

ARRANGEMENT AUTHORITY BY INDONESIAN NATIONAL POLICE INVESTIGATORS AND INDONESIAN NATIONAL NARCOTICS AGENCY INVESTIGATORS IN NARCOTIC CRIMINAL

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Abstract

The Indonesian National Narcotics Agency (BNN) is expressly given authority by Article 75 letter (g) jo. Article 76 of Law Number 35 of 2009 concerning Narcotics, the BNN is provided a maximum arrest time of 3 x 24 hours and can be extended for 3 x 24 hours. Meanwhile, within the authority of Indonesian National Police investigators, as stated in Article 16, jo. Article 19 of Law Number 8 of 1981 concerning the Criminal Procedure Code, namely that an arrest is made no later than one day. This is a concern when suspects in narcotics crimes are undergoing investigations and will receive different treatment according to the calculation of the time of arrest. This study uses normative legal research; in this study, the author uses several approaches, namely the statutory approach (*statute approach*) and the conceptual approach (*conceptual approach*). The research results obtained are that it is necessary to immediately make changes to norms that clearly and unequivocally do not reflect synchronization between the legal basis for arrests used by both BNN investigators and Indonesian National Police investigators by making MOUs or joint work regulations between BNN and the Indonesian National Police for legal certainty in handling criminal acts. Narcotics or by recommending changes to specific articles in the law on narcotics crimes either in a *judicial review* to the Constitutional Court or by the DPR RI with the government.

Keywords: Arrest Authority; Indonesian National Narcotics Agency (BNN); Indonesian National Indonesian National Police (Indonesian National Police).

BACKGROUND

The Narcotics emergency that is currently occurring indeed requires handling and extraordinary efforts from the State, government, and all levels of law enforcement officials to deal with the Narcotics problem. Conceptually, Narcotics crime is an extraordinary crime, so it is included in a particular criminal group along with corruption and terrorism crimes. The most critical effort in tackling the crime of Narcotics is investigation. Law Number 35 of 2009 concerning Narcotics is not stated explicitly in the definition of investigation, but it is contained in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). Article 1 point 5 regulates: "An investigation is a series of investigators' actions to seek and find an event suspected of being a crime to determine whether an investigation can be carried out."

According to M. Yahya Harahap, the investigation is the first stage of the initial investigation. The investigation is not an act that stands alone apart from the investigative function. The investigation is an integral part of the investigative function. M. Yahya Harahap explained further that in the guidebook for the Implementation of the Criminal Procedure Code, an investigation is a method or method or sub-function of the investigation that precedes other

actions, namely action in the form of summons, arrest, detention, search, confiscation, examination of letters, inspection actions, and submission of files to the public prosecutor.

Referring to Article 4 of the Criminal Procedure Code, Investigators are any officials of the state Indonesian National Police of the Republic of Indonesia. Then it is clarified in Law Number 35 of 2009 concerning Narcotics that two main parties are authorized to conduct investigations, namely the Indonesian National Indonesian National Police (KEPOLISIAN) and the Indonesian National Narcotics Agency (BNN). The two officials mentioned in carrying out their duties and authorities must always be well coordinated. By Article 5 of the Criminal Procedure Code, investigators have the authority to:

1. Receive a report or complaint from a person regarding a criminal act;
2. Looking for information and evidence;
3. Ordering a suspect to stop and asking and checking personal identification;
4. Take other actions according to responsible law.

In addition, on the order of the investigator, the investigator may take actions in the form of:

1. Arrest, prohibition of leaving the place, search, and confiscation;
2. Examination and confiscation of letters;
3. Taking fingerprints and photographing a person;
4. Take and bring someone before the investigator.¹

Among law enforcement officials who also have an important role in the existence of narcotics crime cases are "Investigators," in this case, Indonesian National Indonesian National Police investigators (abbreviated as **INDONESIAN NATIONAL POLICE**) and Indonesian National Narcotics Agency investigators (abbreviated as **BNN**), where investigators are expected to be able to assist Settlement process for narcotics crime cases. According to Law Number 35 of 2009 concerning Narcotics in terms of carrying out the eradication of Narcotics, the BNN is given the authority to conduct investigations and investigations into the abuse, illicit traffic of Narcotics, and Narcotics Precursors accompanied by the authority given to BNN investigators and investigators. While the authority of **INDONESIAN NATIONAL POLICE** investigators is also listed in Article 81 of Law Number 35 of 2009 concerning Narcotics, investigations carried out by **INDONESIAN NATIONAL POLICE**, in general, are contained in Article 7 of the Criminal Procedure Code and also included in Article 16 paragraph (1) of Law Number 2 of 2002 concerning the Indonesian National Indonesian National Police.²

