

Research Article

# The Effectiveness of Narcotics Crime Investigation by the Narcotics Investigation Unit from the Perspective of the Indonesian Criminal Procedure Code

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**Abstract:** This research examines the effectiveness of narcotics crime investigation by the Narcotics Investigation Unit (Satuan Reserse Narkoba) from the perspective of Indonesia's Criminal Procedure Code (KUHAP) and related legislation. The study also analyzes the juridical-normative obstacles encountered during investigation processes, along with potential solutions under Indonesian positive law. As an extraordinary crime, narcotics offenses require precise and legally sound investigation methods. However, investigative practices often face challenges due to inconsistencies between legal norms and field implementation, limited resources, and the absence of clear regulations on special investigative techniques such as wiretapping and controlled delivery. This normative legal research employs statutory and conceptual approaches, analyzing primary legal materials including Law Number 8 of 1981 (KUHAP), Law Number 35 of 2009 on Narcotics, and various implementing regulations. The findings indicate that narcotics investigations are not yet optimal due to weak technical regulations, disharmonized laws between KUHAP and the Narcotics Law, overlapping authority between the Police and the National Narcotics Agency (BNN), and a lack of protection for whistleblowers and witnesses. The legal gap in regulating special investigation methods creates uncertainty in evidence admissibility. Proposed solutions include regulatory reform through KUHAP revision, improving investigator competence through specialized training, utilizing modern technology, strengthening inter-agency coordination, and enhancing internal and external oversight mechanisms. Legal reform and institutional synergy are essential to enhancing the overall effectiveness of narcotics investigations in Indonesia.

Received: July 16, 2025;

Revised: September 20, 2025;

Accepted: November 18, 2025;

Published: January 13, 2026;

Curr. Ver.: January 13, 2026.



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**Keywords:** Criminal Procedure; Effectiveness; Investigation; KUHAP; Narcotics.

## 1. Introduction

Amidst the increasing circulation and abuse of narcotics across various parts of Indonesia, law enforcement has become critically important. The global narcotics problem has evolved into one of the most complex transnational crimes, affecting not only public

health but also national security and economic stability. Indonesia, with its strategic geographical position as an archipelagic nation, faces significant challenges in combating narcotics trafficking, which often involves international syndicates operating across borders. The Narcotics Investigation Unit (Satuan Reserse Narkoba/Satresnarkoba) serves as the spearhead of investigation, playing a strategic role in the criminal justice system. They carry out a series of investigative actions ranging from receiving reports, conducting searches, seizing evidence, determining suspects, to submitting case files to prosecutors, which is crucial for supporting the criminal justice process (Apriansyah et al., 2022).

The Indonesian Criminal Procedure Code (KUHAP), established through Law Number 8 of 1981, defines investigation as a series of actions by investigators to seek and collect evidence that clarifies the criminal act and identifies the perpetrator. KUHAP affirms that investigators can come from the Indonesian National Police (Polri) or appointed civil servants. However, in the context of narcotics, Law Number 35 of 2009 provides special authority to BNN investigators, including undercover buy operations and wiretapping, which are not fully available to Police investigators. This creates potential overlapping authority and a lack of synchronization in coordination between the Police and BNN, leading to inefficiencies in the investigation process (Widiastuti et al., 2024). The dichotomy between general procedural law and special narcotics legislation has created a complex legal landscape that requires careful navigation by law enforcement officers.

Research across various regions reveals varying realities while showing common patterns of narcotics investigation challenges. At Polrestabes Makassar, for instance, reported effectiveness was quite good but remained limited due to inadequate human resource quality, limited facilities and infrastructure, suboptimal coordination among law enforcement agencies, and minimal community support (Fatika et al., 2023). Another study emphasizes inadequate effectiveness, with normative juridical investigations showing that obstacles related to budget, complexity of narcotics circulation, implementation of Law 35/2009, and difficulties in proving whether someone is an addict or victim, all hinder the process (Widiastuti et al., 2024). These findings highlight the multifaceted nature of the challenges facing narcotics investigators, which span institutional, regulatory, and social dimensions.

