

# Proof of the Main Actors of Narcotics Abuse in the Investigation Process

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## ABSTRACT

This study aims to provide knowledge to investigators to determine the main perpetrators in the criminal act of abusing narcotics illicit traffic in the investigation process. And to find out the investigator's strategy in proving the main perpetrators of narcotics crime abuse in the investigation process. The research method used is normative juridical and is carried out by descriptive analysis. Sources and types of data used are secondary data. The data collection technique uses literature study, and the data obtained will be analyzed qualitatively. The results of the research and discussion indicate that (1) In determining the qualifications of the main perpetrators of narcotics crime abuse in the investigation process, they must go through several stages, including receiving reports, conducting investigations, arrests, searches, confiscations, examination of suspects and witnesses, detention, and delegation. the case file along with the suspect to the prosecutor's office and in the investigation process must meet at least two valid pieces of evidence. (2) The investigator's strategy in proving the qualifications of the main perpetrators of narcotics crime abuse in the investigation process, namely: Investigators still refer to the basic elements of the article that are applied to the perpetrators; supervise investigators through online applications in a structured manner; improve IT-based intelligence facilities and infrastructure. and eliminate personal interests in handling the narcotics crime investigation process. The researcher's suggestions are (1) it is better if the terms of the main perpetrators of narcotics crimes are included in the law so as not to cause other interpretations of the main actors with couriers and abusers. (2) It is better for law enforcement officers to understand and realize that it is necessary to eliminate the behavior of some members of the National Police and BNN who are still deviant, tend to seek personal gain, by commercializing narcotics cases and some even being their backing, and so on.

**Keywords** – Proof; Main Actors; Narcotics Crime; Investigation

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## INTRODUCTION

The police are law enforcement officers who have a role in maintaining public security and order, enforcing the law and providing protection, protection and services to the community in the context of maintaining domestic security (1). The role of the police

has begun to fill the journey of life and state administration in the country. They direct with all the power of their network, expertise, equipment and personnel to eradicate crimes, both individual crimes and in the form of syndicates of criminal acts and even crimes of an international nature which are currently very easy to enter our country.

Narcotics are drugs or materials that are useful in the field of treatment or health services (during surgery and for sedation) and the development of science so that their availability needs to be guaranteed through production and import activities (2). However, the positive effects of narcotics are often misused such as excessive use and repeated use without clear medical instructions. As a result of all that without any supervision from authorized officers, it will lead to addiction to dependence which then causes problems, either directly or indirectly in everyday life such as criminal acts committed by narcotics users by justifying all means. so that they can get the drug so that stealing and extortion are considered as the right solution to get the drug.

The illicit trafficking of narcotics in Indonesia seems to be increasingly widespread. Currently, drugs are not only consumed by people in big cities, but also for rural communities, narcotics are no longer a rare item. Ironically, it is not only among adults that narcotics are well known and consumed, but even teenagers and minors are familiar with these illicit goods. The narcotics problem is a national and international problem, because its misuse will have a negative impact on people's lives, the nation and the state (3).

The problem that stands out today is that several cases in Indonesia have now been used as a marketing place (4). Even used as a producer for this type of drug. If this is not addressed, it will threaten the life of the nation and state. In this case, it is very necessary to take action by law enforcement officers to tackle, eradicate illicit trafficking and narcotics abuse in Indonesia. Among the law enforcement officers who also have an important role in dealing with narcotics crimes are investigators. In this case, the National Police and the National Narcotics Agency are able to assist the settlement process of narcotics crime cases.

Observing the development of drug trafficking and abuse, it has created a deep sense of concern that drugs have directly threatened the future of the nation's successors. Without serious prevention, the threat could continue to the nation's successors. However, in general, people may not realize and feel that the dangers of drugs are none of their business, as long as their children or their families have not become victims. The targets of drug trafficking and abuse are not only nightclubs, but have penetrated into residential areas, campuses and even schools. The spread of drug use is very troubling. How to trap prey has become more intensive and sophisticated, starting with classic methods by persuading the victim to try it for free, offering it as a modern lifestyle to teenagers, promoting it as therapy, as a drug to overcome fatigue. Finally, in a cruel way, elementary school children were lured with narcotics in the form of candy and lured with money to try it.