The investigative authority between the Indonesian National Narcotics Agency and the Indonesian National Police of the Republic of Indonesia in enforcing the law against narcotics crimes can work together and coordinate. Still, it can also cause problems regarding legal equality, including institutionally and for suspects, when examined at the Indonesian National Narcotics Agency (BNN) and the Indonesian National Indonesian National Police (KEPOLISIAN). The presence of the Indonesian National Narcotics Agency will, of course,

be a *duet mechanism* for law enforcement on narcotics crimes together with the Indonesian National Police. Besides that, there are still other investigators, namely Civil Servant Investigators. The Indonesian National Narcotics Agency is given the authority to conduct investigations into narcotics crimes in addition to investigators from the Indonesian National Police. Both of them must coordinate with each other and notify each other when they have started conducting investigations into narcotics crimes. Even though the two of them had to coordinate with each other, they had given signals or instructions regarding the inability of the Indonesian National Police to properly carry out their duties and authorities in carrying out investigations into narcotics crimes. Whereas civil servant investigators are also investigators who are given authority by Law Number 35 of 2009 concerning Narcotics, but as coordinators and supervisors, remain with the Indonesian National Police as outlined in Article 7 paragraph (2) of Law Number 8 of 2009 1981 concerning the Criminal Procedure Code (KUHAP).

The issue of authority can become an institutional polemic that deserves attention. Authority concerns the issue of institutional integrity, and there are always efforts to prevent the reduction of power. Reduction of control can lead to a wrong perception of the institution that receives the deduction. Institutions can be considered incapable and incapable of carrying out the powers conferred by the law and are even deemed to have never provided adequate accountability in accordance with the expectations of society, especially since this authority concerns management. It is like *the elimination of power is a show of force*; that is, the abolition of power is a show of strength; the result is institutional arrogance and structural egoism that will comprehensively interfere with the law enforcement process on narcotics crimes.³

Responding to the development of the problem of narcotics which continues to increase and is increasingly severe, the Government and DPR-RI passed and promulgated Law Number 35 of 2009 concerning Narcotics as an amendment to Law Number 22 of 1997. Based on Law Number 35 of 2009, BNN is given the authority to investigate and investigate criminal acts of narcotics and Narcotics Precursors.

Whereas in Law Number 35 of 2009 Concerning Narcotics in article 71, "In carrying out the task of eradicating the abuse and illicit traffic of Narcotics and Narcotics Precursor, BNN has the authority to conduct investigations and investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursor" junto Article 72 paragraph (1) "The authority referred to in Article 71 is carried out by BNN investigators." So with the meaning of Article 71 in conjunction with Article 72 paragraph (1), those who have the authority to conduct investigations into narcotics crimes in the context of eradicating the abuse and illicit traffic of narcotics and narcotics precursors are BNN investigators. Article 71 and Article 72 paragraph (1) of the Narcotics Law also intersects with Article 81, which clearly states that there are two investigators who are given the authority to deal with criminal acts of Narcotics, namely BNN investigators and Indonesian National Police investigators. With this, there is also an overlap in the authority of Indonesian National Police Investigators and BNN Investigators.⁴

The legal regulation on the Investigative Authority of the Indonesian National Police and the Indonesian National Narcotics Agency for Narcotics Crimes is that BNN is expressly given

authority by Article 75 letter (g) jo. Article 76 of Law Number 35 of 2009 concerning Narcotics. BNN is given a maximum arrest time of 3 x 24 hours and can be extended for a maximum of 3 x 24 hours. Meanwhile, within the authority of the Indonesian National Police investigator, as stated in Article 16 jo. Article 19 of Law Number 8 of 1981 concerning the Criminal Procedure Code, namely that an arrest is made no later than one day. This is a concern when suspects in narcotics crimes are undergoing investigations and will receive different treatment according to the calculation of the time of arrest. The difference in authority related to the time limit for the arrest becomes a question of the difference in the use of the legal basis used by BNN investigators and investigators from the Indonesian National Indonesian National Police in resolving a narcotics crime. Bearing in mind, Law Number 35 of 2009 concerning Narcotics is a *Lex specialist* from the Criminal Procedure Code, namely, the abuse of narcotics is a unique crime whose regulation is separated from the Criminal Procedure Code. As a result of the difference in the legal basis used by Indonesian National Police Investigators and BNN Investigators, there is a juridical implication for differences in the arrangements for arresting perpetrators of Narcotics by BNN Investigators and Indonesian National Police Investigators for Narcotics Crimes regulated in the Narcotics Law applies by considering aspects juridical, philosophical and sociological. The arrangement, in general, is essentially a process or effort to achieve a goal to the fullest from human actions as expected.⁵

From the juridical aspect, the formal law in the Narcotics Law raises problems in its application. In enforcing the Narcotics Law, there are different time limits for arrests between Indonesian National Police investigators and BNN investigators. Arrests carried out by the Indonesian National Police using the legal basis of the Criminal Procedure Code, namely 1x24 hours, cannot guarantee the accuracy of the data. Meanwhile, the Indonesian National Narcotics Agency, using the legal basis of the Narcotics Law, is given arrest powers for 3x24 hours and can be extended for 3x24 hours or 6 (six) days based on the importance of data accuracy supported by the results of sample testing at the forensic laboratory. Of course, this difference creates legal uncertainty and injustice.

