



Police Discretion in Investigating Criminal Acts of Narcotics Abuse in the Tangerang City Police Legal Area

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Abstract

Crime in society is increasingly varied, and its potential tends to increase from year to year. One of the crimes that often occurs is related to non-criminal drug abuse. Tangerang City is one of the regions in Indonesia that is currently facing this problem. The police, including the police at the Tangerang City Police, in dealing with the problem of narcotics abuse crimes are often faced with certain situations, which if not handled quickly, can hamper the investigation of narcotics abuse crimes. For this reason, the police are usually given permission to take the initiative for investigators to act using a special pattern of investigation (applying discretion). In connection with this, the main purpose of this study is to analyze the mechanism or practice of applying police discretion in the investigation of criminal acts of narcotics abuse in the jurisdiction of the Tangerang City Police, including if there is a violation in the application of discretion, accompanied by the obstacles that accompany it. To answer this problem, this research will be carried out using qualitative methods, trying to interpret something of the exercise of discretion in the investigation of criminal acts of narcotics abuse. Data were collected by conducting interviews and documentation, while data were analyzed by qualitative data analysis using interactive methods.

Keywords: *Discretion; Police; Narcotics Abuse*

Introduction

Crime is evolving all the time. Crime comes from the word evil, which means very ugly, bad; very bad, which is usually related to behavior, character, or deed. Meanwhile, crime has a meaning as an evil act, including holding an crime nature. Crime can also be interpreted as behavior that is contrary to applicable values and norms that have been ratified by written law (KBBI, 2012-2020). From day to day, the number of crimes is also increasing. do not know the place and time, crime or what can also be said as a crime will always happen. Indonesia is one of the countries that are also experiencing problems due to these crimes.

In general, the crime rate in Indonesia, based on registration data, the National Police of the Republic of Indonesia noted that the crime rate during the 2017–2019 period has decreased. The level of risk of being exposed to a crime per 100,000 population in 2017 was around 129, to 113 in 2018, and decreased to 103 in 2019. Meanwhile, Susenas data which describes the percentage of the population who

become victims of crime in Indonesia during the period 2018–2019 also shows a pattern of decrease. The percentage of the population of victims of crime decreased from 1.11 percent in 2018 to 1.01 percent in 2019. Then, based on Podes data, during 2011–2018 the number of villages/kelurahan that became the scene of mass conflict tended to increase, from around 2,500 villages. in 2011 to around 2,700 villages/kelurahan in 2014, and again increased to around 3,100 villages/kelurahan in 2018 (BPS, 2020).

Basically, the presence of narcotics has a positive side, especially in terms of treatment and health, because narcotics are widely used in the anesthesia process before patients are operated on and as sedatives considering that narcotics contain substances that can affect the patient's feelings, thoughts, and awareness (Aulya, 2010). 2017). Likewise in Indonesian law, where the use of narcotics and psychotropic substances is a concept rather than health law according to the Health Law Number 36 of 2009, which considers the use of narcotics and psychotropic substances to be placed or targeted at health science in the medical field (Samosir, 2020). However, along with the times, the distribution and use of narcotics has shifted outside the medical world, where the shift is considered a form of narcotics abuse itself.

In connection with this, the research will focus on the crime of narcotics abuse that occurs around the Tangerang City Police Legal Area, which covers the entire Tangerang Regency area. The legal area of the Tangerang City Police has a long history, where the term Tangerang as the name of the area was only known to the wider community around 1712. Along with the development of its history, a number of important events later made the status of the Tangerang area then upgraded to a Regency area, at the end of 1943. Then, on February 27, 1993 based on Law No. 2 of 1993, the administrative center of Tangerang Regency moved to Tigaraksa. Then, Tangerang Regency which has an area of 959.6 kilometers, and has a population of 2,838,621 people with a male population composition of 1,454,914 people and 1,383,707 women (Bureau of Government and People's Welfare of Banten Province, 2018).

