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Enforcement of Criminal Penalties for Drug Abuse Committed by Police Officers

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Abstract: Policing is a government function responsible for maintaining public order and safety. As an institution, the police have the authority to enforce laws and provide guidance and services to the community. This study investigates the enforcement of criminal penalties for drug abuse committed by police officers. The research adopts a normative legal approach, anchoring itself in the legal framework outlined within Law Number 35 of 2009, specifically focusing on the realm of Narcotics. This research method employs a normative juridical approach, wherein the issues arising in the field are examined through legal materials discussing the abuse of narcotics. The study finds that judges impose criminal sanctions on police officers who abuse narcotics in the same way as civilians, as specified in Law Number 2 of 2002 concerning the Indonesian National Police Article 29 paragraph (1). This underscores the civilian status of police officers, making it clear that they fall outside the purview of military law.

Keyword: criminal sanctions, narcotics abuse, police officers

INTRODUCTION

The function of law is multifaceted, and one of its primary purposes is to serve as a mechanism for social control. In order to ensure compliance with its rules, laws are typically accompanied by various sanctions or punishments, which serve as a means of coercion. This is because the existence of a functional state can only be realized when the law is consistently applied, and its rules are obeyed by its citizens. In the legal order of a state or nation, the government has established a number of law enforcement agencies, which work together to maintain order and enforce the law. These agencies include the police, prosecutors, courts, and correctional institutions, each of which plays a vital role in the law enforcement process.

The rise of crimes or criminal offences related to narcotics and materials that are

often illicitly paired to make narcotics (precursors), as the public has heard or read from the mass media, needs serious attention¹. The number of development of the relevant crime cases from year to year grows rapidly even though there are already regulations governing the circulation of narcotics and narcotics precursors².

The police are responsible for upholding public security and order while adhering to applicable laws to ensure justice and legal certainty³." The Indonesian National Police's responsibilities and functions are clearly outlined in Law Number 2 of 2002 regarding the Indonesian National Police. This law states that "the police force is a state tool tasked with maintaining domestic security by performing police functions that encompass upholding public security and order, enforcing the law, and providing protection, assistance, and services to the community while prioritizing human rights⁴." However, the police must not participate in activities that violate legal provisions in fulfilling their obligations and role in society.

The increase in crimes or criminal offences related to narcotics has recently been widely reported in various mass media. There have been several reported cases of drug abuse committed by law enforcement officers, namely the police⁵. The most recent case that has stirred up a lot of public discussion is that a police officer took part in a "drug party" with his colleagues.

From the perspective of functions and institutions, the Police have a crucial role to play in ensuring legal protection for the community. One of their key responsibilities is to safeguard the community from various forms of criminal threats and disturbances that can potentially cause chaos, insecurity, and disrupt the peace. Police duties are part of the duties of the State and to achieve the overall task, there is a division of tasks so that it is easy to implement and also coordinate, for this reason a police organisation is formed which then has the aim of securing and providing protection to interested people, especially those who commit a crime.

The functions and authorities vested in the National Police are comprehensively and

¹ Lukas Pardamean E Marbun and Mohamad Ismed, "How To Enforce Criminal Law Against Narcotics Abuse Of New Types Of Variants That Have Not Been Included In Law Number 35 Of 2009 Concerning Narcotics," *Policy, Law, Notary and Regulatory Issues (POLRI)* 2, no. 1 (2023): 67–80.

² Fajaruddin Fajaruddin, "Pelaksanaan Pengawasan Hakim Pengawas Atas Putusan Yang Telah Di Eksekusi Dalam Perkara Narkotika (Studi Di Pengadilan Negeri Blangkejeren)," *Pengabdian Pencerahan Bangsa* 1, no. 1 (2021).

³ Akmal Muhammad Rizqia Rahman, "Tindak Pidana Penyalahgunaan Narkotika Oleh Anggota Kepolisian Republik Indonesia," *Kajian Hukum* 6, no. 2 (2021): 16–24; Ryza Dwi Erlinda, Asmara Budi Dyah Darma Sutji, and Rosita Indrayati, "Kajian Yuridis Tentang Izin Pedagang Kaki Lima Di Jalan Jawa Untuk Mewujudkan Penyelenggaraan Pemerintahan Yang Baik (Good Governance) Di Wilayah Kabupaten Jember," *Lentera Hukum* 1, no. 1 (2014): 33–42.

⁴ Muhammad Arif, "Tugas Dan Fungsi Kepolisian Dalam Perannya Sebagai Penegak Hukum Menurut Undang-Undang Nomor 2 Tahun 2002 Tentang Kepolisian," *Al-Adl: Jurnal Hukum* 13, no. 1 (2021): 91–101.

⁵ Ricardho Siahaan, Ramlani Lina Sinulan, and Mohamad Ismed, "Legal Responsibility For The Role Of Online Transportation Courier Services In Drug Trafficking," *Policy, Law, Notary And Regulatory Issues (POLRI)* 2, no. 1 (2023): 52–66.

consistently regulated by Law No. 2 of 2002 concerning the National Police. Nonetheless, there have been instances in which the National Police have faltered in the execution of their duties, giving rise to concerns primarily rooted in police misconduct, which, in essence, signifies a transgression of the established code of ethics. It is important to mention that instances of police misconduct, although not widely reported, seem to be more common in the busy urban areas.