Based on data from the National Narcotics Agency (BNN), drug users in Central Sulawesi reached 33 percent of the total population of Central Sulawesi, this figure is quite high and positions Central Sulawesi to be ranked 4th nationally. The presence of drug

victims in the family is often a very frightening specter, both within the family itself, as well as the surrounding environment, not even a few can cause suffering.

This study aims to provide knowledge to investigators to determine the main perpetrators in the criminal act of abusing narcotics illicit traffic in the investigation process. And to find out the investigator's strategy in proving the main perpetrators of narcotics crime abuse in the investigation process.

## **METHOD**

This research is a normative juridical and sociological juridical research. Normative juridical means researching legal systematics, legal origins, and library materials which are secondary data and is also called library research (5). As well as regulations governing the evidence of drug abuse. And sociological juridical means research conducted by examining cases related to the issues being handled. Like the case of narcotics crime in terms of proving the main perpetrator.

This research is descriptive, meaning that this research only provides an overview of the reality that occurs, namely there is a difference between the law that should be (*das sollen*) and the applicable law (*das sein*) (6).

The research approach chosen in this study is consistent with the type of research so that the approaches used are, first, the statutory approach, second, the theoretical approach (theoretical approach) and the comparative approach (comparative approach). Consequences as a normative research, the characteristics of the object of research are also considered, namely the investigator's strategy in proving the crime of narcotics abuse. This characteristic is more relevant to use the three approaches to be an approach that is in accordance with the characteristics of the perpetrators of the crime of narcotics abuse. The legal materials used in this study are derived from primary legal materials and secondary legal materials.

Analysis of the data used in this study, namely the data that has been collected from the object of research will be analyzed using qualitative methods. After all data has been collected, both primary data and secondary data or field data, the data will be analyzed qualitatively, namely by describing the data obtained and then looking for correlations with the literature used as a basis for writing.

After all data has been collected, both primary and secondary data, the data is analyzed qualitatively with a deductive approach, namely a procedure that starts from a general event whose truth has been known or believed and ends at a conclusion or new knowledge that is more specific. This method begins with the formation of theories, hypotheses, operational definitions, instruments and operationalization. In other words, to understand a symptom, one must first have concepts and theories about the symptom and then do field research. And the data obtained by the respondents in writing and orally were actually researched and studied in their entirety. After the data is collected, it is processed and arranged systematically.

## RESULTS

### Proof of the Main Actors of Narcotics Abuse

**Table 1.** Identification and Theoretical Qualifications of the Main Actors of Narcotics Crime

No.	Proof of the Main Actors of Narcotics Abuse	Theories/Legal Basis	Qualification	Ket.
1	Legal Provisions	Chapter 55 and 56 of the Criminal Code;  Chapter 132 paragraph (1) of Law 35 of 2009 concerning narcotics.	“participate” in committing a crime and assisting in committing a crime  Attempt or conspiracy to commit criminal acts of Narcotics and Narcotics Precursor;	
2	Doctrine	Muhammad at Thohir Muhammad ‘Adb al ‘Aziz; M. Yahya Harahap	Proof of the main actor must have two valid pieces of evidence	
3	Theory	Robert Klitgaard	committing a crime has considered the benefits that will be greater than the losses that will be caused	