In this case, in 2021, the Tangerang Police Narcotics Investigation Unit arrested 34 narcotics criminal suspects from September to October 2021. Of the arrested suspects, there were those who acted as dealers and users. In the series of arrests, officers confiscated 923.3 grams of narcotics, consisting of 859.25 grams of dried marijuana leaves, 94.64 grams of crystal methamphetamine, and 3.41 grams of synthetic tobacco (Kirom, 2021). Not only that, even the case of narcotics abuse in Tangerang City in 2021 also happened to the Sepatan Police Chief, AKP Oki Beki, and several members of the local police. The narcotics abuse case began with an investigation by his subordinate, Brigadier Roby Cahyadi, who was supposed to be on duty at the Santa Maria Daan Mogot Church Security Post, but was not there. The investigation succeeded in finding Roby in one of the places in the DKI Jakarta area, but the name of the place was not mentioned in detail. After being found, Roby was then asked to do a urine test because of suspicion and suspicion of drug abuse, and the results were positive.

In carrying out their duties, functions and authorities in investigations, the Indonesian National Police, the National Police, are one of the government institutions that have certain powers or special rights that can assist the implementation of their duties and obligations (Haji, Gunarto, & Widayati, 2018). In this case, certain authority given to the Indonesian police is the discretionary authority of the police/police. Police discretion is the authority given by law to act in special situations in accordance with the judgment and conscience of the agency or officer in carrying out police duties as law enforcement, maintaining security and public order (Sutadi & et al, 2013).

Research Method

The research method is defined as a scientific way to obtain data with certain purposes and uses. The research method is a method used to obtain data according to needs. In this case, the type of research method that will be used in this research is qualitative research. Qualitative research is data collection in a natural setting with the intention of interpreting the phenomena that occur (Anggito & Setiawan, 2018). Qualitative research can also be interpreted as a research strategy that usually emphasizes words in data

collection and analysis. This study implies a social research approach, where quantitative data are not collected (Bryman, 2012).

This type of research was chosen because the researcher wanted to describe how the implementation of discretion in the investigation process in the problem of criminal acts of narcotics abuse that occurred in the jurisdiction of the Tangerang City Police, where this phenomenon can be in the form of activities, characteristics, changes, relationships, similarities, and differences between one phenomenon with other phenomena. In this qualitative research, the researcher also wants to try to interpret something of the exercise of discretion in the crime of narcotics abuse, be it the existing conditions, developing opinions, ongoing processes, consequences or effects that occur, or about ongoing trends (Linarwati, Fathoni, & Minarsih, 2016).

The location of this research will be carried out in the jurisdiction of the Tangerang City Police. This is because the Tangerang City Police is the executor of the duties of the Indonesian Police in the jurisdiction of the Tangerang City Police. There are two sources of data in this study, namely primary and secondary data sources. This data source will determine the type of data obtained.

There are two sources of data in this study, namely primary and secondary data sources. This data source will determine the type of data obtained. Primary data sources are data from a number of information or facts obtained by researchers directly through research in the field or research locations. This data is in the form of interviews or information from investigators at the Tangerang City Police. While secondary data is data that is not obtained directly from the field location, but the data is related to relevant data and supports the problem under study. In this case, the secondary data sources used are:

- a. 1945 Constitution.
- b. Republic of Indonesia Law No. 8 of 1981 concerning the Criminal Procedure Code.
- c. Republic of Indonesia Law No. 2 of 2002 concerning the Indonesian National Police.
- d. Criminal Code (KUHP)
- e. Regulation of the Head of the State Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigations.

Various types of documentation sources such as journal results, research reports, seminars, papers, articles, electronic sources and other sources related to the research topic. Data collection technique is the method used by researchers to obtain data in accordance with the research design that has been prepared. In this study, there are two data collection techniques used, namely interviews and documentation studies.

In this study, the researcher chose to use qualitative data analysis techniques using interactive methods. Qualitative data analysis is a research procedure that produces analytical descriptive data, where what is stated by the respondent in writing or verbally, as well as real behavior, which is researched and studied as a whole (Soekanto, 2006).

Qualitative data analysis in the study was carried out by discussing the subject matter based on data obtained both from documentation studies and from the results of field research which were then analyzed qualitatively to obtain problem solving. While the interactive analysis model is a data analysis model, where the data will be processed through three main components, namely: data reduction, data presentation and conclusion drawing, so that the three components interact with each other to form a cycle.

Research Results and Discussion

The Development of Narcotics Crime in Indonesia

Drugs and other addictive substances seem to be a never-ending problem. In the international world, drug trafficking or abuse is considered a serious crime, and Indonesia is no exception. In the context of Indonesia, the potential of the state as a large market share, producer, and transit route for drugs forces us to think about the drug problem in a more complicated and broad way by understanding the reality of drug production. Illegal drugs, illicit trafficking, and drug abuse all occur in Indonesia. Narcotics problems are not only dangerous for users, families, and society, but also for the nation and state, therefore the Indonesian Government is committed to preventing and eradicating the use and illicit trafficking of Narcotics.