Hence, it becomes paramount to exert diligent efforts in the enforcement and adherence to the the police force of the republic of indonesia Professional Code of Ethics. This proactive approach is essential to ensure that the National Police consistently uphold their professional standards while discharging their responsibilities. Neglecting this imperative task would potentially bear significant repercussions, not only affecting the efficacy of law enforcement but also undermining the capacity to detect, investigate, and appropriately address criminal activities within the community. Thus, the enforcement of ethical standards within the National Police is not merely a procedural matter but a pivotal aspect of maintaining a just and effective law enforcement system.

The police force of the republic of indonesia has the main tasks and functions as stated in Article 13 of Law Number 2 of 2002 concerning the Police, namely to carry out law enforcement; maintain security and public order; and protect, protect and serve the community. In order to realize domestic security which includes the maintenance of security and public order, order and law enforcement, the implementation of protection, protection, and services to the community, as well as the fostering of public tranquility by upholding human rights.

The police force of the republic of indonesia is a state instrument that plays a role in maintaining security and public order, enforcing the law, and providing protection, protection, and services to the community in the context of maintaining domestic security. The National Police is the National Police, which is a unit in carrying out this role.

Moral education that refers to the values of good behavior and in line with the law, as stated in the Law of the Republic of Indonesia Number 2 of 2002 concerning the National Police of the Republic of Indonesia, is very important to carry out the role and function of the police properly. This moral education can help the police understand their responsibilities to society and prioritize integrity, honesty and professionalism in carrying out their duties.

In addition, prevention of potential police misconduct is also necessary. This includes strict internal monitoring and supervision, as well as training and awareness programs that focus on professional ethics. Cases of drug abuse by police officers are concrete examples of the negative impact of a lack of moral education and faith in dealing with the dangers of drugs. Strong moral education can help avoid situations where police officers are involved in illegal activities such as drug abuse.

Thus, good moral education and prevention of deviance among the police are key measures

in ensuring that the role and functions of the police are well executed, in accordance with the legal and ethical principles regulated by the National Police Act of the Republic of Indonesia. This will help maintain public trust in the police institution and ensure that they remain on the right track in carrying out their duties to protect and serve the community.

Drug use and trafficking in Indonesia has become a serious threat to the security and stability of the country. The dangers of drugs not only threaten public health, but also cause vulnerabilities in the security sector, including within the Indonesian National Police (Polri). Drug abuse by members of the Indonesian National Police has become an increasingly concerning issue over the past few years. Based on Polri records, there has been a significant increase in the number of Bhayangkara Corps members involved in drug use and distribution in the last three years since 2018. During this period, there have never been less than 100 police officers involved in drug cases. In 2020, the Head of the National Police's Public Relations Division, Inspector General Argo Yuwono, announced the dismissal of 113 members for being involved in serious offenses, with most of the cases involving drugs. Although details of the number of police officers involved in drug offenses were not provided, Argo shared this information alongside the arrest of a police officer who was a drug courier. Later in 2021, cases of police involvement in drug abuse came into the spotlight, especially after Astanaanyar Police Chief Kopol Yuni and 11 of his subordinates were arrested for drug abuse. In this case, Kopol Yuni tested positive for amphetamine or methamphetamine after undergoing a urine test and was included in the investigation process.⁶

Meanwhile, National Police Chief General Listyo Sigit Prabowo noted that the National Police had successfully uncovered thousands of drug cases and arrested tens of thousands of suspects in 2021. He also claimed that these efforts have saved millions of citizens from drug abuse and managed to confiscate evidence worth trillions of rupiah, including large quantities of drugs such as methamphetamine, cannabis, heroin, gorilla tobacco, and ecstasy. National Police Chief General Listyo Sigit Prabowo also revealed the modus operandi used in drug trafficking, including disguised drug packaging and inter-ship smuggling through unofficial ports. He emphasized that the National Police will continue to enforce the law and has ordered all Regional Police to establish "drug resilient villages" in order to tackle this drug problem from various perspectives, both in prevention and prosecution.⁷

Although Polri has made great efforts in combating drug trafficking in the community, the involvement of its own members in this illegal activity raises doubts about the integrity and professionalism of law enforcement officers. The revelation of drug abuse cases by Polri members creates a negative image and undermines public trust in the police

⁶ CNN Indonesia, "Ratusan Polisi Terjerat Kasus Narkoba Dari Tahun Ke Tahun," *CNN Indonesia*, 2021.

⁷ Ardito Ramadhan and Dani Prabowo, "Polri Ungkap 19.229 Kasus Narkoba Sepanjang 2021, Sita Barang Bukti Senilai Total Rp 11,66 Triliun," *Kompas.Com*, 2021.

institution. Therefore, there needs to be a serious effort to enforce criminal penalties against police officers involved in drug abuse, both as a law enforcement effort and as a message to the public that the law applies to all indiscriminately. Based on the background description above, it aims to analyze the criminal law arrangements for members of the police who are suspected of abusing narcotics, as well as analyzing law enforcement against members of the police involved in drug crimes.