Additionally, special methods like undercover buy have proven effective in uncovering narcotics networks, as occurred in West Sumatra; however, clearer legal arrangements are still needed so that Police investigators can also utilize these methods like BNN (Refi Daenunu et al., 2023). Focusing on special subgroups, such as children and women, reveals unique obstacles. In Pinrang, the application of Article 127 of the Narcotics Law and Article 71 of the Juvenile Criminal Justice System Law against child abusers has not been maximized due to a lack of legal infrastructure, legal culture, and adequate facilities and human resources (Wicaksono et al., 2022). From the perspective of restorative justice, various approaches have been attempted to handle narcotics cases more humanely, particularly for users who require rehabilitation rather than imprisonment. This research aims to analyze the effectiveness of narcotics crime investigation by the Narcotics Investigation Unit from the KUHAP perspective and identify juridical-normative obstacles along with their resolution efforts according to Indonesian positive law.

## 2. Literature Review

### Legal Protection Theory

Legal protection theory serves as a conceptual foundation that guides researchers' perspectives toward their study objects. In this context, legal protection is used as the primary analytical tool for understanding the role of law as an instrument to guarantee citizens' rights and prevent injustice. Legal protection is essentially a form of state responsibility in ensuring security, justice, and legal certainty for every individual. According to Satjipto Rahardjo, legal protection is a concrete form of legal function that is not merely repressive but also preventive, preventing violations and providing a sense of security to individuals from the outset. This theoretical framework is particularly relevant in analyzing how investigative procedures must balance effective law enforcement with the protection of suspects' rights.

Legal protection encompasses two main aspects: preventive and repressive protection. Preventive protection is provided before rights violations occur, generally in the form of regulation and state oversight through fair regulations. Meanwhile, repressive protection is provided after violations or legal events that cause harm, aimed at restoring conditions to a fair situation through legal mechanisms such as courts or rights restoration. From the perspective of law as a tool to achieve social justice, the responsive law theory developed by Philippe Nonet and Philip Selznick provides great relevance. Responsive law is not merely bound to rigid norms and procedures but is also open to society's aspirations and aims to create substantive justice. John Rawls's theory of justice also becomes an important foundation, emphasizing that justice is not only about formal equality but also includes the obligation to protect the weakest in society (Herlina, 2023).

### Legal Certainty Theory

Legal certainty theory constitutes one of the main pillars of modern legal systems. Legal certainty means that the law must provide clarity, order, and predictability for society in conducting daily life. Without legal certainty, legal norms will lose their authority, and society cannot use law as guidance for action. In the context of a rule of law state (*rechtsstaat*), as adopted by Indonesia, legal certainty is an essential principle underlying all state administration activities, including the protection of citizens' rights. Gustav Radbruch, a prominent German legal philosopher, divided legal objectives into three basic values: justice (*gerechtigkeits*), utility (*zweckmassigkeit*), and legal certainty (*rechtssicherheit*). Legal certainty demands that legislation be clearly formulated, unambiguous, and consistently applicable in every case. This theoretical framework is essential for understanding the challenges posed by the disharmony between KUHAP and the Narcotics Law.

In Indonesia, the principle of legal certainty is explicitly reflected in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to recognition, guarantee, protection, and fair legal certainty as well as equal treatment before the law. However, the existence of disharmony between KUHAP and special narcotics legislation creates legal uncertainty that affects both investigators' actions and suspects' rights. When investigators are uncertain about which legal provisions to follow, there is a risk of procedural violations that could invalidate evidence or infringe upon fundamental rights. Therefore, harmonization between general procedural law and special narcotics

legislation becomes imperative for achieving legal certainty in narcotics investigations (Nugroho, 2024).

