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### Analysis of Legal Protection against Undercover Agents in the Investigation of Narcotics Crimes

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#### Abstract:

Narcotics crime is a transnational crime that has been structured, ranging from dealers, couriers, to users. Thus, investigators strive to perform maximum eradication through various investigation techniques, one of which involves undercover agents. The problem in this study is: How is legal protection provided for investigators who act as undercover agents in uncovering drug crimes? This study aims to describe the protection of undercover agents carried out by investigators from a legal perspective. This research uses normative and empirical juridical approaches. The legal protection provided to undercover agents is contained in laws and regulations to prevent risks and threats that occur and provide limitations in conducting investigations. The research results and discussion show that an undercover agent acts by collecting the initial profile of the target based on reports from informants, and developing and making hypotheses. Then, an investigation is carried out in disguise in accordance with applicable regulations. The legal protection provided to undercover agents is contained in laws and regulations. This research is expected to provide views in the development of science related to the eradication of narcotics crimes using the undercover agent method that has been regulated in the Narcotics Law, provide views to the public regarding the undercover agent technique used in disclosing narcotics crimes, increase knowledge, and be used as a reference in future research. The novelty of this study is in a significant contribution to determining the characteristics of investigators who are entitled to legal protection, namely, whether they perform their duties in accordance with regulations.

**Keywords:** legal protection, undercover agent, narcotics.

### 侦查毒品犯罪中卧底的法律保护探析

#### 摘要:

毒品犯罪是一种跨国犯罪，其范围包括毒贩、快递员和使用者。因此，调查人员努力通过各种调查技术最大限度地根除病毒，其中之一涉及卧底特工。本研究的问题是：如何为侦破毒品犯罪的卧底侦查人员提供

法律保护? 本研究旨在从法律角度描述侦查人员对卧底特工的保护。本研究采用规范和实证的司法方法。法律和法规中包含向卧底特工提供的法律保护, 以防止发生风险和威胁, 并在进行调查时提供限制。研究结果和讨论表明, 卧底特工的行动方式是根据线人的报告收集目标的初步资料, 并制定和提出假设。然后, 按照有关规定进行变相调查。为卧底特工提供的法律保护包含在法律和法规中。本研究旨在为禁毒法规定的卧底手段根除毒品犯罪的科学发展提供参考, 为公众对揭发毒品犯罪所采用的卧底手段提供意见, 增加知识, 为以后的研究提供参考。本研究的新颖之处在于, 对于确定享有法律保护的侦查人员的特征, 即是否按照规定履行职责, 做出了重大贡献。

**关键词:** 法律保护、卧底特工、毒品。

## 1. Introduction

Social problems must occur in every country, including Indonesia. In accordance with the principle of *ius society ibi ius*, which means that where there is society, there is law. That is, as long as there is a society, there will continue to be a process of change, and social problems will continue to arise and affect the dynamics of people's lives. The development of crime in Indonesia, which is currently increasing, is a social problem that arises in the community, one of which is related to drug abuse that continues to occur. This can be proven by the existence of press notifications both through newspapers and electronic media that exist every day regarding arrests, smuggling, and illicit trade related to narcotics abuse.

According to data from the National Narcotics Agency for 2022, there are several negative impacts due to drug abuse. Drug abusers experience a decrease in thinking, brain performance, and interference with other organs. Some arise due to drug abuse, ranging from the loss of electrolyte balance in the body that causes convulsions and impaired quality of life and death. Death is the worst impact that occurs when narcotics are used in high doses. Seeing the impact of the dangers of narcotics use and its widespread circulation, the government, with its authority, stipulates the law of Republic Indonesia number 35 of 2009 regarding narcotics as a regulation in suppressing the level of narcotics circulation and use in Indonesia. In terms of preventing and suppressing the circulation of narcotics, an active role is needed from both the community and the government to provide awareness of the negative impacts arising from the abuse of narcotics. Law enforcement made an effort to realize the goals of criminal law, namely justice, legal certainty, and social benefits (Husin, 2020). Efforts to eradicate drug crimes that arise are not easy. Based on cases that arise through electronic media and newspapers, the eradication of narcotics has complex problems. Therefore, support and efforts are needed, one of which is from the police in law enforcement related to narcotics trafficking. In suppressing the level of narcotics trafficking, investigators are given an expansion on investigation techniques carried out with covert purchases made by undercover agents.

Undercover agents are investigators who act as buyers in the illicit narcotics trade. Investigators while

conducting investigations are authorized to purchase covertly and surrender under supervision. With this undercover agent technique, it is hoped that investigators can directly be in the illicit narcotics trafficking network by undercover to determine the conditions and situations in the illicit narcotics trafficking network and its operational system. The efforts of investigators who act as undercover agents in uncovering narcotics crimes are interesting to be examined. This undercover agent technique is expected so that investigators can directly be in the illicit narcotics trafficking network by undercover agents to determine the conditions and situations in the illicit narcotics trafficking network and its operational systems. In this situation, the investigator must be able to act as a buyer to obtain evidence that a drug crime has occurred. The need for this undercover agent is to find the culprit because illicit narcotics transactions cannot be done blatantly; disguised or so-called undercover agents are needed. Upon the discovery of evidence and suspects, efforts were made to catch up with the existing evidence.