Source: primary legal material, processed, 2022

Based on Table 1, it is known that from the doctrine, theory and laws and regulations governing narcotics crimes. Proving that the main perpetrators of narcotics crime abuse must have two valid pieces of evidence, this becomes a reference and basis for determining the main perpetrators in the investigation process. The main perpetrators of the crime have considered the greater benefits that will be obtained than the losses that will be caused. The entry of the corporation as the subject of a crime, but legally no one has regulated and understood what the main perpetrators of narcotics crimes in this case are often referred to as Bandar and have not there are legal provisions that regulate criminal witnesses who are categorized as dealers. However, with the existence of a new doctrine in criminal law, it recognizes the proof of the main perpetrator that through the investigation process must meet at least two valid pieces of evidence. In this regard, from the table of legal materials, it can be concluded that proving the main perpetrators of narcotics abuse must have at least two legal tools. In the following, some special statutory provisions that qualify the evidence for the main perpetrators of narcotics crime abuse are proposed as follows: Table 2 below:

**Table 2.** Several Special Laws that Qualify Proof of the Main Actors of Narcotics Abuse

No.	Legislation Name	Legal basis	Legal Subject Designation	Ket.
1	UU no. 35 of 2009 concerning Narcotics	Chapter 132 verse (1)	Attempt or conspiracy to commit criminal acts of Narcotics and Narcotics Precursor;	
2	Consumer Protection Act	Chapter 61	-Business actors and/or -Managers	
3	Law No. 8 of 1995 concerning the Capital Market	There are no provisions of the Chapter	- does not mention legal subjects	
4	Law No. 8 of 2010 concerning Money Laundering	Chapter 1 point 9 in conjunction with Article 1 point 10	Every person/individual/corporate/group of people/wealth	
5	UU no. 7 of 2014 concerning Trade	Chapter 1 paragraph (14)	Business actor/any individual	
6	Chapter 14 of Law no. 4 of 1997 concerning Persons with Disabilities	Chapter 14	State-Owned and Private Enterprises	
7	Law No.23/1997 on the Environment	Chapter 46 verse (1)	Businessmen	

Source: 2022 legal materials

Based on Table 2, information is obtained that the position of the perpetrator of the crime of narcotics abuse has been embraced in Indonesian criminal law and therefore it is related to the process of proving the main perpetrator, although it is not clearly stated in the position of the main actor in the legislation, but there are theories and doctrines that can explain it.

### Strategy to Prove the Main Actors of Narcotics Crime

**Table 3.** Obstacles in Proving the Main Actors of Narcotics Crime in the Investigation Process

No.	Object	Constraint	Ket.
1	<b>Legislation</b>	There is no clear criminal provision regarding the main perpetrator	
2	<b>Police / National Narcotics Agency</b>	<ul style="list-style-type: none"> <li>▪ In general, the quality of Polri and BNN personnel is still very low, especially in the field of investigation and investigation of narcotics crime cases;</li> <li>▪ The moral attitudes and behavior of some members of the National Police and the National Narcotics Agency</li> </ul>	

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are still deviant, tend to seek personal gain, by commercializing Narcotics cases and some even being their backing, and so on;

- The limited facilities and infrastructure owned by the National Police and the National Narcotics Agency are an obstacle in pursuing and arresting groups of traffickers.
- Lack of budget for disclosure of Narcotics cases. We know that to carry out investigations and investigations of Narcotics crimes, especially to arrest a dealer, takes a very long or long time;
- The modus operandi of narcotics criminals is always changing and difficult to detect.

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Source: primary legal material, processed, 2022

Table 3 shows that there are several obstacles in the process of proving the main perpetrators of narcotics abuse and illicit trafficking.

