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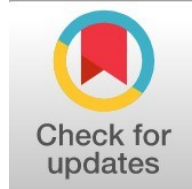
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Authority Limits of POLRI and BNN Investigators in Narcotics Law Enforcement

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Abstract

General Background Narcotics crimes in Indonesia are categorized as extraordinary crimes requiring integrated law enforcement within the criminal justice system. **Specific Background** The Indonesian National Police and the National Narcotics Agency (BNN) both possess investigative authority in handling narcotics cases, which often leads to overlapping roles in practice. **Knowledge Gap** The absence of clear operational boundaries and coordination mechanisms between these institutions creates legal uncertainty and potential duplication in narcotics investigations. **Aims** This study aims to analyze the legal framework governing investigative authority and examine the coordination challenges between the Police and BNN in narcotics crime handling. **Results** The findings indicate that overlapping authority between institutions contributes to inefficiencies, procedural inconsistencies, and conflicts in law enforcement practices, particularly in investigation stages and case handling. Existing regulations provide formal authority but lack detailed technical guidelines for coordination. **Novelty** This study highlights the structural and normative gaps in inter-agency coordination by emphasizing the need for integrated operational standards within narcotics investigations. **Implications** Strengthening regulatory clarity and establishing joint operational guidelines are essential to ensure legal certainty, prevent duplication of authority, and support a more coherent criminal justice process in addressing narcotics crimes in Indonesia.

Highlights:

- Dual institutional mandates generate procedural overlap in case handling.
- Regulatory provisions lack detailed coordination mechanisms at the operational level.
- Inter-agency inconsistency contributes to inefficiency in investigation processes.

Keywords: Investigative Authority, POLRI, BNN, Narcotics Crimes.

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Introduction

Drug abuse and illicit drug trafficking are among the serious problems faced by many countries, including Indonesia. Drug-related crimes not only impact public health but also threaten social and economic stability as well as national security. Therefore, drug-related crimes are often categorized as “extraordinary crimes” that require extraordinary countermeasures through an effective and coordinated law enforcement system. Law enforcement against narcotics crimes requires not only a robust regulatory framework but also law enforcement agencies with clear authority that are integrated into the criminal justice system [1].

In the Indonesian legal system, the combating of narcotics-related crimes is specifically regulated under Law No. 35 of 2009 on Narcotics. This law grants investigative authority to more than one law enforcement agency, namely the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN). Article 81 of Law No. 35 of 2009 states that investigators from POLRI and BNN are authorized to investigate the abuse and illicit trafficking of narcotics and narcotic precursors [2]. On the other hand, Articles 71 and 75 of the same law grant special authority to the BNN to conduct investigations and inquiries in the context of combating the abuse and illicit trafficking of narcotics [3].

The primary goal of giving these two law enforcement organizations additional power is to improve drug eradication initiatives by using a more all-encompassing strategy. While the BNN is a specialized organization created to carry out prevention, eradication, rehabilitation, and coordination in drugs management, the Indonesian National Police (POLRI) has overall jurisdiction in criminal law enforcement. Coordinating national efforts to reduce drug misuse and illicit trafficking through prevention and law enforcement tactics is the responsibility of the BNN, a non-ministerial government agency under the President [4].

However, the arrangement of investigative authority granted to these two agencies raises legal issues in law enforcement practice. Several studies indicate that provisions in the Narcotics Law grant relatively similar investigative powers to the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) without clear criteria for case allocation or defined limits on authority. This situation has the potential to create overlapping authority in the investigation of narcotics cases [5].

The criminal justice system may be affected by such overlapping authority in a number of ways, such as conflict between law enforcement agencies, ineffective investigative procedures, and legal confusion for those facing legal proceedings. Because both the National Police (POLRI) and the National Narcotics Agency (BNN) believe they have equal legitimacy in handling drug cases, there may occasionally be conflicts in the exercise of investigative authority due to their overlap [6]. Confusion over which entity has main responsibility to handle a particular drug case can also result from a lack of coordination across agencies [7].

From the standpoint of legal theory, this circumstance may be at odds with one of the core tenets of the rule of law: the concept of legal certainty. To avoid varying interpretations in their execution, legal certainty necessitates precise regulations concerning the allocation of power among state entities. Ineffective law enforcement and possible injury to those participating in the criminal justice system can result from ambiguity in the regulation of authority.