This research is interesting because there will be various possibilities that occur when undercover investigation is conducted, and the possibility that there are other parties who will be involved in the investigation. This study is novel, it makes a significant contribution to determining the characteristics of investigators who are entitled to legal protection, namely, whether they perform their duties in accordance with regulations (Sudjadi, 2022). This includes if the undercover agent is employed but is not appropriate and there is no strict supervision, the danger will be very likely. The protection of investigators provided by the state, stipulated in Law of The Republic of Indonesia Number 35 of 2009 Regarding Narcotics, is not specifically described regarding the form of protection. This protection is needed because of the high possibility of threats that endanger themselves, their lives, and/or property, either before, during, or after the case process. Therefore, the author is interested in studying the above problems.

## 2. Literature Review

An undercover agent leads covert investigations to reveal a narcotics crime using undercover buying techniques, where the investigator is under orders to

disguise or infiltrate agents and act as a buyer in illicit narcotics transactions.

This agent infiltration is implemented by drug crime investigators, but not all investigators can perform infiltration. Undercover agents and covert purchases can only be made by investigators who have obtained a warrant from the leadership to carry out covert purchases. In conducting their duties, investigators who act as intruders in covert purchases are entitled to legal protection (Sudjadi, 2022).

Investigators who act as undercover agents disguise or infiltrate agents and make purchases, where the object purchased is narcotics, by hiding their true identity so as not to be recognized by others as investigators. Therefore, in this case, the buyer in the illicit transaction in question is an investigator, while the seller is a person who was previously suspected of being a narcotics dealer, and the object of buying and selling is narcotics. To start the investigation mechanism for narcotics crimes, it is necessary to have standard operating procedures (SOPs) to provide certainty about the operational activities of the organization or company running smoothly. The first stage carried out by investigators is the investigation. To be able to perform investigative actions, what is carried out first is an investigation by the investigating office, with the desire to take and store preliminary evidence or sufficient evidence to be continued in the investigation, then conduct an examination or processing of the crime scene. Once it is known that the investigation is completed and is considered sufficient as evidence for the beginning of a criminal act, the next process is the process of enforcement and examination. Investigation is an important part of the investigation structure that must be carried out before proof is obtained against the alleged criminal act. The investigation process cannot be separated from the provisions of legislation governing criminal acts.

The mechanism of undercover implementation is carried out in accordance with the technique of investigating covert purchases and submissions under supervision, which must be carried out with caution. Covert purchases and submissions under supervision under Article 75 letter j must be made by the investigator through a written order from the leadership. Article 79 of the Narcotics Law also affirms that in performing this disguise must be done through a written order, so the activity carried out is structured and not sudden or carried out based on oral orders, but through a warrant made by the leader of the investigator in writing. Investigators who act as undercover agents must be able to pay close attention and be vigilant about the objects at hand. When undercover agents make buying and selling transactions, an ambush must also be carried out.

Investigators acting as undercover agents can be directly involved in narcotics trafficking networks. This is because in this technique, investigators play the role of people or part of narcotics trafficking networks that perform narcotics buying and selling transactions. This

disguise technique is used to obtain evidence that a narcotics crime has occurred, in which the seller is caught. Article 1 Paragraph 19 of the Code of Criminal Procedure states in essence that "caught in hand is a person who is arrested at the time of committing a criminal act, or shortly after the crime has been committed, or when called by the public as a person who committed a criminal act, or if a moment later an object is found allegedly used to commit the crime that shows that he is the perpetrator or participated in committing or assisting in the commission of the crime".

Infiltration of an undercover agent is carried out by police investigators and BNN by ascertaining in advance the existence of the target and evidence (Humas BNN, 2022). The infiltration of this agent is carried out with a sufficient team, whose main task is to ensure that the investigator who is the agent in the infiltration has been guaranteed security, so that covert purchases can be carried out in accordance with the proper process. In addition, to ensure protection for investigators in conducting intrusions and covert purchases, there are provisions governing covert purchase techniques and submissions under supervision.

The steps of investigators in conducting investigations and investigations on narcotics crimes must be in accordance with standard operating procedures (SOPs). In the investigation of narcotics crimes, there are a series of processes that must be passed, including the investigation process and investigations that have received information from the public or informants related to the occurrence of narcotics crimes. Furthermore, processing the list of people searched through the results of examination minutes sourced from informants, where this information must be true and reported to superiors in stages for later follow-up. When following up on a drug crime, the investigator is given a duty warrant to plan the investigation and budget needs.

### 3. Materials and Methods

This research applied normative and empirical juridical methods, based on literature law, and an approach based intensively and systematically on the realities that occur in people's lives related to this research.