RESEARCH METHODS

This research method employs a normative juridical approach, specifically investigating issues arising in the field through legal materials that address the abuse of narcotics. Normative juridical method where this research examines library materials or secondary data which includes books and legal norms contained in laws and regulations, legal principles, legal methods and legal systematics and also examines the provisions of laws and regulations and other legal materials. By using primary legal sources and secondary legal materials, it was hoped that this research would be valid and could answer the existing problems. The collection of legal materials began by inventoring legislation, quoting, summarizing, and providing reviews related to the issues discussed. Following the acquisition and compilation of the legal materials, a subsequent phase involved their systematic processing and analysis through a legal argumentation framework, employing deductive-inductive (general-specific) legal reasoning principles.

DISCUSSION

A. Criminal law arrangements for members of the police who abuse narcotics

The Narcotics Law No. 35 of 2009 imposes more severe criminal sanctions for the abuse and illicit trafficking of narcotics compared to its predecessor, the Law Number 22 of 1997 Concerning Narcotics. The updated law now includes stricter regulations on the weight of plants and non-plants, with a limit of 1kg/5 stems and 5 grams, respectively. Additionally, the death penalty is now applicable to those who produce, export, import, distribute, and use narcotics on others, including Class I and Class II Narcotics. These changes are aimed at creating a strong deterrent effect for individuals involved in narcotics and narcotics precursor crimes.

Law No. 35/2009 on Narcotics is not only powerful in practice but also has a binding effect on law enforcement efforts against perpetrators of narcotics abuse. In cases where police officers abuse narcotics, this law is applied to enforce criminal sanctions. The Narcotics Law No. 35 of 2009 outlines the specific sanctions imposed on narcotics offenses, which includes:

- a. "Failure to report the existence of a narcotics crime (Article 131) is considered a criminal offense that may result in a maximum penalty of one year's

imprisonment or a fine of up to fifty million rupiahs.

- b. Individuals who are civil servants, police investigators, or BNN investigators and do not adhere to the provisions related to evidence (Article 140) may be charged with a criminal offense that could lead to a minimum sentence of one year and a maximum sentence of ten years in prison. Moreover, they may be subject to a minimum fine of Rp100,000,000.00 and a maximum fine of Rp1,000,000,000.00.
- c. The Head of the District Attorney's Office who fails to implement the provisions outlined in Article 91 paragraph (1) (Article 141) may be charged with a criminal offense that could lead to a minimum sentence of one year and a maximum sentence of ten years in prison. Additionally, they may be subject to a minimum fine of Rp1,00,000,000.00 and a maximum fine of Rp.1,000,000,000.00."

Law No. 35 of 2009 on Narcotics contains provisions on criminal sanctions for those who abuse narcotics, including police officers. The law applies to all individuals who violate it, regardless of their profession or status. In fact, police officers are expected to be role models for the community in implementing the law, as it is one of their main tasks listed in Article 13 letter b of the Indonesian National Police. Therefore, it would be contradictory for a police officer to commit a criminal offence themselves.

The legal penalties for narcotics-related offenses, as stipulated in Law No. 35 of 2009, are delineated across various articles, namely "Article 111, Article 127, Article 129, and Article 137." Within these articles, the specific nature of criminal offenses and the corresponding potential legal consequences for offenders are explicated. Beyond these criminal sanctions, it is important to note that police officers found involved in narcotics abuse may also be subjected to administrative sanctions initiated by their respective agency.

It is important to enforce the provisions of the Narcotics Law to ensure that the community is protected from the dangers of narcotics abuse. The law is designed to create a deterrent effect for perpetrators and to promote a culture of lawfulness in society. Therefore, it is essential that police officers, as law enforcement officers, abide by these provisions and do not engage in narcotics abuse⁸. By doing so, they can uphold their duty to maintain public safety and order, and serve as positive role models for the community.

According to Rahman⁹, police officers who use drugs violate the discipline rules and code of ethics. This is due to the fact that every police officer is responsible for ensuring the enforcement of the law and preserving the honor and standing of the Indonesian National Police. If any officer is found to have violated disciplinary rules and codes of ethics, the

⁸ Doddy Kristian et al., "Kewenangan Polri Dalam Menegakkan Kode Etik Anggota Polri Yang Melakukan Tindak Pidana Narkoba," *Jurnal Usm Law Review* 4, no. 2 (2021): 663–71.

⁹ (2021)

misconduct will be investigated and appropriate sanctions will be imposed¹⁰. However, the disciplinary sanctions and sanctions for code of ethics violations do not negate the criminal charges against the police officer involved (Article 12 paragraph (1) PP 2/2003 jo. Article 28 paragraph (2) Perkapolri Number 14 of 2011).

Consequently, police officers facing suspicion of narcotics use remain liable to criminal prosecution, irrespective of any prior disciplinary or code of ethics sanctions they may have undergone. When an officer becomes the subject of an inquiry regarding drug use, it is crucial to uphold the presumption of innocence until proven guilty through a court verdict possessing definitive legal authority. This principle aligns with the provisions laid out in Article 8, paragraph (1) of Law No. 48 of 2009 concerning Judicial Power.