Although the literature on drug law enforcement in Indonesia is expanding, previous research has mostly concentrated on either the institutional roles of POLRI or BNN separately or on the overall difficulties of drug eradication from a policy standpoint. There hasn't been enough research done on a thorough normative analysis that explicitly looks at the limits of investigative authority between the two institutions and connects normative ambiguity to the idea of legal certainty. By doing a methodical legal examination of the regulatory framework controlling the separation of investigative authority between POLRI and BNN investigators, this paper fills that vacuum. It places special attention on detecting normative contradictions and their consequences for legal certainty. This study is innovative because it takes an integrative approach, combining a conceptual legal framework with a statutory analysis to generate specific recommendations for inter-agency coordination reform and regulatory harmonization.

Based on the above discussion, it can be seen that although regulations regarding the authority to investigate narcotics-related crimes have been established in legislation, there are still issues in their practical implementation. Therefore, an in-depth legal study is needed regarding the boundaries of authority between National Police investigators and BNN investigators in narcotics crime investigations, as well as how the implications of such overlapping authority affect the realization of legal certainty within Indonesia's criminal justice system. This study is expected to contribute academically to the development of criminal law research, while also providing recommendations to improve coordination and harmonization of authority among law enforcement agencies in the eradication of narcotics-related crimes.

Method

This study employs a normative legal research method, which examines law as a set of norms and principles applicable within a legal system. The primary focus is on analyzing legislation, legal doctrine, and legal principles relevant to the division of investigative authority between POLRI and BNN in narcotics crime enforcement [8].

Two complementary approaches are applied. First, the statutory approach, which involves systematically examining Law No. 2 of 2002 on the National Police, Law No. 35 of 2009 on Narcotics, and the Criminal Procedure Code (KUHAP). This approach is used to identify specific provisions governing investigative authority—such as Articles 71, 75, and 81 of Law No.

35 of 2009—and to detect potential normative conflicts arising from the concurrent authority granted to both institutions [9], [10]. Second, the conceptual approach, which draws on legal doctrine concerning investigative authority, legal certainty, and the role of specialized law enforcement agencies. This approach provides the theoretical framework for interpreting the identified normative conflicts and their implications [11].

Legal materials are drawn from three sources: primary materials (relevant statutes and regulations), secondary materials (legal textbooks and academic journal articles), and tertiary materials (legal dictionaries and encyclopedias) [12]. Focusing on written legal papers and academic material directly related to the research subject, data gathering was carried out through library research [13].

Four stages of qualitative legal analysis were conducted: (1) inventory and classification of pertinent legal materials; (2) interpretation of provisions governing investigative authority in narcotics cases; (3) systematic cross-analysis of the Police Law and the Narcotics Law to map overlapping authority; and (4) deductive conclusion-drawing to derive specific findings from general legal norms [14], [15].

Results and Discussion

The results of this study present findings regarding the regulation of investigative authority for the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) in the investigation of narcotics-related crimes, as well as the potential for overlapping authority that arises within Indonesia's law enforcement system. Based on an analysis of legislation and legal literature, it was found that both institutions possess relatively similar investigative authority, yet with distinct institutional characteristics.

1. Regulation of the Investigative Authorities of the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) in Legislation

Provisions regarding the authority to investigate narcotics-related crimes in Indonesia's positive legal system are not contained in a single regulation, but are scattered across several interrelated laws and regulations. Some of the key regulations forming the legal basis for these authorities include Law No. 2 of 2002 on the National Police of the Republic of Indonesia, Law No. 35 of 2009 on Narcotics, and the Criminal Procedure Code (KUHAP) as the general criminal procedure law applicable within Indonesia's criminal justice system. Together, these three regulations form the legal framework governing how investigations into narcotics-related crimes are conducted by law enforcement officials [16]. The KUHAP provides a procedural basis regarding general investigative authority, while the Police Law and the Narcotics Law provide more specific regulations regarding the agencies authorized to carry out investigative functions in narcotics cases [17].

Under the Criminal Procedure Code (KUHAP), an investigator is defined as an officer of the Indonesian National Police or a specific civil servant authorized by law to conduct investigations into criminal offenses. This provision affirms that, generally, investigative authority within the criminal justice system rests with the police as the primary investigator in the criminal law enforcement process. Within this framework, the Indonesian National Police (POLRI) possesses broad authority to carry out investigative actions such as arrest, detention, search, seizure, questioning of witnesses and suspects, and the collection of evidence to clarify a criminal offense and identify the perpetrator [18]. These authorities also apply to the handling of narcotics-related crimes, as narcotics are fundamentally a type of criminal offense falling within the scope of general criminal law.