### **The Concept of Investigation Effectiveness**

Effectiveness in the context of narcotics crime investigation refers to the extent to which investigative activities achieve their intended goals within the framework of applicable law. The effectiveness of investigation can be measured through several indicators: compliance with procedural requirements stipulated in KUHAP and the Narcotics Law, ability to uncover and dismantle narcotics distribution networks beyond just arresting users or couriers, timeliness in completing case files without sacrificing quality, and success in securing sufficient evidence both in quantity and evidentiary quality. An effective investigation is not merely about the number of arrests or cases processed but fundamentally about the quality of the investigative process itself, ensuring that evidence is legally obtained and procedural rights are respected (Rafly Akbar, 2023).

The effectiveness paradigm in narcotics investigation must also consider the due process of law principle, which requires that all investigative actions be conducted according to established legal procedures. This includes proper documentation of arrests, searches, and seizures; notification of suspects' rights; access to legal counsel; and adherence to detention time limits. When investigators deviate from these procedures, cases may be dismissed during preliminary hearings (*praperadilan*), or evidence may be deemed inadmissible, ultimately undermining the effectiveness of the entire investigative effort. Furthermore, effectiveness must be assessed in terms of the investigation's contribution to the broader goal of narcotics eradication, including the deterrent effect on potential offenders and the dismantling of drug trafficking networks rather than merely processing individual cases (Mohammad Arif Wahyudi et al., 2023).

### **Special Investigation Methods in Narcotics Cases**

Narcotics crimes, classified as extraordinary crimes, require special investigation methods that go beyond conventional criminal investigation techniques. Law Number 35 of 2009 on Narcotics provides the legal basis for investigators to conduct special investigation methods, including undercover buy operations where investigators pose as buyers to apprehend perpetrators, controlled delivery where evidence is intentionally allowed to move to its final destination to catch larger network members, and communication wiretapping where investigators are authorized to intercept communications under certain limitations and legal provisions. These methods have proven effective in uncovering narcotics networks, but their implementation requires clear procedural regulations to ensure legal validity and protect human rights (Tarnando et al., 2020).

However, a significant legal gap exists because KUHAP, established in 1981, does not comprehensively regulate these modern investigation methods. The Criminal Procedure Code does not explicitly provide procedures for wiretapping, controlled delivery, or undercover operations, creating juridical risks where evidence obtained through these methods can be challenged regarding its validity by defense counsel and potentially declared inadmissible by judges during trial proceedings. This legal uncertainty forces investigators to operate in a gray area, potentially compromising both the effectiveness of investigations and the legal rights of suspects. The absence of detailed implementing regulations that integrate these special

methods with KUHAP's procedural framework remains one of the most significant normative obstacles in narcotics investigation (Hepni, 2025).

### 3. Research Methods

This research employs a normative legal research method (normative research), where the main purpose is to examine and analyze primary and secondary legal materials by understanding law as a set of regulations or positive norms within the legislative system that governs human life (Zakaria et al., 2023). Normative legal research was conducted to examine the legal norms regulating the role of investigators and the implementation of investigation procedures in narcotics cases. This study uses a statutory approach (statute approach) and a conceptual approach (conceptual approach). The statutory approach was conducted by examining various legal regulations governing criminal procedure, narcotics crimes, and investigation mechanisms. The conceptual approach was used to understand concepts and theories regarding investigation effectiveness, legal protection, and the criminal justice system.

Primary legal materials include Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), Law Number 35 of 2009 concerning Narcotics, Chief of Police Regulation Number 12 of 2009 concerning Investigation Supervision and Control, and various Memoranda of Understanding between the Police, BNN, and Prosecutor's Office regarding investigation coordination. Secondary legal materials include literature in the form of books, scientific journals, legal articles, and expert opinions relevant to the discussion of investigation effectiveness and narcotics law enforcement. Tertiary legal materials include legal dictionaries and encyclopedias that help understand primary and secondary materials. Analysis of legal materials was conducted qualitatively, aimed at describing, interpreting, and examining collected legal materials in depth and systematically to answer the research questions comprehensively.