In the event that a police officer is convicted with a final and legally binding criminal verdict, they could face a dishonorable discharge from their position within the Indonesian National Police, as outlined in Article 12, paragraph (1), letter a of Government Regulation No. 1 of 2003 concerning Dismissal of Members of the Indonesian National Police. This regulation states that any police officer who has been sentenced to imprisonment by a court decision with permanent legal force and is deemed unfit to continue serving in the Indonesian National Police by the competent authority may be dishonourably discharged from service.

In addition to the punitive measures delineated in Law No. 35 of 2009, police officers who engage in the misuse of narcotics are susceptible to administrative sanctions, which are imposed by their respective law enforcement agencies. This is grounded in the principle set forth in Article 13, letter b, which underlines the primary responsibility of the Indonesian National Police to uphold the law. Accordingly, all members of the force are expected to possess the capability to investigate various forms of criminal offenses. It is essential to note that such conduct would be inherently contradictory for a police officer, as they are held to the standard of serving as exemplars in law enforcement, while concurrently adhering to the prevailing laws and regulations.⁵

The law applies to everyone, including police officers who violate it. Therefore, in addition to the sanctions provided in Law No. 35 of 2009, relevant agencies can impose administrative sanctions on these officers. The legal process for adjudicating offenses, aside from those stipulated in Law No. 35 of 2009, follows the Criminal Procedure Code, which is detailed in Law No. 02 of 2002 concerning the National Police. Several actions can be taken against police officers who have violated the law, including:

- 1) charged under the Police Regulations
- 2) brought to a professional hearing or disciplinary hearing where in this case the threat of punishment is imposed in accordance with the results of the decision

¹⁰ Aulia Tohari and Abdul Rokhim, "Tinjauan Hukum Bidang Pembinaan Dan Pengamanan Terhadap Anggota Polri Yang Melakukan Penyalahgunaan Narkoba Berdasarkan Peraturan Pemerintah Ri Nomor 2 Tahun 2003 Tentang Peraturan Disiplin Anggota Polri," *LEGALITAS: Jurnal Ilmiah Ilmu Hukum* 4, no. 2 (2020): 54–71.

of the hearing

- 3) dishonourable dismissal (PTDH). If the person is sentenced by a judge to 5 (years) imprisonment or more then the person can be dismissed from the agency but if the sentence imposed is less than 5 (five) years then the person can be considered again by the agency.
- 4) if proven to use drugs then the police officer is transferred to a place far from drugs or no drugs.

The notion of the police in Indonesia is defined within the confines of Law No. 2 of 2002, which delineates the roles and structures of the police in accordance with the legal framework. Article 1, point 1 of this law provides a dual interpretation of the term "police," encompassing both the police function and the police institution. The police function is expounded upon in Article 2 of the same law as one of the functions of the State government, encompassing responsibilities such as upholding public security and order, enforcing the law, providing protection, offering care, and engaging in community service. In contrast, the police institution represents a government entity that is formally established as an organization and vested with the authority to carry out its functions in accordance with the stipulated laws and regulations.

Hence, when discussing the police in Indonesia, it is important to consider both its functions and institutions. These meanings are influenced by the concept of policing and are formulated in the duties and authorities of the police force. It is also important to note that an investigator is any officer of the Indonesian National Police, as stated in Article 4 of the Criminal Procedure Code, which generally specifies that every officer of the Republic of Indonesia is an investigator.

Law No. 2 of 2002, which was enacted on January 8, 2002, in Jakarta and promulgated on the same day in the State Gazette No. 2 of 2002 and additional State Gazette No. 4168, pertains to the Indonesian National Police. According to Article 13, Paragraph (1) of the Code of Professional Ethics under this law, members of the Indonesian National Police may be dismissed from their service, oath/pledge of office, and/or the Code of Professional Ethics in a dishonourable manner.

The initial article within this legislation provides a definition for policing, encompassing all aspects associated with the functions and institutions of the police that adhere to statutory regulations. Following the second amendment to the 1945 Constitution of the Republic of Indonesia, specifically in Chapter XII concerning State defense and security, as well as the issuance of Decree Number VI/MPR/2000 and Decree Number VII/MPR/2000 by the People's Consultative Assembly of the Republic of Indonesia (MPR RI), significant constitutional changes have transpired. These alterations validate the delineation of the duties, functions, and roles of the National Police of the Republic of Indonesia, while also establishing institutional segregation between the Indonesian National Army and the

National Police of the Republic of Indonesia, aligning with their distinct functions and responsibilities.

