



## Criminologists' Perspective of Factors Contributing to Unreported Narcotics Crimes

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### Abstract

*Efforts to address and eliminate narcotics crimes heavily depend on community involvement, particularly in reporting such offenses, yet many hesitate due to various reasons. This research explores factors that hinder individuals from reporting narcotics crimes and seeks effective strategies to combat this issue, employing both normative juridical and empirical juridical approaches, including literature reviews and field studies, and analyzing data qualitatively. An example from Decision Number: 522/Pid.Sus/2022/PN Tjk, where defendant Ali Amarsyah Bin Misran was sentenced to eight months for a narcotics offense, highlights the legal consequences of such crimes. The research identifies key factors discouraging reports: the inconvenience of legal processes, fear of retaliation from criminals, and a lack of awareness about legal protections for informants. To counteract these issues, the research recommends non-penal measures such as public education on legal rights and protections, alongside penal strategies that involve thorough inquiries and investigations to collect evidence and identify suspects in unreported narcotics activities. This dual approach emphasizes a holistic strategy to boost public cooperation with law enforcement and enhance the effectiveness of narcotics crime prevention and prosecution.*



## A. Introduction

Efforts to combat and eliminate narcotics crimes require law enforcement intervention and active community involvement, particularly in reporting such offenses.<sup>1</sup> Individuals or groups reporting these crimes are referred to as complainants.<sup>2</sup> Legally, their reports constitute a formal notification to law enforcement authorities about a criminal incident that has occurred, is ongoing, or is suspected of occurring, fulfilling both a right and an obligation under the law.<sup>3</sup>

The legal framework empowering citizens to report crimes is established under Article 108 of the Criminal Procedure Code.<sup>4</sup> Moreover, Article 106 of Law Number 35 of 2009 concerning Narcotics outlines the community's rights to prevent and combat narcotics and precursor drug trafficking. This includes the right to seek, obtain, and provide information regarding suspicions of narcotics crimes and to receive legal protection when participating in court proceedings. Article 107 further specifies that the public can report any suspected narcotics abuse or illicit trafficking directly to the appropriate authorities or the National Narcotics Board (BNN).<sup>5</sup>

The gap between the legal expectation that society should report narcotics crimes ("*das sein*") and the reality that individuals often do not report such offenses ("*das sollen*") highlights significant challenges in law enforcement and community safety. This reluctance to report is primarily driven by fear of retaliation from criminals, who may not hesitate to threaten or harm those who witness their activities. Additionally, a general aversion to becoming entangled in legal processes further discourages public cooperation. This fear and reluctance can severely impede the efforts of law enforcement officials to perform their duties effectively.

An illustrative case is Decision Number: 522/Pid.Sus/2022/PN Tjk, where the defendant, Ali Amarsyah Bin Misran, was sentenced to eight months in prison. His conviction under Article 114 of the Narcotics Law was secured despite the broader issue of underreporting such crimes, reflecting the reactive nature of criminal sanctions.<sup>6</sup> The enforcement of the law in this instance underscores its role in protecting society and ensuring order and legal certainty, aiming to prevent victimization by criminals and maintaining justice and societal benefits<sup>7</sup>

However, the ongoing challenge lies in addressing the reasons behind the underreporting of narcotics crimes. This research aims to explore the handling of unreported narcotics offenses and identify the factors contributing to this issue. The following research questions are proposed: (1) What are the factors that contribute to the underreporting of narcotics crimes? (2) What strategies can be implemented to encourage more reporting of narcotics crimes and enhance the effectiveness of law enforcement against such underreporting?

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<sup>1</sup> Gugun Hariadi Gunawan. *Peran Serta Masyarakat Dalam Penanggulangan Tindak Pidana Narkotika (Studi Kasus di Polres Aceh Tenggara)*. Jurnal Hukum dan Kemasyarakatan Al-Hikmah Vol. 2, No. 1, Maret 2021.

<sup>2</sup> Adista Dwi Lestari. *Peran Serta Masyarakat dalam Perkara Tindak Pidana Narkotika*. Journal of Law Vol 5, No 2 Tahun 2019.

<sup>3</sup> Dwi Putri Melati. *Peran Masyarakat dalam Pemberantasan Pengedaran Narkotika*. Justicia Sains Jurnal Ilmu Hukum. Vol. 2 No.2 Tahun 2020.

