



# Synergy of Collaboration Between BNN and Polri in the Process of Investigating Narcotics Crimes (A Study of the Police and BNN of Southeast Sulawesi Province )

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## ABSTRACT

Indonesia is a country based on law, not a country based on power. The logical consequence of the principle of the rule of law is that everything in Indonesia must be regulated by a set of statutory regulations. The aim is to create public order towards a society that is physically and mentally prosperous. Legislation regulates individual rights and obligations as citizens. The narcotics problem is a classic problem but is still a big obstacle in law enforcement and national development. Criminal acts are no longer carried out in secret but are carried out very openly by users and dealers in carrying out dangerous goods operations. The fact that can be seen, almost every day, both through print and electronic media, is that these illicit goods have spread everywhere indiscriminately, especially among the teenage generation who are expected to become the nation's next generation in the future. This research lasted for 2 months. This research took place at the Kendari City Police Office and the Regional National Narcotics Agency (BNN). The type of research used is qualitative descriptive research. Based on the research results, several factors found in this research indicate the underlying variables in the framework of building a law enforcement system in relation to social welfare interests and security interests, namely the role of law enforcement in creating legal effectiveness is essentially determined more by 2 (two) factor, namely the importance of criminal sanctions so that they can have a deterrent effect and the second factor is the use of appropriate investigative techniques, such as covert purchasing techniques, supervised delivery of narcotics. That the existence of cooperation in the form of an Integrated Assessment Team (TAT) consisting of BNN, Polri, Prosecutor's Office, Supreme Court and Ministry of Law and Human Rights as the legal team while Doctors and Psychologists as the medical team, is very effective in facilitating the process of handling narcotics addicts and victims of narcotics abuse into rehabilitation institution.

Obstacles that are often faced in the collaboration process between BNN and Polri are the limited quality of human resources in preventing and taking action against perpetrators of narcotics crimes, both BNN and Polri, the limited number of members owned by BNN, and the limited tools they have in preventing and take action against perpetrators of narcotics crimes.

**Keywords:** *Investigating Narcotics Crimes, Synergy, Southeast Sulawesi Province, BNN and Polri*

## I. INTRODUCTION

Indonesia is a country based on law, not a country based on power. The logical consequence of the principle of the rule of law is that everything in Indonesia must be regulated by a set of statutory regulations. The aim is to create public order towards a society that is physically and mentally prosperous. Legislation regulates individual rights and obligations as citizens.

The narcotics problem is a classic problem but is still a big obstacle in law enforcement and national development. Criminal acts are no longer carried out in secret but are carried out very openly by users and dealers in carrying out dangerous goods operations. The fact that can be seen, almost every day, both through print and electronic media, is that these illicit goods have spread everywhere indiscriminately, especially among the teenage generation who are expected to become the nation's next generation in the future.

Narcotics and psychotropics, throughout their history, have been known in civilization and were originally useful for health. In line with its rapid development, it turns out that it is not only a drug, but also a pleasure, and

ultimately paralyzes human productivity, which has the potential to reduce humanity's status. Therefore, the illegal distribution of all types of narcotics and psychotropic substances has ultimately become a concern for all civilized humanity and has even become a new nomenclature for crime, namely drug crime. (Bakhri, 2012: 1).

The use of narcotics and psychotropic substances can cause psychological paralysis which results in the loss of the human ability to perceive things. The loss of such abilities has the potential to eliminate the ability to concentrate and make decisions. In essence, criminal acts are acts that humans tend not to commit if the human's ability to perceive is in good condition. The use of narcotics has a close relationship with causing crime.

In line with the concept of a rule of law, the rule of law in question is a state that upholds the supremacy of law to uphold truth and justice. In general, in every country that adheres to the rule of law, there are three basic principles, namely supremacy of law, equality before the law, and law enforcement in a way that does not conflict with the law (due process of law). Further explanation, in each country, the law has the following characteristics: Guarantee of protection of human rights; independent judicial or judiciary power; legality in the sense of law, namely that both the government/state and citizens must act based on the law. Law is a collection of life guidelines, which regulate order in a society in question. (Bakhri, 2012: 5).

The criminal act of abusing narcotics for oneself is regulated in Article 127 of Law No. 35 of 2009 concerning Narcotics, which reads:

1. Every abuser: a. Class I narcotics for oneself is punishable by a maximum imprisonment of 4 (four) years; b. Class II narcotics for oneself is punishable by a maximum imprisonment of 2 (two) years; and, c. Class III narcotics for oneself is punishable by a maximum imprisonment of 1 (one) year.
2. In deciding the case as intended in paragraph (1), the judge is obliged to pay attention to the provisions as intended in Article 54, Article 55, and Article 103. (3) In case of abuse as intended in paragraph (1), it can be proven or proved to be a victim abuse, the abuser must undergo medical rehabilitation and social rehabilitation. Criminal sanctions in the form of imprisonment can be imposed by a judge. The judge is also given the possibility not to impose a prison sentence, because in the articles relating to Article 127, there is also the possibility of imposing sanctions for rehabilitation measures by the judge.