The analysis method that is the reference for this study is qualitative descriptive analysis. The descriptive method is carried out in processing primary data and secondary data, then explaining the research data that has been obtained, which refers to the applicable legal rules in Indonesia, then collecting and elaborated so that a conclusion can be drawn to answer problems related to research. This method is used because the author will use regulations, theories, and perspectives in legal science that are associated with the object of research in this paper, thus raising special conclusions.

In this study, the approach to the problem discussed is related to the subject matter using a qualitative

approach, namely by conducting research through interviews with the parties concerned in this study. The normative legal research method uses a normative juridical approach, i.e., through an approach that has reference to applicable laws and regulations. Thus, the analysis is based on laws and regulations relevant to the legal issues discussed in this study. Empirical legal research methods aim to understand unwritten laws that apply in society. In this study, the community is used as an object in examining unwritten regulations that apply in society. Empirical research methods were conducted through interviews. The object of study in empirical juridical research methods is community behavior that appears to be associated with the existing norm system.

The information collected in this study includes primary and secondary data. Primary data are data obtained from interviews between researchers and resource persons with some questions as interview guidelines. The information is then used as written answers. In this case, it is the parties related to this research problem. Secondary data are data obtained or produced from reviewing a literature study and various literature related to the problem or material in the research.

The informants in this study comprised three people. A resource person is someone who provides the desired information and can provide responses to the information provided. In this study, the determination of resource persons includes the following (Table 1):

Table 1. Distribution of the informants

No.	Name	Role
1.	Tamzil	Head of the Narcotics Investigation Unit, Bandar Lampung Police Station
2.	Panca Okta Wijaya	Head of Eradication, BNN Lampung Province
3.	Erna Dewi	Lecturer of Faculty of Law, University of Lampung

Interview questions related to legal protection for undercover agent investigators:

What is the legal protection for investigators who act as undercover agents in the investigation of drug crimes?

What is the pattern of undercover agent implementation carried out by investigators and civilians involved in the implementation of undercover agents to protect them from all elements?

## 4. Results and Discussion

### 4.1. Legal Protection against Undercover Agents

Narcotics are drugs used in the field of health services and scientific development. Narcotics are considered legal drugs in the health sector. Narcotics work by binding a receptor to the brain to lock in pain. Therefore, the pain will disappear within a very short period if this drug has worked. However, in addition, narcotics have an addictive effect that can be harmful if their use is not under supervision or even abused. Drug

abuse is categorized as illegal and is the beginning of criminalization.

The Narcotics Law was created to increase public awareness of the dangers of narcotics. Eradication of narcotics is carried out with the aim that restrictions on the use of narcotics must be in accordance with the interests of science and technology, including medical purposes. In addition to the law, the circulation of narcotics, which is classified as structured, makes the role of law enforcement more demanded, especially in efforts to eradicate narcotics. Making a decision made by an investigator will show the characteristics of the investigator. The purpose of the investigation stipulated in the Criminal Procedure Code is to highlight a criminal act in order to find the suspect. Investigators conducting investigations are given special authority stipulated in the Narcotics Law for the eradication of narcotics crimes.

The protection of investigators in undercover buy disguises in investigating narcotics crimes at the Bandar Lampung Police Station and BNN Lampung is included in preventive legal protection. The role of the police and BNN in performing their duties to conduct investigations has been regulated in the Criminal Procedure Code. In addition, the Criminal Procedure Code provides a role in the investigation and investigation of criminal acts without limitation as long as it is still under the law. An undercover agent or undercover act is an authority given to investigators under the Narcotics Law to uncover cases of narcotics crimes. The implementation of the investigator's disguise is explained in Article 75 letter j of the Narcotics Law that "to conduct the investigation, BNN investigator shall have authority to make the covert purchase investigative technique and delivery under supervision make the covert purchase investigative technique and delivery under supervision" and Article 79 of the Narcotics Law, that "the covert purchase investigative technique and delivery under supervision as referred to in Article 75 item j shall be made the Investigator at written instruction from the leadership." Thus, in performing this disguise is carried out through a written order, so the activities carried out are structured and not sudden or carried out based on verbal orders, but through a warrant made by the leader of the investigator in writing.

In Tamzil's opinion, after receiving reports from the public or informants related to suspected drug cases, further investigations will be conducted. An expansion in investigative authority is given to investigators by posing as narcotics buyers. If at the time of investigation, evidence is found on the target, the undercover agent is said to be successful. The target must master the evidence to fulfill an element of hand capture, i.e., the evidence is on him. If the undercover agent receives the narcotics, the investigation can be said to be invalid and the investigator can be convicted following the Narcotics Law.

However, the police as investigators who are

undercover agents can develop investigations, one of which is by using narcotics to give confidence to the target and with the aim of obtaining a larger network. This can be done by force (overmatch); it is first known by the leadership and can be accounted for. If it cannot be accounted for, the investigator is considered to have committed a criminal act. However, matters related to this form of expansion are not regulated in substance in laws and regulations, so they do not provide legal protection to investigators as undercover agents.