B. Law Enforcement Against Police Members Who Commit Drug Crimes

According to Widodo¹¹, when members of the police force are found to have committed criminal offences, particularly those related to drugs, they are subject to the same legal proceedings as ordinary citizens, which includes being tried in a regular court. However, in addition to the regular court, police officers who have committed criminal offences may also face internal disciplinary action through a hearing under the police code of ethics. The process of law enforcement for police officers who have committed drug offences is as follows:

1. General Judicial Process

The criminal justice system involves systemic movements from supporting subsystems, such as the police, prosecutors' offices, courts, and penitentiary institutions, which collectively seek to transform inputs into outputs, i.e., tackling crime or controlling its occurrence within the limits of societal tolerance. A good system should not have conflicts or duplications (overlapping) between the parts. The general justice process involves the following stages:

a. Stage of Inquiry and Investigation

One of the police's primary duties is to uphold the law, and this duty is included in the Criminal Procedure Code (KUHAP). Investigation is defined in Article 1 point 5 of the Criminal Procedure Code as "a series of investigative actions to search for and find an event that is suspected of being a crime to determine whether an investigation can be carried out according to the method stipulated in the law." The police's functions, based on Law Number 2 of 2002, are to maintain public order and security, enforce the law, and provide protection, assistance, and community service¹². If there is an indication that a police officer has committed a drug-related offense, an investigation will be carried out, usually after regular urine tests. If the results are positive, a double check is conducted. If the results are still positive, a case is developed to determine whether a person should be suspected of committing a drug crime. If this is confirmed, an investigation will be conducted.

b. Prosecution

c. Arrest and Search

As in Article 1 number 20 the meaning of Arrest is: "Arrest is an act of an investigator in the form of temporarily restraining the freedom of a suspect or defendant if there is

¹¹ Dwi Indah Widodo, "Penegakan Hukum Terhadap Anggota Kepolisian Yang Menyalahgunakan Narkotika Dan Psikotropika," *Jurnal Hukum Magnum Opus* 1, no. 1 (2018): 1–10.

¹² Awaloedin Djamin, "Masalah Dan Issue Manajemen Kepolisian Negara RI Dalam Era Reformasi," *Jakarta: Yayasan Brata Bhakti*, 2005.

sufficient evidence for the purposes of investigation or prosecution and or trial in matters and according to the method stipulated in this law."

When an investigation has been carried out by the investigator and they have uncovered 'adequate preliminary evidence,' it is within the bounds of the law for the investigator to issue two consecutive legal summons to the suspected narcotics offender. Failure to comply with the summons without a valid reason will result in an arrest accompanied by an arrest warrant. Typically, this arrest is followed by a search, during which narcotics are often found as evidence. The results of the search and the identification of the suspect are then forwarded to the Karanganyar Police for further proceedings.

2. Summons and Detention

According to Article 1 point 21 the definition of detention is "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 the case and in the manner regulated in this law" Detention is useful to assist investigations by investigators ¹³. Detention of police who commit drug crimes is the same as the general public, detention to obtain information about drug crimes committed.

3. Confiscations

According to Article 1 point 16 the definition of confiscation is " Confiscation is a series of actions by investigators to take over and or keep under their control movable or immovable, tangible or intangible objects for the purpose of proving investigation, prosecution and justice." This seizure is executed by the investigator, who requires authorization from the local district court. In cases of immediate necessity, the investigator can preemptively confiscate only movable items, but must promptly notify the chairperson of the local district court to secure their approval for such action.

a) Inspection

1) Examination of Witnesses

According to Article 1 point 26, *"a witness is a person who can provide information for the purpose of investigation, prosecution and trial of a criminal case that he himself hears, sees and experiences."* The examination of witnesses facilitates the investigation process, namely in the form of witness testimony to find evidence. Witnesses of drug offences from the suspect's environment, namely the environment of office mates who use drugs / the environment around the place of residence. So these witnesses can be from within or outside the police agency.

2) Expert Examination

Expert examination is carried out by listening to expert testimony, which according to Article 1 point 29 of the Criminal Procedure Code is *"Expert testimony is a*

¹³ Andi Hamzah, "Hukum Acara Pidana Indonesia, Jakarta," *Sinar Grafika*, 2006.

statement given by someone who has special expertise on matters needed to make light of a criminal case for the purpose of examination." Expert testimony is used to find out about confiscated goods/evidence that has been obtained into what class of drugs. The mechanism is for the police to send the evidence to the Forensic Laboratory centre of BARESKRIM POLRI, where the evidence is checked by explaining the weight, type of goods, which class of drugs, positive or negative urine.

3) Examination of suspects

Suspect as in Article 1 point 14 of the Criminal Procedure Code refers to *"a person who because of his actions or circumstances based on preliminary evidence should be suspected of being a perpetrator of a criminal offence"*. The suspect's statement is the most important because he is the one who committed the drug crime. In the event that the perpetrator is a member of the Police, he always admits his actions. Completion and submission of case files. The submission of the suspect to the public prosecutor when the investigation process has been considered complete by the investigator or after the public prosecutor states that the results of the investigation are complete or P21.

b) Prosecution Stage

Prosecution as in Article 1 point 7 of the Criminal Procedure Code refers to *"a public prosecutor's action to submit a criminal case to the competent District Court in the case and in the manner provided for in the case and in the manner provided for in this law with a request to be examined and decided by a judge at a court session."* The public prosecutor conducts prosecution preceded by pre-prosecution, the aim is to find out whether the BAP is complete or not. If it is complete, then prosecution is carried out, as soon as possible it must be immediately submitted to the District Court, with a request to immediately try the case accompanied by an indictment¹⁴. The prosecutor in giving demands to police officers who commit drug offences is more severe because he is a law enforcer.

