

## **THE ROLE OF CHILD CRIMINAL JUSTICE UNIT (PPA) IN HANDLING CASES OF CHILDREN FEELING WITH THE LAW AT POLRESTABES SEMARANG**

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### **Abstract**

The position of children in a country is the continuation of the nation's struggle. Therefore, their existence must be maintained properly from things that can damage the child's mentality. One of them is a child whose actions against the law. Many children think that this act is a normal thing, but, legally speaking, the act committed by the child is included in the category of a criminal act, one of which is beatings. This study aims to find out and analyze the implementation of diversion against children who are perpetrators of the crime of beatings in the concept of justice at the Semarang Police and the effectiveness of applying diversion to children who are involved in the crime of beatings at the Semarang Police. The approach method in this research is normative juridical. The results of the study show that the implementation of diversion against children who commit the crime of beatings in the concept of justice at Polrestabes Semarang following the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The diversion process involves all, namely the victim's family, the perpetrator's family, and the Bapas, namely through deliberations involving children and their parents/guardians, victims and/or their parents/guardians, and community counsellors, based on a restorative justice approach. The application of diversion to the child perpetrators of the Semarang Police crime is very effective in resolving criminal acts of beatings with child perpetrators. The procedure for settlement of cases becomes simpler, cheaper, and saves time through diversion. The implementation of diversion is also able to reduce the build-up of cases being handled at the Semarang Police, reducing the cost burden.

***Keywords:** Child, Criminal Justice, Law, Restorative Justice.*

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### **INTRODUCTION**

Children are assets whose existence must be protected by the state as part of the younger generation. Children play a very strategic role as determinants of the progress of a country because they are the successors of the ideals of the country's struggle (Ananda, 2018). Bearing in mind the very important role of children in the progress of a country, children's rights are expressly regulated in article 28B paragraph (2) of the 1945 Constitution which states that the state guarantees that every child has the right to survival, growth, and development and is entitled to protection from violence and discrimination (Mulyawan, 2013).

A child who dares to commit a crime is influenced by the environment around him. However, he should not be labeled as a criminal who can make the child uncomfortable in social interaction (Mulyawan, 2013). These children's actions are influenced by various factors; the negative impact of rapid development, the flow of globalization in the field of communication and information, advances in science and technology, and changes in the style and way of life of some parents. Children who do not receive love, care, guidance, and coaching in the development of attitudes, behavior, adjustment, and supervision from parents, guardians, or foster parents will easily be dragged into the flow of social interaction and their environment which is unhealthy and detrimental to their development (Ratomi, 2013).

In addition, children who lack or do not receive affection, and care, failure of education in the family, school, and community environment, lack supervision from the family, school,

and community environment, guidance and coaching in developing attitudes, behavior, adjustment, and supervision from parents, guardians or foster parents will easily be dragged into the flow of social interaction and the environment which is unhealthy and detrimental to personal development. In Indonesia, the problem of juvenile delinquency and children is considered to have reached a level that is quite disturbing for the community. This condition gives a strong impetus to the parties responsible for this problem, such as educational groups from the school environment and others.

One case that is rife in the brawl between students that occurred in the Semarang Polrestabes area. One of the reasons for the occurrence of this crime was the desire to keep up with the times towards modern society 5.0. They desire to be known among them by joining the gang in their neighborhood and taking action against the law to make it happen. The challenges and opportunities as well as the dynamics of modern society have also had an impact on the Polri organization to always adapt to existing conditions based on the strengths and needs of the organization.

The State Police of the Republic of Indonesia has main tasks and functions related to law enforcement as stated in Law no. 2 of 2002 concerning the Indonesian National Police, in article 13 which states that the main duties of the Indonesian National Police are: a) Maintaining security and public order; b) Uphold the law and; c) Provide protection, shelter, and service to the community;

Concerning the handling of children in conflict with the law (ABH), the police make regulations through the Regulation of the Head of the Criminal Investigation Agency No. 1 of 2012 concerning Standard Operating Procedures for Handling Children in Conflict with the Law within the Indonesian National Police's Criminal Investigation Agency. The regulation describes the handling of ABH cases through formal channels and alternative routes, one of which is a diversion.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) Article 1 states that Restorative Justice is the settlement of criminal cases involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek an amicable solution. by emphasizing restoration to the original state and not retaliation. According to Law Number 11 of 2012, one of the implementations of the Restorative Justice approach is Diversion. Diversion is the transfer of settlement of child cases from the criminal justice process to processes outside the criminal justice, which aims (Article 6 of the SPPA Law); a) To achieve peace between the victim and the child; b) Resolve child cases outside the judicial process; c) Prevent children from deprivation of independence; d) Encouraging the community to participate and; e) Instill a sense of responsibility in children.