### 4. Results and Discussion

#### Effectiveness of Narcotics Crime Investigation from the KUHAP Perspective

Investigation is the first and fundamental stage in the criminal law enforcement process against narcotics crimes. As an initial gateway, investigation holds strategic importance because its success or failure will determine the continuity and quality of law enforcement in subsequent stages, from prosecution to court proceedings. In KUHAP, investigation is defined as a series of actions by investigators to seek and collect evidence, clarify criminal acts, and identify suspects. The investigation process encompasses various activities, including receiving reports or complaints, examining witnesses, conducting searches and seizures, arresting and detaining suspects, and preparing case files. The comprehensiveness of this investigation will determine whether justice can be achieved or whether cases will fail in court due to procedural deficiencies.

The main legal basis for investigation in Indonesia is KUHAP, which regulates formal procedures from the preliminary investigation stage to court proceedings. However, in narcotics cases, KUHAP must be read in conjunction with Law Number 35 of 2009 on Narcotics, which provides special authority to investigators in handling narcotics crimes, such as undercover buy, controlled delivery, and wiretapping. This indicates that an investigation

into narcotics cases has its own peculiarities that distinguish it from ordinary crimes. Nevertheless, the effectiveness of the investigation is not solely determined by the completeness of legal regulations but also depends on implementation in the field. Factors such as the quality of investigator human resources, completeness of facilities and infrastructure, level of inter-agency coordination, and integrity and professionalism of law enforcement officials greatly influence the success of investigation processes (Gunawan et al., 2024).

The first indicator of effectiveness is the extent to which investigators comply with applicable criminal procedure law provisions, particularly those stipulated in KUHAP and the Narcotics Law. Compliance with formal procedures, such as preparing arrest warrants, conducting lawful searches and seizures, and notifying suspects of their rights, constitutes basic elements in realizing legally valid investigations. Non-compliance with procedures often results in case dismissal during preliminary hearings, so formal success in investigation processes significantly determines overall effectiveness. Investigation effectiveness can also be seen from how far investigators can uncover and dismantle narcotics distribution networks, not just arresting perpetrators at user or courier levels. Handling dealers or syndicates becomes an indicator of investigation quality because their role in narcotics distribution chains is far more significant (Kalangan et al., 2024).

The assessment of investigation effectiveness must also consider various challenges encountered in the field. Research findings across multiple regions demonstrate that investigations have not run optimally due to several interconnected factors. First, there is disharmony between KUHAP as general procedural law and the Narcotics Law as *lex specialis*. KUHAP emphasizes the protection of suspects' rights and fair trial principles, while the Narcotics Law emphasizes the effectiveness of narcotics crime eradication through aggressive investigation methods. Problems arise when the implementation of these methods lacks technical regulations explicitly integrated into KUHAP, opening juridical debate regarding evidence validity and investigation procedures. Second, overlapping authority between the Police and the BNN creates institutional friction that hampers coordination. Third, limited investigator competence in handling complex narcotics cases involving cross-border networks affects investigation quality. These findings indicate that achieving investigation effectiveness requires comprehensive reform addressing regulatory, institutional, and human resource dimensions simultaneously (Widiastuti & Sudarto, 2024).

### **Juridical-Normative Obstacles in Narcotics Investigation**

In the narcotics crime investigation process, juridical obstacles constitute primary challenges frequently faced by law enforcement officials, particularly investigators from the Narcotics Investigation Unit. These juridical obstacles encompass various aspects directly related to the applicable legal system, including norm rigidity, overlapping authority, legal gaps, and limitations of criminal procedural law norms in anticipating forms of narcotics crimes that are complex, systematic, and transnational. First, KUHAP, as the main reference for investigation in Indonesia, tends to be procedurally normative and not specifically designed to handle extraordinary crimes like narcotics. KUHAP, enacted in 1981, does not comprehensively regulate modern investigation methods such as communication wiretapping, controlled delivery, undercover buy transactions, and cross-border cooperation in mutual legal

assistance (MLA). Consequently, many narcotics investigation actions are conducted based on practical field needs but normatively lack strong legal legitimacy within the KUHAP framework.