Panca Okta Wijaya argued that undercover agent investigators in BNNP Lampung were given an expansion in investigating narcotics crimes by making covert purchases and disguises. However, investigators are prohibited from receiving or even using narcotics under any circumstances because it is considered that it would violate the rules as appropriate. In the undercover agent investigation, a disguise is carried out so as not to arouse suspicion of the target. However, in its implementation, investigators perform control in the field so that the investigation runs according to plan and does not violate the rules. If the rules state that evidence must be on the target, then in reality, the evidence must be on the target.

Article 16, paragraph (1), letter l of the Police Law states that "conducting other acts according to law is responsible." Furthermore, paragraph (2) states that "other actions as referred to in paragraph (1) point l are investigations and investigations carried out if they meet the following requirements: a) not contrary to a rule of law; b) in accordance with a legal obligation requiring such action to be performed; c) must be proper, reasonable, and included in the environment of his position; d) reasonable consideration based on force majeure; and e) respect for human rights."

According to Erna Dewi et al. (2016), investigations through undercover agents are regulated in the Narcotics Law and must be conducted in accordance with the provisions in the Law. Regarding the expansion of investigative authority to the police, it must still refer to the Narcotics Law because investigators as law enforcers are entitled to legal protection in performing their duties.

The police have broad authority in investigating drug crimes undercover. This technique involves not merely making covert purchases by investigators of suspected criminal acts but must follow applicable procedures. Undercover agent investigators in the National Narcotics Agency of Lampung Province are given the opportunity to investigate narcotics crimes by making covert purchases and disguises. However, investigators are prohibited from receiving or even using narcotics under any circumstances because it is considered that it would violate the rules as appropriate. In the undercover agent investigation, a disguise is carried out so as not to arouse suspicion of the target. However, in its implementation, investigators perform control in the field so that the investigation runs according to plan and does not violate the rules. If the rules state that evidence must be on the target, then in

reality, the evidence must be on the target.

Based on the article above, the author's analysis is the action of police investigators in conducting investigations through undercover agents, which in its expansion if a state of compulsion to use narcotics is allowed provided that it can be accounted for in court, then this is not fully in accordance with the article above. What is not appropriate is that accepting and even using narcotics is contrary to the rule of law and does not make sense in terms of investigation.

Investigators do not have to use narcotics in conducting investigations regardless of the circumstances because investigators are law enforcers who should be able to control the actions of targets during investigations if they feel that these actions may violate the rules. In addition, there are no clear rules regarding force majeure allowed in the investigation. Therefore, according to the author's point of view, this can lead to two things, namely investigators who act arbitrarily in the absence of rules in the investigation or investigators who are not legally protected so that they can be convicted for violating legal provisions.

An undercover agent in a narcotics crime must include one element of being caught, namely, evidence on him. When making covert purchases, undercover agents are prohibited from making transactions or receiving narcotics under any circumstances. If the undercover agent receives the item, the element of "evidence is on him" will be lost and the undercover agent will lose protection as an investigator because it is considered to exceed the limits of the investigation in accordance with the law. The National Narcotics Agency of Lampung Province expressly prohibits investigators from taking actions outside the provisions that should avoid abuse of authority and provide legal protection to investigators. In essence, investigators protected under the Narcotics Law and the BNN and Polresta Laws and Regulations are investigators who perform their duties in accordance with applicable regulations. Meanwhile, if there is a force majeure that requires investigators to use narcotics so as not to be suspected, it is an unreasonable condition in the investigation.

Undercover agent investigators in the police cannot solely expand investigations on the grounds of forced circumstances because force majeure means that coercion that cannot be resisted is unlawful and occurs instantly. Meanwhile, if the situation is first known by the leadership, it does not happen immediately, and there is a period in the investigation so that it cannot be categorized as a force majeure. If in an immediate and coercive situation, the investigator should make other efforts so that the investigation is carried out in accordance with laws and regulations so that the investigator gets maximum legal protection. This can also be overcome by creating specific operational standards for circumstances that may occur beyond the control of the undercover agent. Undercover agents require maximum legal protection in performing their duties. Clear standard operating procedures are needed

in undercover agent investigations so that there is no abuse of authority and investigators get legal protection. Legal protection is needed in disclosing narcotics crimes, especially to parties who support the non-disclosure of narcotics crimes, such as investigators who act as undercover agents and conduct surveys in the environment of drug dealers or users.

#### **4.2. Pattern of Undercover Agent and Informant Investigation to be Protected from All Elements**

The definition of investigation is emphasized as “the act of finding and collecting evidence to find suspects” in an event. This is in accordance with the definition of investigation in Article 1 Paragraph 2 of the Code of Criminal Procedure, which states that “Investigation is a series of actions of investigators in the manner stipulated in the Law to search and collect evidence to make light of a criminal act and find the suspect”.

Problems that arise in the community require maximum handling. The goal is to create a sense of security and fairness for all parties, both law enforcement and the community. However, its implementation is not always the same as what is expected. Various problems arise and become obstacles in providing legal protection to *undercover agents* and informants.

