

Investigation Between BNN and the Police in Handling Narcotics Crimes: A Policy Analysis

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Abstract. Indonesian National Police (POLRI) and The National Anti-Narcotics Agency of the Republic of Indonesia (BNN) have same authority in order to do investigation toward criminal act of misusing and distributing narcotics. In order to create a good synergy between BNN and POLRI, a policy is needed in order to be used as a reference by BNN and POLRI in conducting an investigation. This policy is crucial due to the fact that there are two large institutions that have same authority which can lead to a conflict. This research uses method of Sosio Legal Research approach with data collection techniques in the form of literature review, observation, and interview. The result of this research shows a policy that has been done in carrying out investigations between POLRI and BNN in narcotics crime in Central Java requires a policy in the form of rules in order to coordinate and cooperate between BNN investigators and POLRI investigators, or with other investigators that have been regulated in the Law No. 35 of 2009 concerning Narcotics. This policy is a form of acts in conducting an investigation by coordinating the process of investigating the misuse and illicit trafficking of narcotics and narcotics precursors. POLRI Investigator notified in writing the start of the investigation to BNN investigators and vice versa. In the meantime, in investigating narcotics misuse and narcotics precursors, particular civil servant investigators coordinate with BNN investigators or POLRI investigators in accordance with the Law on Criminal Procedure. The weakness of the implementation of this policy is lacking investigative personnel and inadequate facilities and infrastructure.

Keywords: Policy, Investigations, Narcotics Crime, BNN.

1 Introduction

Based on Law No. 35 of 2009 concerning Narcotics, a national level narcotics coordination agency was formed [1]. At the present time known as The National Anti-Narcotics Agency of the Republic of Indonesia (BNN) which helps the president to coordinate and to enforce the prevention and eradication of narcotics misuse. Furthermore to BNN, the Indonesian National Police (POLRI) also has the authority that is regulated in Article 16 paragraph (1) of Law No. 2 of 2002 [2]. The authorities are including the authority to arrest, imprisonment, examine and confiscate, prohibit anyone from leaving or entering the scene of the case for the purposes of investigation, conducting checks and confiscation of letters, calling people to be heard and examined as suspects or sanctions and bringing in experts as needed in correlation to the case.

Based on the law, POLRI and BNN have the authority to examine and investigate criminal acts of misusing and illicit trafficking of narcotics and narcotics precursors. Mayasari [3] in her

research stated that all this time, POLRI and BNN in handling narcotics cases at all times adhere to the applicable law. Drug management policies carried out by BNN and POLRI are also based on applicable laws, specifically Law No. 35 Year 2009 and Law No. 2 Year 2002 [1],[2] . The duties and authority between BNN and POLRI in handling narcotics cases are almost the same, hence the risk of overlapping policies can lead to conflicts. In order to create a good synergy between BNN and POLRI, a policy is needed to be used as a reference by BNN and POLRI in conducting an investigation. Anderson in Tahir [4], states that policy is an action that has a goal that is carried out by an actor or a No. of actors to solve a problem. Policies in achieving good synergy between BN and POLRI are crucial due to the fact that they involve the public interest, particularly between people dealing with narcotics crime, BNN officers and POLRI. In this case, as a matter of fact it is a public matter, public policy is needed to resolve it. Lester in Wibowo [5] argues that public policy is “The process or series of decisions or government activities designed to address public problems, whether they are real or are still planned (umagined)”. Through public policy, it is expected that there will be no conflict between BNN and POLRI in handling narcotics crimes. Therefore, through this research, information can be obtained in regard to what kind of policies given to BNN and POLRI in carrying out the task of investigating narcotic crime.

2 Research Methodology

This research uses Sosio Legal Research approach, which is combining the normative approach and the empirical method [6]. The specifications of this research are analytical descriptive research, that is by describing and providing research data on a problem to strengthen the theory while being able to develop a new theoretical framework [7]. Sources of data obtained from primary data and secondary data. Primary data were obtained through in-depth interviews with BNN officers and from POLRI officers. Moreover, primary data is also obtained through unstructured interviews to generate statements in a serious, free and forthright manner [8]. Secondary data obtained through literature review. This literature review is in the form of material that is closely related to secondary data, such as laws and regulations governing the duties of BNN and POLRI as well as other literature materials. Data collection techniques are done through literature review, observation and interviews. The data collected is arranged descriptively in an analysis by analyzing, describing and summarizing various conditions, situations, from various data collected in the form of results from interviews or observations with reference to the problems being investigated that occur in the field.

3 Results and Discussion

3.1 Implementation of Narcotics Criminal Investigation Policy by the Indonesian National Police

The implementation of the policy in conducting investigations of narcotics crime carried out by the Indonesian National Police was carried out during the investigation. Investigation begins with information seeking. Precisely, for narcotics matters, information is divided into two, namely open information and closed information. Open information is given by citizens. Whereas closed information, in the form of information that is confidential or for a limited circle.