In short, the number of injection drug users in Indonesia tends to increase. Indonesia is one of the countries in South Asia and Southeast Asia where the number of injection drug users has exceeded 100,000 people, apart from Bangladesh, India, Iran, Pakistan, Malaysia, Myanmar and Vietnam. Injection drug users in Indonesia were initially only found in big cities, but now they are also found in small towns throughout Indonesia. (Tarigan, 2017: 6). Based on BNN data, it is known that the number of drug crimes disclosed increased from 17,355 cases in 2006 to 22,630 cases. The number of drug offenders also increased from 31,635 people to 36,169 people. Meanwhile, the amount of evidence increased, such as marijuana increasing by 79 percent, heroin by 23 percent, and psychotropic ecstasy tablets by 156 percent. (Tarigan, 2017,)

On April 12, 2019). Realizing that drug abuse is the same as other societal diseases such as gambling, prostitution, and murder which are difficult to eradicate. Realistically, what can be done is how to reduce and control the number of drug abuse to a minimum and how to make efforts to reduce the negative impacts caused by drug abuse. (Tarigan, 2017: 7)

Until now, efforts to control drugs carried out by formal government institutions (Department of Health, Immigration, Customs and Excise, POLRI, BNN, BNP, etc.) and by other non-governmental organizations are still not optimal, less integrated and tend to act individually by sector. The problem of drug abuse is not handled optimally, so drug abuse cases are increasing day by day, instead of decreasing, they tend to increase both in quality and quantity.

One of the elements of law enforcement in Indonesia is the Police of the Republic of Indonesia (Kepolisian Republik Indonesia, hereafter referred to as POLRI) as the state's law enforcement apparatus, which is required to be able to carry out law enforcement duties professionally by breaking up syndicate networks from abroad through cooperation with relevant agencies in eradicating drug abuse crimes, where the disclosure of drug cases is of a special nature which requires being proactive in searching for and finding the perpetrators and always oriented towards catching the perpetrators of criminal acts in the field of drugs. The effectiveness of the enactment of Law No. 35 of 2009 concerning Narcotics as a replacement for Law No. 22 of 1997 and Law No. 5 of 1997 concerning Psychotropic Substances is very dependent on all levels of law enforcement, in this case, all directly related agencies, namely the National Police and other law enforcement officers.

### III. RESEARCH METHODS

#### 3.1 Research Location

This research lasted for 2 months. And this research took place at the Kendari City Police office and the Regional National Narcotics Agency (BNN).

#### 3.2 Types and Types of Research

The type of research used is qualitative descriptive research. This type of research explains a research procedure that uses descriptive data in the form of words, written and spoken words from perpetrators who can be observed. This type of research is phenomenology, namely research carried out through presentations and experiences experienced by informants supported by qualitative data, where the researcher tries to reveal certain facts and provide an objective picture of the conditions and problems faced. This research will be carried out in order to get an

objective picture of the synergy between the Kendari City Police and the Provincial National Narcotics Agency (BNN) in investigating drug crimes. Likewise, according to Sugiyono (2012: 11), research based on the level of clarity can be defined as descriptive research is research that This is done to find out how much the value of the independent variable is, either on one variable or independently without making comparisons, and connecting it to other variables.

### 3.3 Data Types and Sources

In this case, the data sources used to conduct this research are as follows:

1. Primary data is data obtained through direct research results on the object to be studied. This primary data was obtained from direct interviews with respondents or related parties or through a questionnaire given in the form of a list of questions relating to police discretion in investigations.
2. Secondary data is data obtained from a second, third party and so on. For example, from an agency or organization concerned, or individuals from parties who have collected and transferred it, such as documentation data, interview data with the public, photographs, books and others that are relevant to the research. This is obtained by searching for and collecting data from informants, either in writing or pictures and writings related to the research.

### 3.4 Data Collection Techniques

The data collection techniques in this research are as follows:

#### 1. Interview (Interview)

This data collection technique aims to obtain an overview of the objects that will become research material using more detailed and open questions and answers directly to informants/respondents. An interview is a conversation conducted with a specific purpose. The conversation is carried out by both parties, namely the interviewer who will ask questions, and the interviewee who will then provide answers to the questions asked.

#### 2. Direct Observation

This technique is an observation carried out directly on the object to be studied to obtain information in the form of accurate information, data, and facts related to the research object. This technique can also be used to determine the level of balance between the informant's or respondent's information and the data in reality by directly observing the object and monitoring its validity. Observation is defined as the systematic observation and recording of symptoms or problems that appear in the research object.

#### 3. Literature study

This technique is used to obtain supporting data (secondary data) from various literature in the form of books, papers, magazines, relevant research results, newspapers, and other written documents as references related to the research object.

### 3.5 Data Analysis

The data analysis technique used in this research is based on the explanation by Miles and Huberman in Sugiyono (2012: 92-99), namely:

#### 1. Data Reduction (data reduction)

Data reduction is the act of selecting and sorting data that is appropriate to the research object through summarizing, selecting main data, focusing on things that are considered important, looking for themes and patterns, and discarding things that are considered unnecessary.

#### 2. Data Presentation (data display)

The data collected by the author will be presented in the form of a short description explaining the relationship between each category and attaching it to a chart.

#### 3. Conclusion Drawing and Verification (conclusion drawing and verification)

The conclusions found are still temporary until more valid data and evidence are found to be used at the next stage.

## IV. HASIL PENELITIAN DAN PEMBAHASAN

### 4.1 Data Kasus Narkoba Yang Ditangani Oleh BNN dan Polri dari tahun 2019-2023

No.	Year	Report Process	Police	Suspect	P.21	Info.
1.	2019	15	15	15	15	
2.	2020	26	5	26	11	Rehabilitation.10
3.	2021	18	18	18	11	
4.	2022	20	20	20	20	
5.	2023	15	15	15	10	5 p.19
Total		794	73	94	67	15 p.19

Source: BNN/Polri 2023

### 4.2 Arrangement of the Authority to Investigate Narcotics Crimes between BNN and Polri

#### a. Authority to Investigate Narcotics Crimes

Based on Article 6 of the Criminal Procedure Code, clearly states that investigators consist of two, namely National Police investigators and civil servant investigators. Regarding National Police investigators in terms of functional differentiation, the Criminal Procedure Code has placed responsibility for the investigative function on the police agency, which is carried out by investigators and assistant investigators.