From the philosophical aspect, namely the differences in arrest arrangements for perpetrators of narcotics crimes by the Indonesian National Narcotics Agency and the Indonesian National Police with differences in the time limits for arrests used by the Indonesian National Narcotics Agency and the Indonesian National Police, this can be done by perfecting the Narcotics Law, for example, namely, the articles relating to the authority to arrest by pay attention to the principles in the legislation.

From the sociological aspect, namely the difference in authority for the time limit for arrest used by Indonesian National Police investigators and BNN investigators, this problem needs to be harmonized based on an integrated criminal justice system to maintain the harmonization of laws and regulations. So that in the future, there is no difference in treatment between one actor and another when facing the legal process. Therefore, the Narcotics Law must pay attention to the needs of society in various aspects, especially related to the regulation of arrests in narcotics crimes.

In the Narcotics Law, which regulates an "*Extra Ordinary Crime*" with various modus operandi, law enforcement officials and their sanctions have many implications in enforcing what is written in the Narcotics Law. The substances that occur in the Narcotics Law can be seen, namely the occurrence of differences in interpretation in its implementation, namely, the Indonesian National Indonesian National Police pays little attention to the existence of article 81, which regulates the authority of Indonesian National Police Investigators, which is also held in the Narcotics Law. The emergence of legal uncertainty the two institutions authorized to investigate the abuse and illicit trafficking of narcotics, namely the Indonesian National Narcotics Agency and the Indonesian National Indonesian National Police, use different legal grounds for arrests.

Arrests carried out by the Indonesian National Police using the legal basis of the Criminal Procedure Code, namely 1x24 hours, cannot guarantee the accuracy of the data. Meanwhile, the Indonesian National Narcotics Agency, using the legal basis of the Narcotics Law, is given arrest powers for 3x24 hours and can be extended for 3x24 hours or for 6 (six) days based on the importance of data accuracy supported by the results of sample testing at the forensic laboratory. In this case, Indonesian National Police investigators using the legal basis of the Criminal Procedure Code use the time of arrest, which is 1 x 24 hours, paying little attention to the role of forensic or criminal medical science where these two fields can accurately prove whether or not the content of dangerous substances is present in narcotics offenders. The National Indonesian National Police of the Republic of Indonesia uses the legal basis of the Criminal Procedure Code in carrying out their duties and authorities, which in this case concerns the arrest of perpetrators of narcotics crimes, stating that arrests are made for a maximum of one day. In this case, it was also found that there were positive and negative perspectives from the enforcement of different legal grounds for arrest deadlines by Indonesian National Police investigators and BNN investigators. From an opposing point of view, the use of the basic Criminal Procedure Code, namely 1x24 hours, is that a suspect who must be released can eliminate other evidence that can support the accuracy of the collection of evidence. Examined from a positive perspective, the Criminal Procedure Code applies the presumption of innocence as an effort to guarantee human rights.⁶ Thus, the proof is always essential and crucial⁷.

RESEARCH METHODS

This study uses normative legal research; in this study, the author uses several approaches, namely the statutory approach (*statute approach*) and the conceptual approach (*conceptual approach*).

RESULTS AND DISCUSSION

Illegal circulation and abuse of narcotics is not a new thing in Indonesia, considering that the subject and object in the context of abuse are pretty crucial to review regarding the motives, objectives, and implications of narcotics abuse itself; apart from that, paying attention to how dangerous Narcotics are without supervision if they are misused without charge. Rights and

illegally. Currently, the abuse and illicit traffic of narcotics is a serious concern both nationally and internationally.⁸ Therefore, the form of Indonesia's seriousness in preventing and law enforcement in the field of narcotics began with the era of Law Number 35 of 2009 concerning Narcotics, which explicitly outlines several acts ranging from importing, exporting, producing, growing, storing, distributing, and/or using narcotics, which if carried out without control and supervision from the authorities, can be categorized as a crime of abuse and illicit trafficking of narcotics

Given the complexity of the Narcotics Crime which is transnational in nature, it is carried out using a high modus operandi, sophisticated technology, supported by a wide network of organizations, and has caused many victims, especially among the younger generation, a clear and on the track legal umbrella is urgently *needed*. In drug law enforcement. Indonesian criminal procedural law is still experiencing fundamental problems related to the balance of legal protection for victims of criminal acts and perpetrators of criminal acts⁹.