The procedure for implementing policies in conducting investigations of narcotics cases begins after the discovery of evidence. Efforts to search for evidence carried out investigators in the form of:

- a. Observation: observation of suspected persons, object, targets, places and items related to narcotics distribution. At BNN, observations were done by the intelligence team.
- b. Surveillance: pursuing activities towards people, objects, or targets. In conducting surveillance, the use of technologies such as CCTV, satellite technology, telephones are preferred.
- c. Undercover: disguising and or infiltration activities carried out by officers into the network group. In the case of narcotics usually disguises are made look like thugs.
- d. Undercover Buy: undercover activities carried out by officers to make undercover buy. Undercover buy according to the Supreme Court circular No. 7 of 2009 concerning Placing Narcotics Users in Institutions and Rehabilitation.
- e. Controlled Delivery: shadowing shipping activities. Carried out in collaboration with the post office and courier.
- f. Phone Intercept: telephone tapping by the officer. One of them with a recording device.

Based on the Supreme Court Circular No. 7 of 2009 in the determination of suspects, after a person owns or consumes narcotics will proceed to the judicial process or will be entered into rehabilitation homes that depend on the quantity of narcotics. The suspects admitted to rehabilitation centers are those proven to carry narcotics weighing between 0.005gram to 0.25 gram. Other provisions for a suspect to be rehabilitated are not recidivists (have experienced any punishment), are not dealers, and there is a psychiatric statement. Furthermore, the determination of evidence using the Test Kit and drug laboratory tests at BNN. Status of evidence can be transferred to the health, education and / or destroyed. Within seven days the evidence must be decided to be destroyed or transferred to the interests of health and education. Hence the amount of time needed by investigators is twenty-one days plus three days. After the file is complete and dropped by P21, the case is ready to be submitted to the court.

3.2 Implementation of Narcotics Criminal Investigation Policy by the National Narcotics Agency

In 2003, BNN received a budget allocation only from APBN, therefore BNN continued to improve its performance efforts with the Provincial Narcotics Agency (BNP) and the District Narcotics Agency (BNK). However, due to the fact that without an institutional structure and it is only coordinative (only functional similarity), BNN is condemned incapable to work optimally and unable to deal with increasing and serious drug problems. Through Presidential Regulation No. 83/2007 concerning the National Narcotics Agency (BNN), the Provincial Narcotics Agency (BNP), the Regency or City Narcotics Agency (BNK) is responsible to the president, governors and regents or mayors and respectively (BNP and BN Regency or City) does not have a structural-vertical relationship with BNN.

The policy that has been implemented by BNN in realizing the investigation of narcotics crime is in accordance with the applied rules, which are based on Law No. 35 Year 2009. The National Narcotics Agency also has duties and functions [1]:

- a. Integrate the relevant government agencies in the formulation and implementation of national narcotics prevention policies.
- b. Coordinating the implementation of national drug management policies.

From the two tasks and functions of the BNN, BNN also has a certain policy to be able to coordinate and formulate national policies in drug control.

3.3 Implementation of Investigation Policy Between BNN and the Police in Handling Narcotics Crimes

In accordance with Article 75 of Law No. 35 Year 2009, BNN has the authority to carry out policies as investigators and carry out the usual duties performed by investigators [1]. In implementing BNN policy, the Deputy for Eradication of BNN in carrying out its duties is divided into 7 teams, which are organized to the specifications of each investigator and the object of investigation, including natural narcotics, interdiction investigators, synthesis investigating teams, precursor investigators, intelligence teams, the Chase Den (*Kejar Den*), Wastabaset (Supervisory of Confiscated Goods, Evidence and Assets). The focus of BNN investigators is on cases related to narcotics networks or syndicates at the national and international levels. Authority in carrying out policies for BNN investigators is regulated in article 75 and article 80 of Law No. 35 Year 2009 [1]. As stated in the legislation the authority of BNN and POLRI is almost the same, the difference is that BNN only investigates narcotic crimes and narcotics precursors. While POLRI investigates all crimes including narcotics.

In carrying out investigative policies between BNN and POLRI namely by coordinating and cooperating between BNN and POLRI investigators or with other investigators stipulated in Law No. 35 Year 2009 [1]. In implementation of policies for investigating the misuse and illicit trafficking of narcotics and narcotics precursors, investigators of POLRI gave written statements to commence investigations to BNN investigators and vice versa. Civil service investigators also coordinate with BNN investigators and POLRI investigator in accordance with the Law on Criminal Procedure. Thus, the implementation of policies in conducting investigations carried out by BNN and POLRI is to carry out coordination and cooperation hence to create good synergy and to avoid abuse of authority between BNN and POLRI.

3.4 Weaknesses and Solutions for Implementing Policies in Narcotics Crime Investigations by the Indonesian National Police and National Narcotics Agency in Central Java

Policies in the eradication of Narcotics in Indonesia between BNN investigators and POLRI investigators according to regulations which control their authority, are stated to coordinate with each other. The main agency that needs to coordinate with each other are BNN investigators and POLRI investigators, as well as between PPNS and POLRI investigators. Nevertheless, all this time here have been weaknesses in coordination between these institutions which are not covered by the law. If coordination between law enforcement agencies is weak, it can lead to overlapping authorities and policies of each parties. This condition tends to lead to conflicts of interest between law enforcement agencies. Based on this thought, law enforcement which is not structured in a coordinated system and without supervision from an independent institution that has authority become one of the obstacles in preventing crime.