Civil servant investigators are given authority derived from the provisions of the special criminal law to carry out investigations, so the investigative authority possessed by civil servant investigators is only limited as far as it

concerns criminal acts regulated in the special criminal law, and in The implementation of their duties is under the coordination and supervision of National Police investigators (Harahap, 2012:110-113).

The requirements for being an investigator are regulated in Article 2 of Government Regulation no. 58 of 2010 concerning amendments to Government Regulation no. 27 of 1983 concerning the implementation of the Criminal Procedure Code, as follows:

The way to be appointed as an investigator for the State Police of the Republic of Indonesia as intended in Article 2 letter a, must meet the following requirements:

1. Have the lowest rank of Second Police Inspector and have a minimum level of education or equivalent;
2. Serve in the field of investigative functions for a minimum of two years;
3. Participate in education to develop a specialization in the criminal investigation function;
4. Physically and mentally healthy as proven by a doctor's certificate;
5. Have the ability and moral integrity.

Meanwhile, the requirements for civil servants to apply as candidates for Civil Servant Investigators are:

1. The minimum working period as a civil servant is two years;
2. The lowest rank is Youth Organizer/Group III/a;
3. Have a minimum education of a Bachelor of Laws or another equivalent degree;
4. Serves in the operational technical field of law enforcement;
5. Physically and spiritually healthy as proven by a certificate from a government hospital doctor;
6. Every element of civil servant work implementation has been at least of good value in the last two years;
7. Attend and pass education and training in the field of investigation.

Regarding the investigator's authority, it is regulated in Article 7 of the Criminal Procedure Code, namely:

1. Investigators as intended in Article 6 paragraph (1) letter a, because of their obligations, have the authority:
  - a) Receiving a report or complaint from someone regarding a criminal act;
  - b) Take the first action at the scene;
  - c) Ordering a suspect to stop and checking the suspect's identification;
  - d) Carry out arrests, searches, confiscations, and detention;
  - e) Carrying out inspection and confiscation of letters;
  - f) Taking fingerprints and photographing a person;
  - g) Summoning people to be heard and examined as suspects or witnesses;
  - h) Bringing in the necessary experts in connection with the case examination;
  - i) Holding an end to the investigation;
  - j) Carry out other legally responsible actions.
2. Investigators as referred to in Article 6 Paragraph 1 letter b have the authority by the laws which form their respective legal basis and in carrying out their duties are under the coordination and supervision of the investigators referred to in Article 6 Paragraph 1 letter a.
3. In carrying out their duties as intended in paragraphs 1 and 2, investigators are obliged to uphold the applicable laws.

Furthermore, assistant investigators according to Article 1 point 3 of the Criminal Procedure Code, are officials of the Republic of Indonesia's state police who, because they are given certain authority, can carry out investigative tasks as regulated in this law. Furthermore, Article 10 of the Criminal Procedure Code states:

- a. Assistant investigators are officials of the Republic of Indonesia State Police who are appointed by the Chief of the Republic of Indonesia State Police based on the rank requirements in paragraph 2 of this article.
- b. The requirements for rank as stated in paragraph 1 are regulated by government regulations.

The authority of assistant investigators is regulated in Article 11 of the Criminal Procedure Code, namely that assistant investigators have the authority as stated in Article 7 paragraph 1, except regarding elimination which must be granted by granting permission from the investigator. Apart from the investigator's investigative authority as regulated in the Criminal Procedure Code (KUHP), there are also other investigators according to special criminal law such as investigators in Law no. 35 of 2009 concerning Narcotics, gives investigative authority to the Investigating Agency. National Narcotics. Article 71 of Law no. 35 of 2009 states that in carrying out eradication duties to control and illicit distribution of Narcotics and Narcotics Precursors, BNN has the authority to carry out inquiries and investigations to investigate and illicit distribution of Narcotics and Narcotics Precursors. Furthermore, Article 72 of the law provides regulations regarding BNN investigators, as follows:

- a. The authority as intended in Article 71 is exercised by BNN investigators.
- b. BNN investigators as referred to in paragraph (1) are appointed and terminated by the Head of BNN.
- c. Further provisions regarding the conditions and procedures for BNN termination and investigation as referred to in paragraph (2) are regulated by the Regulation of the Head of BNN.

Regarding the authority of BNN investigators, it is regulated in Article 75 of Law No. 35 of 2009 concerning Narcotics, as follows:

1. Investigate the veracity of reports and information regarding the existence and illicit circulation of Narcotics and Narcotics Precursors;
2. Examination of people or corporations suspected of carrying out control and illicit distribution of Narcotics and Narcotics Precursors;



3. Calling people to hear their statements as witnesses;
4. Ordering to stop people suspected of carrying out surveillance and illicit distribution of Narcotics and Narcotics Precursors and checking the suspect's identification signs;
5. Examining, searching, and confiscating evidence of criminal acts involving negligence and illicit trafficking of Narcotics and Narcotics Precursors;
6. Examination of letters and/or other documents regarding the protection and illicit distribution of Narcotics and Narcotics Precursors;
7. Arrest and detain people suspected of controlling and illegally distributing Narcotics and Narcotics Precursors;
8. Carry out interdiction of the illicit circulation of Narcotics and Narcotics Precursors throughout national jurisdiction;
9. Conduct wiretapping related to the protection and illicit distribution of Narcotics and Narcotics Precursors after sufficient initial evidence is available;
10. Carrying out hidden purchase investigation techniques and submissions under supervision;
11. Destroying Narcotics and Narcotics Precursors;
12. Carry out a urine test, blood test, hair test, deoxyribonucleic acid (DNA) test, and/or other body part tests;
13. Take fingerprints and photograph the suspect;
14. Scanning people, items, animals, and plants;
15. Open and inspect every item sent by post and other means of communication that is suspected to be related to the adoption and illicit trafficking of Narcotics and Narcotics Precursors;
16. Approval of Confiscated Narcotics and Narcotics Precursors;
17. Carrying out laboratory tests on samples and evidence of Narcotics and Narcotics Precursors;
18. Request assistance from experts required for qualifications with the task of investigating the enlightenment and darkness of Narcotics and Narcotics Precursors; And
19. Stop the investigation if there is insufficient evidence of suspected and illicit trafficking of Narcotics and Narcotics Precursors.