Drug trafficking is a unique type of criminal activity that has attracted the attention of every country. In 2020 there are 40,756 drug crimes in Indonesia (Slamet JP, 2021). Natural, synthetic, or semi-synthetic substances or drugs that cause decreased consciousness, hallucinations, and excitability are called narcotics (narcotics and drugs). Narcotics, on the other hand, are defined as “chemicals or artificial substances of plant origin that have hallucinogenic effects, reduce consciousness, and increase addiction,” according to Article 1 of the Narcotics Act. If these drugs are administered incorrectly, the compounds in them can have a severe effect on physical and mental health. The Narcotics Law divides the types into three categories based on the potential for dependence (INDONESIA, 1997):

- 1) Narcotics Category 1: Cannabis, Opium, and Coca plants are all classified as Category 1 Narcotics, which are very dangerous if eaten because of the high risk of addiction.
- 2) Narcotics group 2, namely narcotics that can be used for treatment and accompanied by a notification that it must be taken according to a doctor's prescription. There are 85 different varieties, including Morn and Alphaprodine. Group 2 has a significant probability of causing dependence.
- 3) Drugs classified as category 3 narcotics, or those with moderate risk of addiction; It is usually used for treatment and rehabilitation.

Steps Used by Police in Exposing Drug Networks

The interrelated work ties occurred as a result of the National Police Chief's field instruction No. Pol: Juklap/189/III/1993 regarding the relationship between the Secretariat and the Intelligence Function of the Police in the context of comprehensive crime prevention. When identifying operational objectives (TOs), Intelpompol acts, for example, to carry out additional investigations to identify candidates for TOs in specific TOs and to determine TOs. Meanwhile, detective responsibilities include monitoring TO adjustment procedures, sending information to Intelpampol about TO adjustments, and carrying out enforcement and investigative actions. The police have taken the following steps to uncover drug trafficking networks, including (Prana, Widyantara, & Suryani, 2019):

a. Summons

A summons is a letter containing a summons to a person who, according to the investigator, must be questioned. Only the signature of the detective or designated officer is required for the quote to be genuine. The following provisions are used as a guide for officials in this regard: Summons must describe how it feels to be called. It must be written as a witness if called as a witness. Quotations have a grace period and are given to the recipient in a sealed envelope.

b. Arrest, Search and Seizure

The general rule is that if a suspect is arrested without the use of force, a warrant is not required. If not caught red-handed, the search or arrest must be ratified by a warrant from the Head of the Directorate, complete with number, date, and stamp. Such police action must be based on accurate police records as well as the items charged with committing the crime. Arrests, searches, and seizures

must be authorized and reported to the head of the Investigation Department. Suspects can be handcuffed if deemed necessary, such as to prevent them from escaping. This includes whatever discretion is required if he is not in handcuffs.

c. Inspection

Examination of detained suspects is not prioritized or rushed unless there is an order from the Head of the Directorate of Investigation. Examination of a suspect or witness, whether the suspect is detained or not, is only carried out between 08.00 and 16.00 WIB on working days, unless the suspect is caught red-handed. Continuous examination for 24 hours is a violation of a person's human rights and may result in irregularities, depending on the examiner's decision at the time (policy will be explained later).

d. Detention

No one may be detained unless caught red-handed and only with the permission of the Head of the Agency after the conditions for their detention have been sufficiently determined through a process. The only place of imprisonment is within the Polres area, and any travel outside of that must be approved by the Head of the Balai. Within 24 hours, the inmate must be examined. Prisoners must complete their examinations every 16 days. Must be reported to Kaditserse if not completed, accompanied by a summary of why the exam was not completed. The plaintiff must request an extension of the detention if the examination is not completed within 20 days.

e. Police Investigation Report

All examinations must make an official report, meet the necessary requirements, and be given an Exam Report Number (BAP). If the examination is deemed sufficient and ready to be submitted to the General Department, the PAB must be signed by the investigator, the minutes are written by the investigating investigator with the knowledge of the Unit Head, and the file is kept. After being initialed by Kasat, this case file must be signed by Kaditserse/Sesdit serse at the time of opening. Kasat/Wakasat is the name of the cover file signed by the Head of the Unit.