In this regard, one of the elements of law enforcement in Indonesia, namely the Indonesian National Indonesian National Police (referred to as the **INDONESIAN NATIONAL POLICE**), is a tool of state law enforcement, of course, the **INDONESIAN NATIONAL POLICE**, in carrying out its duties and functions, is required to be able to professionally cut off narcotics syndicate networks both from abroad, as well as domestically through cooperation with relevant agencies in eradicating drug abuse crimes. The effectiveness of Law No. 35 of 2009 concerning Narcotics instead of Law No. 22 of 1997 and Law No. 5 of 1997 concerning Psychotropics is very dependent on all levels of law enforcement, in this case, all directly related agencies, namely the Indonesian National Police, BNN, and other law enforcement officials.

The authority to investigate Narcotics, as regulated in Law No. 35 of 2009, Narcotics not only given to BNN investigators but also Indonesian National Police investigators as stipulated in Article 81 of the *quo Law*, which further confirms that

Indonesian National Indonesian National Police investigators and BNN investigators have the authority to conduct investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursors based on this law

Based on Article 81 above, at least it can be understood that Indonesian National Police investigators in carrying out efforts to eradicate Narcotics also have investigative authority as investigated by BNN investigators. There is nothing superior to Indonesian National Police investigators and BNN investigators; both have the same authority and cooperate in efforts to eradicate the abuse and illicit traffic of Narcotics.¹⁰

The juridical consequences regarding the two agencies, both **INDONESIAN NATIONAL POLICE** and BNN, in handling Narcotics crimes are very pronounced in the aspect of investigative authority in relation to the time limit for arrests owned by BNN Investigators and **INDONESIAN NATIONAL POLICE** Investigators; this can be seen by using a different legal basis in their investigations. Namely, BNN Investigators are utilizing the basis of the inquiry Article 75 Jo. Article 76 paragraph (1) Law No. 35 of 2009 concerning Narcotics states that the

time limit for arresting narcotics crimes is 3 x 24 hours. At the same time, INDONESIAN NATIONAL POLICE investigators use the Criminal Procedure Code as the legal basis for their procedure in terms of the time limit for arrest, which is 1 x 24 hours.

As a rule-of-law state, Indonesia has regulated every action of its citizens. Criminal law and criminal procedural law have a very close relationship because, in essence, it is included in the meaning of criminal law itself. It's just that the Criminal Procedure Code or the Formal Criminal Law agrees more with the provisions governing how the State, through its tools, exercises its right to convict and impose sentences. While the concept of Criminal Law (material) is more on legal regulations that indicate which actions should be subject to punishment and what punishment can be imposed on the perpetrators of these crimes and to seek and obtain or at least approach material truth, namely the complete truth of a criminal case by applying the provisions of the criminal procedure law honestly and precisely to find out who the perpetrators can be charged with violating the law, and then request an examination and decision from the court to find out whether it is proven that a crime has been committed and whether the accused person can be blamed and to be able to find out about this, one of the processes that initiate legal action *a quo* is an investigation, whereby carrying out the investigative process, an act or action becomes clear legal facts so that it can be said whether legal action is a crime or a crime or not a crime.

In line with this, Law No. 2 of 2002 concerning the National Indonesian National Police of the Republic of Indonesia makes the Indonesian National Police a tool of the State for law enforcement, security guards protectors, protectors, and public servants for public order. This is undoubtedly a challenging task for the Indonesian National Police because, on the one hand, managerial expertise is needed in aspects of management that are closely related to coordination implementation issues. On the other hand, mastery of investigations is required, which is always limited by applicable legal provisions. The investigative actions carried out by the Indonesian National Police significantly affect the implementation of Criminal Law and Criminal Procedure Law itself because the investigation process is the first step in law enforcement in Indonesia.

The Indonesian National Police, as one of the elements of law enforcement in *the criminal justice system*, has been given authority based on applicable laws and regulations to carry out investigations in the field of criminal acts according to the criminal procedure law, Article 13 Law Number 22 of 2002 concerning the Indonesian National Indonesian National Police, regulates The main duties of the Indonesian National Indonesian National Police are:

- 1) Maintain public order and security;
- 2) Upholding the law; And
- 3) Provide protection, shelter, and service to the community.

Whereas further in Article 14 paragraph (1) letter g of the Indonesian National Police Law, it is stipulated that in carrying out the main tasks referred to in Article 13 of Law No. 22 of 2002, The National Indonesian National Police of the Republic of Indonesia is in charge of carrying

out investigations into all criminal acts in accordance with the criminal procedure law and other laws and regulations.

The Indonesian National Police as a law enforcement tool is required to be able to carry out law enforcement duties professionally by cutting off syndicate networks from abroad through cooperation with relevant agencies in eradicating drug abuse crimes, where the disclosure of narcotics cases is of a unique nature which requires being proactive in finding and finding the perpetrators and always being oriented towards to the arrest of criminals in the field of narcotics.