Other authorities possessed by BNN investigators are regulated in Article 80 of Law no. 35 of 2009 concerning Narcotics, and BNN investigators as intended in Article 75, also have the authority to:

- a. Directly submit case files, suspects, and evidence, including confiscated assets, to the public prosecutor;
- b. Order banks or other financial institutions to block accounts suspected of being proceeds from the misuse and illicit trafficking of Narcotics and Narcotics Precursors belonging to the suspect or other related parties;
- c. To obtain information from the bank or other financial institution regarding the financial condition of the suspect being investigated;
- d. To obtain information from the Financial Transaction Reports and Analysis Center related to the abuse and illicit trafficking of Narcotics and Narcotics Precursors;
- e. Request directly to the competent authority to prohibit someone from traveling abroad;
- f. Request data on the suspect's wealth and tax data from the relevant agency; Temporarily suspend financial transactions, trade transactions, and other agreements or temporarily revoke permits, licenses, and concessions carried out or owned by suspects who are suspected based on sufficient preliminary evidence to be related to the abuse and illicit trafficking of Narcotics and Narcotics Precursors being investigated; And
- g. Request assistance from Indonesian Interpol or other country's law enforcement agencies to search, arrest, and confiscate evidence abroad.

Narcotics investigation authority as regulated in Law no. 35 of 2009 concerning Narcotics is not only given to BNN investigators but also to Polri investigators as regulated in Article 81, which states that Indonesian National Police investigators and BNN investigators have the authority to carry out investigations into the abuse and illicit trafficking of Narcotics and Narcotics Precursors based on law. This.

The meaning of Article 81 above is that National Police investigators in carrying out Narcotics eradication efforts also have investigative authority similar to the investigative authority of BNN investigators. There is no superiority between Polri investigators and BNN investigators, both have the same authority and cooperate in efforts to eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors (A.R Sujono and Bony Daniel, 2013: 154).

Since the enactment of Law No. 35 of 2009 concerning Narcotics, the National Narcotics Agency has the authority to carry out inquiries and investigations into cases of Narcotics crimes according to the procedures as regulated in both material and formal criminal laws which must be complied with in the process of handling cases of abuse and illicit trafficking of Narcotics and Narcotics Precursors in the territory of the Republic of Indonesia. (A.R Sujono and Bony Daniel, 2013: 132-133).

Effective Narcotics Law Enforcement System based on Law No. 35 of 2009 concerning Narcotics, functions to ensure the availability of drugs for science, technology, and health, prevents narcotics abuse, and also functions to eradicate the illicit trafficking of narcotics.

The institutionalization of international society is very important for growth and development by establishing several rights and obligations of society both nationally and internationally. Community rights include the right to obtain easy and transparent information, the right to obtain fair and non-discriminatory services, the right to obtain security guarantees and legal protection, and the right to convey information responsibly.

Apart from that, the public is also required to fulfill its obligations, namely providing the widest possible opportunities to prevent the illicit trafficking of narcotics and psychotropic substances and the obligation to report to law enforcement any use, distribution, and storage of narcotics and psychotropic substances that they know were obtained illegally.

The institutions of society, starting from the family environment, the school or workplace environment, to the social life of the community. These institutional forms aim to build the same perception as an anti-narcotics group, so that it substantially supports law enforcement, as well as social supervision, which ultimately creates an institution for social control in society.

Effective enforcement of the law against narcotics is determined by two factors, namely the application of criminal sanctions and the use of appropriate investigative techniques. Criminal sanctions must be able to function as a deterrent effect and use appropriate and effective investigative techniques.

The strategy for preventing and dealing with narcotics and psychotropic abuse carried out by the National Police is to carry out pre-emptive, preventive, and repressive steps as well as care and rehabilitation for sufferers of narcotics and psychotropic abuse, the implementation of which involves related agencies and non-governmental organizations.

Determining a suspect is based on Article 1 number 14 of the Criminal Code (KUHP), which means a suspect is a person who, because of his actions or circumstances based on preliminary evidence, is reasonably suspected of being the perpetrator of a criminal act.

Furthermore, in Article 66 paragraph (1) and paragraph (2) National Police Chief Regulation no. 12 of 2009 Supervision and Control of the Handling of Criminal Cases within the National Police of the Republic of Indonesia (Perkap 12/2009) states that:

- 1) The status of a suspect can only be assigned by an investigator to a person after the results of the investigation carried out have obtained sufficient initial evidence, namely at least 2 (two) types of evidence.
- 2) To determine whether to obtain sufficient preliminary evidence, namely at least 2 (two) types of evidence as intended in paragraph (1) determined through the title of the case.

To determine someone as a suspect, sufficient initial evidence must be found, namely at least 2 (two) types of evidence, and determined through the degree of court. So there must be a process first in determining someone as a suspect.

Based on Article 1 number 11 jo. Article 14 paragraph (1) Perkap 12/2009, case resolution procedures including investigation and determination of suspects, must be carried out professionally, proportionally, and transparently so that there is no abuse of authority and there is no mere tendency to make someone a suspect.

The National Police does not have authority in the field of prevention and community empowerment (P2M) and does not have the authority to carry out rehabilitation for victims of narcotics abuse. Meanwhile, BNN's authority itself is more complete in the areas of prevention and community empowerment (P2M), the authority to carry out rehabilitation for victims of narcotics abuse, and the authority to eradicate prevent, and prosecute perpetrators of narcotics crimes. This eradication authority has the same meaning as the law enforcement authority at the National Police, namely law enforcement against the illicit trafficking of narcotics and narcotics precursors.