Based on law enforcement theory, it is related to the pattern of investigations into narcotics crimes carried out by police investigators and the National Narcotics Agency in the jurisdiction of Bandar Lampung to be protected from all elements that could break the narcotics network, regarding the following factors.

##### **4.2.1. Statutory Factors**

The statutory factor means that interference with law enforcement originating from the law may be caused by non-follow-up to the principles of the enactment of the law, the absence of implementing regulations that are urgently needed in implementing the law, and the unclear meaning of the words in the law, which results in vague or unclear interpretation and application.

Article 75 letter j of the Narcotics Law states that “to conduct the investigation, the BNN investigator shall have authority to make the covert purchase investigative technique and delivery under supervision”. The expansion of investigation techniques regulated in the Narcotics Law is a series of efforts in the prevention and eradication of narcotics crimes that are carried out in an organized manner, have a wide network, and transcend national borders. The role of an undercover agent by the Bandar Lampung City Resort Police operationally refers to the Regulation of the Chief of the National Police of the Republic of Indonesia Number 6 of 2019 concerning criminal investigation. Article 6 states that, “investigation activities are carried out by processing crime scenes, observation, interviews, surveillance, tracking, research, and document analysis”.

Panca Okta Wijaya expressed his opinion that the

efforts made by the National Narcotics Agency of Lampung Province and Bandar Lampung Police to break the narcotics trafficking network were by conducting investigations. The disconnection of the narcotics network is a step taken by investigators to eradicate narcotics trafficking with the aim of obtaining a larger network. This effort is carried out considering that drug abuse is a crime that threatens people’s lives.

An undercover agent is an undercover investigator who is undercover to reveal a drug crime using undercover buying techniques, in which investigators are under orders to disguise or infiltrate agents and act as buyers in illicit narcotics transactions. Undercover investigation is part of the discretion that investigators have to uncover drug crimes. The investigator’s right in this case relates to the grounds for criminal removal. The reason for criminal abolition is that it allows people who commit acts that meet the formula of offense or criminal offense but are not convicted.

The reasons for criminal removal are classified into two categories:

- 1) The reason for not being able to account for a person lies in that person,
- 2) The reason for not being accountable to a person lies outside that person.

Investigators acting as *undercover agents* and making covert purchases are part of performing office orders. This is the justification that the order must be performed properly, reasonably, and reasonably.

Tamzil argues that the investigation technique in eradicating narcotics crimes involves covert purchases made by investigators when information has been obtained about suspected narcotics crimes. Investigation actions are carried out with undercover agents or by involving investigators in narcotics distribution networks to certain locations. If evidence is available on the suspected target, the investigator immediately makes a hand arrest. Article 1 paragraph 19 of the Code of Criminal Procedure states that “caught in hand is the arrest of a person while committing a criminal act, or shortly afterward called by the public as the person who committed it, or if later an object is found that is suspected to have been used to commit the crime which shows that he is the perpetrator or participated in committing or assisting in the commission of the crime.”

Tamzil expressed his opinion that one element of being caught was that the evidence was on him. In the case of narcotics crimes, the element of being caught in the hands that meets the evidence on him. When making covert purchases, undercover agents are prohibited from making transactions or receiving narcotics under any circumstances. If the undercover agent receives the item, the element of “evidence is on him” will be lost and the undercover agent will lose protection as an investigator because it is considered to exceed the limits of the investigation in accordance with the law. However, this can be excluded if under forced circumstances, the undercover agent must accept or

even use narcotics. This situation must be accountable and known by the leadership. If this investigative authority is not regulated in substance in the legislation. If it is felt that it can be accounted for, the investigation is said to be successful.

Legal protection for informants is also regulated in Article 35 of Government Regulation Number 40 of 2013, which states:

(1) "Protection must be provided by the state to Witnesses, Whistleblowers, BNN Investigators, investigators of the National Police of the Republic of Indonesia, investigators of certain civil servants, public prosecutors, and judges who examine cases of Narcotics and Narcotics Precursors and their families from possible threats that endanger themselves, lives, and/or property, either before, during, or after the case examination process."

(2) "The protection referred to in paragraph (1) shall also apply to experts and laboratory personnel and their families."

Based on the content of the article above, the informant is entitled to legal protection as referred to in Article 35. Providing legal protection to informants is expected to provide a sense of security and fairness for informants who have contributed to breaking the narcotics network. Therefore, it is hoped that more and more people will play a role in helping law enforcement in eradicating drug crimes.

Based on the explanation above, it can be analyzed that the law is the basis for law enforcement in this case as a basis for investigations to be structured so that investigations can be conducted in accordance with applicable regulations. Thus, the existence of the Narcotics Law provides space for investigators to conduct extensive investigations such as making covert purchases and becoming undercover agents. And providing legal protection to informants in reporting narcotics crimes in their area. The authority stipulated in this law, in itself, provides protection to investigators who exercise their authority under the law.