Police Discretion in Narcotics Crime Investigation

The existence of a constitution that guarantees the protection of human rights as well as limits the power and authority of government institutions is the basic goal of the rule of law (LUBIS, 2019). "The capacity of law enforcement officers" must be a concern in carrying out their duties in terms of police performance. The definition of capacity is determined not only by the quantity or number of employees, but also by its quality. Intelligence, morality, performance, discipline, encouragement, example, and piety are determinants of police quality. G. Peter Hoefnogels (LUBIS, 2019) defines criminal policy as: first, influencing public perception of crime and crime through the media; second, the application of criminal law (practical criminology); and third, crime-free prevention, which includes social policies, community mental health plans, and other initiatives.

This power is generally known as the "discretionary police", and its legitimacy is based on the necessity of its function (*plichtmassigesermessen*). Therefore, the definition of "police discretion" in article 18 paragraph (1) must also be related to the consequences of professional development as regulated in articles 1, 32, and 33 of the Police Law, in order to ensure that the police can take appropriate and professional actions in the context of carrying out their functions. and their duties in general (Astari, 2015). The law is applied and complied with firmly and directly, but not at the expense of the humanitarian component or human rights, which are based on the principles of justice and legal certainty. In general, this authority is referred to as the "discretionary police", and its legitimacy is based on the need for duty. Therefore, the definition of "police discretion" in Article 18 paragraph (1) must also be linked to the consequences of professional development as regulated in Articles 1, 32, and 33 of the Police Law, so that it is clear that there is a guarantee. so that the ROI State Police officers can act fairly and professionally in carrying out their general duties and obligations based on their own judgment. The idea or concept of the rule of law cannot be separated from discretionary power. The Police Agency has a

large task of defending the country with a broad scope, and there must be a clear separation of duties within the police. According to Article 13 of the Police Law, the police of the Unitary State of the Republic of Indonesia (NKRI) have the following responsibilities: (Lubis, 2019): 1) Maintain public order and security, 2) Enforce the law, 3) Provide communities with shelter, protection, and assistance.

The use of discretion by the police may seem against the law, but it is a solution that the law provides for the police to be more efficient and effective in the public interest, and discretion should not be eradicated. Wisdom is something that cannot and should not be ignored. Discretion is an important aspect of the role of an institution or organization. However, discipline can be regulated and managed, for example by enforcing written directives and making planned decisions that can at least be elaborate and require discretionary action. The police, as can be seen from this list of activities, is an institution whose main task is to enforce the law. At the investigation level, one of the roles delegated to the police is to exercise police discretion against drug dealers. The police's discretionary right has existed for a long time, and since its implementation, the number of drug crimes has decreased compared to before the discretion was enacted, this shows that criminals are deterred with the use of this discretion (Lubis, 2019). Discretionary authority is power or authority exercised by law based on moral reasons rather than legal considerations. Discretion is not exercised outside the legal system, but is still exercised within the legal framework. Therefore, the practice of the Police's public interest can be seen as an effort to ensure that this can take place. The police's discretionary power stems from the principle of general police duty (*plichtmatigheidsbeginsel*), which allows police officers to take or refrain from taking any action depending on their own personal judgment in the context of their activities. the obligation to maintain peace, order and public security. Police discretionary action is limited by the following principles (Kelana, 2002):

- 1) The principle of necessity, which states that action must be absolutely necessary.
- 2) Actions taken primarily for the purpose of improving the function of the police.
- 3) The principle of finality, which is the most appropriate action to eradicate a disturbance or insult for the greater good.
- 4) The principle of balance, which requires a balance between the nature of the activity or purpose and the degree of disturbance or weight of an object that must be maintained when completing an action.

Investigators are state police officers who are given special authority to conduct investigations. The state police are the primary investigators, with additional investigators assisting them. If the investigator knows or has received a report, both oral and written, from the reporter, and it can be documented orally by the investigator and signed by the reporter or investigator, the investigator/research assistant must immediately conduct an appropriate investigation. Step investigators are members of the National Police who are authorized by law to carry out investigations according to Article 1 point 4 of the Criminal Procedure Code, because the investigation is the preparatory stage or the beginning of the investigation. Human rights often clash with investigators' authority to seek evidence. The powers of investigators are too broad, and can be misused to violate human rights. Although narcotics crime is regulated in a separate law, it does not mean that its eradication and prevention violates human rights. Police investigators have an important role in finding and tracing narcotics and psychiatric drugs. Also equally important is the need for legal awareness at all levels of society to enforce the rule of law.

