

The Role Of Attorney In Handling Confiscated Articles Of Criminal Offense In Narcotics (A Case Study Of The Humbang Hasundutan District Attorney Office)

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Abstract. *Keeping confiscated articles related to criminal offenses involving narcotics that have been marked for destruction may lead to concerns about the potential risk of them being sold again and used by unscrupulous law enforcement officers. In reality, however, confiscated narcotics with their confirmed legal status, court- issued case dispositions, and final and conclusive verdicts, are still retained rather than destroyed, perhaps due to their minimal quantity or due to various obstacles. The authority of prosecutors is regulated in Articles 270 to 276 of the Criminal Procedure Code (KUHAP), Article 30 paragraph (1) letter b of Law No. 11 of 2021 concerning the Indonesian Attorney General's Office, and Article 91 Paragraph 1 of Law No. 35 of 2009 concerning Narcotics which provide authority in determining the status of narcotic items. The role of prosecutors is described in the Indonesian Attorney General's Office Standard Operating Procedure No. 2 of 2022 in Chapter III which includes recording, research, storage, maintenance, security, provision, return, and resolution of confiscated items. Internal and external obstacles are faced, but preventive and repressive efforts have been undertaken. Efforts are focused on resolving internal and external factors in handling narcotics evidence. The importance of the prosecutor's role in handling narcotics evidence is highlighted, emphasizing the need for more effective efforts to overcome obstacles for improvement in future handling.*

Keywords: *Prosecutor, Evidence, Narcotics Crime*

Abstrak. Penyimpanan barang bukti yang disita terkait dengan tindak pidana narkoba yang telah ditandai untuk dihancurkan dapat menimbulkan kekhawatiran tentang potensi risiko diperjual belikan kembali dan digunakan oleh petugas penegak hukum yang tidak jujur. Namun, kenyataannya narkoba yang disita dengan status hukum yang terkonfirmasi, putusan pengadilan yang dikeluarkan, dan keputusan akhir yang bersifat konklusif, tetap disimpan daripada dihancurkan, mungkin karena kuantitasnya yang minimal atau karena berbagai hambatan. Otoritas jaksa diatur dalam Pasal 270-276 Kode Acara Pidana (KUHAP), Pasal 30 ayat (1) huruf b Undang-Undang Nomor 11 Tahun 2021 tentang Kejaksaan Republik Indonesia, dan Pasal 91 Ayat 1 Undang-Undang Nomor 35 Tahun 2009 tentang Narkoba yang memberikan wewenang dalam menentukan status barang bukti narkoba. Peran jaksa dijelaskan dalam Prosedur Operasional Standar Kejaksaan Republik Indonesia Nomor 2 Tahun 2022 di Bab III yang mencakup pencatatan, penelitian, penyimpanan, pemeliharaan, keamanan, penyediaan, pengembalian, dan penyelesaian barang bukti yang disita. Hambatan internal dan eksternal dihadapi, tetapi upaya preventif dan represif telah dilakukan. Upaya difokuskan pada penyelesaian faktor internal dan eksternal dalam penanganan barang bukti narkoba. Pentingnya peran jaksa dalam penanganan barang bukti narkoba diungkapkan dengan menekankan perlunya upaya yang lebih efektif untuk mengatasi hambatan serta peningkatan dalam penanganan di masa yang akan datang.

Kata kunci: Jaksa, Barang Bukti, Tindak Pidana Narkoba

INTRODUCTION

Rachmawati et al. (2023) assert that the use of narcotics in Indonesia has become not only a complex issue but also one that creates extensive impacts. This phenomenon is not only highlighted by the media but also raises significant concerns among the public (Ahmad & Nurhidaya, 2020). The act of narcotics use not only violates existing laws but also tarnishes social norms, complicating the enforcement and eradication efforts undertaken by the state.

