-2 people are identified. 3 dealers, the officers then made undercover purchases by contacting the dealers using the suspect's cell phone that had been caught by first learning the language that the suspect and dealer usually used so that the undercover buy process was successful. One example of this case is making an undercover buy using the suspect's cellphone identification

Attempts to determine covert purchasing locations

- a. The location must allow monitoring of the opponent's movements and the possibility of securing undercover actors, transaction money and avoiding places that are too crowded and open.
- b. Location allows the use of means of communication and detection both for monitoring opponents and for communication purposes as well as for the coordination of all officers.
- c. The location must be mastered early on, so that it is possible to do it safeguards and avoid counter-investigation of the opposing party.

IV. CONCLUSION

What are the obstacles faced by investigators from the National Narcotics Agency (BNN) related to the implementation of the Undercover Buy technique? Some of the internal obstacles in handling narcotics crimes committed using the Undercover Buy technique are as follows:

- 1) Lack of required amount of equipment
 - 2) Limited operational costs
 - 3) Investigators' constraints after making an undercover buy
- While the external constraints in dealing with follow

narcotics crimes committed by undercover buying techniques are as follows:

- 1) Obstacles in obtaining informants / espionage
- 2) Constraints determine the location of covert purchases

The efforts of investigators from the National Narcotics Agency (BNN) in overcoming obstacles to carrying out undercover buying techniques. The internal efforts made are as follows:

- 1) Efforts to overcome the shortage of the necessary equipment
- 2) Efforts to overcome limited operational costs.
- 3) Attempts made by investigators after making an Undercover Buy

While external efforts are as follows:

- a) Efforts to get informants and optimize roles suspect.
- b) Attempts to Determine Covert Purchase Locations.

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