Article 8 of the SPPA Law explains in more detail regarding Diversion, that the Diversion process is carried out through deliberations involving children and their parents or guardians, Community Advisors, and Professional Social Workers based on a Restorative Justice approach. The Diversion process must pay attention to a) The interests of the victim; b) Child welfare and responsibility; c) Avoiding negative stigma; d) Avoidance of retaliation; e) Community harmony and; e) Decency, decency, and public order.

The Semarang City Police (Polrestabes) is the executor of the duties and powers of the Indonesian National Police based in Central Java Province, Semarang Regency. At the Semarang Polrestabes level, the unit that handles criminal law enforcement including the settlement of cases of children in conflict with the law (ABH) is the Criminal Investigation Unit. ABH cases will be handled more specifically by the Women and Children Service Unit (PPA). The Women and Children Service Unit is a unit tasked with handling all criminal cases involving women and children, both as perpetrators, victims, and witnesses.

Cases experienced by children will be handled by the Women and Children Service Unit (PPA Unit) which was formed by the Chief of Police Regulation Number 10 of 2007

concerning Organization and Working Procedures. The Women and Children Service Unit (PPA Unit) is a unit tasked with providing services in the form of protecting women and children who are victims of crime and law enforcement against women and children who are perpetrators of crimes.

In the Juvenile Criminal Justice system as referred to in paragraph (2) letters a and b, efforts must be made to diversion. Law of the Republic of Indonesia No. 11 of 2012 concerning the Juvenile Justice System, Chapter I Article 1 explains that diversion is the transfer of settlement of child cases from the criminal justice process to processes outside the criminal justice. Chapter II Article 6 further explains that diversion aims to: a) achieve peace between the victim and the child; b) Resolve child cases outside the judicial process; c) Prevent children from deprivation of independence; d) Encourage the community to participate; e) Instill a sense of responsibility to children.

Related to the investigation of criminal acts of violence committed by children, many are carried out by the Semarang Polrestabes. Like the case that occurred in December 2022 which was carried out by Lintang Restu Febryan and then carried out by the police who were trying to take the path of restorative justice.

The diversion effort in the investigation of cases of children in conflict with the law carried out by the Semarang Police Criminal Research Unit is one of the manifestations of carrying out the main tasks and functions of the Indonesian National Police. In its process, the Criminal Investigation Unit is influenced by the culture of the local community, namely the people of Semarang. The Diversion process is carried out through deliberations involving children and their parents/guardians, victims and/or their parents/guardians, Community Counselors, and Professional Social Workers based on a Restorative Justice approach, if necessary, involving the community. Investigators and assistant investigators often repeat Diversion because one of the parties is not present, so the process of handling juvenile criminal cases takes a long time. In addition, the diversion agreements that were decided by both parties to the litigation, sometimes considered unbeneficial for the victim. Hence, it was questioned again in the future.

## **METHOD RESEARCH**

The method used in this research is empirical juridical, which is method used in solving research problems by examining the secondary data first, then the primary data in the field. (Soekanto & Purbacaraka, 1993) Juridical research here means that this research is reviewed from the point of view of legal science and written regulations related to the investigation of children who conflict with the law in criminal acts of violence (Azwar, 2014).

The type of data used in this study is sourced from primary data and secondary data (Marzuki, 2017).