The investigation is the determinant of whether an act can be considered a crime or not, aiming to find out who has committed criminal activities and provide evidence about the problems that have been achieved. Members of the Indonesian National Police usually carry out the investigation process. Investigation and investigation have the same relationship; namely, both support the success of an investigation. To achieve this goal, investigators will collect information with original information or specific incidents.

The investigation is a series of actions carried out by law enforcers or the Indonesian National Police, or other officials appointed according to their authority assigned by law. These are carried out through several processes, including investigations, obtaining evidence that provides support, and finding suspects or other persons. Who is suspected of having committed a crime? ¹¹

Law Number 2 of 2002 concerning the Indonesian National Indonesian National Police, in general, regulates professional development and a professional code of ethics so that the actions of Indonesian National Police officials can be accounted for, both morally and professionally technically, especially human rights. In addition, this law accommodates arrangements regarding Indonesian National Police membership which includes specific agreements regarding the rights of members of the Indonesian National Police, both civil service rights, political rights, and their obligations to submit to the authority of the general judiciary. Another new substance is the regulation of the National Indonesian National Police Agency, whose task is to provide advice to the president regarding the direction of Indonesian National Police policy and considerations in appointing and dismissing the Head of the Indonesian National Police in accordance with the mandate of MPR RI Decree No.VIL/ MPR I 2000 concerning Separation of the TNI and INDONESIA NATIONAL POLICE. In addition, there is also a functional oversight function on the performance of the Indonesian National Police.

The basis for carrying out the duties of the Indonesian National Indonesian National Police for the Indonesian National Police is Law Number 2 of 2002 concerning the Indonesian National Indonesian National Police. The statutory regulations that became the basis for carrying out the duties of the Indonesian National Indonesian National Police before Law Number 2 of 2002 were Law Number 28 of 1997 as a refinement of Law Number 13 of 1961 concerning Basic Provisions for the Indonesian National Indonesian National Police.

Law Number 2 of 2002 concerning the Indonesian National Indonesian National Police has based on a new paradigm regarding the position, role, and implementation of the duties of the

Indonesian National Police. The main task of the Indonesian National Police is Law Number 2 of 2002 of the Republic of Indonesia is to maintain public security and order, enforce the law, and protect, protect and serve the community.

The task of law enforcement as an actualization of the paradigm of the rule of law is expressly stated in the details of the authority of the Indonesian National Indonesian National Police, namely conducting investigations and investigations of all criminal acts in accordance with the criminal procedure law and other laws and regulations.

In general, the main duties of the Indonesian National Police in the field of criminal proceedings are regulated in the Criminal Procedure Code, namely Law Number 8 of 1981. Based on the Criminal Procedure Code, in criminal proceedings, the Indonesian National Indonesian National Police has duties at the investigation and investigative stage.¹²

About the definition of Indonesian National Police or the Indonesian National Police, it provides an understanding of the Indonesian National Police in the eyes of the public as follows: "Indonesian National Police are officers who continuously pay attention to solving crime problems and provide public services in handling crime." This understanding indicates that the public's view of the existence of the Indonesian National Police is limited to solutions to crime problems, even though the knowledge of the Indonesian National Police does not end there. The meaning of the Indonesian National Police itself arises because of their position and role, which implies great responsibility, especially in the field of security, order, and social order. The Indonesian National Police are always present to fill in the dynamics of societal change and anticipate any potential conflicts. According to Law No. 2 of 2002 concerning the Indonesian National Police of the Republic of Indonesia, the definition of the Indonesian National Police is all matters relating to the functions and institutions of the Indonesian National Police in accordance with statutory regulations.

What is meant by the Criminal Procedure Code Number 8 of 1981 Concerning Criminal Procedure Code is that investigators are officials of the Indonesian National Indonesian National Police or certain civil servants given special authority by law to conduct investigations. Investigation is a series of investigative actions in terms of and according to the methods regulated in this law to seek and collect evidence with which evidence sheds light on the crime that occurred and to find the suspect. Assistant investigators are officials of the state Indonesian National Police of the Republic of Indonesia who, because they are given certain authorities, can carry out investigative tasks regulated in this law. Investigators are officials of the state Indonesian National Police of the Republic of Indonesia who are authorized by this law to conduct investigations. Investigation is a series of investigative actions to seek and find an event that is suspected of being a crime in order to determine whether or not an investigation can be carried out according to the method stipulated in this law.

Indonesian National Police investigators are given the authority as stated in Article 7, paragraph 1 concerning the Criminal Procedure Code and Article 16 of the Law of the Republic of Indonesia number 2 of 2002 concerning the Indonesian National Indonesian National Police, where the duties and powers of investigation touch a lot on aspects relating to human rights, as

is the case with criminal activities. Action, which includes: summons, arrest, detention, search, and confiscation. All of these activities basically limit the right to freedom of a person, which, if deviations from existing legal provisions, can lead to legal consequences for investigators.