Combating narcotics abuse requires a specialized approach, particularly in managing evidence, which is central to the legal process (Arfiansyah & Aida, 2023). The Prosecutor's Office, as one of the key elements in law enforcement, plays a central role in handling evidence in the context of narcotics cases, in accordance with the provisions stipulated by the Indonesian Prosecutor's Office Law.

The role of the Prosecutor's Office in handling evidence related to narcotics has been extensively regulated by legislation (Arfai & Ali Muhammad, 2021). However, in its implementation, challenges and obstacles often arise in field tasks. Through a case study at the State Prosecutor's Office of Humbang Hasundutan, the complexity of the challenges faced in carrying out these tasks becomes evident. In some cases, the handling process of narcotics evidence does not always align with existing regulations, especially regarding storage, which may potentially pose risks of misuse by unauthorized parties (Ismansyah et al., 2023).

Establishing governance over narcotics evidence is one of the important tasks undertaken by the Prosecutor's Office (Silano et al., 2023). However, in practice, there are situations where such evidence is not immediately destroyed or properly stored, creating loopholes for potential reabuse by unauthorized parties (Sumardana & Hadi, 2019). This research aims to provide a detailed explanation of how the Prosecutor's Office regulates and exercises its authority regarding narcotics evidence, as well as documenting the steps taken by the Prosecutor's Office at the State Prosecutor's Office of Humbang Hasundutan in handling narcotics evidence.

Through a holistic approach, this research seeks to provide a comprehensive overview of the Prosecutor's Office's role in handling evidence of narcotics crimes, including detailed identification of the challenges faced. The information generated from this study is expected to contribute significantly to a deeper understanding of the Prosecutor's Office's role in addressing complex issues related to narcotics evidence. With a deeper understanding, constructive efforts are also expected to emerge to improve the handling system of this evidence to protect society from the threat of narcotics.

This research also aims to map in detail the roles and obstacles faced by the Prosecutor's Office in handling narcotics evidence. A thorough understanding of field dynamics in narcotics cases at the State Prosecutor's Office of Humbang Hasundutan is expected to provide a clearer picture of the complexity involved in the process. In order to evaluate the roles and obstacles, this research will include an in-depth review of regulations governing the governance of narcotics evidence and how they are implemented in the field.

Furthermore, efforts to identify and explore the obstacles faced by the Prosecutor's Office in handling narcotics evidence are the main essence of this research. Detailed information about these obstacles is expected to provide a broader perspective on the challenges faced in the field and enable the formulation of strategic steps to address these obstacles. By understanding the emerging issues, it is hoped that more effective and efficient solutions will emerge in handling narcotics evidence as a whole.

In order to present a comprehensive analysis, this research will also include an evaluation of the steps taken by the Prosecutor's Office in handling narcotics evidence. The research focus will include the effectiveness of the actions taken and whether these steps have complied with applicable regulations. By measuring the extent to which these steps are effective, it is expected to provide a more complete picture of the Prosecutor's Office's efforts in handling narcotics evidence and the extent to which their implementation can meet the desired goals in narcotics eradication efforts.

THEORETICAL STUDY

1. Classification of Authority

Authority defined as the right and power to act and make decisions, plays a crucial role in the structure of governmental organizations. According to scholars like H.D. Stout and Bagir Manan, authority is not merely power but also involves rights and obligations. In administrative law, authority is acquired through three main sources: attribution, delegation, and mandate. Attribution, as one of the sources of authority, involves the granting of new governmental authority by provisions in legislation, as regulated in Articles 270 to 276 of the Criminal Procedure Code (KUHAP) and Law No. 35 of 2009 concerning Narcotics. Delegation, another source of authority, occurs when existing authority is transferred by one government body or office to another, as explained by Philipus M. Hadjon. On the other hand, mandate refers to the routine transfer of authority in the superior-subordinate relationship, as stated by Bagir Manan. The role of authority in constitutional law and administrative law is highly significant, and its utilization requires compliance with applicable regulations and consideration of accompanying responsibilities.