However, the increasingly complex and organized nature of drug-related crimes—which often involve transnational networks—has prompted the government to establish a specialized agency dedicated to combating drug abuse and illicit trafficking. In this context, Law No. 35 of 2009 on Narcotics provides the legal basis for the existence of the National Narcotics Agency (BNN) as a non-ministerial government agency with specific duties and functions in the prevention and eradication of drug abuse and illicit trafficking. This law also grants investigative and prosecutorial authority to BNN investigators to directly handle narcotics-related criminal offenses [19]. Normatively, this framework reflects a division of authority between the Indonesian National Police (POLRI) and the BNN within Indonesia's narcotics law enforcement system. POLRI serves as the general law enforcement agency with broad authority to handle various types of criminal offenses, including narcotics-related crimes. Meanwhile, the BNN is positioned as a specialized agency with a more specific mandate in the fight against narcotics, not only in terms of law enforcement but also in terms of prevention, rehabilitation, and the coordination of national policy in the field of narcotics. In other words, the BNN's authority is not limited to repressive functions through investigations but also encompasses preventive and rehabilitative approaches in comprehensively addressing narcotics-related issues [20].

Nevertheless, the delegation of investigative authority to these two distinct agencies creates its own dynamics within the law enforcement system in practice. Provisions in the Narcotics Law essentially grant relatively similar investigative powers to both National Police (POLRI) investigators and BNN investigators in conducting investigative actions, such as arrests, searches, seizures, and the use of specialized investigative techniques like wiretapping and undercover purchases. This situation indicates that, normatively, both agencies possess equal legal legitimacy in handling narcotics cases. However, on the other hand, this similarity in authority also has the potential to lead to overlapping jurisdictions if not accompanied by clear coordination mechanisms in their implementation [21].

From the perspective of legal theory and law enforcement institutions, the existence of more than one investigative agency in handling certain types of criminal offenses is not entirely new. Additionally, a number of nations give specialized agencies

investigative powers to deal with particular crimes like drug-related offenses, terrorism, and corruption. The goal is to increase law enforcement's efficacy by using a more specialized and expert approach. However, in order to avoid conflicts of power or legal ambiguity, the creation of such specialized agencies must be balanced by explicit restrictions defining the extent of authority and coordination procedures with other law enforcement authorities [22]. Thus, the regulation of investigative authority between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) under Indonesian positive law essentially reflects the state's efforts to strengthen the narcotics eradication system through a dual institutional approach (dual enforcement system). POLRI continues to carry out investigative functions as a general law enforcement agency, while BNN carries out investigative functions within a specialized institutional framework focused on narcotics eradication. But these arrangements also provide special difficulties for law enforcement, especially when it comes to the possibility of overlapping authorities, which can affect both the criminal justice system's legal certainty and the efficacy of investigations [23].

When evaluated critically, Indonesia's dual enforcement paradigm has both fundamental flaws and structural advantages. Its main advantage is the wider institutional coverage it offers: by allowing both POLRI and BNN to look into drug-related offenses, the state optimizes its ability to police the law at all levels of criminal networks, from street-level distribution to international trafficking. The lack of a legally binding, operationally specific demarcation of jurisdiction, however, is a crucial flaw in the model. The existing system, in contrast to a true division of labor, produces a normative overlap in which both agencies might concurrently assert authority over the same issue without a defined hierarchy or priority mechanism to settle such disputes. This structural ambiguity is a legislative shortcoming that compromises the consistency and predictability required by the norm of legal certainty, not just a coordination issue.

This idea is further demonstrated via a comparative viewpoint. The Federal Bureau of Investigation (FBI) may have concurrent jurisdiction in instances involving organized crime, but the Drug Enforcement Administration (DEA) is the primary federal agency for drug enforcement in the United States. However, formal inter-agency procedures, such as Memoranda of Understanding (MoUs) and joint task groups, which precisely specify operational tasks and avoid duplication, are used to handle this dual authority [22]. Similar to this, in Australia, the Australian Border Force (ABF) and the Australian Federal Police (AFP) both have anti-drug duties, but their distinct powers are defined by the kind of offense—border control vs domestic trafficking—and are backed by clear legislation. In contrast, Indonesia's structure relies on generic coordination expectations without legally binding procedural processes, without such operationally clear statutory definition.