<sup>4</sup> Gunawan Antiprawiro. *Peran Masyarakat dalam Pencegahan dan Penanggulangan Terhadap Penyalahgunaan dan Peredaran Gelap Narkotika*. Jurnal Sociae Polites Edisi Juli-Desember 2014.

<sup>5</sup> Nashrudin. *Optimalisasi Penanggulangan Tindak Pidana Narkotika Melalui Program Pencegahan Pemberantasan Penyalahgunaan dan Peredaran Gelap Narkotika (P4GN) Studi Kasus di Wilayah Polres Cimahi*. Jurnal Veritas Vol.8 No. 2 Tahun 2022.

<sup>6</sup> Bilher Hutahaean. *Penerapan Sanksi Pidana Bagi Pelaku Tindak Pidana Anak*, Jurnal Yudisial Vol. 6 No. 1 April 2013:64 – 79.

<sup>7</sup> Warih Anjari, *Penjatuhan Pidana Mati di Indonesia dalam Perspektif Hak Asasi Manusia*, E-Journal Widya Yustisia, Volume 1 Nomor 2 Maret 2015.

## **B. Discussion**

### **1. Factors Causing Narcotics Crimes Unreported**

#### **a. Society Reluctance in Dealing with Legal Issues**

The reluctance of the public to engage with legal processes significantly impacts the reporting of narcotics crimes in Indonesia, despite the crucial role that community members can play as reporters or witnesses in the battle against narcotics. The urgent need for active community involvement is underscored by the severe and far-reaching consequences of narcotics on individual lives, societal health, and national development. The pervasive distribution of narcotics, affecting areas from major cities to remote villages across Indonesia, exacerbates the issue.

The government has responded to this crisis by enacting Law Number 35 of 2009 concerning Narcotics. This law reflects the understanding that narcotics crimes are not only highly sophisticated and transnational but also perpetrated by well-organized networks that leverage advanced technologies. These crimes have had a devastating impact, particularly on the youth, threatening the vitality of societal, national, and state structures.

The public needs to actively report any suspicions or knowledge of narcotics abuse and trafficking. The unchecked spread of narcotics fosters an environment where substance dependence escalates beyond control, often without the necessary medical oversight, leading to broader social, economic, and security issues. This represents a significant threat not only to the well-being of individuals but also to the stability and security of the nation.

#### **b. People are afraid of criminals and their syndicates**

Public fear of retaliation by narcotics crime perpetrators and their syndicates is another significant deterrent to reporting these crimes. This fear impedes community engagement in law enforcement despite legal protections afforded to witnesses and victims. The police and other law enforcement agencies are vital conduits through which the public can engage in the legal process, particularly through the path of criminal law, which is applicable only when a clear violation of a criminal nature occurs.

The community's role in the law enforcement process through criminal law can manifest in two key forms: as reporting parties and as witnesses. Both roles are crucial, as they enable the community to use established legal channels to support law enforcement efforts. However, for the public to effectively participate, they must be well-informed about the appropriate legal institutions to approach. Lack of knowledge about which institutions have the requisite authority can lead to misdirected reports and, consequently, disappointment and frustration with perceived unresponsiveness. The public should understand the correct channels for reporting and participating in legal processes. This not only ensures that complaints and reports are appropriately handled but also enhances the responsiveness of institutions, fostering greater public trust and cooperation.

Expanding the scope for public participation in law enforcement could significantly improve the overall effectiveness of the legal process. This can be achieved by allowing the public to directly oversee law enforcement activities such as investigations, prosecutions, and judicial proceedings. By engaging community members in these processes, not only through direct reporting and witnessing but also by enabling them to supervise legal procedures, the transparency and accountability of law enforcement agencies such as the police, prosecutor's offices, and courts can be significantly enhanced.

### **c. Lack of Public Understanding of Protection Against Narcotics Crime Reporters**

Individuals who report narcotics-related crimes are afforded legal protection to ensure their safety, a crucial measure that aids in the uncovering of such offenses. This protection is a significant responsibility of the police. In Bandar Lampung, the police ensure the confidentiality of informants' identities and provide necessary protection to safeguard them. This is imperative due to the legal vulnerabilities faced by civilians who assist law enforcement as informants. The legal framework offers various definitions regarding the roles of individuals within the criminal justice system, such as plaintiffs, suspects, defendants, witnesses, and expert witnesses. This research focuses on how civilians engage in law enforcement processes and emphasizes their roles and legal statuses, particularly those of reporters and witnesses.