According to Moekijat [9] human factors are the main cause of coordination problems, such as: competition over resources; differences in employment status and work level; conflicting goals; different attitudes and judgments; authority and appointment of adverse work; and efforts to dominate and influence. Nonetheless, the effectiveness of criminal justice according to Wolf Middendorf in Sahetapy [10] depends on three interrelated factors namely good legislation, quick and certain enforcement, and moderate and uniform sentencing.

According to Arief [11] the existing legislation regulates the organizational structure (including the conditions for appointing officials) from public prosecuting institutions (judicial

institutions) and court institutions, but there is no specific law regulates the organizational structure of an investigative institution as part (sub-system) in the criminal law enforcement process. The law should specify who is the head or person in charge of this investigative institution. Aside from that, in spite of the fact that there are some officials who can be appointed as investigative officials, the law should emphasize that there is only one main official authorized to appoint an investigator. Considering from integrated management, all investigation processes go through “one door/coordination”, hence all data as concern in the investigation process is not spread across various agencies but is recorded (documented or inventoried) in one agency or institution to facilitate coordination, supervision and monitoring.

The implementation of policies in carrying out the duties of POLRI and BNN cannot move on their own, but still requires coordination with certain parties such as Customs, BPOM (National Agency of Drug and Food Control) and attorneys. Since the enactment of Law No. 35 Year 2009 concerning Narcotics, the coordination between BNN and POLRI, which also has the authority to investigate misuse narcotics and distribution, is well established and has never happened overlapping [1].

However, the implementation of article 75 of Law No. 35 Year 2009 concerning Narcotics still encounters various difficulties, moreover in terms of investigation. The difficulties are referred to[1]:

- a. Matters of Knowledge
BNN as a relatively new investigative institution compared to POLRI, needs to intensify the strengthening of Human Resources (HR). One of the ways is to learn from POLRI as an institution that much longer and has more experienced as an investigative institution
- b. Matters of Budget
The unclear budget plan will interfere with the investigator's performance. Therefore, there is a need for budget planning for investigation.
- c. Matters of territory
Narcotics distribution which has a very broad scope in Indonesia makes it impossible to handle it at one point. Thus, numerous rules that are difficult to apply, such as the destruction of evidence.
- d. Matters of prisons
The temporary detention center is still inadequate. In the vicinity of the BNN and the Directorate IV of POLRI Criminal Investigation there is only one temporary detention room owned by BNN. Thus, BNN detainees are still temporarily held inside the BNN investigator building.
- e. Matters of personnel's
Recruitment of competent investigators in narcotics investigations. This limitation in human resources is often become an obstacle in attempts to cases prevention, moreover international cases.

In order to make the weaknesses and solutions to the synergy of POLRI and BNN investigation carried out in narcotics crime in Central Java, the authors present in the table below.

Table 1. Weaknesses and solutions to the implementation of the POLRI and BNN investigation policies in narcotics crime in Central Java.

No	Weaknesses	Solutions
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1	BNN limited investigator members in each district compared to the National Police is sufficient	The needs to add more personnel's in each districts
2	In POLRI, the limitations of the detection of narcotic substances used at the crime scene are different from BNN	The needs for adequate facilities and infrastructure related to the procurement of supporting utensils for the continuity handling of narcotics crime
3	BNN civil investigators are not equipped with weapons to support the process of handling narcotics crime	The needs for procurement of supporting facilities to support BNN in carrying out its duties

4 Conclusion

The implementation of policies in carrying out the authority of BNN and POLRI or with other investigators is carried out in coordination and cooperation, hence a good synergy is established in the conduct of investigations. The difficulty in implementing the policy is feeble coordination between law enforcement agencies which can lead to overlapping authorities and policies of each parties. The solutions that can be offered are providing adequate knowledge, resolve budget problems, outreach, detention centers and its personnel's, hence in carrying out investigations can run optimally and can avoid seizure of authority between law enforcement agencies. Weaknesses of the implementation of the narcotics crime investigation policy by BNN in Central Java are the limited No. of members of the investigators and the inadequacy of BNN investigators with weapons that support the process of handling narcotics crime. On the other hand, the weakness of narcotics investigations in POLRI is due to the limited equipment's to detect narcotics substances at the crime scene and must be done in POLRI's forensic laboratory hence the investigation is not fast, not precise and expensive.

4.1 Suggestion

Law No. 35 of 2009 concerning Narcotics has clearly stipulated policies that can be taken in regulating the authority of investigators both the BNN and POLRI, therefore there is no overlapping in handling [1]. If there are still misunderstandings, it is more due to the lack of understanding of each investigating personnel. Therefore, it is necessary to provide understanding to personnel between the two law enforcement agencies, for example through workshops or other activities to support the understanding of each agencies. Furthermore, it is necessary to have adequate facilities and infrastructure related to the procurement of supporting equipment and the addition of personnel at the district or city level to support the handling of Narcotics crime.

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