Table 1. Comparison of the Powers of National Police Investigators and National Narcotics Agency Investigators in the Investigation of Narcotics Crimes.

Aspect of Authority	POLRI Investigators	BNN Investigators
Legal Basis	Law No. 2 of 2002 and Law No. 35 of 2009	Law No. 35 of 2009
Institutional Status	General law enforcement agency	Specialized agency for narcotics eradication
Scope of Handling	All criminal offenses, including narcotics	Focus on narcotics-related crimes
Investigative Powers	Arrest, search, seizure, examination of witnesses and suspects	Arrest, search, seizure, wiretapping, undercover buy operations
Additional Functions	General criminal law enforcement	Prevention, rehabilitation, and eradication of narcotics
Handling of Money Laundering (TPPU)	Through cooperation with relevant agencies	Has authority to trace money laundering derived from narcotics

Based on the table, it can be concluded that, in principle, there is a similarity in investigative authority between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN), particularly regarding key investigative actions such as arrests, searches, seizures, the questioning of witnesses and suspects, and the use of special investigative techniques in narcotics cases. This similarity in authority is essentially a consequence of the provisions in Law No. 35 of 2009 on Narcotics, which explicitly grants investigative authority to both institutions in order to strengthen efforts to eradicate the abuse and illicit trafficking of narcotics. In the context of criminal policy, the delegation of authority to more than one law enforcement agency is often intended to enhance the effectiveness of law enforcement, particularly against crimes that are complex, organized, and have extensive networks, such as narcotics-related crimes [24]. However, such overlapping authority also gives rise to legal consequences in the form of potential authority overlap (overlapping authority) if not accompanied by clear and structured coordination mechanisms between the two law enforcement agencies [5].

In law enforcement practice, overlapping jurisdictions can arise when two institutions with similar authority handle the same case without a clear division of responsibilities or an effective coordination system. A number of consequences may result from this circumstance, including the possibility of institutional conflict in the management of a case, competition among agencies for authority, and duplication of investigations [25]. Furthermore, because different law enforcement organizations may take different legal actions, overlapping jurisdictions may also affect how successful the investigative process is. Coordination between law enforcement agencies is essential from the standpoint of an integrated criminal justice system to guarantee that the law enforcement process functions successfully and efficiently while preserving legal certainty for all parties involved [26].

A number of previous studies have shown that granting investigative authority to more than one law enforcement agency often gives rise to potential conflicts of authority if not accompanied by clear regulations regarding the limits of its exercise.

In the study of criminal law and law enforcement institutions, conflicts of authority typically arise when two or more institutions possess equal legal legitimacy in handling a particular type of criminal offense, yet there is no clear delineation of authority regarding the scope of duties, jurisdictional areas, or the criteria for cases that each agency prioritizes. This situation allows for differing interpretations in the exercise of authority, potentially leading to overlapping authority in the law enforcement process.

Several previous studies have specifically examined this issue in the context of combating drug-related crimes in Indonesia. One such study was conducted by Restu Widiastuti et al. in an article titled “Analisis Yuridis Hambatan Penyidikan Tindak Pidana Penyalahgunaan Narkotika Berdasarkan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika”, this study indicates that the differing legal frameworks used by National Police investigators and National Narcotics Agency (BNN) investigators in conducting investigations have the potential to create inconsistencies in narcotics law enforcement practices. POLRI investigators base their investigative duties on the Criminal Procedure Code (KUHP), while BNN investigators rely on specific provisions in Law No. 35 of 2009 on Narcotics [1]. These differing legal bases can lead to procedural discrepancies in the conduct of investigations, which ultimately have the potential to cause conflicts of authority among law enforcement agencies.

Furthermore, research conducted by Khasril and Fitriati in an article titled “Perbandingan Kewenangan Penyidik Pada Penyidikan Tindak Pidana Narkotika” also highlights the differences and similarities in the authorities of these two agencies. The study found that Law No. 35 of 2009 grants very broad investigative authority to BNN investigators through Articles 71 and 75, while POLRI investigators retain investigative authority under the provisions of Article 81 [2]. This situation results in both agencies having the same investigative authority regarding the subject matter—namely, drug abuse and illicit drug trafficking—without a clear division regarding the types of cases or the levels of criminal networks that fall under each agency’s respective jurisdiction.