When carrying out an investigation, if it is proven: that there is evidence, there are narcotics, then it continues at the investigation level, the person carrying out the investigation is a BNN investigator. The collaboration carried out between BNN and Polri is in the following form:

- a. Collaboration between BNN and Polri is carried out in the form of TAT (Integrated Assessment Team)

The Integrated Assessment Team (TAT) is a team consisting of BNN, Polri, the Prosecutor's Office, the Psychologist/Doctor, rehabilitation section. Related to rehabilitation which is regulated in joint regulations Number 01/PB/MA/III/2014, Number 03 of 2014, Number 11 of 2014, Number PER005/A/JA/03/2014, Number 1TAHUN2014, PERBER/01/III/2014/BNN concerning Handling of Addicts and Victims of Narcotics Abusers in Rehabilitation Institutions whose secretariat is BNN.

BNN and Polri have established a Memorandum of Understanding (MoU) regarding cooperation in preventing and prosecuting perpetrators of narcotics crimes. If the National Police and BNN find information regarding the illicit trafficking of narcotics and narcotics precursors, the National Police and BNN will both issue a press release regarding the findings.

Collaboration in preventing and prosecuting narcotics crimes, BNN, and the National Police are interrelated. If the National Police asks for support in education matters, the BNN is ready to provide education and outreach about narcotics and the dangers of narcotics. In carrying out inspection operations or raids, the BNN asks for help from the National Police due to the limited number of members.

The act of using and abusing narcotics is a criminal act, so legal proceedings should be carried out against the perpetrator as is appropriate for law enforcement in other criminal cases. However, currently, law enforcement against addicts does not always use criminal means, because there is a requirement for rehabilitation for addicts who report themselves to certain agencies where they are required to report, as stipulated in Article 54 of Law Number 35 of 2009 concerning Narcotics.

Based on Government Regulation No. 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts, Article 13 Paragraph (3) states that addicts who are undergoing a judicial process can be placed in medical rehabilitation and/or social rehabilitation institutions. Paragraph (4) further stipulates that the decision to

rehabilitate addicts is subject to the permission of investigators, public requests, and judges after receiving recommendations from a team of doctors.

Seeing this reality, BNN took the initiative to pay more attention, especially to addicts and victims of narcotics conservation, by intensifying the provision of rehabilitation. For this reason, BNN is collaborating with several government agencies that can be involved in rehabilitation. This form of cooperation is realized in the form of Joint Regulations.

With the establishment of a Joint Regulation between 7 (seven) State Institutions of the Republic of Indonesia on March 11 2014 concerning the Handling of Narcotics Addicts and Narcotics Abuse Victims in Rehabilitation Institutions, the investigation process for narcotics addicts and abusers has changed. For narcotics addicts and abusers who are arrested or caught red-handed, an assessment will be carried out by an integrated assessment team consisting of the following elements:

- a) A team of doctors consisting of doctors and psychologists,
- b) The legal team consists of elements from the National Police, BNN, the Prosecutor's Office, and the Ministry of Law and Human Rights.

The task of the integrated assessment team is to stop the illicit trafficking of narcotics and support narcotics as well as carry out medical, and psychosocial assessments and analyze and recommend therapy and rehabilitation plans for narcotics addicts and abusers.

Kendari Police investigators only provide rehabilitation opportunities for suspected narcotics addicts in Kendari City by bringing evidence and a maximum usage limit of 5 grams. If the evidence brought by the suspect is more than 5 grams, Kendari Police investigators do not make a recommendation to carry out an assessment test.

Based on Article 4 Paragraph (4) of the Joint Regulations, drug addicts and victims are suspects, thieves who are arrested with evidence of goods exceeding a certain amount (referring to SEMA Number: 4 of 2010, which means a certain amount is 5 grams) and are positive for using narcotics from the results of the medical examination with the Investigator's Examination Report, the results of the assessment remain withheld and treatment can be given in the context of rehabilitation.

Limitations on the number of narcotics used as evidence are also regulated in Article 112 Paragraph (2) of Law no. 35 of 2009 concerning Narcotics, which states that the act of possessing, storing, controlling, or providing non-plant Class I narcotics if the weight exceeds 5 grams, the criminal threat for the perpetrator is life imprisonment or a minimum prison sentence of 5 years and a maximum fine of 8 billion plus 1/3. However, these regulations are aimed at people who store, own, and control, not addicts or victims of abuse. From these regulations, it can be seen how serious the criminal threat is for people who commit narcotics crimes by carrying more than 5 grams of evidence.

#### **4.3 Problems and Solutions in the Implementation of Collaboration between BNN and Polri in the Process of Investigating Narcotics Crimes**

According to the explanation from the Head of the Kendari Police Narcotics Research Unit, the Kendari City BNN currently still lacks investigators, so if there are addicts, victims of narcotics abuse, or narcotics dealers who are arrested or caught red-handed, the investigation is carried out out out out by police investigators, in this case, investigators from the Kendari Police Narcotics Unit. As is currently happening in Kendari City in 2018 from January to November, there are suspects. For large narcotics cases, such as smuggling and illicit trafficking, investigations are carried out by PPNS investigators from the Immigration Office, Customs Office, Kendari City BNN, and Kendari Police investigators.

Kendari City BNNK investigators will receive reports from PPNS investigators, to collaborate. This is done if the investigation into a narcotics case has been carried out by PPNS investigators, apart from that, collaboration is also carried out with Kendari City Police Investigators. The actions of PPNS investigators are as regulated in Article 85 of Law No. 35 of 2009 concerning Narcotics, and Article 7 Paragraph (2) of the Criminal Procedure Code.