If investigators do not have clear rules regarding force majeure as allowed by undercover agents, then this can lead to two things: investigators who act arbitrarily in the absence of rules in the investigation or investigators who are not legally protected so that they can be convicted for violating legal provisions. A pattern of investigation in narcotics crimes through disguise tends to trigger abuse of authority by investigators of the Directorate of Drug Investigation of Bandar Lampung Police. For this reason, there should be clear rules related to the authority of undercover agents to obtain maximum legal protection.

#### 4.2.2. Law Enforcement Factors

Law enforcement factors play an important role because a key to success in law enforcement is the personality of the law enforcement personnel. If law enforcement does not understand the limits of its authority, there abuse of authority in performing its duties.

Bandar Lampung Police and the National Narcotics Agency of Lampung Province, as well as other law enforcers, strive to eradicate narcotics cases by making various efforts in accordance with procedures. One of them is conducting operations at both the entrance and exit of Lampung Province. This operation was carried out at several points, including Bakauheni Port, Radin Intan Airport, stations, and terminals, because these points are routes with a fairly high level of smuggling of goods. This operation was conducted together with Customs, National Police, Ministry of Transportation, Agricultural Quarantine, and Animal Quarantine. The purpose of this operation is to guard the area in and out of Lampung Province and minimize smuggling by sea, land, and air. Lack of human resources becomes an obstacle in conducting investigations, especially in narcotics crimes. In Panca Okta Wijaya's opinion, the National Narcotics Agency of Lampung Province has not so many members due to several factors, one of which is mutations in its members. The lack of human resources in an institution is also a challenge in conducting an investigation. The National Narcotics Agency of Lampung Province strives to continue investigating as undercover agents in accordance with the law.

Tamzil argued that the personnel prepared for narcotics investigations are investigators who have been trained and prepared to serve in the field. Therefore, not all investigators can be undercover agents. Undercover agents are not merely narcotics investigators but investigators who have been specially trained to become undercover agents.

Panca Okta Wijaya expressed his opinion that investigators who act as undercover agents will use disguised property to become undercover agents. The purpose of using different properties in each drug case is to cover the real identity of an investigator so that it is not recognized by the target. This is done because members of the National Narcotics Agency of Lampung Province, especially in the intelligence section, are sufficient in number and can even be said to be lacking, so it is very easily recognized by narcotics trafficking networks. Therefore, a disguise is needed in the investigation. The personnel of the National Narcotics Agency of Lampung Province are approximately 300 people with 14 regencies and cities; therefore, they cannot be covered as a whole. However, the National Narcotics Agency of Lampung Province strives to perform its duties evenly.

Tamzil argued that undercover agents from the Bandar Lampung Police must be narcotics investigators who then conduct special training to become undercover agents. Meanwhile, in the opinion of Panca Okta Wijaya, to become an undercover agent at the National Narcotics Agency of Lampung Province requires an investigator who is appointed and willing and has attended special training.

Article 15 of the Chief of Police Regulation on Criminal Investigation states that

(1) Before conducting an investigation, the

investigator must make an investigation plan that is submitted to the investigator's superior in stages.

(2) The investigation plan referred to in paragraph (1) contains the following: a) the number and identity of investigators, objects, targets, and targets of investigation; b). activities and methods to be carried out in the investigation; c). characteristics and anatomy of the case to be investigated; d) time required in the implementation of investigation activities; e) facilities and infrastructure needed in the implementation of investigation activities; f) budget needs in the investigation; and g) completeness of investigation administration.

The team in charge of preparing the investigation plan has one leader. The appointed leader is an investigator who understands the location of suspected drug crimes. Observations are made when plans have been prepared in such a way as to obtain more information regarding the conditions around the scene. Then, approaches are made to the community so as not to arouse suspicion. Next, target tailing is carried out. The team in charge of being an undercover agent must recognize the characteristics of the target to avoid miscapture. Although this investigation plan has been prepared, it is possible that the pattern will be in accordance with the conditions on the ground at the time of the investigation.

Based on data from the National Narcotics Agency of Lampung Province and Bandar Lampung Regional Police, there are almost no failures in the investigation process, even with limited personnel. Limited personnel make the National Narcotics Agency of Lampung Province and Bandar Lampung Police maximize the investigation and investigation plans that have been made periodically with implementation patterns adjusting to the results of observations in the field.

Based on the data above, it can be analyzed that the pattern carried out between investigators from the Bandar Lampung Police Station and the National Narcotics Agency of Lampung Province has slight differences. However, so far, the abuse of authority related to covert purchases has never occurred because the standard of investigation is carried out based on the provisions of the investigation, even though there are no clear rules regarding the circumstances of forcing investigators to undercover agents. The pattern of investigations carried out by investigators is in accordance with the investigation plan and investigations that have been prepared previously and must be in accordance with the applicable legal basis, even though the police are authorized by law to take other actions, given that the authority to take other actions by the police at the time of performing the investigation is very broad. The police must be able to account for all forms of actions taken in performing their duties so that there is no abuse of authority during the investigation so that investigators still get legal protection.

