

# Juridical analysis of the obligation to report drug offenders to law enforcement officials law enforcement

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## Abstract

**Purpose:** The purpose of this study is to determine the legal regulation of the obligation to report the perpetrators of criminal acts of narcotics users, to determine the implementation of the obligation to report the perpetrators of criminal acts of narcotics users to law enforcement officials.

**Research Methodology:** The research method used is normative juridical (legal research) through literature study with an empirical juridical approach (sociological juridical) through field studies aimed at obtaining legal knowledge empirically.

**Results:** The results showed that the legal regulation of the obligation to report the perpetrators of criminal acts of narcotics use is regulated in Article 103 and Article 104 of Law Number 35 of 2009 concerning Narcotics which states that everyone who knows that there is a criminal act of abuse and illicit drug trafficking is obliged to report it to investigators or other authorized officials.

**Contribution:** Despite these limitations, the obligation to report drug offenders can make a significant contribution to society. By reporting drug offenders, individuals can help to reduce crime, protect public health, and promote justice.

**Implementation:** The implementation of the obligation to report the perpetrators of criminal acts of narcotics use to law enforcement officials in Bintan, Riau Islands has not been running optimally because the role of the community in reporting the perpetrators has not been implemented properly due to the lack of public awareness and education regarding the legal implications of narcotics use, thus hindering community participation in the reporting process.

**Keywords:** *Juridical Analysis, Obligation to Report, Narcotics Crime*

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## 1. Introduction

Narcotics consist of substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain and can cause dependence. If narcotics are used without careful restriction and supervision, it can endanger the health and even the life of the user. The important thing in the rule of law is the respect and commitment to uphold human rights and guarantee all citizens equal position in the law (Waluyo, 2018).

Every day there is a relationship between members of society with one another. This association raises various kinds of events or events that can move the rule of law. One example of this event is narcotics abuse, which has been very worrying lately.

The occurrence of drug abuse mostly starts in adolescence, because adolescents are most easily influenced by their peers, including in drug abuse. Teenagers see this as something modern for them (Manalu, Idham, & Erniyanti, 2022).

The problem of drug abuse has become a national and international problem that is constantly discussed. Almost every day there is news about the problem of drug abuse. Narcotics abuse is in the form of dependence on certain substances that can cause health problems to the body and soul that can cause suffering and death (Manalu et al., 2022).

Law Number 35 of 2009 concerning Narcotics is a legal product that is the main reference that regulates aspects of Narcotics in Indonesia. Law Number 35 of 2009 concerning Narcotics was passed by the President of the Republic of Indonesia on October 12, 2009 to replace Law Number 22 of 1997 which was no longer in accordance with the conditions and influence of narcotics on the nation.

Article 1 point 1 of Narcotics Law Number 35 of 2009 concerning Narcotics defines narcotics as substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which is distinguished into groups as attached to this Law. Article 1 point (15) Misuse is a person who uses Narcotics without the right or against the law.

The importance of the existence of Law Number 35 of 2009 concerning Narcotics which emphasizes the implementation of healing to narcotics users has the consequence of cooperation from all parties, including parents of drug addicts who are minors to be able to report their children to Law Enforcement Officials and authorized institutions such as public health centers, hospitals, and / or medical rehabilitation and social rehabilitation institutions (Manalu et al., 2022).

Law Number 35 of 2009 concerning Narcotics also provides a criminal sanction for parents who do not report their children to Law Enforcement Officials and authorities when related to narcotics addiction as stipulated in Article 55 paragraph (1) which states that, "Parents or guardians of Narcotics Addicts who are not of legal age are obliged to report to public health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions appointed by the Government to obtain treatment and/or care through medical rehabilitation and social rehabilitation".

Therefore, Law Number 35 of 2009 concerning Narcotics and Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting of Narcotics Addicts seeks to emphasize the importance of reporting narcotics user addicts to certain agencies that handle the healing of narcotics user addicts themselves, so that if this is violated, from the perspective of criminal law the perpetrator can be subject to criminal sanctions.

Based on the above background, the author is interested in researching and writing the results in a scientific journal entitled "Juridical Analysis of the Obligation to Report Narcotics Offenders to Law Enforcement Officials". From the background of the problems described above, the problems to be discussed are as follows:

1. How is the legal regulation of the obligation to report drug offenders?
2. How is the implementation of the obligation to report drug offenders to law enforcement officials?

## **2. Research methodology**

The type of normative juridical research is research that examines document studies, namely using various secondary data such as laws and regulations (Putra & Suprapti, 2019), court decisions, legal theories, and can be the opinions of scholars (Soekanto, 2007). And supported by empirical juridical

research, namely a legal research method that functions to see the law in a real sense and examine how the law works in society (Atikah, 2022).