In a narcotics case that is investigated by the National Police, written notification is given to BNN investigators, and vice versa. What Polri investigators and BNN investigators do is by the provisions of Article 84 of Law No. 35 of 2009 concerning Narcotics. If the case is committed by a child, it will involve the Correctional Center which will conduct community research, the results of which will be used for assessment and the investigation process of the case.

Trust from Law no. 35 of 2009 concerning Narcotics and Government Regulation no. 25 of 2011 which provides the possibility for addicts, victims who are arrested or caught red-handed to be given the opportunity to be rehabilitated, only applies to certain people or only to addicts who report themselves.

According to the Head of Kendari BNNK, BNN as the institution that initiated the Joint Regulation is very confident that it can immediately optimize the implementation of the Joint Regulation. According to BNN, this joint regulation is very important in the process of handling narcotics cases because many regulations have been made in Indonesia but have failed to cure narcotics addicts.

Law enforcers, in handling cases of narcotics addicts, more often than not make rehabilitation efforts. The existence of a reality like this has become the driving force for BNN to gather the leaders of 6 other institutions, namely the Supreme Court, Prosecutor's Office, Police of the Republic of Indonesia, Ministry of Health, Ministry of Social Affairs, and Ministry of Law and Human Rights of the Republic of Indonesia to sign an agreement on a Joint Regulation legal product whose aim is to equalize perceptions. that narcotics addicts should be rehabilitated.

For the BNN agency, the existence of this Joint Regulation strengthens its role in conducting investigations, where so far there has been an understanding not to criminalize narcotics addicts. After the existence of the Joint Regulation, there is more readiness in institutional infrastructure, for example, related to the integrated assessment team, and also funding readiness, for example, related to the availability of funding budget items for assessment and rehabilitation.

Since the implementation of the Joint Regulation, the narcotics investigation process at BNN for addicts who report themselves will be recommended to go to the Institution Receiving Compulsory Reports (IPWL) for an assessment to determine the level of addiction as a determinant of the time of rehabilitation. BNN does not do this when arresting a suspect in a narcotics case. In this case, BNN will first hand over the suspect to an integrated assessment team to determine the level of addiction and to determine whether the person is worthy of rehabilitation.

The results of the integrated assessment team's assessment are the basis for BNN investigators in determining whether a suspected narcotics addict is rehabilitated in a rehabilitation institution or rehabilitated in a detention center because of his position as not only a narcotics addict but also a dealer, courier, or dealer. , Head of the Kendari City National Narcotics Agency.

Since the implementation of the Joint Regulation, Kendari BNNK investigators have handled narcotics cases, when carrying out raids on entertainment houses and cafes. At that time researchers arrested 2 people who worked in a cafe. Then the BNNP investigation collaborated with doctors from a hospital in Kendari to carry out an assessment. From the results of the assessment, both of them were declared early-stage addicts, so they were then allowed to be rehabilitated on an outpatient basis.

The rehabilitation was carried out at the Kendari City Hospital. This place was recommended by the government as one of the hospitals for the rehabilitation of narcotics addicts. During 3 months the rehabilitation process must be carried out, and at certain times they must come to the BNNP and Kendari City Hospital. The length of the rehabilitation period is adjusted to the implementation of the Joint Regulations.

Based on a report from the Kendari Regional Hospital doctor who handled the rehabilitation of the two of them, they showed good progress, both in behavior and health, so the BNNP said their case did not continue the process. Apart from the two people who work at the cafe, BNN is also rehabilitating 3 suspected narcotics addicts who were arrested during the raid. From the results of the assessment carried out by the Integrated Assessment Team, it was recommended that the three of them be rehabilitated at the Drug Rehabilitation Social Home, Kendari. Even though he is currently undergoing rehabilitation, investigators are still handling the three cases. Actions against the 2 people and 3 suspects are the task of the Kendari BNNK Eradication Section.

BNN will cover the entire amount of funding during the assessment and rehabilitation process for suspected narcotics addicts if the rehabilitation is carried out at a place appointed by the government. However, if the addict chooses to be rehabilitated in another place recommended by the government, the costs will be borne by the person concerned. With these mechanisms, BNN investigators in handling narcotics addiction do not always aim to end in punishment but are directed at providing sanctions in the form of rehabilitation.

Regarding the limitations of the evidence available to the suspect, BNN also refers to SEMA No. 4 of 2010, namely a maximum of 5 grams. The SEMA is a letter that serves as direction and reference for district court judges and high court judges in deciding cases of narcotics addicts who are caught red-handed and can be sentenced to criminal punishment in the form of rehabilitation measures as regulated in Article 103 of Law no. 35 of 2009 concerning Narcotics.

Based on Article 82 of Law No. 35 of 2009 concerning Narcotics, the specified authority includes the authority to examine the veracity of reports, people, evidence, and letters, and make arrests if narcotics and precursor crimes have occurred. In handling this case, PPNS investigators collaborate not only with Polri investigators but also have to collaborate with BNN investigators.

The authority to investigate the protection and illicit distribution of narcotics and narcotics precursors is owned by National Police Investigators and BNN Investigators. Meanwhile, certain PPNS investigators as referred to in the Law on Criminal Procedure have the authority to carry out investigations into criminal acts of narcotics and narcotics precursors. (Article 81 of Law No. 35 of 2009 concerning Narcotics (State Gazette of the Republic of Indonesia of 2009 Number 143, Supplement to the State Gazette of the Republic of Indonesia of 2009 Number 5062))

Based on research results in Kendari City, the investigators handling narcotics cases are National Police investigators and Kendari City Investigators. PPNS investigators, one of whom can come from the Ministry of Health, in this case, the Kendari City Health Service, have never carried out investigative functions as stated in Law no. 35 of 2009 concerning Narcotics.