#### 4.2.3. *Facilities and Infrastructure Factors*

The factor of facilities and infrastructure that support law enforcement is very important because without supporting facilities and infrastructure, law enforcement is unlikely to run smoothly. Facilities and infrastructure that support law enforcement include educated and skilled human resources, good organization, adequate equipment, and sufficient finances.

Panca Okta Wijaya expressed his opinion that supporting facilities and infrastructure are an important factor in investigating narcotics crimes. BNNP Lampung and Bandar Lampung Police still have problems in the facilities and infrastructure used for investigation purposes, such as human resources that are not so much so that they are more easily recognized by drug dealer networks in a place and property that must be used when undercover. The use of this property is dynamic according to the pattern of investigation that has been prepared. Sometimes, investigators have to go undercover and change professions according to the needs of the investigation. The obstacles in this case are limited funds, limited facilities, and limited human resources. The existence of limited funds and facilities makes investigators use various methods to conduct investigations. The next obstacle is the number of investigators who take to the field, making the undercover team understand exactly the situation at the location so as not to be recognized by the target.

Tamzil expressed his opinion that most targets have a wide network and that this network will determine who makes transactions with him. It is common for targets to have suspicions of being undercover agents. This is what requires undercover agents to be able to use facilities and disguise optimally and to use various properties to support the continuity of the investigation. Undercover agents disguise themselves by acting as narcotics buyers by using undercover buy techniques to catch perpetrators or disguise themselves as vegetable traders, prepare merchandise like vegetable traders, and go around the location where the target is located to monitor the situation (Simangunsong, 2014). In fact, it is common for undercover agents to disguise themselves as people with mental disorders when conducting investigations.

Based on the explanation above, it can be explained that the factor of complete facilities and facilities can make the investigation process run smoothly. Limited facilities and facilities at BNN Lampung and Bandar Lampung Police Station affect the investigation process. The more supportive the existing facilities and facilities, the easier the investigation will be. This lack of personnel forces informants to make covert or undercover purchases, so the confidentiality of the informant's real identity must be strictly maintained and monitored as a form of protection to investigators and informants.

#### 4.2.4. *Community Factors*

Law enforcement comes from the community and



achieves peace in the community (Husin, 2020). Therefore, from a certain perspective, the community can influence the enforcement of the law. Narcotics cases handled by BNNP Lampung and Bandar Lampung Police are not small in number. Kota Madya is the highest point of narcotics cases, covering seven districts: Sukaraja, Panjang, Lebakbudi, Lempasing, Rajabasa Indah, and Way Halim. The high number of narcotics cases in Bandar Lampung and surrounding areas is a form of the iceberg phenomenon. In Panca Okta Wijaya's opinion, narcotics cases in the Bandar Lampung area today are similar to the phenomenon of melting icebergs. This is because there are many narcotics dealers scattered in almost all points of Bandar Lampung City. Therefore, the role of the community is needed to help eradicate drug crimes.

Panca Okta Wijaya stated that approximately 75% of information on narcotics cases in Lampung and surrounding areas was obtained from the community. The public participates in the disclosure of drug crimes by providing information to investigators for follow-up. Informants in this case will be given legal protection by keeping their identities secret and allowed not to attend the trial as witnesses to provide a sense of security and maintain the confidentiality of the informant. People are referred to as informants in drug crimes. In general, criminal acts only recognize reports and complaints when these two things are different. Article 1 paragraph 24 of the Code of Criminal Procedure defines a report as "a notification given by a person due to rights or obligations under the Law to an authorized official about a criminal event has occurred or is being or is suspected to have occurred." The definition of a complaint is contained in Article 1, paragraph 25 of the Criminal Procedure Code that "Notification is accompanied by a request by the interested party to the authorized official to take action according to law a person who has committed an adverse criminal complaint." The difference between the two articles above is that the report that has been given then becomes the obligation of the authorities to follow up on the crime report. If in this case the report is withdrawn, it will not stop following up on the reported crime. Meanwhile, the complaint will be examined on the basis of the complainant's request. If the complainant wants the criminal complaint to be handled, it will be handled. If the complainant asks to stop, the handling of the case will be stopped.

The public is only given the right to report suspected drug abuse, which does not mean that the public can participate in the investigation process. If civilians conduct narcotics transactions with the initiative to assist investigators, then this will certainly violate Article 114 of the Narcotics Law, which states that "Any person who without right or illegally offering for sale, sell, purchase, receiving, becoming an intermediary in the sale and purchase, exchange, or submit Narcotics Group I, shall be subjected to imprisonment for life or imprisonment for minimum 5 (five) years and maximum 20 (twenty) years and

penalty of minimum Rp. 1,000,000,000.00 (one billion rupiah) and maximum Rp. 10,000,000,000.00 (ten billion rupiah)." Protection related to the role of informants who assist law enforcement in eradicating drug crimes is urgently needed.