In connection with the arrest itself, the Criminal Code has explained that arrest is an investigative action in the form of temporarily restraining 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 methods regulated in this law. Reading this definition, arrest is nothing other than a temporary restraint on the freedom of a suspect or defendant for the purposes of investigation or prosecution. However, it must be carried out according to the methods specified in the Criminal Procedure Code. For this reason, the Criminal Procedure Code has stipulated provisions for procedures for arrests regulated in Articles 16 to 19.

Article 16 paragraph (2) Law no. 8 of 1981 concerning the Criminal Procedure Code

For the purposes of investigation, an investigator and assistant investigator has the authority to make an arrest. The act of arrest itself needs to be limited in the sense that it can only be carried out against someone who is strongly suspected of having committed a crime based on sufficient initial evidence, as regulated and written

Article 17 of the Criminal Procedure Code states

An arrest warrant is issued against a person who is strongly suspected of having committed a crime based on sufficient preliminary evidence

Then Article 18 of the Criminal Procedure Code states

The execution of the arrest task is carried out by officers of the State Indonesian National Police of the Republic of Indonesia by showing a letter of assignment and giving the suspect an arrest warrant stating the identity of the suspect and stating the reasons for the arrest as well as a brief description of the crime case suspected and the place where he is being investigated

Article 19 of the Criminal Procedure Code states as follows

Arrest, as referred to in Article 17 of the Criminal Procedure Code, can be made for a maximum of one day

Article 1 number 20 of the Criminal Procedure Code defines that an arrest is an act of an investigator in the form of temporarily restraining 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 methods regulated in this law.¹³

The birth of the Criminal Procedure Code is a new era in the world of criminal justice in Indonesia. Apart from being a national legal product that replaces the law created by the Dutch colonialists, the Criminal Procedure Code also provides specialization in matters of implementation and division of tasks between the Indonesian National Police and PPNS as Investigators, Prosecutors as Public Prosecutors, and Judges who make decisions at Court Sessions in the implementation of law enforcement which includes functional coordination and institutional, as well as the existence of synchronization in the implementation of these tasks.

Viewed from the aspect of authority, there are several legal subsystems known, such as among others authority, investigation, prosecution, and punishment¹⁴.

With the promulgation of Law Number 8 of 1981 concerning the Criminal Procedure Code and Law Number 2 of 2002 concerning the State Indonesian National Police, the role of the Indonesian National Police is increasingly strictly regulated as one of the functions of the state government in the field of maintaining security and public order; law enforcement; protection; protection; and service to the community.

Indonesian National Police officials are the main investigators in criminal cases in addition to investigators from Civil Servants; this has been regulated in Law no. 8 of 1981 Article 6 paragraph (1) letters a and b. Then to support the Indonesian National Police's duties as investigators, the Criminal Procedure Code also regulates the obligations and powers of Indonesian National Police Officers in investigative activities. This is further elaborated in Law Number 2 of 2002 concerning the State Indonesian National Police.

In Article 7, paragraph (1) of the Criminal Procedure Code, because of their obligations, investigators have the authority to:

- a. Receive a report or complaint from a person 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, detentions, searches and confiscations;
- e. Examine and confiscate documents;
- f. Taking fingerprints and photographing a person;
- g. Call people to be heard and examined as suspects or witnesses;
- h. Bring in the necessary experts in connection with the examination of cases;
- i. Holding an end to the investigation;
- j. Take other actions according to responsible law.

In Law Number 2 of 2002 concerning the Indonesian National Indonesian National Police, Article 13 explains that the main obligations or duties of the Indonesian National Indonesian National Police are:

- a. Maintain public order and security;
- b. Upholding the law; And
- c. Provide protection, shelter, and service to the community.

In carrying out these main obligations or tasks, Law Number 2 of 2002 Article 14 paragraph (1) letter g explains that the Indonesian National Indonesian National Police is tasked with carrying out investigations and investigations of all criminal acts in accordance with the criminal procedure law and statutory regulations. Other.

Regarding the authority of the Indonesian National Indonesian National Police in general, it is explained in Law Number 2 of 2002 Article 15 paragraph (1), namely:

- a. Receive reports and/or complaints;
- b. Assist in resolving community disputes that may disturb public order;
- c. Preventing and overcoming community diseases;
- d. Supervise the flow that can lead to divisions;
- e. Issuing Indonesian National Police regulations within the scope of Indonesian National Police administrative authority;
- f. Carry out special inspections as part of Indonesian National Police actions in the context of prevention;
- g. Perform the first act on the scene;
- h. Taking fingerprints and other identification and photographing a person;
- i. Looking for information and evidence;
- j. Organizing a national criminal information center;
- k. Issuing permits and/or certificates required in the framework of community service;
- l. Providing security assistance during trial and implementation of court decisions, activities of other agencies, as well as community activities;
- m. Receive and temporarily store found items.