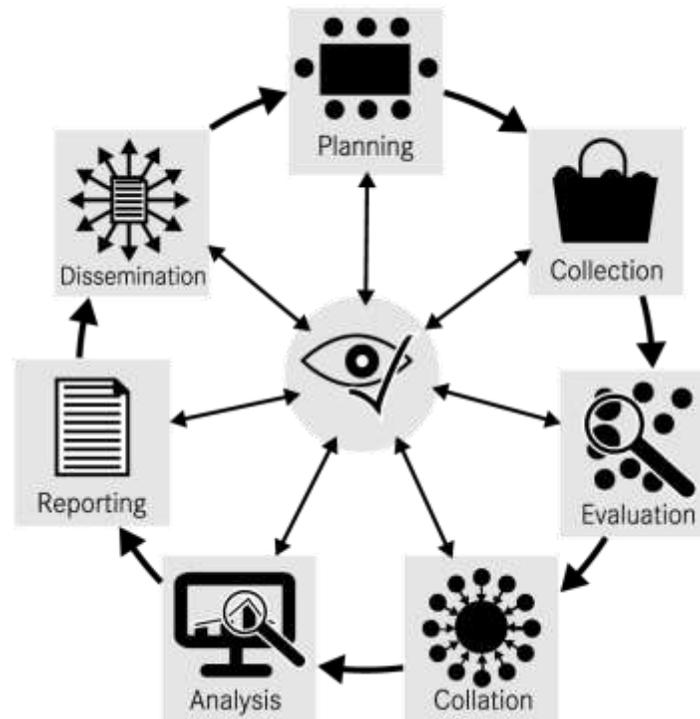
## **DISCUSSION**

### **How Investigators Determine the qualifications of the Main Actors of Narcotics Abuse in the Investigation Process**

The investigation process carried out by investigators in law enforcement against narcotics criminals as perpetrators of narcotics crimes, namely:

#### **Receive Report**

Because of his obligation to have the authority to receive reports or complaints from someone about a criminal act. Report is a notification submitted by a person due to rights or obligations under the law to an authorized official about having or is or is suspected of having a criminal event (7). In the event that a narcotics crime does not adhere to a complaint offense, therefore, it is sufficient only with a report from the public, the investigator can carry out investigations and investigations. The stages of the investigation in the presence of public information are as follows:



### **Making an Arrest**

Investigators because of their obligations have the authority to make arrests. Arrest is an investigator's action in the form of temporary restraint on the freedom of a suspect or defendant if there is sufficient evidence for the purposes of investigation or prosecution and/or trial in matters and according to the method regulated by law (8).

For the purposes of the investigation, the investigator on the orders of the investigator is authorized to make arrests. For the purposes of investigation, investigators and assistant investigators are authorized to make arrests. An arrest order is made against a person who is strongly suspected of committing a crime based on sufficient preliminary evidence.

Execution of arrest duties is carried out by officers of the State Police of the Republic of Indonesia by showing a letter of assignment and giving the suspect an arrest warrant which states the identity of the suspect and states the reason for the arrest as well as a brief description of the suspected crime case and the place where he is being examined. In the case of being caught red-handed, the arrest is carried out without a warrant, with the stipulation that the catcher must immediately hand over the caught and the available evidence to the nearest investigator or assistant investigator. A copy of the arrest warrant must be given to the family immediately after the arrest is made.

In the process of arresting narcotics crime cases, it is different from other general criminal cases that someone who has been arrested has been arrested.

### **Doing a Search**

On the order of the investigator, the investigator may take action in the form of a search. Searches carried out on suspects are regulated in Articles 32 to 37 of the Criminal Procedure Code, for the purposes of investigation, investigators are authorized to search houses, clothes and bodies. The purpose of the search is to obtain evidence, and at the same time to arrest the suspect.

### **Doing Foreclosure**

After conducting a search, the investigator can confiscate, namely a series of actions by the investigator to take over and or keep under his control movable or immovable, tangible or intangible objects for the purpose of proof in investigation, prosecution and trial.

In the implementation of confiscation carried out for the purpose of criminal proceedings, it can be carried out in the ways determined by law, namely the existence of restrictions on confiscation, including the need for permission from the chairman of the local District Court. However, in a very necessary and urgent situation, when an investigator must act immediately and it is not possible to obtain a permit beforehand, the investigator can confiscate only movable objects, and for this reason, he is obliged to immediately report to the chairman of the local District Court for his approval.