The method of approach in this research is a combination of methods between normative approach "legal research" with empirical approach method "Juridical Sociologies". The research mechanism with this combined approach method is carried out by describing the research explanation in an inductive way leading to a deductive way and vice versa (Armia, 2022).

The Juridical Sociological approach is legal research using secondary data as the initial data, which is then continued with primary data in the field or against the community, examining the effectiveness of a Ministerial Regulation and research that wants to find a relationship (correlation) between various symptoms or variables, as a data collection tool consisting of document studies or library materials and interviews (questionnaires) (Amiruddin, 2012).

Furthermore, descriptive analysis of the data that has been collected, namely data stated by sources, respondents, and the results of direct interviews studied (Musrin, Simatupang, & Anatami, 2022). This analysis aims to provide a comprehensive picture of the management of plastic waste as industrial raw material in the perspective of protecting the environment (Pramono & Indriyani, 2019). After conducting descriptive analysis, we can draw general conclusions about the answers to the problems formulated (Parameshwara & Riza, 2023).

The theoretical framework and methodology for analyzing the problems mentioned above and need to be clarified from the beginning about the theoretical framework that uses the theoretical framework as an analysis knife (Harefa, Idham, & Erniyanti, 2023). In this methodology section, one of the methods used by the author is to apply the use of positive law theory (positivism) from Jhon Austin, and legal system theory from Lawrance M. Friedman and also the theory of legal certainty from Sudikno Mertokusumo to the issues discussed in this study (Putra & Herawati, 2017).

### **3. Results and discussions**

#### ***3.1 Legal Arrangements for the Obligation to Report Drug Use Offenders***

Based on Law Number 35 of 2009 concerning Narcotics, there is an obligation to report narcotics crimes to the authorities. Article 103 of Law Number 35 Year 2009 on Narcotics explains that every person who knows of a criminal act of abuse and illicit drug trafficking is obliged to report it to investigators or other authorized officials. Sanctions If a person does not report a narcotics crime, he or she may be subject to criminal sanctions under Article 104 of Law Number 35 Year 2009 on Narcotics. The sanction can be a maximum imprisonment of 3 (three) years or a maximum fine of Rp300,000,000.00 (three hundred million rupiah).

Reporting of narcotics crimes can be done to law enforcement agencies such as the police, the National Narcotics Agency (BNN), or other agencies authorized to handle narcotics cases. Reporting can be done directly or through other communication channels such as telephone or email. Reporting is important to assist authorities in identifying, arresting, and prosecuting drug offenders.

Reporting drug offenses is an important first step in counter-narcotics efforts. Here is a further explanation of the reporting process:

1. Receiving Reports. Individuals who are aware or know of a drug crime can report it to the authorities such as POLRI or BNN. Reports can be received in various ways such as: Contacting emergency numbers or hotlines provided by the authorities. Reporting directly to the nearest police station or BNN office. Sending information through an official letter or email addressed to the agency concerned. Using applications or online services provided by the authorities.
2. Contents of the Report. The contents of the report usually include information about the perpetrator, the type of drugs being abused or distributed, the location of the incident, and other supporting information that can help the investigation.

3. **Verification and Preliminary Investigation** After receiving the report, the authorities will conduct verification and preliminary investigation of the reported information. This process involves gathering evidence, examining witnesses, and checking the information.
4. **Investigation** If there is sufficient evidence, further investigation will be carried out to gather even stronger evidence. Investigations are conducted by authorized investigators, such as police or BNN investigators, and may involve arrests, searches, and questioning of suspects or witnesses..
5. **Prosecution Reporting** When the evidence collected is deemed sufficient, the case will be reported to the Prosecutor's Office for prosecution. The Prosecutor's Office will assess the evidence and draft an indictment before presenting the case to the court.
6. **Court** After the prosecution process, the case will go to court for a legal decision. The court will assess the evidence and witness testimonies to decide whether the defendant is guilty or not.

The Indonesian National Police (POLRI) has the authority to investigate and prosecute drug offenses. The National Narcotics Agency (BNN) also plays an important role in countering and preventing narcotics and has the authority to handle narcotics cases. The Attorney General's Office also plays a role in the prosecution of drug cases (Sahputra, 2020).

Parties who report narcotics crimes should receive legal protection in order to be protected from threats or dangers that may arise from the perpetrators of the reported criminal acts. Therefore, the identity of the reporter can be kept confidential to protect the reporter from possible threats or revenge from parties related to the perpetrator of the drug crime (Suwalla, Riza, & Lubis, 2022).