Meanwhile, according to paragraph (2), regarding the authority of the Indonesian National Indonesian National Police in the field of investigation in accordance with other laws in letter h, it is explained that the Indonesian National Police have the authority to cooperate with other state Indonesian National Police in investigating and eradicating international crimes.

Regarding the handling of narcotics crimes, the Indonesian National Police are law enforcement officers who act as investigators. In carrying out their duties as investigators, the Indonesian National Police have the authority regulated in Article 16 paragraph (1) of Law Number 2 of 2002 concerning the Indonesian National Indonesian National Police. From a juridical perspective, the first action taken by the Indonesian National Police is the starting point for conducting an investigation, after previously it was known that a criminal act had occurred or was suspected, so it can be said that the Indonesian National Police action is a repressive implementation of the law, which in principle must be based on applicable laws and regulations, such as the Criminal Code and the provisions of the Criminal Procedure Code.

Investigation as an initial action to settle a criminal case has an important role in determining the position of a criminal case. The Criminal Procedure Code provides the understanding that investigation is a series of investigative actions in matters and according to the methods stipulated in this law to seek and collect evidence with which evidence sheds light on the crime that occurred and to find the suspect. The results of the investigation will serve as initial

evidence as the basis for holding a prosecution to make the investigation process a legal process that deserves close attention.

An investigator has the authority to make an arrest but must be ordered by the investigator, except in the case of being caught red-handed (Article 16 of the Criminal Procedure Code). The implementation of the arrest task is carried out by a Indonesian National Police officer accompanied by an assignment letter and giving the suspect an arrest warrant stating the suspect's identity and stating the reasons for the arrest as well as a brief description of the crime suspected and the place where he is being investigated. A copy of the warrant for his arrest must be provided to his family immediately after the arrest is made. In the case of being caught red-handed, there is no need to use a warrant (Article 18 of the Criminal Procedure Code). Provisions regarding the length of time for an arrest are regulated in Article 19, paragraph (1) of the Criminal Procedure Code, which states that an arrest can be made for a maximum of one day.¹⁵ In Article 16 Paragraph (1) letter a of Law Number 2 of 2002, it is stated that the Indonesian National Police have the authority to take several actions that are used to support the implementation of the main Indonesian National Police duties, namely: to make arrests, detentions, searches, and confiscations. The arrest authority possessed by the Indonesian National Indonesian National Police is in accordance with what is mandated in Article 16 Paragraph (1) letter A, which states that the National Indonesian National Police of the Republic of Indonesia has the authority to make arrests. This is a reminder that the authority of the Indonesian National Indonesian National Police, which is also mentioned in Article 5 Paragraph (1) letter b of the Criminal Procedure Code, states that an arrest made by an investigator is an order from the investigator. Concerning investigative authority, it is essential to regulate clarity in criminal acts, including narcotics crimes.

An arrest is an act of an investigator temporarily restraining the freedom of a suspect or defendant if there is sufficient evidence for investigation or prosecution and or trial in matters according to the method regulated in the Criminal Procedure Code. In the legal process, the investigator will release the suspect again if there is insufficient evidence. On the other hand, if the evidence is strong, further legal action will be taken in the form of detaining the suspect. In addition to what is regulated in Article 1 Point 20 of the Criminal Procedure Code, further provisions regarding arrest are regulated in Articles 16 to 19 of the Criminal Procedure Code. Article 16 of the Criminal Procedure Code states that those who have the authority to make arrests are investigators on the orders of investigators for the purposes of investigations and investigators/assistant investigators for investigation purposes. An arrest order is issued against a person who is strongly suspected of having committed a crime based on sufficient initial evidence, namely at least two pieces of evidence contained in Article 184 of the Criminal Procedure Code. In practice, arrests are carried out by Indonesian National Police officers by showing a letter of assignment and giving the suspect an arrest warrant stating the identity of the suspect and stating the reasons for the arrest as well as a brief description of the crime case being suspected and the place where he is being investigated. In addition, a copy of the arrest warrant must be given to the family immediately and not later than 7 (seven) days after the arrest is made.

In principle, any arrest can only be made by the Indonesian National Police based on the assignment letter they have. When making an arrest, the Indonesian National Police on duty, in addition to showing their assignment letter, must also submit an arrest warrant to the person who is going to be arrested. In addition, the Indonesian National Police must also provide a copy of the arrest warrant to the arrested family as soon as possible after the arrest. However, in the KUHAP itself, there is a discrepancy regarding who has the right to make an arrest.