Furthermore, from the perspective of legal certainty theory, the lack of clarity regarding the division of authority among law enforcement agencies has the potential to create uncertainty in the implementation of the law itself. Legal certainty requires rules that are clear, unambiguous, and predictable in their application, including with regard to the division of authority among state institutions that perform law enforcement functions [27]. If the boundaries of authority are not explicitly defined, this can lead to confusion in law enforcement practices and open the door to potential abuse of authority. Therefore, the existence of an effective coordination mechanism between the National Police (POLRI) and the National Narcotics Agency (BNN) is crucial to minimize potential conflicts of authority while ensuring that the investigation process for narcotics-related criminal offenses proceeds in a synergistic and integrated manner within the framework of Indonesia’s criminal justice system [28].

2. Analysis of Overlapping Investigative Jurisdictions between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN)

Overlapping jurisdictions between investigators from the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) can essentially occur because both agencies possess relatively similar investigative authorities in handling narcotics-related criminal offenses, as stipulated in Law No. 35 of 2009 on Narcotics [29]. The provisions in this law provide legal legitimacy to both institutions to carry out various investigative actions aimed at uncovering the abuse and illicit trafficking of narcotics. In practice, this similarity in authority is evident in the various primary investigative actions that can be carried out by both National Police investigators and BNN investigators, such as arrests, searches, seizures, the questioning of witnesses and suspects, and the use of specialized investigative techniques commonly employed in the fight against narcotics-related crimes [30].

This shared authority is intended, in principle, to strengthen the state’s capacity to address complex and organized drug-related crimes. Drug crimes often involve extensive networks, ranging from producers and distributors to dealers operating across various regions and even across national borders. Therefore, the state grants investigative authority to more than one law enforcement agency in the hope that law enforcement can be carried out more effectively and responsively to evolving drug crime tactics [31]. Within the framework of criminal policy, granting authority to specialized agencies such as the National Narcotics Agency (BNN) is also a form of the state’s strategy to strengthen narcotics eradication efforts through a more specific and focused approach.

However, these overlapping authorities also create the potential for jurisdictional conflicts if not accompanied by clear regulations regarding the division of duties and coordination mechanisms among law enforcement agencies. One of the aspects that most frequently leads to jurisdictional conflicts between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) is the use of specialized investigative techniques that are characteristic of narcotics crime enforcement. These investigative techniques include, among others, wiretapping, undercover purchases, controlled deliveries, and undercover operations. These techniques are generally used to uncover closed and organized drug trafficking networks, thus requiring more complex investigative methods compared to conventional criminal offenses [32]. Problems arise when both agencies have equal authority to use these investigative techniques in handling a narcotics case. Under certain circumstances, this can lead to duplication of investigative efforts or even conflicts of authority if both agencies simultaneously investigate the same subject matter. Such situations not only have the potential to cause friction between law enforcement agencies but can also undermine the effectiveness of the law enforcement process itself [33]. From the perspective of an integrated criminal justice system, effective coordination among law enforcement agencies is a key factor in ensuring that every stage of the law enforcement process proceeds systematically, efficiently, and without overlap [34].

A number of recent studies also indicate that overlapping jurisdictions among law enforcement agencies represent a common challenge within legal enforcement systems involving more than one investigative institution. Research conducted by Zein Rasheed Khanna et al. in the article “Harmonisasi BNN Dan BIN Dalam Pemberantasan Tindak Pidana Narkotika

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Transnasional” indicates that the overlapping authority between National Police (POLRI) investigators and BNN investigators under the Narcotics Law has the potential to cause jurisdictional conflicts if not accompanied by clear coordination mechanisms [12]. The study emphasizes the importance of institutional harmonization through a more specific division of authority and the strengthening of cooperation among law enforcement agencies in handling narcotics crimes.

Similar findings were also presented by Yolanda Putri Aulia et al. in the article “Transnational Narcotics Trafficking and the Role of NCB Interpol Indonesia: A Case Study from West Java”, the study states that the success of law enforcement against transnational narcotics networks is highly dependent on the level of coordination among law enforcement agencies [35]. Without clear coordination, the overlapping jurisdictions of these agencies can lead to jurisdictional conflicts that actually hinder the law enforcement process against complex and organized drug trafficking networks.

Table 2. Overlap in the Jurisdiction of the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN).