In the current situation, the Indonesian people demand that the police become a humane and professional institution capable of upholding social justice and upholding human rights. This is difficult for the police to do because their roles as law enforcement officers and civil servants often clash. In Indonesia's positive law, the use of discretion in the context of investigations to uncover criminal acts of drug use and related networks is limited. The existence of legal substance is the basis and need for legitimacy for the implementation of legality, especially by the police in exercising their discretionary power. The investigator's authority as referred to in Article 16 paragraph (1) of the Police Law, especially

letter a, is that the author only writes about arrests and detentions and sometimes or often stops investigations. requires the use of caution by investigators. The powers of the three investigators will be described one by one, with examples of how investigators' discretion is used in each case including:

a. Detention

If there is sufficient evidence for the purposes of investigation, prosecution, and/or trial in a case and according to a prescribed method, the investigator may take action in the form of temporary restrictions on the freedom of the suspect or defendant. Until now, there is no legal standard that regulates the imprisonment of suspected violators. Investigators identify a person suspected of committing a crime at the time of arrest, which often results in gunshot wounds and even death of the perpetrator.

b. Detention Based on Investigator Findings

The term "detention" refers to the presence or absence of detention, as well as "transfer of types of detainees". Officials who are legally responsible for detainees, one of whom is an investigator, may transfer a detainee who is subject to one type of detention as referred to in Article 22 of the Criminal Procedure Code to another type of detention. An inmate in a detention center, for example, can be transferred to house arrest or city detention, and an inmate under house arrest or city detention, on the other hand, can be transferred to prison detention (Renggong, 2014).

c. Ending the Trial

Article 109 of the Criminal Procedure Code regulates the conclusion of an investigation. The investigation may be terminated for the following reasons: 1) Insufficient evidence; 2) The incident is not a criminal act; and 3) The incident is not a criminal act.

The investigation concludes with a court order. In addition, the prosecutor, the suspect, or his family will be contacted when the investigation is complete. However, in reality, investigations can also end with a rare family peace between the perpetrator and the victim.

Police Discretionary Authority in Narcotics Crime Investigation Level of Investigation at the Tangerang City Police

The police is an institution whose main function is to enforce the law. One of the tasks entrusted to the police at the investigative level is to exercise police discretion against drug dealers. Police discretion has been around for a long time, and since its introduction, the number of drug offenses has decreased compared to before discretion was adopted, indicating that criminals are discouraged from taking advantage of this discretion (Lubis, 2019). The power or authority granted by law for moral reasons rather than legal ones is known as discretionary authority.

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Internal factors for the application of discretion at the Tangerang Police, include:

- 1) The existence of regulations that guarantee police discretionary actions, the existence of regulations that guarantee police discretionary actions in resolving cases outside the court are factors that support investigators in using their discretion, namely in articles 16 and 18 of the police law.

- 2) Instructions from the leadership to settle criminal cases outside the court.

External factors from the application of discretion at the Tangerang Police include:

- 1) There is support from the local community to use discretionary efforts in solving narcotics cases. Community support in this case is the RT or RW head or village head or important figures in the community.
- 2) There is bad faith from the perpetrator, namely the perpetrator against the officer when he was about to be arrested.

In addition, according to the author's source (2022), the application of police discretion in the jurisdiction does not always have to be done. There is the right moment or time to apply discretionary authority to the drug crime, namely based on a situation where police officers must act in the public interest in certain circumstances which are carried out by taking into account the provisions of the law and the police code of ethics. The implementation of police discretion is carried out by acting in the public interest based on self-assessment and only in very necessary circumstances by taking into account the laws and regulations and the code of ethics of the police profession.

The purpose of implementing police discretion on drug crimes is the existence of a constitution that guarantees the protection of human rights, as well as restrictions on the power and authority of state institutions. Therefore, in its application it is very necessary to pay attention to the most important principles or values for a law enforcement officer, these principles are:

- 1) The principle of necessity, namely that every act of police discretion must be really needed in the sense that without this action, the task will not be carried out.
- 2) The principle of straightforwardness, namely that the police's discretionary actions must be objective, should not be driven by personal motives.
- 3) The principle of purpose as a measure is that the discretion of the police is really taken so that the goal can be achieved
- 4) The principle of balance, namely carrying out police discretionary actions, must maintain a balance between goals and means, by using the softest means

Furthermore, the application of this discretion is considered important by considering the factors that influence the exercise of discretion in dealing with violations of law in the jurisdiction of the Tangerang Police, including: 1) Weak monitoring and control system; 2) Lack of salary; and 3) Inadequate operational budget support and an obligation to meet organizational/personal needs have an impact on discretionary action. In this case, the police officers who are investigators who work as law enforcers do not understand the meaning of the law and applicable legal standards. There are still many people who use discretionary powers in ways that violate the principles of specificity and logic.