Authority in administrative law encompasses not only the right to act but also the obligations that must be fulfilled. Authority is obtained through attribution, which involves the division of state power by the 1945 Constitution, as well as through delegation and mandate, which are forms of authority transfer. For example, in handling evidence related to narcotics offenses, the prosecutor's authority in determining the status of evidence is derived from

applicable legislation. The attribution of governmental authority in issuing new legislation can be seen in the formation of laws by the People's Consultative Assembly (MPR) and the People's Representative Council (DPR). Delegation, which entails the transfer of existing authority to another governmental body or office, and mandate, which involves the transfer of authority in the superior-subordinate relationship, are crucial processes in the management of governmental authority. With a deep understanding of these sources of authority, the enforcement of law and governance can be carried out effectively and in accordance with prevailing legal principles.

2. Attorney's Authority in Handling Evidence of Narcotics Criminal Offenses

The authority of prosecutors in handling evidence of narcotics crimes is a crucial part of the criminal justice system in Indonesia. The term "prosecutor" or "yaksa" originated from the Indian language and has been used since the Majapahit Kingdom era, referring to specific positions and roles in the kingdom. In the modern context, the prosecutor's office is an independent institution with specialized authority in criminal case resolution. Prosecutors have central authority in law enforcement and control over the case process, including determining whether a case can be brought to court based on valid evidence. The authority of the prosecutor's office in handling narcotics evidence is regulated in various articles, such as Article 91 Paragraph 1 of Law Number 35 of 2009 concerning Narcotics, which grants authority to prosecutors to determine the status of narcotics evidence seized by investigators. However, there is uncertainty in its implementation regarding the timing of evidence destruction, as Article 91 does not clearly specify when destruction should take place. The storage of narcotics evidence designated for destruction poses risks, such as the possibility of narcotics being redistributed in society or used by irresponsible parties.

Nevertheless, prosecutors, as law enforcers, must be able to apply existing regulations while considering associated risks. The process of seizure and destruction of narcotics evidence is necessary to prevent its reuse by irresponsible parties. Humbang Hasundutan District Attorney's Office, for example, has handled several narcotics cases and destroyed evidence from these cases. Besides prosecutors, other institutions such as the police and the National Narcotics Agency (BNN) also have limited authority in handling narcotics crimes according to applicable regulations.

3. Regulation of Legal Authority Regarding Attorney's in Handling Evidence of Narcotics Crimes

Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) and Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Republic of Indonesia Prosecutor's Office are two important and interconnected legal

regulations governing the prosecution process and the exercise of judicial power in Indonesia. KUHAP provides the legal basis for legal proceedings in criminal cases, including the duties and authorities of public prosecutors (usually held by prosecutors) in various stages of criminal case handling, such as investigation, drafting of indictments, implementation of detention, and execution of court decisions. Meanwhile, Law Number 11 of 2021 concerning the Republic of Indonesia Prosecutor's Office specifically regulates the duties and authorities of the prosecutor's office as a law enforcement agency, including in prosecuting criminal cases, implementing court decisions, investigating specific criminal acts, and other aspects related to the criminal justice system. These two laws synergize to form a comprehensive legal framework in upholding justice in the criminal law domain in Indonesia.

Meanwhile, Law Number 35 of 2009 concerning Narcotics regulates criminal offenses related to narcotics from Article 111 to Article 148, covering the use, trafficking, and production of narcotics. The Prosecutor's Office has the authority to destroy seized narcotic items in accordance with Article 91, which sets a maximum period of 7 days for destruction after receiving the destruction order from the Chief Prosecutor of the respective district. Law Number 48 of 2009 concerning Judicial Power asserts that prosecutors act as executors in implementing court decisions in criminal cases, including the destruction of seized narcotic items. The storage and destruction of narcotic evidence are regulated by Regulation of the Republic of Indonesia Prosecutor's Office Number 2 of 2022, emphasizing the physical and administrative responsibilities of the officials in charge of seized items. However, in practice, there are often delays in destruction due to various operational obstacles faced by the Humbang Hasundutan District Prosecutor's Office.