Second, overlapping authority between law enforcement institutions creates significant obstacles. Narcotics crime investigation in Indonesia involves several institutions, including the Police, BNN, and, in certain cases, other agencies like Customs and TNI. Article 75 of Law Number 35 of 2009 on Narcotics states that investigation is conducted by the Police and BNN investigators. However, in practice, synchronization gaps often occur between these institutions in carrying out investigation duties. Overlapping authority can create obstacles such as inter-agency competition, causing sectoral ego, slow information exchange, evidence loss due to poor coordination, and duplicate investigations on the same case. This situation not only harms investigation effectiveness but also potentially causes violations of suspects' rights due to procedural inconsistency. Ideally, narcotics investigations involving more than one agency should be coordinated through solid joint team mechanisms with clear legal division of tasks and responsibilities (Refi Daenunu et al., 2023).

Third, legal vacuum regarding perpetrator categories and dual approaches presents normative challenges. In narcotics law, there is dualism in approaches toward perpetrators, namely as victims (users) and as criminal perpetrators (dealers). Unfortunately, regulations have not provided clear and firm criteria for distinguishing between users and dealers, especially when perpetrators are found with limited evidence but suspected of distribution intent. Articles 111 through 127 of the Narcotics Law regulate sanctions for various perpetrator roles but are not accompanied by clear quantitative and qualitative limitations. This ambiguity often creates different interpretations among investigators, prosecutors, and judges, causing legal uncertainty. On the other hand, narcotics users who actually need rehabilitation become trapped in the criminal system and treated as regular criminals, contrary to the rehabilitative purpose intended by Articles 54 and 103 of the Narcotics Law (Widiastuti et al., 2024).

Fourth, disharmony between legislation represents one of the most apparent normative obstacles. In many cases, law enforcement officials face problems when norms in one law are not aligned or even contradict norms in other regulations. For example, KUHAP does not explicitly regulate wiretapping as an evidence method, while in narcotics investigation practice, wiretapping often becomes key evidence. The ITE Law permits wiretapping and digital tracking within certain frameworks, but has not been integrated with the Narcotics Law as the main reference in narcotics investigation. Due to this disharmony, investigators often hesitate to use investigative authority involving technology or unconventional methods because they fear a lack of strong legal legitimacy in court. Fifth, there is an absence of clear regulation on special operation procedures. In narcotics case investigations, officials often conduct special operation methods proven effective in uncovering narcotics networks, yet these lack firm and systematic procedural legal regulation regarding implementation requirements, tiered approval, legal documentation, and investigator authority limits in special operations (Hepni, 2025).

### Resolution Efforts for Investigation Obstacles

Overcoming various juridical-normative obstacles in narcotics investigation requires comprehensive and systematic efforts involving multiple dimensions of reform. First, regulatory reform through revision of KUHAP and strengthening of Narcotics Law norms is essential. Such a revision should be directed toward providing legal certainty for investigators in using special investigation methods such as wiretapping, electronic surveillance, and undercover transactions while still prioritizing accountability and human rights protection principles. The revision should also address the integration of special investigation methods with KUHAP's procedural framework, creating a unified legal basis that eliminates current ambiguities. Government should also develop technical guidelines that clearly distinguish between users and dealers based on quantitative evidence, assessment results from BNN, and expert testimony, thereby resolving the dual approach problem that has caused legal uncertainty (Nugroho, 2024).