Because discretionary power cannot be separated from constraints, the exercise of authority must be in accordance with the purpose of granting authority (principle of specificity) and a code of ethics. Internal and external institutions can supervise the performance of the police in carrying out their investigation and investigation responsibilities. Discretion, as one of the powers granted to the National Police, is also an effort to achieve compliance with the law, and discretion is defined by law as the integrity of the regulatory system. Although the granting of discretionary powers reflects the achievements of law enforcement, it is possible to abuse the authority or power in *detournement de pouvoir* for subjective and abstract reasons (ie, for the public interest). To produce responsible police discretion, it must be directed to the nature of the purpose of criminal law enforcement which is very sensitive to human rights in the implementation of police discretion. Therefore, to develop superior or responsible discretionary policing operations, officers must have high skills and expertise in recognizing community concerns.

Given the weight of the discretionary powers given to the police, they need to consider not only their dedication and obligation to immediately resolve them, but also adequate intellectual or intelligence support, as well as strong fighting spirit or fighters, so that the results are truly effective and efficient. Based on the above understanding, the application of authority, according to Article 18 paragraph (2) of the Police Law, the application of the discretion referred to in paragraph (1) can only be carried out with the most stringent conditions with due observance of the laws and regulations as well as the Police's professional code of ethics originating from from the principle of general police duty (*plichtmatigheidsbeginsel*), which allows police officers to take or refrain from taking any action depending on their own personal judgment in the context of their activities. This is related to the limited discretionary authority. If it is not implemented, it will give birth to several negative implications, including:

- 1) Acting beyond the time limit for the validity of the authority granted by the provisions of the legislation.
- 2) Acting beyond the territorial limits of the authority granted by the statutory regulations.
- 3) Thus, there are legal consequences of the discretionary actions of narcotics criminal investigators in the Tangerang City Police area if they are carried out arbitrarily or not in accordance with the law, namely criminal sanctions, disciplinary penalties and penalties for professional codes of ethics.
- 4) Not in accordance with the aims, objectives, substance, and administrative and financial impacts, the discretion is issued.

All exercise of official authority is always accompanied by responsibility, in accordance with the concept of being 2 (two), namely: (1) as positional responsibility and (2) as personal responsibility. "*geen bevoegtheid zonder derveran twee denkelijkheid*," or "no authority without responsibility," means no authority without accountability.

Power is given to a position, but is exercised by humans as representatives or officials of that position, thus enabling the tasks to be distinguished (Ridwan HR, 2009). The responsibility to exercise discretion usually occurs when the discretion is not exercised as it should be, namely when the discretion is exercised outside the limits of its authority (abuse of power); ignore the limitations set by law; harm other people or parties; violate social, criminal, and/or leadership policies; are discriminatory, violent, and arbitrary and carried out for their own or group interests; and if there is no reason to eliminate it (Al-Banjary, 2005). Prior to the implementation of the policy, a meeting with the leadership was held to teach field officers not to abuse the policy and to ensure compliance with the implementation of the policy. Politicians must follow and not violate the general principles of good administration.

The following is the mechanism for accountability for errors or omissions committed by Polri officers with discretionary authority:

- 1) Violation of criminal law norms must be justified according to criminal law; and
- 2) If you harm other people in carrying out your duties or legal position orders, the state is responsible, and all injured parties can seek compensation from the state through the State Administrative Court based on "*inrechtmatige overheid's daad*" (Soekanto, 2014).

Based on the interview findings, it was concluded that acts of abuse of authority or negligence in carrying out their duties, especially in the exercise of discretion, must be held accountable and punished if they harm third parties or the police, in accordance with the legal system or rules that are violated. Therefore, supervision in the exercise of discretionary authority is very necessary. This supervision is carried out by the top leadership, the leader of the internal supervision and security session. In the Tangerang City Police area, the police have implemented an adequate monitoring process. This is explained by the results of the author's interviews with resource persons that supervision is supported by local leadership supervision and internal security and based on the Supreme Court Circular No. 04 of

2010 concerning abuse, victims of abuse and narcotics addicts into medical rehabilitation and social rehabilitation institutions and police regulation no. 8 of 2021 concerning the handling of criminal acts based on restorative justice.