RESEARCH METHODS

Research methods in the legal domain include a juridical normative approach enriched with empirical data from interviews, as well as applying a descriptive analytical approach. This approach allows for in-depth analysis of legal regulations and related cases, using both the statutory approach and the case approach. The research was conducted at the Humbang Hasundutan District Attorney's Office within a specific timeframe to ensure access and completeness of data. Data collection was done through literature review and interviews with relevant law enforcement officials. Data analysis employed a qualitative method to gain a profound understanding of the observed legal phenomena, enabling deductive and inductive conclusions using scientific logic.

RESULT AND DISCUSSION

Implementation Procedure of the State Prosecutor's Office of Humbang Hasundutan in Handling Narcotics Crime Evidence (A Study at the State Prosecutor's Office of Humbang Hasundutan)

The execution procedure of the State Prosecutor's Office of Humbang Hasundutan in handling narcotics crime evidence is a complex process, requiring careful management in line with the evolution of regulations and operational standards. As a law enforcement entity, the Prosecutor's Office has a significant responsibility in handling narcotics evidence, involving a series of important stages (Tarigan, 2017). In the latest regulations, the Humbang Hasundutan Prosecutor's Office has a significant role in accordance with its legal mandate affirming its independence and authority in carrying out its duties (Effendy, 2005). This is in line with the need to uphold legal sovereignty, safeguard public interests, and ensure law enforcement as well as human rights. The process of handling narcotics evidence involves a series of stages, starting from seizure to destruction or utilization for research and technology development purposes. Bhaskara (2021) states that evidence storage is conducted meticulously, in accordance with established operational standards, and its recording is done electronically through a secure system.

Handling narcotics evidence also involves various processes, including research, custody, maintenance, and security (Mamalu, 2014). Important stages related to destruction must also be carried out in accordance with applicable legal provisions. However, in its implementation, the State Prosecutor's Office of Humbang Hasundutan faces several obstacles, especially regarding evidence storage and destruction. These constraints affect the implementation of duties in the field and sometimes require adaptation to established procedures.

In efforts to improve efficiency and compliance with existing procedures, the State Prosecutor's Office of Humbang Hasundutan needs to continually evaluate and update the methods and systems used, and also enhance coordination among related work units in handling narcotics evidence. This step is important to ensure that narcotics cases are handled effectively and in accordance with applicable legal principles.

Storage of Narcotics Crime Evidence by Prosecutors (A Study at the State Prosecutor's Office of Humbang Hasundutan)

In handling narcotics crime cases within the State Prosecutor's Office of Humbang Hasundutan, the main aspect receiving attention is the storage of evidence. Although not specifically regulated in the Narcotics Law, the law regarding storage rules refers to Article 44

of the Criminal Procedure Code (KUHAP). The requirement to store narcotics evidence in the State Seized Goods Storage Facility (Rupbasan) is expected to anticipate misuse and damage to the evidence. In the realm of criminal law, the distinction between evidence and exhibits is crucial in maintaining legal order and protecting society. However, the management of narcotics evidence raises debates regarding jurisdiction between the Prosecutor's Office and Rupbasan. Although Rupbasan has jurisdiction according to KUHAP, the Prosecutor's Office also asserts its authority claims in managing seized goods, especially narcotics, referring to internal regulations.

In practice, evidence stored in Rupbasan often becomes a necessity in various examination stages, ranging from investigation to trial processes (Ismawati, 2023). The release of evidence from Rupbasan is clearly regulated in accordance with existing legal provisions. However, the Prosecutor's Office has strong reasons to store narcotics evidence separately, such as capacity constraints of Rupbasan and the need for evidence use in trials. The constraints faced by the Prosecutor's Office in managing evidence storage include limited human resources, inadequate infrastructure, and budget constraints. These constraints potentially lead to evidence damage, decreased value of evidence, and difficulties in the destruction process. Nevertheless, the process of storing evidence, especially narcotics, is still carried out rigorously to prevent misuse and ensure its safety and integrity.