Article 1 point 20 of the Criminal Procedure Code defines: "Arrest is an investigator's action in the form of restraining freedom...". Meanwhile, Article 16 of the Criminal Procedure Code stipulates that even investigators, with orders from investigators, have the right to make arrests. Moreover, based on Article 16 of the Criminal Procedure Code, an arrest can be made for investigation and inquiry. Other provisions are mentioned in Law no. 2 of 2002 concerning the Indonesian National Police of the Republic of Indonesia in Article 14 point g states that "The Indonesian National Police must conduct investigations and investigations of all criminal acts by criminal procedural law and statutory regulations."

The authority of Indonesian National Police investigators needs to be regulated in detail in the Narcotics Law. Still, it is only mentioned in Article 81 of the Narcotics Law, which stipulates that the Indonesian National Indonesian National Police and the Indonesian National Narcotics Agency are also given the authority to investigate narcotics crimes. At the implementation level, the Indonesian National Indonesian National Police still use the legal basis of the Criminal Procedure Code is related to the procedural law used. Investigations carried out by Indonesian National Police Investigators conducting studies into drug abusers and illicit traffickers use Article 19 in determining the time limit for arrests. The Republic of Indonesia National Indonesian National Police in carrying out its primary obligations or duties, in Law Number 2 of 2002 Article 14 paragraph (10) letter g which explains that "The Republic of Indonesia National Indonesian National Police is tasked with carrying out investigations of all criminal acts by criminal procedural law and statutory regulations. -Other invitations.

Related to the authority of the Indonesian National Indonesian National Police, in general, is explained in Law number 2 of 2002 Article 15 paragraph (1). In Article 16 paragraph (1) letter a of Law Number 2 of 2002, it is stated that the Indonesian National Police have the authority to carry out several actions used to support the implementation of the primary Indonesian National Police duties, namely: to make arrests, detentions, searches, and confiscations; The authority to arrest belongs to the Indonesian National Indonesian National Police by what is mandated in Article 16 paragraph (1) letter a which states that the National Indonesian National Police of the Republic of Indonesia has the authority to make arrests.

The authority of the Indonesian National Indonesian National Police, which is also mentioned in Article 5 paragraph (1) letter b of the Criminal Procedure Code, states that an arrest made by an investigator is an order from the investigator. Here it emphasizes that there are Officers of the Indonesian National Police who have different duties and authorities. This has led to inconsistency or ambiguity in the Indonesian National Police Law, which is mentioned in Article 16 paragraph (1) concerning the mention of the Indonesian National Indonesian National Police having the authority to carry out arrests. Article 7 paragraph (1) letter d states

that investigators have the authority to make arrests, detentions, searches, and confiscations because of their obligations. Article 7 paragraph (1) letter d is related to the authority to arrest, which also refers to Article 5 paragraph (1) letter b and paragraph (2) confirming that there are differences in authority of the Officials of the Indonesian National Indonesian National Police in terms of the authority to make arrests.

So, this analysis states that Article 16 paragraph (1) letter a in the Indonesian National Police Law must emphasize officers who have authority in the field of arrest. From here, it will be simplified regarding arrests made against suspects in narcotics crimes.

Whereas at the practical level, based on the author's research, the fact was found that investigators from the Merauke Papua Regional Indonesian National Police at the location of the author's study referred to the arrest warrant **Number: SP. Kap/10/XI/Res.4.2./2020**, November 25, 2020, a suspected narcotics abuser was arrested using the time limit for arrest in the Criminal Procedure Code with a time limit for arrest of 1 day or 1x24 hours as referred to in Article 19 paragraph (1) of the Criminal Procedure Code. With proof of the sentence, "this order is valid from November 25, 2020, to November 26, 2020".

Another thing that refers to the handling of narcotics criminal cases carried out by the Central Sulawesi Regional Indonesian National Police is the fact that the arrest of perpetrators of narcotics crimes uses a maximum time limit for carrying out arrests of 3 x 24 hours and can be extended for a maximum of 3 x 24 hours as stipulated in a warrant. Arrest Number: **SP.Kap/125/X/Res.4.2/2020/Ditresnarkoba** dated October 25, 2020, regarding Article 75 letter g Jo Article 76 of the Narcotics Law No. 35 of 2009 concerning Narcotics with evidence of the sentence "this warrant is valid from the date October 24, 2020, to October 27, 2020.

CONCLUSION

In essence, it is necessary to immediately make changes to norms that clearly and unequivocally do not reflect synchronization between the legal basis for arrest used by both BNN Investigators and Indonesian National Police Investigators by making MOUs or joint work regulations between BNN and Indonesian National Police for legal certainty in handling Narcotics crimes or by recommending changes to specific articles in the law on narcotics crimes either in *a judicial review* to the Constitutional Court or by the DPR RI together with the government .

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