Protection for whistleblowers of drug offenses is one of the important things in the legal system, because without protection, people may be reluctant to report such crimes. Some forms of protection that are usually given to whistleblowers are the identity of the whistleblower can be kept confidential so that the whistleblower does not experience intimidation or threats from the parties involved in the drug crime. The reporter's personal information will be safeguarded and will not be disclosed to third parties without the reporter's consent.

In certain cases, whistleblowers may receive physical protection from the authorities, such as security escorts or temporary relocation of residence if deemed necessary to protect the safety of the whistleblower. Whistleblowers can also get access to legal aid for legal consultation and support related to the process of reporting and investigating drug offenses.

Under Law No. 13/2006 on Witness and Victim Protection, whistleblowers (who can also be witnesses) can receive protection, assistance, and support from the authorities. This may include security protection, psychological assistance, and other assistance relevant to the needs of the reporter. The authorities are also responsible for mitigating the negative impacts of reporting, such as social stigmatization, psychological distress, or financial loss that the reporter may experience as a result of their reporting.

The whistleblower may be entitled to receive compensation or restitution for losses suffered as a result of reporting a criminal offense, and may receive support for recovery from the traumatic impact of the incident. The authorities may conduct surveillance and monitoring of the conditions and situation of the whistleblower to ensure that there are no threats or intimidation that may harm the whistleblower. Protection for whistleblowers is very important in preventing and eradicating narcotics crimes in Indonesia. With this protection, it is hoped that the public will be more courageous to report if they are aware of narcotics crimes and this will help the government in combating narcotics trafficking and abuse in Indonesia.

John Austin's positive law theory is a theory that emphasizes the rules of law established by certain authorities or state institutions and must be obeyed by the community. In this context, rules are orders given by the suveran and violations of these rules will get sanctions. Analysis of the legal regulation of the obligation to report in Indonesia In the Indonesian context, the obligation to report drug offenders

can be analyzed within the framework of laws governing narcotics and drug-related crimes. This obligation is part of positive law that must be obeyed by the community.

Austin views that the law is an order from the sovereign. In this case, the government and law enforcement agencies in Indonesia act as the sovereign who gives orders through drug-related laws and regulations. In Austin's theoretical framework, people are expected to obey the law, and non-compliance with the law will be sanctioned. In terms of reporting obligations, people are expected to report drug offenders to law enforcement officials, and there are certain legal consequences if they do not do so.

Using Austin's positive law theory, the legal regulation of the obligation to report drug offenders to law enforcement officials in Indonesia can be considered a reflection of sovereign authority realized through legal regulations. Public obedience to this regulation and the obligation to report is a form of compliance with the sovereign order, and non-compliance can lead to legal sanctions. However, the effectiveness of this obligation also depends on the extent to which the public understands and accepts the obligation as part of the legal and social norms that they must abide by, as well as on the ability of law enforcement officials to enforce the rule fairly and consistently.

### ***3.2 Implementation of the Obligation to Report Drug Offenders to Law Enforcement Officials***

The implementation of the obligation to report drug offenders to law enforcement officials in the Riau Islands, or in other regions in Indonesia, follows the legal principles and procedures applicable in the country, as stipulated in Law No. 35/2009 on Narcotics. In the Riau Islands, as in other parts of Indonesia, the public has an obligation to report any drug offenses they know about to the authorities. Bintan is the largest island in the Riau Islands, consisting of nearly 3,000 large and small islands, stretching across Singapore and Johor Bahru, Malaysia. The island extends from Malacca into the North Natuna Sea. Tanjungpinang is the capital of the province, located on the south west coast of Bintan. Strategically located on the southern peninsula of Malaysia at the mouth of the Strait of Malacca, the Riau archipelago was, in the first century AD, a favorite haunt of Indian and Chinese merchant ships.

The Drug Investigation Unit of Bintan Police arrested 3 people suspected of being methamphetamine drug abusers, the three suspects with the initials SB (26), AP (20) and RRS (19), all three residents of Tanjungpinang. The arrest of the three perpetrators originated from public information which conveyed that there were residents of Tanjungpinang who had circulated methamphetamine drugs around the Bintan area on motorbikes. After getting this information, the Bintan Police Narcotics Unit led by Kanit 2 investigated the information and found that the three people were residents of Tanjungpinang who lived around Kilometer 3. On Friday (12/5) at 03.00 WIB the team managed to secure the suspect SB on the side of the road who was waiting for someone suspected of buying methamphetamine drugs and found 1 package of drugs in an HD cigarette pack, then searched the suspect's house in Bukit Bestari District, Tanjungpinang City. During the search the team found 1 set of methamphetamine / bong suction equipment.