Investigation Technique	POLRI Investigators	BNN Investigators	Potential Overlap
Arrest	Yes	Yes	High
Search	Yes	Yes	High
Seizure	Yes	Yes	High
Wiretapping	Yes (with authorization)	Yes	Medium
Undercover Buy	Yes	Yes	High
Controlled Delivery	Yes	Yes	High

The table shows that nearly all investigative techniques used in the handling of narcotics-related crimes may be employed by both investigators from the Indonesian National Police (POLRI) and investigators from the National Narcotics Agency (BNN). This overlap in authority is essentially a consequence of the provisions in Law No. 35 of 2009 on Narcotics, which grants investigative authority to both agencies in order to strengthen efforts to combat the abuse and illicit trafficking of narcotics in Indonesia. From a criminal law policy perspective, granting investigative authority to more than one law enforcement agency is often intended to enhance the effectiveness of law enforcement against complex and organized crimes, including narcotics crimes that involve extensive networks and are often transregional or even transnational in nature. However, this overlap in authority also indicates that the Narcotics Law has not clearly delineated the boundaries of investigative authority between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) in handling narcotics-related criminal offenses [36]. The provisions of the law place greater emphasis on granting parallel authority to both institutions, without detailed regulations regarding the division of responsibilities, the types of cases prioritized by each institution, or the limits of operational jurisdiction in the conduct of investigations. In law enforcement practice, this could result in overlapping authority, especially if both authorities are looking into the same issue at the same time. In certain cases, this can even result in a struggle for power between law enforcement organizations, which could eventually have an impact on how successful the investigation is.

Analytically, Table 2's high overlap scores for almost all investigative techniques are especially noteworthy because they show that jurisdictional ambiguity extends to the most operationally crucial techniques in drug enforcement rather than being limited to peripheral investigative actions. The fact that techniques such as undercover buy and controlled delivery—which require substantial resource investment and carry significant legal risk for suspects—are simultaneously available to both agencies without clear priority rules represents a critical institutional design flaw. This is particularly evident when contrasted with the Thai model, where the Office of the Narcotics Control Board (ONCB) operates as the sole lead agency for complex narcotics investigations, with the Royal Thai Police assuming a supporting role defined by statute [31]. This clear hierarchy eliminates ambiguity at the operational level and ensures accountability is concentrated in a single institution. Indonesia's parallel authority model, by comparison, distributes accountability across two agencies without clearly assigning primary responsibility, creating conditions that can incentivize inter-agency competition rather than cooperation.

Therefore, in practice, strong coordination between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) is necessary to ensure that investigative authorities are exercised synergistically and do not lead to conflicts of authority. Such coordination can be achieved through various institutional mechanisms, such as the exchange of intelligence information, the division of tasks in law enforcement operations, and the conduct of joint operations to dismantle drug trafficking networks [37]. Within the framework of an integrated criminal justice system, coordination among law enforcement agencies is a crucial element to ensure that every stage of the law enforcement process proceeds effectively, efficiently, and in an integrated manner [38].

The following is a simple overview of the division of authority between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) in narcotics investigations.

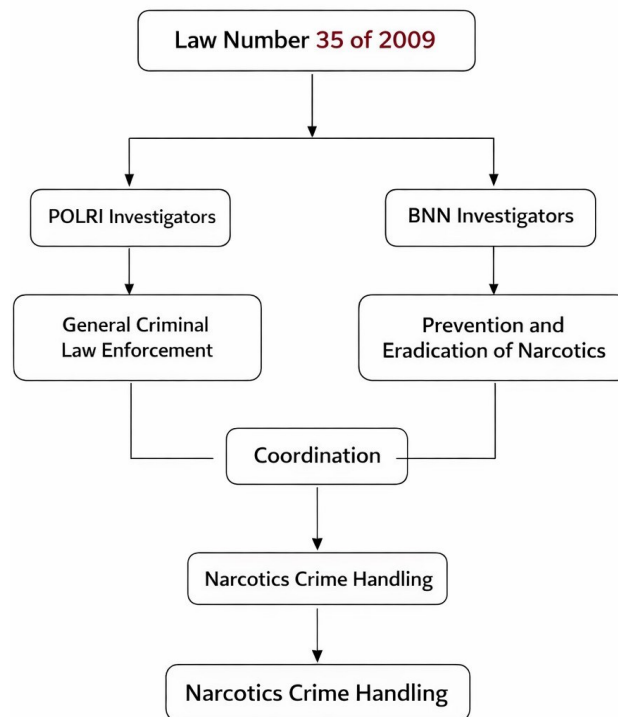


Figure 1. Narcotics Law Enforcement System.