c) Trial Examination

The examination phase at the trial court begins with the determination of the panel of judges, then the day of the hearing is determined. Muhammad Nafis suggests that the process of a judge making decisions regarding police officers involved in drug-related offenses is challenging due to the inherent burden of considering cases involving law enforcement officers who are tasked with safeguarding the law, even when they themselves are implicated in drug-related transgressions.

d) Execution of the Decision

The procedure for implementing a court decision by a police officer who commits a drug

¹⁴ Muhammad Rusli, "Sistem Peradilan Pidana Indonesia Yogyakarta" (UII Press, 2011).

crime is sentenced to 7 months in prison and rehabilitation, namely receiving a copy of the court decision from the district court clerk within 1 week. The head of the prosecutor's office issues an order for the implementation of the court's decision, then hands over the convict to the penitentiary.

1) Enforcement Through the Police Code of Ethics

Enforcement of the code of ethics is regulated in Perkap No. 14 of 2011 concerning the Police Professional Code of Ethics, in Article 17 paragraph 1 of Perkap No. 14 of 2011 concerning the Police Professional Code of ethics those who have the right to enforce the code of ethics are: Propam Polri; Professional code of ethics commission; Appeals commission; Development of the legal function of the Police; Police HR; and Propam Polri in the field of rehabilitation.

Police who commit drug crimes and have been found guilty by the court are in accordance with article 1 number 17, namely: "Dismissal with dishonour, hereinafter shortened to PTDH, is the termination of the police service period by an authorised official against a member of the police because he has been proven to have committed a violation of KEPP, professional and/or criminal offences." In relation to police officers who commit drug offences, such persons also violate the police code of ethics, when police officers commit drug offences the general judicial process is prioritised. Meanwhile, police who commit drug offences are processed until there is a permanent court decision. If after undergoing a new decision the unit takes action that will judge is the leader or also called *Ankum*.

Providing a form of punishment is a stage of determining and imposing criminal sanctions and in criminal law the diction of criminal has an understanding as a law while punishment has an understanding as a form of punishment. Some things that show the purpose of punishment can provide hope that it becomes a form of protecting the community and a form of rehabilitation as well as resocialisation to the psychological aspects of the perpetrator. There are 3 purposes of sentencing, which are described as follows:¹⁵

- a. "Become a means of self-change;
- b. Suggestions provide a sense of deterrence for the criminal acts he has committed;
- c. As a form of means to stop crimes from escalating and giving birth to new criminals and other methods of crime."

The legal procedure pertaining to police officers who commit criminal offenses, especially those related to narcotics, is governed by Article 29, paragraph (1) of Law Number 2 of 2002 concerning the Indonesian National Police. In instances where a police officer is found guilty and handed a sentence exceeding 5 years, there is a provision for their swift removal from their position or expulsion from their organization. However, when the

¹⁵ Gede Arya Aditya Darmika, Simon Nahak, and Diah Gayatri Sudibya, "Penegakan Hukum Terhadap Anggota Polri Yang Melakukan Tindak Pidana Narkotika," *Jurnal Analogi Hukum* 1, no. 1 (2019): 110–13.

sentence falls below 5 years, the police officer remains liable to disciplinary measures and could potentially be reassigned to an area with reduced drug-related issues. It's imperative to note that before any of these sanctions can be applied, a mandatory police code of ethics hearing must take place to address the conduct of the police officer.

Additionally, the process of upholding the professional code of ethics within the police force against officers implicated in drug-related offenses will be set in motion, and if they are found to be at fault, they will be subject to repercussions. It's important to underscore that these disciplinary and code of ethics consequences do not absolve them from the criminal charges brought against them. Even if these officers go through disciplinary and code of ethics measures, they can still be legally pursued for drug-related transgressions. The foundational tenet of the presumption of innocence, as enshrined in Article 8, paragraph (1) of Law No. 48 of 2009 concerning Judicial Power, is applicable to police officers suspected of drug involvement and subjected to investigation. They remain considered innocent until proven guilty through a court decision that possesses definitive legal authority.

One way to address drug offenses committed by police officers is through repressive measures, which are a type of law enforcement. This involves the imposition of sanctions by law enforcement officials, including police officers, prosecutors, courts, and correctional institutions, on those who have committed criminal offenses related to drug use¹⁶. Repressive law enforcement is typically used to address real disturbances or factual threats, and involves taking action to eradicate and suppress criminal activity after it has already occurred, with the goal of setting an example for others and deterring future criminal activity. This approach is intended to create a prevention effect, discouraging individuals from repeating their illegal actions¹⁷.

Law enforcement of narcotics offences is carried out with penal efforts, if non-penal efforts can no longer be done. Penal efforts are repressive efforts, namely by eradicating and suppressing in accordance with applicable law. If the narcotics crime is committed by a police officer, then it is clearly not justified, because it is not in accordance with the police function according to Article 13 of the Police Act¹⁸.