According to the Head of the Special Health Division of the Kendari City Health Service, the absence of an investigative function was due to the Health Service having problems with Human Resources and Funding Resources. Human Resources are related to the absence of a single trained PPNS investigator provided by Kendari City, while the Fund Resources problem is related to the absence of a budget item for investigating narcotics cases in the Kendari City Health Service's annual budget plan. Therefore, after the Joint Regulation was issued, there were not many significant changes to the Health Service.

The position of the Kendari City Health Service after this regulation is limited to supporting its implementation through promoting preventive efforts to reduce the dangers of narcotics and psychotropic substances. These efforts are realized, for example, through the implementation of narcotics-free village competitions, as well as



outreach in schools and youth organizations. According to the Kendari Health Service, all matters related to repressive efforts to handle narcotics are currently the duties and responsibilities of the Kendari BNN

In principle, handling narcotics addicts after the implementation of the Joint Regulation is carried out in 2 (two) ways, namely addicts voluntarily reporting themselves to IPWL, or through law enforcement.

**a. Addicts voluntarily report themselves to IPWL**

This has been confirmed in Article 54 of Law No. 35 of 2009 concerning Narcotics states that narcotics addicts are required to undergo medical rehabilitation and social rehabilitation. Based on this provision, parents or guardians of narcotics addicts who are underage are required to report to public health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions appointed by the government to receive treatment and/or care through medical rehabilitation and rehabilitation. social.

Apart from that, narcotics addicts who are old enough are also required to report themselves or be reported by their families to public health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions appointed by the government to receive treatment and/or care through medical rehabilitation and social rehabilitation.

Therefore, it is hoped that narcotics addicts who are currently "hiding" can come out and do not need to be afraid of being arrested and subject to imprisonment, to report themselves voluntarily to IPWL to receive treatment. IPWL is a community health center, hospital, and/or medical rehabilitation institution and social rehabilitation institution appointed by the government.

Narcotics addicts or their families can also report themselves voluntarily apart from IPWL, namely through the National Police and BNN. Next, the officer at the National Police or BNN who receives the report forwards it to IPWL. IPWL is obliged to carry out an assessment covering medical and social aspects of narcotics addicts to determine the condition of narcotics addicts. The assessment is carried out using interviews, observations, and physical and psychological examinations of Narcotics Addicts.

Interviews in assessment activities include health history, history of narcotics use, history of medication and treatment, history of involvement in criminal acts, psychiatric history, as well as family and social history of narcotics addicts. Observations include observing the behavior of Narcotics Addicts.

The results of the assessment are recorded in medical records or records of changes in the behavior of Narcotics Addicts and are confidential. The results of the assessment are the basis for the rehabilitation plan for the narcotics addict concerned, and the rehabilitation plan must be agreed upon by the narcotics addict, parent, guardian, or family of the narcotics addict, and the IPWL leadership.

Narcotics addicts who have self-reported or been reported to IPWL are given a self-report card after undergoing an assessment. The self-report card is valid for 2 (two) treatment periods. The treatment period is a therapy plan service program created based on the results of a comprehensive assessment that is appropriate to the client's condition with the type of narcotics use disorder and the needs of the individual/client/narcotics addict with a program that is carried out following the program available at the service, with a minimum time of 1 (one) up to 6 (six) months by the Therapy and Rehabilitation Service Standards for Narcotics Use Disorders determined by the Minister.

Funding for the implementation of Mandatory Reporting provisions by the Government and Regional Governments is borne by the State Revenue and Expenditure Budget and the Regional Revenue and Expenditure Budget under the provisions of statutory regulations. Funding for the implementation of rehabilitation for narcotics addicts who cannot afford it is the responsibility of the Government and Regional Governments by the provisions of statutory regulations.

After the enactment of the Joint Regulation, based on research results, no narcotics addict has ever voluntarily reported themselves through the Kendari Police or the Kendari BNN. Even though the Mandatory Reporting program officially started at the end of 2011, it is hoped that it will attract more awareness of addicts and/or their families to report themselves to receive treatment related to their addictive behavior. With the increasing number of narcotics addicts reporting themselves to health centers, mental hospitals, and general hospitals designated as IPWL, it is hoped that fewer addicts will be convicted by the courts. However, the fact of implementation is that the Mandatory Reporting program is still far from what was expected because no narcotics addict has ever voluntarily reported themselves.

**b. Handling of Narcotics Addicts After the Implementation of Joint Regulations Carried Out through Law Enforcement**

Law enforcement plays a very important role in integrating and balancing approaches to demand and supply. In this regard, the punishment system in Law No. 35 of 2009 concerning Narcotics adheres to a double track system for narcotics addicts, namely including criminal sanctions in the form of imprisonment and action sanctions in the form of rehabilitation. Imposing action sanctions in the form of rehabilitation for narcotics addicts is the best option which has added value because it can reduce the prevalence rate of narcotics addicts which is an indicator of success in overcoming the narcotics problem.

Overcoming the narcotics problem requires cooperation between institutions. There is a need for a common way of acting in dealing with the narcotics problem in an integrative and balanced manner to reduce the need for and illicit trafficking of narcotics. Narcotics addicts who are undergoing a judicial process can be placed in medical rehabilitation and/or social rehabilitation institutions. Placement in medical rehabilitation and/or social rehabilitation

institutions is within the authority of investigators, public prosecutors, and judges according to the level of examination after receiving recommendations from a team of doctors.