The reluctance of the public to report or testify in narcotics crimes often stems from a lack of understanding of the legal protections available to them. According to the Witness and Victim Protection Act, every law should embody three fundamental elements: certainty, utility, and justice. Certainty ensures that all citizens are aware of their rights and obligations under the law. Utility implies that laws help maintain societal order effectively. Justice guarantees that the law does not disadvantage individuals, instead safeguarding their interests adequately. These principles are essential for building trust between the community and the legal system, encouraging more individuals to come forward and cooperate with law enforcement agencies.

## **2. Efforts to Combat Crime Against Crime Not Reporting the Existence of Narcotics Crimes**

### **a. Efforts to Overcome Crime Not Reporting the Existence of Narcotics Crimes Through Non-Penal Means**

Efforts to overcome crime by not reporting narcotics crimes through non-penal means are as follows:

#### **1. Conducting Counseling Regarding Legal Awareness**

Educating the public about legal awareness to promote the reporting of drug-related crimes is based on the premise that law provides a normative structure for societal interactions. Law evolves along the changes among societal values to regulate behavior and uphold social harmony. Laws are a fundamental aspect of all societies across the globe, playing a critical role in both ancient and contemporary communities. The dynamic between law and society is mutual: laws are established by humans to create order, foster harmony, and ensure peace. Within society, law fulfills three main functions: (1) a mechanism for social control, (2) facilitating smoother interactions by setting clear rules, (3) establishing conditions that enhance societal welfare. Recognizing these functions underscores the significance of legal knowledge and the necessity for the public's active engagement in law enforcement efforts.

#### **2. Providing Guarantee of Security and Safety of Reporters**

The Witness and Victim Protection Act underscores efforts to ensure the security and safety of reporters and witnesses, recognizing that every Indonesian citizen is entitled to state protection, both physical and psychological. This commitment is anchored in Article 27, paragraph (1) of the 1945 Constitution, which asserts that all citizens are equal before the law and the government is mandated to uphold the law impartially and without exception.

In crime prevention, the partnership between the police and the community is crucial. This collaboration plays a vital role in identifying priorities and addressing various crime-related issues, ultimately aiming to enhance the quality of life in communities where such partnerships are active. Active community participation in monitoring, advising, and

supporting police efforts signifies strong, ongoing, and productive communication between the police and the community.<sup>8</sup> An open-system approach is essential, where the police share information, involve community members in addressing public safety issues (*Kamtibmas*), and maintain robust communication.<sup>9</sup> This approach ensures that the police are not isolated entities but integral parts of their communities.

#### **b. Efforts to Overcome Crime Not Reporting the Existence of Narcotics Crimes Through Penal Means**

Efforts to combat crime through penal measures involve using criminal law to address two central issues: defining criminal actions and determining appropriate sanctions for offenders. As mandated by Law Number 2 of 2002, the police are responsible for maintaining public order and security, enforcing the law, and providing protection, shelter, and services to the community. The police's duties and functions as law enforcement officers include not only upholding these responsibilities but also conducting investigations with discretion and confidentiality, particularly concerning narcotics crimes.

Article 13 of Law Number 2 of 2002 outlines these police duties, while Article 2 expands on their role in state governance related to maintaining security, law enforcement, and community service. Furthermore, Article 5 establishes the police's authority as a state instrument tasked with maintaining security and public order, enforcing laws, and providing extensive community services to ensure internal security.

In handling narcotics crimes, police investigators do not immediately report these crimes publicly but instead undertake rigorous investigations<sup>10</sup> to gather substantial evidence before determining their classification as crimes.<sup>11</sup> This approach supports the principle that sentencing should aim to rehabilitate offenders, reflecting the philosophical foundation that law enactment should mirror societal norms and values<sup>12</sup>, ensuring legal responses are just,<sup>13</sup> rooted in conscience, and aligned with the values of Pancasila. This method emphasizes the need for legal frameworks to be both effective and ethical in maintaining order and justice.<sup>14</sup>

Investigators conduct a series of investigative actions to discover events suspected of being criminal in nature, determining whether a formal investigation should be initiated.<sup>15</sup> These initial steps focus solely on identifying potential criminal activities and are not aimed at identifying suspects. Moreover, these investigative actions do not necessarily begin with a formal investigation; rather, they can start independently whenever an event

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<sup>8</sup> Yulianto, Rama Fatahillah, and Ali Muhammad. "Eksistensi Institusi Pemasyarakatan dalam Mewujudkan Reintegrasi Sosial kepada Warga Binaan Pemasyarakatan." *Yustitia* 7, no. 2 (2021): 173-184. <https://doi.org/10.31943/yustitia.v7i2.139>

<sup>9</sup> Muhammad Mustofa. *Menghukum Tanpa Memenjarakan: Mengaktualisasi Gagasan "Restorative Justice" di Indonesia*, Jurnal Penelitian. Universitas Indonesia. 2014.