Erna Dewi et al. (2016) believe that legal protection is needed for informants because of the possible risks that may arise after the report is given. These risks are often in the form of threats that endanger informants. As a result, informants fear reporting to the authorities. BNNP Lampung has a program to reward people who have contributed and helped eradicate narcotics crime. However, there are constraints on its security. This is because BNNP Lampung cannot provide protection guarantees after the disclosure of narcotics crimes; thus, if the award is given, it is feared that the public will know who the informant is. Therefore, this award should not be given to maintain the confidentiality of informant data.

Article 109 of the Narcotics Law states that "Government gives awards to law enforcement and the community had been instrumental in the prevention, combating abuse and illicit trafficking in Narcotics and Narcotics Precursor". Giving awards to informants can still be done as a form of appreciation for the community's contribution in helping to reveal narcotics cases that occur around her (Dewi et al., 2016). Awarding can be done behind closed doors so as not to be known to many parties.

Tamzil argued that legal protection for civil society is included in witness protection and will be kept confidential as an informant to report suspected drug crimes. In its implementation, the form of protection provided to informants includes the confidentiality of the informant's personal data.

Based on this description, it can be analyzed that most people already have a sense of concern and contribution in reporting to help eradicate narcotics crimes around them. The explanation above shows that the contribution of informants is actively a major factor in supporting the success of the investigation process, because the more active the informant is in providing information, the more optimal law enforcement efforts will be. Informants have the right to legal protection outside the judicial process to prevent imminent risks that may threaten the safety of the informant himself. Guaranteed protection both in substance and in implementation is needed so that an informant feels safe in providing information related to criminal acts that occur.

#### 4.2.5. Cultural Factors

Soerjono Soekanto (2022) argues that in everyday life, people talk about culture so often. The function of culture is very large for humans and society to organize so that humans can understand how they should act, act, and determine their attitudes when society is related to each other. Thus, culture becomes a basic line of treatment that sets rules about what to do and what is forbidden.

Law enforcement is increasingly adjusted to laws and regulations and the patterns of society to facilitate its enforcement. In addition, the enactment of the law must reflect the values on which customary law is based. In Panca Okta Wijaya's opinion, community judgment influences law enforcement actions in conducting investigations. Especially for some people who are still attached to family culture. The community, which is still thick with a sense of kinship, sometimes cannot accept that in their environment there are perpetrators of criminal acts, so it is common for the community to defend a drug dealer and block the access of investigators in conducting investigations, and often even provide resistance to investigators (Simangunsong, 2014). This certainly makes investigators have to make changes to the pattern of investigation to protect them from all elements.

Based on the data above, it can be analyzed that cultural factors in some communities become inhibiting factors for investigators in forming investigation patterns. For this reason, with the efforts of law enforcement in providing understanding to the community regarding the importance of the community's cooperative spirit in assisting law enforcement, it further opens the public's mind that the role of the community is an important factor in law enforcement. Adjustments between laws and cultures in society are determining factors in the implementation of law enforcement. The pattern of the reaction in society determines the success or failure of an investigation. If a case can be resolved in accordance with the culture of the community, the effort will be carried out without prejudice to applicable national law.

## 5. Conclusion

Undercover agent legal protection research conducted by investigators during the investigation stage. There are several conclusions from the results of this study:

1. Legal protection for undercover agents in the investigation of narcotics crimes is substantially regulated through Article 75 letter j of the Narcotics Law, which is then strengthened by Article 5 and Article 7 of the Regulation of the Chief of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigation. In addition, other rules related to disguise are regulated in the Chief of Police Regulation and BNN Chief Regulation. Legal protection against undercover agents is limited to their authority at the attempted arrest stage, when evidence is presented to the suspect. Investigators are not allowed to use narcotics as a means of investigation because it will eliminate the element of legal protection for investigators, and this is certainly not in accordance with the provisions that should be included.

2. There are factors that cause investigators and informants not to get maximum legal protection, namely legal factors. In this case, police investigators are not given restrictions when undercover or

undercover agents, law enforcement factors are the number of personnel who are still lacking in quantity, and facilities and infrastructure factors are limited facilities and infrastructure for investigation. This study provides insight into the importance of legal protection for undercover agents when conducting investigations by examining various supporting aspects and obstacles faced by investigators.

3. This research is expected to provide outside thinking in the development of science related to the eradication of narcotics crimes, namely by using the undercover agent method, which has previously been regulated in the Narcotics Law. The method of infiltration or undercover agents carried out by law enforcement officials is expected to provide maximum results in trapping the perpetrators of illicit narcotics trafficking, to suppress the circulation of narcotics that can harm the community.

4. The Police and the National Narcotics Agency should make clear rules regarding SOPs for investigator requirements that involve undercover agents in conducting investigations. Legal protection by the Witness and Victim Protection Agency, the National Narcotics Agency, and the Police should be active, given that investigators and informants are entitled to legal protection both before, during, and after the case process so that investigators and informants feel safe, given the dangers faced by drug networks.

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