Regarding police discretion in the investigation of drug crimes, this usually occurs in the context of resolving or clarifying the crime. This pattern or procedure is used because the investigation of narcotics crimes is different from the investigation of other criminal acts. Drug trafficking is a unique crime with hidden elements, a large network, and is difficult to detect. As a result, new approaches to traditional criminal activities are needed. Based on this knowledge, special patterns are needed in the investigation or investigation of this crime in order to realize state security and order in general and Central Kalimantan in particular from the dangers of drug abuse. The Tangerang Police can do this through a certain pattern of investigation, and it is an investigator's "other action" for the purpose of investigation (discretion). It is carried out only for the public interest (especially Tangerang residents), considering that this crime is very dangerous and tends to develop a more sophisticated mode of operation. Therefore, the Tangerang Police in responding to this situation must make special efforts or special steps to suppress and eradicate the crime of drug abuse.

With regard to the investigator's discretionary mechanism for narcotics crimes in the jurisdiction of the Tangerang City Police, which was conveyed by the informant of narcotics crime investigators who have so far handled 24 (twentyfour) drug cases, the steps to follow up on cases or investigations related to criminal acts narcotics or how the handling procedure is carried out by (Sasmita, 2022):

1. Conducting examinations of police witnesses and civilian witnesses
2. Conducting interrogation checks on alleged perpetrators
3. A case is held if it is proven that the investigation status and suspect status have been increased
4. Complete the check and complete the filing
5. Send the evidence obtained to the laboratory for examination with an average length of 2 (two) to 3 (three) days after the issuance of the LP.

Furthermore, he explained that so far the application of discretion in this case has been adequate and there have been no obstacles or cases of abuse of discretionary authority such as acting arbitrarily, acting without legal basis, persecuting suspects, delaying the examination, and others, which were carried out by other investigators in the jurisdiction.

This is because the supervision of the heads of functional units and units is adequate. Plus, the sanctions or liability for the punishments given are very strict, namely being snared with criminal penalties, discipline and professional codes of ethics. Closing the interview with the author, the informant of drug crime investigators explained that although currently the implementation and supervision of police discretion in the Tangerang City Police jurisdiction is good, special patterns are needed in the investigation or investigation of drug crimes which are intended to facilitate an investigation or investigation for uncover drug crimes.

Conclusion

Discretion is the authority of the Police which is based on the principle of Police General Obligations (*Plichtmatigheids beginsel*), which is a principle that authorizes police officers to act or not act according to their own judgment, in the context of their general obligations to maintain, maintain order and guarantee public security. In relation to the conditions that must be met in the implementation of police discretion, at the same time this can be used as a benchmark for such discretion, including the actions of the Police must be in accordance with statutory regulations, actions that are in line with legal obligations that require official actions to be taken, these actions must appropriate and reasonable and

included in the environment of his office, actions with proper considerations based on coercive circumstances, actions must respect human rights.

In general, narcotics crimes are divided into three interrelated parts, namely the existence of illicit Narcotics production, Narcotics illicit trade, and narcotics abuse. In 2020 there were 40,756 drug crimes in Indonesia. The total number of drug crime cases in Indonesia is expected to reach 40,756 by 2020. North Sumatra (6,542 cases), DKI Jakarta (5,885 cases), and East Java are the most affected (4,674 cases). There are steps taken by the police in uncovering drug networks, including summons, examination, detention, and official reports.

Based on the results of interviews and field observations conducted by the author, it was found that the Tangerang City Police Regional Police had implemented discretionary authority quite well. This begins with an explanation of the number of targets in the arrest of drug cases or police reports at the Tangerang Police. twenty) LP. Kasat, Kanit, and Narcotics investigators in the Tangerang Polresta Law area said that there were several factors behind the application of discretionary authority in the investigation of drug abuse. These factors consist of internal factors and external factors. In addition, according to the author's sources, the application of police discretion in the jurisdiction does not always have to be done. There is the right moment or time to apply discretionary authority to the drug crime, namely based on a situation where police officers must act in the public interest in certain circumstances which are carried out by taking into account the provisions of the law and the police code of ethic.

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