<sup>10</sup> A. Nurhaqi. 2017. *Pelaksanaan Diskresi pada Tingkat Penyidikan*. Jurnal Penelitian Program Pascasarjana. Universitas Katolik Parahyangan. <http://repository.unpar.ac.id/>

<sup>11</sup> Erlyn Indarti. *Profesionalisme Pengembangan Fungsi Utama Kepolisian dalam Penegakan Hukum di Polda Jawa Tengah*. Jurnal MMH, Jilid 43 Nomor 3 Juli 2014.

<sup>12</sup> Resdian Wisudya Kharismawan. *Kebijakan Pertimbangan Hakim dalam Kasus Tindak Pidana Korupsi Secara Bersama-Sama dan Berlanjut (Studi Kasus Putusan Nomor 16/Tipikor/2015/PT.Bdg)*. Jurnal Hukum Khaira Ummah Vol. 12. No. 3 September 2017. <http://jurnal.unissula.ac.id/index.php/jhku/article/download/1880/1424>.

<sup>13</sup> Sidharta, *Reformasi Peradilan dan Tanggung Jawab Negara, Bunga Rampai Komisi Yudisial, Putusan Hakim: Antara Keadilan, Kepastian Hukum, dan Kemanfaatan*, Jurnal Penelitian. Komisi Yudisial Republik Indonesia, Jakarta, 2010.

<sup>14</sup> Erna Dewi. *Hukum Penitensier dalam Perspektif*, Lembaga Penelitian Universitas Lampung, Bandar Lampung 2013. <https://scholar.google.co.id/citations?user=DtnGcJMAAAAJ&hl=en>

<sup>15</sup> Sinaga, Niru Anita. "Kode etik sebagai pedoman pelaksanaan profesi hukum yang baik." *Jurnal Ilmiah Hukum Dirgantara* 10, no. 2 (2020). <https://doi.org/10.35968/jh.v10i2.460>

is suspected of constituting a crime. If such an event is found, investigators can then proceed directly to an investigation.

This investigative process begins with establishing whether a crime has indeed occurred, based on preliminary evidence, without initially reporting a narcotics crime. Once there is clear and sufficient evidence that corroborates the initial suspicions and confirms that a crime has taken place, a formal investigation is launched. This investigation comprises a series of legally regulated actions by police investigators to gather and assemble evidence that will illuminate the circumstances of the crime and help identify any suspects.

Investigations, especially those that involve unreported narcotics crimes, play a crucial role in the broader law enforcement system, which includes the police, prosecutors, and courts within the criminal justice framework. This system is interconnected, where the actions of one agency are closely linked to the performance of others. The criminal justice system is designed to combat crime comprehensively, aiming to prevent victimization, resolve criminal cases to the satisfaction of the public that justice has been served, ensure the guilty are appropriately punished, and prevent reoffending.

### C. Conclusion

Several factors contribute to the public's reluctance to report narcotics crimes, including a desire to avoid the complexities of legal processes, fear of retaliation from criminals and their networks, and a lack of awareness about the legal protections available to informants. These factors align with Travis Hirschi's Theory of Social Control, which posits that crime occurs due to weakened social bonds characterized by four elements: attachment, commitment, involvement, and belief.

To address the issue of underreporting narcotics crimes, non-penal efforts such as public education on legal awareness are crucial. These initiatives aim to encourage the community to report narcotics crimes by reassuring them of their safety and the security measures in place to protect informants. Alongside these non-penal strategies, penal efforts involve formal inquiries and investigations. Investigators follow regulated procedures to gather evidence, shedding light on the crime and identifying suspects involved in unreported narcotics activities.

This approach integrates the Theory of Crime Prevention, which advocates for a blend of non-penal and penal strategies as part of a comprehensive criminal law enforcement process. By fostering a community that is informed, protected, and engaged, these efforts work synergistically to strengthen law enforcement's ability to tackle narcotics crimes effectively.

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