To prevent drug smuggling, police officers need the role of local community members. The community has a role as the subject and object of drug problems, while law enforcement officials, especially the Police, are facilitators and the Government plays a role in supporting activities carried out by the community in overcoming drugs.

Therefore Law Number 35 of 2009 concerning Narcotics and Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting of Narcotics Addicts seeks to emphasize the importance of reporting narcotics addicts to certain agencies that handle the healing of narcotics addicts themselves, so that if this is violated then from a criminal law perspective the perpetrator can be subject to criminal sanctions.

People in Riau Islands can report drug users to law enforcement officials such as the Police or the National Narcotics Agency (BNN). Reporting can be done directly to authorized offices, through emergency telephone lines, or through other electronic methods such as email or online reporting

applications. This is important to ensure that offenders are dealt with in accordance with the law and receive appropriate rehabilitation.

Community reporting plays a vital role in combating drug abuse in Riau Islands, and across Indonesia. This reporting process assists law enforcement officials in identifying and prosecuting drug offenders. People in Riau Islands can use several channels to report suspected drug abuse, such as calling the police or BNN emergency number, visiting a police or BNN office in person, or through online services provided by the government. Reports can include information regarding the identity of the perpetrator, the type of drugs used, the location of the incident, and other relevant information.

Once a report is received, law enforcement officials will conduct preliminary verification and investigation to ensure the validity of the information received. This may include interviews with the reporter, evidence collection, and further investigation to determine the appropriate course of action. Protection for whistleblowers is a top priority in the reporting process. The identity of the reporter is strictly guarded and the information provided is kept confidential to avoid possible intimidation or threats from the perpetrator or other parties concerned.

The Riau Islands community has an important role in this process. With the awareness and active participation of the community in reporting incidents of drug abuse, prevention, prosecution and rehabilitation measures can be carried out more effectively. Awareness and understanding of the dangers of narcotics and the importance of reporting must also be continuously improved through education and socialization to the community.

Reporting by the community directly contributes significantly to efforts to prevent and handle drug abuse in Riau Islands. Every report received and verified allows law enforcement officials to intervene faster, save more lives, and prevent the further spread of drug abuse.

In handling reports of drug-related crimes, law enforcement officers in Riau Islands also work closely with other agencies such as health and social institutions, to ensure a holistic and integrated approach in dealing with drug problems, from prevention, prosecution, to rehabilitation and recovery.

Overall, the implementation of the obligation to report drug offenders in Riau Islands follows the legal framework and procedures that have been established, with the aim of ensuring justice and welfare for all parties involved. Lawrence M. Friedman's legal system theory and Sudikno Mertokusumo's legal certainty theory can be used to analyze the implementation of the obligation to report drug offenders in Bintan, Riau Islands.

The following is an explanation of the results of the analysis of the legal system theory of Lawrence M. Friedman in this study, namely in terms of implementation, if legal structures such as the police or narcotics agencies are poorly organized or lack resources, this will affect their ability to handle reports effectively. If there is a mismatch between the written rules and their implementation, this will affect people's trust in the legal system and their compliance with reporting obligations. The norms, values and beliefs of people in Bintan regarding the law, drugs and reporting will affect their compliance with reporting obligations. Social stigma, for example, can be an integral part of the legal culture and influence reporting behavior.

Meanwhile, according to Sudikno Mertokusumo's theory of legal certainty, in the implementation of the obligation to report in Bintan, the level of legal certainty perceived by the public will affect their willingness to report. If people feel that the law is unclear, contradictory, or not consistently applied, they may be reluctant to report drug offenders. Adequate protection and support for whistleblowers is also a key element of legal certainty. If people feel unprotected or unsupported when reporting, they may be reluctant to engage in the legal process.

#### **4. Conclusions**

Based on the discussion related to the problem, the following conclusions can be drawn:

1. The legal regulation of the obligation to report the perpetrators of criminal acts of narcotics use is regulated in Article 103 and Article 104 of Law Number 35 of 2009 concerning Narcotics which states that every person who knows that there is a criminal act of abuse and illicit trafficking of narcotics is obliged to report it to investigators or other authorized officials, and if someone does not report a criminal act of narcotics can be subject to criminal sanctions in the form of imprisonment for a maximum of 3 (three) years or a maximum fine of Rp. 300,000,000.00 (three hundred million rupiah).
2. The implementation of the obligation to report perpetrators of narcotics use crimes to law enforcement officials in Bintan, Riau Islands has not been running optimally because the role of the community in reporting perpetrators has not been implemented properly due to a lack of public awareness and education regarding the legal implications of narcotics use so as to hinder community participation in the reporting process, as well as the lack of protection and support for reporters, has created uncertainty and reduced public confidence in legal mechanisms, thus hindering the optimization of the implementation of this reporting obligation.

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