The graph demonstrates that although both organizations have distinct institutional traits, their investigative powers are drawn from the same legal foundation—the Narcotics Act. Therefore, a crucial element in guaranteeing the success of drug law enforcement is agency collaboration.

3. Legal Implications of Overlapping Jurisdiction on Legal Certainty

From the perspective of the rule of law (*rechtsstaat*), legal certainty is one of the fundamental principles that must be realized in every exercise of state power, including in the field of criminal law enforcement. Legal certainty requires clear, unambiguous, and predictable rules regarding the rights and obligations of every legal subject as well as the division of authority among state institutions that carry out governmental functions [39]. In the context of criminal law enforcement, legal certainty is of paramount importance as it is directly linked to the protection of human rights and the legitimacy of law enforcement officials' actions in exercising their authority. Consequently, every investigative action conducted by law enforcement officials must have a clear legal basis and remain within the boundaries of authority established by legislation [40]. Ambiguity in legal norms or overlapping authority among law enforcement agencies has the potential to create legal uncertainty and open the door to abuse of power in the exercise of such authority.

In the context of combating drug-related crimes in Indonesia, the concurrent investigative authority held by investigators from the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) has the potential to raise a number of legal implications if the boundaries of their respective jurisdictions are not clearly defined. One such implication is the potential for conflicts of authority between law enforcement agencies. Each organization may believe it has equal jurisdiction to address a particular drug case due to the overlapping authority held by these two entities [41]. In actuality, this might result in a struggle for power between law enforcement organizations, especially when it comes to drug cases involving big networks or those that are crucial to the legal system. The efficacy of ongoing investigations may be impacted by such jurisdictional disputes, which may also lead to institutional conflict amongst law enforcement organizations.

Another implication that may arise from this overlap of authority is inefficiency in the investigative process. A lack of clear coordination between National Police investigators and BNN investigators can lead to the duplication of investigative actions regarding the same case. In some situations, the opposite may even occur, namely the absence of any agency that explicitly takes charge of a case due to the assumption that the case has been or will be handled by another agency [42]. Such conditions can ultimately slow down the law enforcement process and reduce the effectiveness of narcotics eradication efforts, which should be carried out swiftly and in a coordinated manner. Within the framework of an integrated criminal justice system, coordination among law enforcement agencies is a critical prerequisite for ensuring that every stage of the law enforcement process proceeds systematically and efficiently.

In addition, the overlap in authority between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) also has the potential to create legal uncertainty for those involved in legal proceedings, particularly for suspects or individuals being questioned during criminal investigations into narcotics offenses. Ambiguity surrounding case processing mechanisms, particularly those pertaining to arrest procedures, custody, and other investigative processes, might result from differences between the two law enforcement agencies' operational procedures and internal policies. From the standpoint of criminal procedural law, this circumstance may potentially impact the protection of suspects' rights within the criminal justice system and cause misunderstanding in the implementation of legal procedures. Therefore, clarity regarding

the boundaries of authority between law enforcement agencies is crucial to ensure that law enforcement processes proceed consistently and do not create legal uncertainty [43].

Some legal experts argue that the granting of authority to specialized agencies such as the BNN should be understood within the framework of the principle of *lex specialis derogat legi generali*, which states that specific legal provisions take precedence over general ones [44]. In the Indonesian criminal justice system, the Indonesian National Police (POLRI) is a general law enforcement agency with investigative authority over various types of criminal offenses [45], whereas the BNN is a specialized agency specifically established to address narcotics-related issues [46]. Thus, in certain cases involving large-scale, organized, or transnational narcotics trafficking networks, the BNN can be positioned as the agency with special authority to handle such cases. One way to make clear the separation of powers between the BNN and the Indonesian National Police (POLRI) in the country's drug law enforcement system is to apply the *lex specialis* principle.