The Role of Prosecutors in the Destruction of Narcotics Crime Evidence (A Study at the State Prosecutor's Office of Humbang Hasundutan)

In the realm of law enforcement concerning narcotics crime cases, the Evidence and Seized Goods Management Section within the State Prosecutor's Office of Humbang Hasundutan plays a significant role. Based on the regulation of the Attorney General of the Republic of Indonesia Number PER-006/A/JA/07/2017, their responsibilities include a series of activities ranging from recording, research, storage, to the stage of narcotics evidence destruction (Sormin, 2021). However, complex issues surrounding the authority and procedures of destruction have resulted in delays in implementation in several instances. Although the destruction process has been regulated by legislation, budget constraints, limited infrastructure, and inter-agency coordination pose obstacles that need to be addressed.

Regulations regarding the procedure of destruction already exist, but their implementation still encounters several challenges. The Prosecutor's Office strives to maintain the integrity and security of narcotics evidence by conducting recording, storage, and planning for destruction in accordance with applicable provisions. However, practical constraints such as the deterioration of evidence quality due to time factors and uncertainty about the status of

the evidence need to be overcome. The implementation of destruction is also closely related to inter-agency coordination, where the Prosecutor's Office needs to coordinate the timing and location of destruction with relevant agencies (Albar, 2009). Scheduling, the presence of community leaders or non-governmental organizations, and the procedure for implementing destruction are aspects that require detailed attention in carrying out this process.

Despite the complexity of regulations and practical constraints, law enforcement regarding the destruction of narcotics evidence remains a priority. Securing and destroying narcotics evidence are crucial steps in the efforts to combat narcotics abuse. However, measures to improve coordination, develop more structured planning, and ensure legal aspects are met are key to ensuring the smooth implementation of narcotics evidence destruction.

Internal and External Challenges of Prosecutors in Handling Narcotics Crime Evidence (A Study at the State Prosecutor's Office of Humbang Hasundutan)

Evidence plays a crucial role in the criminal procedural law process (Firdaus & Feriza, 2015). Errors in the evidence process can result in judgments that are far from truth and justice. This is the main foundation in the course of court trial examinations that determine the fate of the defendant, where evidence, evidence regulations, and the strength of evidence become important focal points in the Criminal Procedure Code (KUHAP) (Nursar Aswad, 2018).

Evidence is central to the resolution of criminal cases (Aritonang et al., 2022). Although there are detailed legal rules in the Criminal Procedure Code and related legislation, the definition and regulations surrounding evidence are still internal and do not have universal coverage. Therefore, there is a need for comprehensive regulation codification related to evidence, which includes definitions, management, status changes, and other aspects. The Prosecutor's Office, as an authorized institution, has the responsibility as the executor of court decisions that have legal force, including in the destruction of narcotics evidence (Aisyah & Sahari, 2022). However, from research related to the State Prosecutor's Office of Humbang Hasundutan, there are obstacles in handling evidence that do not comply with Law Number 35 of 2009 concerning Narcotics.

Internal factors such as a large number of cases causing delays in destruction, evidence storage at the Prosecutor's Office, and destruction costs are major obstacles. In addition, inadequate storage space that does not meet security standards is also a problem faced. External factors such as the role of the community or journalists in overseeing the destruction process also affect the course of the process. In this context, the implementation of narcotics evidence destruction often experiences delays, even exceeding the time limits set in regulations, which potentially reduces the amount of narcotics stored. The State Prosecutor's Office of Humbang

Hasundutan must comply with Law Number 35 of 2009 concerning Narcotics, especially in the process of destroying narcotics evidence after obtaining a final and legally binding court decision, in accordance with the set time limits.