The confiscation of evidence is regulated in Articles 38 to 46 of the Criminal Procedure Code where the confiscation of evidence by investigators can only be carried out with a permit from the Head of the local District Court.

### **Conducting Examination of Suspects and Witnesses**

Examination of suspects and witnesses is the most important part or stage in the investigation process. Based on the testimony of the suspect and witnesses, information will be obtained that will reveal everything about the crime that occurred. However, against a suspect, he has the right of denial guaranteed by the Criminal Procedure Code. The right of denial gives a suspect the freedom to give information before an investigator.

For a suspect before the investigation begins against him, it is the duty of the investigator to notify him of the right to obtain legal assistance. The suspect's statement was heard without pressure from anyone and or in any form.

Witnesses are a very decisive piece of evidence in the judicial process. Because the Witness is a person who can provide information for the purposes of investigation, prosecution and trial regarding a criminal case that he has heard himself, he has seen and experienced for himself. Witnesses are examined separately, but they may be met with one another and they are obliged to provide true information.

### **Doing Detention**

Detention is the placement of a suspect or defendant in a certain place by an investigator or public prosecutor or judge with his determination, in terms of and according to the method regulated by law (9).

Detention is a form of deprivation of one's freedom of movement. So here there is a conflict between two principles, namely the right to move a person which is a human right that must be respected on the one hand and the interests of public order on the other hand which must be defended for the people or society from the suspect's evil deeds. The considerations and provisions regarding the detention of a suspect are regulated in Articles 20 to 31 of the Criminal Procedure Code, namely: it is feared that the suspect may lose evidence and escape.

### **Transferring Case Files and Suspects to the Prosecutor**

According to Article 8 of the Criminal Procedure Code, if the investigator has finished conducting the investigation, the investigator is obliged to immediately submit the case file to the public prosecutor. Completion and submission of case files consists of two stages where in the first stage the investigator submits the case file, if it is considered complete, the investigator submits responsibility for the suspect and evidence. This activity is the end of the criminal investigation process carried out by investigators.

After the completion of the investigation process, the investigator submits the case file resulting from the investigation to the public prosecutor, where the public prosecutor will later check the completeness of the case file whether it is complete or not, if not, the case file will be returned to the investigator to be completed for additional investigations in accordance with with the instructions of the public prosecutor and if it is complete, which is seen within fourteen days the public prosecutor does not return the examination dossier or the public prosecutor has notified that the file is complete before fourteen days, the process will continue to trial.

The entire investigation process that has been carried out by the Polri investigators will then be continued by the prosecutor's office in terms of preparing the prosecution that will be submitted in a court trial and subsequently the sentencing of the defendant, all of which takes place in a criminal justice system in the context of enforcing criminal law.

### **Investigator's Strategy in Proving the Qualifications of the Main Actors of Narcotics Abuse in the Investigation Process**

In line with the above, the next author tries to discuss several investigator strategies in determining the main perpetrators of narcotics crimes starting from legal products to the level of implementation in the field.

Proof of possession of narcotics is proven based on the presence of at least 2 (two) valid pieces of evidence which therefore convinces the Panel of Judges that the defendant's actions have fulfilled all the elements of the offense contained in Article 111 paragraph (1), Article 112 (1), Article 117 (1) and Article 122 paragraph (1) of Law No. 35 of 2009 on Narcotics.

### **CONCLUSION**

This study concludes that in determining the qualifications of the main perpetrators of narcotics crime abuse in the investigation process must go through several stages

including receiving reports, conducting investigations, arrests, searches, confiscation, examination of suspects and witnesses, detention, and delegation of case files and suspects to the prosecutor's office and in the investigation process must meet at least two valid pieces of evidence.

### **SUGGESTION**

It is better for law enforcement officers to understand and realize that it is necessary to eliminate the behavior of some members of the Police and BNN who are still deviant, tend to seek personal gain, by commercializing narcotics cases and some even being their backing, and so on.

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