In order to combat narcotics crimes committed by police officers, the legal system employs a punitive approach, with a focus on repressive measures such as eradication and suppression. Criminal sanctions are applied as a form of threat to offenders, as part of the effort to prevent and punish narcotics crimes. In addition to the development of legal

¹⁶ Ronald Andry Mauboy, "Peranan Polsek Mapanget Dalam Penanggulangan Kejahatan Geng Motor (Balap Liar) Di Kota Manado," *Jurnal Indonesia Sosial Teknologi* 3, no. 9 (2022): 1054–67.

¹⁷ Herius Harefa, "Optimalisasi Fungsi Intelijen Kepolisian Dalam Penyelidikan Tindak Pindana Narkotika Yang Dilakukan Anggota Kepolisian (Studi Sat Intelkam Polres Solok)," *UNES Law Review* 1, no. 1 (2018): 44–52.

¹⁸ Noor Iriady, "Strategi Penegakan Disiplin Anggota Polri Di Polres Hulu Sungai Selatan (HSS)," *Jurnal Ilmu Politik & Pemerintahan Lokal* 2, no. 1 (2013).

provisions, law enforcement officials also play a crucial role in addressing the issue of narcotics crimes committed by police officers. As such, repressive efforts are considered appropriate to deal with these crimes, given that they are in violation of the law.

The enforcement of drug abuse crimes committed by Indonesian National Police members goes through various stages, starting from the investigation phase to the punishment in the public court. Once the general court process is legally binding, a code of ethics hearing process is conducted to determine the status of the accused as a member of the Indonesian National Police. These series of hearings are regulated and carried out based on the provisions of various laws and regulations, such as the Police Law, Government Regulation No. 1 of 2003, Government Regulation No. 3 of 2003, and National Police Chief Regulation No. 14 of 2011.

As law enforcers, the police have the duty to combat drug users, but unfortunately, some police officers themselves engage in drug use. The law enforcement process against police officers who commit drug offences follows the same stages as the general public who commit criminal offences. However, the punishment for police officers who are found guilty of drug crimes is more severe as they are law enforcement officials who are supposed to uphold the law and combat drugs.

Besides the general court, the police officers who commit criminal offences, including drug offences, are also subject to enforcement through the police code of ethics. In case the law enforcement process is not in accordance with the applicable law, disciplinary action can be taken against the accused police officer. All the enforcement actions are aimed at maintaining the rule of law, promoting social learning, and creating deterrence/prevention effects to stop the offenders from repeating their actions.

C. Obstacles in Implementing Law Enforcement Against Police Officers Who Commit Crime of Narcotics Abuse within the Police Environment

Law enforcement refers to the actions taken to ensure that legal norms are being followed in society and the state. It serves as a guide for people's behavior in various relationships. Law enforcement can involve a wide range of subjects and encompasses all efforts to enforce the law by any entity, including law enforcement agencies, the government, and the general public¹⁹.

When the police engage in law enforcement against fellow police officers involved in criminal drug abuse, this process encompasses various stages, from initial investigations to the submission of case files to public prosecutors. However, this law enforcement conducted by the police is not without its challenges, and the obstacles encountered by the police in

¹⁹ Shant Dellyana, "Konsep Penegakan Hukum," *Yogyakarta: Liberty* 33 (1988).

this regard include:²⁰

1. Personnel

Obstacles in terms of personnel in the Police Environment are obstacles from the lack of specialised education obtained. Regarding the lack of special narcotics education received by investigators in this case the drug unit in Semarang Police. Education regarding the investigation of narcotics cases is held by the Police Headquarters in collaboration with the Department of Defence and Security, these two institutions often collaborate with the Police in organising special education, but the implementation of this special education is very limited with a long time.

2. Lack of Budget

The lack of budget is one of the main factors that constrains investigators from uncovering new techniques of drug abuse crimes²¹. Budget is crucial here because without it, the pursuit and arrest of drug offenders will not run optimally²². Limited budgets are a major factor limiting investigators' ability to uncover new techniques that may be used by criminals. Without adequate financial support, the pursuit and apprehension of drug offenders can be significantly hindered from reaching its full potential. Budget allocations for drug investigations remain minimal, which can negatively impact the effectiveness of investigators' efforts to tackle crime.

3. Investigators get terror

The police investigators, despite changing their appearance by growing long hair, are easily recognized by the drug network they are trying to apprehend. This is because whenever a police officer makes an arrest, they automatically become a witness in court. In court, the witness must be someone who knows about the arrest, and in this case, it is the police officer themselves²³. Therefore, police officers who have previously conducted undercover purchases for narcotics can easily be detected by members of the suspect's network. One of the network's members usually attends court hearings and blends in with the community to support their arrested colleague. This makes it difficult for the police officers to conduct undercover purchases again.

The concept of Justice Collaborator is mentioned in the Supreme Court Circular Letter Number 4 of 2011 in Indonesia. This circular discusses the Treatment of

²⁰ Radhitya Ade Saputra and Indah Setyowati, "Penyidikan Tindak Pidana Penyalahgunaan Narkotika Yang Dilakukan Oleh Anggota Kepolisian (Studi Di Wilayah Hukum Polrestabes Semarang)," *Prosiding Konstelasi Ilmiah Mahasiswa Unissula (KIMU) Klaster Hukum*, 2021.