Second, strengthening investigator capacity and competence through continuous education and training is crucial. Investigators must be equipped with in-depth knowledge regarding criminal procedural law, modern investigation methods, interview techniques, and the ability to use information technology tools. Specialized training on undercover methods, controlled delivery, and digital forensics must also be conducted intensively to match the sophistication of perpetrators' modus operandi. Not all Satresnarkoba investigators have received specialized training to handle narcotics cases that often involve cross-regional to cross-border networks. This affects the effectiveness of evidence collection, suspect examination, and file submission to the prosecution stage. Creating certified specialist narcotics investigators who understand both KUHAP procedures and special narcotics investigation methods would address the competency gap that currently hampers investigation effectiveness (Rafly Akbar, 2023).

Third, modernization of investigation facilities and infrastructure is essential. Equipment such as legal wiretapping devices, mini narcotics laboratories, GPS tracking tools, digital data analysis software, and adequate operational vehicles must be available, especially at Polres and Polda levels. This modernization will facilitate investigators in collecting evidence legally and efficiently and accelerate case handling. Fourth, strengthening synergy and coordination between institutions, including the Police, BNN, Prosecutor's Office, Customs, and intelligence agencies, must be enhanced through integrated work systems and shared intelligence-based data platforms. Real-time information exchange platforms can be developed to accelerate cross-regional investigation processes and prevent overlapping authority. Formation of joint teams for handling major cases can also become a strategic solution for transnational network cases. MoU and cooperation agreements between institutions should be operationalized with clear protocols and shared standard operating procedures (Tarnando et al., 2020).

Fifth, strengthening oversight and accountability mechanisms ensures that investigation processes run according to due process of law principles. Several steps can be taken, including reactivating Propam functions and the Supervision Division as primary guardians of investigator professionalism, enhancing the role of institutions like Kompolnas, Ombudsman, and Komnas HAM to receive and follow up on community reports regarding narcotics investigation, and implementing periodic investigation audit mechanisms to evaluate case

handling procedures by Satresnarkoba. With strong oversight, deviation practices or abuse of authority can be prevented and addressed fairly. Sixth, optimizing rehabilitation and diversion for users addresses one root problem where there is no firm distinction between users and dealers. Implementing optimally Article 127 of the Narcotics Law, which allows addicts to be rehabilitated rather than imprisoned, building integrated assessment units (UAT) in each region consisting of investigators, prosecutors, doctors, and BNN, ensures that investigations against narcotics addicts will be more recovery-oriented rather than merely punitive (Mohammad Arif Wahyudi et al., 2023).

## 5. Conclusion

The effectiveness of narcotics crime investigation by the Narcotics Investigation Unit, when viewed from KUHAP provisions and related legislation, has not yet reached optimal levels. This is caused by several interconnected factors, including the rigidity of KUHAP, which was not specifically designed to handle extraordinary crimes like narcotics, disharmony between KUHAP as general procedural law and the Narcotics Law as *lex specialis*, overlapping authority between the Police and BNN investigators, and the absence of clear technical regulations for special investigation methods. These normative deficiencies create legal uncertainty that affects both the procedural validity of investigations and the protection of suspects' rights. The legal gaps, particularly in regulating wiretapping, controlled delivery, and undercover operations, leave investigators operating in juridical gray areas with risks of evidence inadmissibility.

The juridical-normative obstacles faced in narcotics investigation include KUHAP limitations in accommodating narcotics crime characteristics, overlapping authority between law enforcement institutions, legal vacuum regarding perpetrator categorization between users and dealers, disharmony between legislation, absence of clear special operation procedure regulations, minimal protection norms for whistleblowers and witnesses, and lack of specific regulations for transnational narcotics case handling. These obstacles are rooted in a regulatory system that has not been fully responsive to narcotics crime dynamics. Resolution efforts require comprehensive approaches, including regulatory reform through KUHAP revision, strengthening investigator capacity through specialized training, modernization of investigation facilities, enhancing inter-agency synergy and coordination, strengthening oversight and accountability mechanisms, optimizing rehabilitation approaches for users, and developing international cooperation frameworks. Legal reform and institutional synergy constitute keys to comprehensively improving narcotics investigation effectiveness in Indonesia.

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