Although the *lex specialis* argument makes sense in theory, there are still issues with its actual implementation in the Indonesian setting. Only when the particular law offers enough explicit criteria to differentiate BNN jurisdiction from POLRI jurisdiction in specific instances does the concept function effectively. However, Law No. 35 of 2009 lacks operational specificity in defining such requirements. Without defining the thresholds—such as network size, international components, or criminal asset value—that would result in exclusive BNN jurisdiction, it gives BNN wide authority. Because of this, *lex specialis* serves less as a preventive jurisdictional norm that directs agencies before a disagreement arises and more as a post-hoc interpretive instrument used after a jurisdictional controversy arises. This reactive rather than proactive application of the principle is insufficient to guarantee the legal certainty that the rule of law demands. A more robust solution would require legislative amendment to Law No. 35 of 2009, introducing explicit jurisdictional criteria that operationalize the *lex specialis* principle at the statutory level—similar to the approach taken in the Philippines, where the Dangerous Drugs Board (DDB) and the Philippine Drug Enforcement Agency (PDEA) operate under a statutory framework that designates PDEA as the sole enforcement body, eliminating parallel authority altogether [44].

Thus, it is clear that efforts to ensure legal certainty in the enforcement of narcotics laws depend not only on the existence of legislation granting authority to law enforcement agencies, but also on the clarity of the division of authority and the effectiveness of coordination among these agencies in practice. Therefore, harmonization of authority between the Indonesian National Police (POLRI) and the National Narcotics Agency (BNN) is necessary through various institutional mechanisms, whether through the formulation of more detailed implementing regulations or through cooperation agreements among law enforcement agencies. Such harmonization is expected to minimize potential overlaps in authority, enhance the effectiveness of investigative processes, and ultimately ensure legal certainty in the fight against narcotics-related crimes in Indonesia.

Conclusion

Provisions regarding investigative authority for narcotics-related criminal offenses under Indonesian positive law are primarily set forth in the Criminal Procedure Code (KUHP), Law No. 2 of 2002 on the National Police of the Republic of Indonesia, and Law No. 35 of 2009 on Narcotics. Within this regulatory framework, investigative authority regarding narcotics-related criminal offenses is granted to two law enforcement agencies: investigators from the National Police of the Republic of Indonesia (POLRI) and investigators from the National Narcotics Agency (BNN). Normatively, POLRI functions as a general law enforcement agency with investigative authority over all criminal offenses, while BNN is a specialized agency established to carry out the prevention and eradication of narcotics abuse and illicit trafficking. Although they have different institutional characteristics, both agencies possess a number of relatively similar investigative powers, such as making arrests, conducting searches, seizing evidence, questioning witnesses and suspects, and employing special investigative techniques in narcotics cases. This situation indicates that the Narcotics Law grants parallel authorities to both agencies without a detailed division of authority that clearly distinguishes the scope of duties of each institution.

Additionally, the analysis shows that, in the absence of clear coordination mechanisms, the overlap in investigative authority between the National Narcotics Agency (BNN) and the Indonesian National Police (POLRI) may result in overlapping jurisdictions in law enforcement practice. Potential conflicts of power between law enforcement agencies, inefficiencies in the investigation process due to duplication of investigative actions, and legal ambiguity for parties facing legal procedures are only a few of the legal ramifications of such overlapping of authority. From the standpoint of the rule of law, these circumstances may make it more difficult to achieve legal certainty, which is one of the cornerstones of how the criminal justice system is run.

Therefore, this study makes the following specific recommendations to reduce jurisdictional issues and improve drug law enforcement. First, a legislative amendment to Law No. 35 of 2009 is required to establish clear jurisdictional criteria that differentiate the authority of POLRI and BNN. For instance, BNN could be designated as the lead agency for large-scale, organized, or transnational drug networks, while POLRI would still have primary jurisdiction over localized or street-level drug offenses. Second, POLRI and BNN should formalize a legally binding inter-agency Memorandum of Understanding (MoU) that outlines joint investigation protocols, operational procedures for case referral, and a clear process for settling jurisdictional disputes before they become institutional conflicts. Third, in high-priority drug cases, the creation of a permanent Joint Narcotics Task Force with investigators from both POLRI and BNN—modeled after the joint task force approach used in the US between the DEA and FBI—would allow for coordinated operations, shared intelligence, and unified command structures. Fourth, in order to avoid duplicating investigative efforts and guarantee case ownership transparency, a centralized case register system should be created to enable real-time monitoring of ongoing drug investigations by both agencies. In order to eradicate drug-related crimes in Indonesia, it is envisaged that the execution of these measures will increase cooperation between law enforcement agencies, provide a clearer division of authority, and assist the realization of legal certainty.

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