²¹ Sambo R Darampalo, "Tinjauan Yuridis Pelaksanaan Upaya Paksa Terhadap Tersangka Tindak Pidana Penyalahgunaan Narkotika," *Journal Law And Justice* 1, no. 1 (2023): 7–17.

²² Saputra and Setyowati, "Penyidikan Tindak Pidana Penyalahgunaan Narkotika Yang Dilakukan Oleh Anggota Kepolisian (Studi Di Wilayah Hukum Polrestabes Semarang)."

²³ Claudio Varly Lainata, John Dirk Pasalbessy, and Julianus Edwin Latupeirissa, "Kajian Hukum Pidana Terhadap Kedudukan Informan Sebagai Saksi Menurut Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika Dengan Undang-Undang Nomor 8 Tahun 1981 Tentang KUHP," *TATOHI: Jurnal Ilmu Hukum* 2, no. 4 (2022): 395–407.

Whistleblowers and Witnesses of Cooperating Actors (Justice Collaborators) in Certain Criminal Cases. Justice collaborators play a crucial role in combating organized crime, as the current criminal law system often struggles to uncover, combat, and eliminate various organized crimes. In practice, legal officers face numerous obstacles, both legal and non-legal, when trying to fully investigate and clarify a criminal offense. One of these obstacles is presenting key witnesses throughout the legal process, from the investigation to the court proceedings. A Justice Collaborator is someone who is a suspect but not the main perpetrator, and they can provide valuable information about the individuals involved above them. Their role and actions can greatly assist investigators and provide other benefits as well.

A whistleblower is someone who shares vital information or exposes illegal activities to the authorities, like the police, in order to reveal the truth or fight against crime. Police investigators, being the guardians of law and justice, play a vital role in receiving, verifying, and handling the information provided by whistleblowers or justice collaborators.

Cooperation between police investigators and whistleblowers or justice collaborators can greatly contribute to the fight against crime. Whistleblowers possess valuable insider information that may otherwise be inaccessible to investigators, thereby aiding in the resolution of intricate cases. Moreover, by offering legal safeguards to whistleblowers, police investigators can foster an environment where individuals feel safe to report criminal activities without the fear of backlash. It is crucial for investigators to prioritize the protection of the whistleblower's identity to prevent any potential threats or retaliation from those involved in the disclosed criminal offense. Additionally, the establishment of clear regulations and policies is essential to ensure a transparent and fair cooperation process between investigators and whistleblowers.

When investigators are faced with intimidation from drug networks, individuals who blow the whistle or collaborate with justice can offer vital information without putting themselves at direct risk, thereby minimizing the danger to the investigator's well-being. These individuals can uncover details about drug networks, corrupt activities, or other pertinent information that cannot be obtained through traditional investigative techniques. Nevertheless, their involvement also entails risks, not only for themselves but also for the investigators who depend on their insights. Consequently, safeguarding whistleblowers and justice collaborators becomes imperative to guarantee their ability to provide information without the apprehension of reprisals or adverse outcomes.

Based on the obstacles that have been conveyed by the sources, the Police have solutions to the obstacles that occur, including the following:

1. Providing special education on narcotics as a whole to Investigators, regarding the problem of special education carried out with a long period of time, the Police provide alternating training periods to each investigator so that the

Police are not short of personnel.

2. The addition of personnel has been carried out by the Police Environment by submitting additional personnel through the Polda, because narcotics crime is a criminal offence that has entered all groups and with the increase in investigator personnel, carrying out tasks can run optimally.
3. Submission of additional budget has been carried out by the Police but the decline of funds takes a long time, therefore the Police Environment optimises the existing budget in order to maximise the handling of narcotics crimes.

CONCLUSION

The enforcement of laws pertaining to criminal offenses committed by police personnel is governed by various regulations, including Law Number 2 of 2002 concerning the Indonesian National Police, Law Number 35 of 2009 regarding Narcotics, and Law Number 36 of 2009 concerning Health. When it comes to prosecuting police officers involved in criminal activities, particularly drug-related offenses, the author's conclusion is that the process mirrors that of the general populace. This entails a case being processed through the ordinary legal system, involving investigation, submission of case documents to the public prosecutor, examination during the trial proceedings, and the execution of decisions made by legal authorities. All these steps are conducted in accordance with the established laws.

Furthermore, in addition to the standard legal proceedings for police officers accused of criminal offenses, there exists an internal process within the police force to enforce the police code of ethics. This internal trial serves the purpose of ensuring accountability for police officers engaged in criminal actions, including drug-related offenses, and upholding the integrity of the police force. The internal enforcement of law through the police code of ethics trial represents an extra measure to ensure that police officers are held responsible for their actions.

In the case of alleged breaches of the Polri profession's code of ethics that were heard by the Maluku Police Propam, the police officer was conclusively found guilty of violating the code of ethics and subsequently subjected to a dishonorable dismissal (PTDH), a measure aimed at holding them accountable for their actions.

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