In this regard, cooperation between investigators can be carried out to prevent and eradicate the abuse and illicit trafficking of narcotics and narcotic precursors. In carrying out investigations into the abuse and illicit trafficking of narcotics and narcotics precursors, National Police investigators notify BNN investigators in writing of the start of the investigation and vice versa. It has been confirmed in Law no. 35 of 2009 concerning Narcotics that the authority of PPNS investigators in ministries such as the Ministry of Health or non-ministerial government institutions, in this case, the Directorate General of Customs and Excise and the Food and Drug Supervisory Agency, is by their respective areas of duty, in their implementation, they still pay attention to the function of cooperation by statutory regulations. -invitation. When conducting investigations into the abuse of narcotics and narcotics precursors, certain PPNS investigators collaborate with BNN investigators or Polri investigators under the Law on Criminal Procedure Law.

Based on statutory provisions, cooperation between investigators is carried out by notifying each other in writing of the start of an investigation into narcotics abuse, in this case, the National Police investigator notifies in writing the start of the investigation to the BNN investigator and vice versa. On August 26, 2014, implementation of the Joint Regulations began in 16 (sixteen) regions, one of which was Kendari City.

Based on the research results, the investigative function is closely related to the treatment of narcotics addicts in rehabilitation institutions. The authority of National Police investigators in placing narcotics addicts is based on the National Police Chief's Telegram Letter No. STR/701/VIII/2014 which, among other things, emphasizes that the implementation of rehabilitation for narcotics addicts is truly based on the consideration that the perpetrator is an addict and not based on the size of the confiscated evidence and that he is not a dealer or member of a narcotics illicit trafficking network.

Requests for rehabilitation for narcotics addicts who have suspect status must be submitted in writing by their family or legal advisor to investigators. In the investigation process based on appropriate and reasonable considerations, investigators can place narcotics addicts in medical and/or social rehabilitation after receiving a recommendation letter for the assessment results from the integrated assessment team.

The placement of suspected narcotics addicts in a medical rehabilitation center was followed up by notifying the Head of the Kendari District Court with a copy sent to the Head of the Kendari District Prosecutor's Office.

As long as the suspected narcotics addict is in a medical and/or social rehabilitation center, the security factor is the responsibility of the rehabilitation institution, in this case, the Drug Rehabilitation Social Home, and its implementation is in collaboration with the Kendari Police. All costs incurred are borne by BNN.

Furthermore, it is related to the place where rehabilitation is carried out, as mandated in Article 54 of Law No. 35 of 2009 concerning narcotics addicts who are required to undergo medical rehabilitation and social rehabilitation. The place where rehabilitation is carried out must meet the standards of the Minister of Health for medical rehabilitation and the standards of the Minister of Social Affairs for social rehabilitation. Medical rehabilitation and social rehabilitation are carried out in medical rehabilitation and social rehabilitation facilities organized by the government, regional government, or community.

Medical rehabilitation facilities have obligations (Article 8 of Minister of Health Regulation No. 2415 th/Menkes/per/XII/2011 concerning Medical Rehabilitation of Addicts, Abusers and Victims of Narcotics Abuse):

- 1) Organizing medical rehabilitation by professional standards, service standards, and operational procedure standards;
- 2) Carrying out social functions;
- 3) Participate in networking and carry out referral functions;
- 4) Carrying out a series of therapies and efforts to prevent disease transmission through the use of injectable narcotics;
- 5) Develop standard operational procedures for rehabilitation management by the modalities used concerning medical management standards and guidelines;
- 6) Carry out recording and reporting in the implementation of medical rehabilitation. Meanwhile, the standard goals of social rehabilitation for narcotics addicts are:
  - a) Become a reference in implementing social rehabilitation for narcotics abuse addicts;
  - b) Protecting addicts from practice errors;
  - c) Provide direction and performance guidelines for organizers of social rehabilitation for narcotics abuse addicts;
  - d) Improving the quality and reach of services providing social rehabilitation for narcotics abuse addicts.

Based on the research results, the Kendari City Regional Hospital, RSU, Social Home for Rehabilitation of Mental Disorders, and Sosugihan are hospitals designated to carry out medical rehabilitation and social rehabilitation.

Collaboration between Kendari City BNN investigators and the hospital takes place in the assessment stage when working together as part of an integrated assessment team which determines whether the suspect needs to be assessed or not, including finding out whether the suspect is an addict, what his level of dependency is so that appropriate rehabilitation can be determined. for those concerned.

## V. CONCLUSION AND SUGGESTIONS

### 5.1 Conclusion

Based on the research results, several factors found in this research indicate the underlying variables in the framework of building a law enforcement system about social welfare interests and security interests, namely the role of law enforcement in creating legal effectiveness is essentially determined more by 2 (two) ) factor, namely the importance of criminal sanctions so that they can have a deterrent effect and the second factor is the use of appropriate investigative techniques, such as covert purchasing techniques, supervised delivery of narcotics.

The existence of cooperation in the form of an Integrated Assessment Team (TAT) consisting of BNN, Polri, Prosecutor's Office, Supreme Court, and Ministry of Law and Human Rights as the legal team while Doctors and Psychologists as the medical team, is very effective in facilitating the process of handling narcotics addicts and victims of narcotics abuse into rehabilitation institution.

Obstacles that are often faced in the collaboration process between BNN and Polri are the limited quality of human resources in preventing and taking action against perpetrators of narcotics crimes, both BNN and Polri, the limited number of members owned by BNN, and the limited tools they have in preventing and take action against perpetrators of narcotics crimes.

### 5.2 Suggestions

- 1) Cooperation between BNN and POLRI has been going well but needs to be further improved so that it can be effective and can stop the illicit circulation of narcotics and narcotics precursors so that the Indonesian nation is free from narcotics abuse.
- 2) Improve the performance of the Integrated Assessment Team (TAT) in the narcotics rehabilitation process.
- 3) The number of investigators belonging to BNN and POLRI should be increased so that they are more effective in carrying out their duties and authority.
- 4) Updating existing tools with more modern ones so that they are more effective in preventing and prosecuting perpetrators of narcotics crimes.

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