Efforts and Internal and External Challenges of Prosecutors in Handling Narcotics Crime Evidence (A Study at the State Prosecutor's Office of Humbang Hasundutan)

The State Prosecutor's Office of Humbang Hasundutan has initiated a series of strategies to overcome internal obstacles in managing narcotics evidence. In operational aspects, emphasis is placed on increasing productivity in handling the number of cases, verifying storage compliance with applicable regulations, and careful financial management to facilitate evidence destruction. Personnel selection with adequate qualifications and meticulous supervision are key elements in preventing violations or misuse of seized objects.

External measures are also prioritized, especially in the process of narcotics evidence destruction. By implementing rapid and optimal destruction procedures, and involving public participation in this stage, the State Prosecutor's Office of Humbang Hasundutan seeks to maintain transparency and compliance with applicable regulations. Improvement of infrastructure and careful monitoring of evidence integrity through the verification process are additional focuses in addressing external challenges.

Through close cooperation with the North Sumatra Prosecutor's Office, these steps are implemented meticulously to ensure that the procedures for storing and destroying narcotics evidence are carried out according to standards without imposing sanctions on personnel on duty, as long as all actions are carried out in accordance with established procedures. This is a focal point to ensure the application of rules in handling narcotics evidence is carried out efficiently and effectively, without neglecting compliance with applicable regulations.

Preventive and Repressive Efforts of Prosecutors in Handling Narcotics Crime Evidence (A Study at the State Prosecutor's Office of Humbang Hasundutan)

Prosecutors have authority over evidence, including the right to issue and return seized items stored in special storage rooms at the State Prosecutor's Office or Rupbasan, in accordance with the court's order and decision adjudicating the case. This authority applies to prosecutors until the evidence is returned to its original storage space. Seized evidence, especially narcotics, is stored separately, placed in special rooms with bars, and placed in different safes from other evidence. Handling narcotics evidence has its own mechanisms.

In an effort to prevent obstacles in handling narcotics evidence, preventive and repressive approaches are taken. Preventive efforts involve preventive measures before problems arise. However, if the preventive concept is defined broadly, repressive actions, such

as sanctions against offenders, are also included to prevent the emergence of problems or obstacles. Preventive efforts are directed at providing socialization to prosecutors regarding evidence handling and law enforcement in accordance with applicable regulations. In addition, legal education is provided to members of the prosecutor's office regarding regulations in handling narcotics evidence to prevent deviations in their authority. Meanwhile, repressive efforts are actions to address problems by imposing penalties on offenders. The prosecutor's office receives reports regarding abuse of authority in handling narcotics evidence and conducts direct investigations into the violations that occur. After violations by members of the prosecutor's office are proven, sanctions are applied in accordance with applicable laws and regulations.

In this analysis, the theory of justice is used as an analytical tool to examine issues related to justice in law enforcement. Justice is interpreted as equality, both in numerical and proportional aspects. Enforcing justice in the context of errors or violations includes compensating the injured party or imposing appropriate penalties on the perpetrators of crimes. The theory of justice is an important element in responding to obstacles and efforts made, especially in decision-making regarding authority and sanctions imposed on lawbreakers.

CONCLUSION

Research on the procedures for handling, storing, and destroying evidence related to narcotics crimes at the State Prosecutor's Office of Humbang Hasundutan highlights the complexity and challenges that arise within this framework. The role of the Prosecutor's Office as law enforcement is crucial in ensuring the integrity of the legal system and ensuring that the handling of evidence complies with applicable rules. However, internal and external constraints such as limited resources, infrastructure, and inter-agency authority influence the smoothness of the process. In an effort to address this, the Prosecutor's Office needs to continuously evaluate, enhance coordination, and update the approaches and systems used in managing narcotics evidence. This step is crucial to ensure efficiency, compliance with legal principles, and maintain transparency and security throughout the process.

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