1. Primary Data, obtained from direct research on an object being interviewed.
2. Secondary data, obtained through literature studies to obtain conceptions, theories or opinions or theoretical foundations that are closely related to the problems discussed. Secondary data consists of:
  - a. Law of the Republic of Indonesia No. 4 of 1979 concerning Child Welfare
  - b. Law No. 2 of 2002 concerning the Police
  - c. Law of the Republic of Indonesia No. 11 of 2012 concerning the Juvenile Justice System
  - d. Law No. 23 of 2002 in conjunction with No. 35 of 2014 concerning Child Protection
  - e. Perkap No 6 of 2019 concerning the Criminal Investigation Management system.
  - f. Criminal Code
  - g. The Criminal Procedure Code

## **RESULT AND DISCUSSION**

### **Treatment of Children in Conflict with the Law**

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in article 1 paragraph 2 (two), what is meant by children who are in conflict with the law are children who are in conflict with the law, children who are victims of criminal acts, and witnesses of criminal acts. Based on this article, children who are in conflict with the law can be categorized into 3 (three), namely:

1. Children in conflict with the law are the child perpetrators of crimes.
2. A child who is a victim of a crime is a child who suffers a loss in a crime, which can be in the form of physical, mental and/or economic loss.
3. A child who is a witness to a crime is a child who can provide information because he heard, saw, and/or experienced a crime himself for the purposes of investigation, prosecution and trial court examination.

The category of children as perpetrators of criminal acts are those aged 12 (twelve) years and up to 18 (eighteen) years. Meanwhile, children who are under 12 (twelve) years old and in conflict with the law cannot be categorized as Children in Conflict with the Law (ABH). And for the age of 18 (eighteen) years and over are already categorized as adults.

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) Article 1 states that Restorative Justice is the settlement of criminal cases involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek an amicable solution. by emphasizing restoration to the original state and not retaliation. One of the implementations of the Restorative Justice approach according to Law Number 11 of 2012 is Diversion. Diversion is the transfer of settlement of child cases from the criminal justice process to processes outside the criminal justice, which aims (Article 6 of the SPPA Law):

1. Achieving peace between victims and children;
2. Resolving child cases outside the judicial process;
3. Prevent children from deprivation of independence;
4. Encouraging the community to participate and;
5. Instill a sense of responsibility in children.

The PPA unit has a position to carry out a normative role.

*"As a normative role with the duties and obligations of police officers in enforcement, the police have the authority to fully enforce the law".*

Law enforcement lies in the activity of harmonizing the relationship of values embodied in solid and manifest principles and attitudes as a final stage of the elaboration of values, to create, maintain and maintain social peace (Soekanto & Mamudji, 2011).

According to Soejono Soekanto's opinion, law enforcement can also be interpreted as a process of exercising discretion in the shadow of the regulations in force in Indonesia. The discretion that concludes a decision from a personal point of view but is based on laws or other related rules.

Based on interviews conducted with AIPTU M.Arif Darmaji, S.H as the Head of the Criminal Investigation Unit of the Semarang Police, he said:

*"The application of the principle of restorative justice or diversion efforts is always carried out for every child who becomes a perpetrator of a crime. In some cases, the diversion attempt can obtain agreement by each party so that the case does not proceed*

*to the prosecution level. This diversion effort is also used if the perpetrator commits a minor crime. And this principle cannot be carried out if the perpetrator has already done diversion. And later, even though minors when committing serious crimes will still be tried according to the applicable rules because when applying the principle of restorative justice there must be an agreement from both parties. If the victim wants to process the case, the diversion can fail so that the child will be imprisoned. And investigators from the Dompu Police Chief have carried out the investigation process into cases where the perpetrators are minors, in accordance with law number 11 of 2012 concerning the juvenile criminal justice system, namely by carrying out Restorative justice efforts through diversion of children involved in criminal cases”.*

The same thing was also expressed by AKP Ni Made Srintri, S.I.K as the Head of the PPA Criminal Investigation Unit of the Semarang Police, he explained:

*“The settlement with Restorative justice is still carried out for every child who commits a crime at the Semarang Polrestabes. And the settlement with the Restorative justice/diversion approach is also considered appropriate for resolving cases by bringing together related parties from both the perpetrators, victims, families of victims/perpetrators, social workers and community advisers, and from the law enforcers themselves. Moreover, several advantages will be obtained if diversion is carried out at the investigation stage by the police, namely: a) It can reduce traffic jams and accumulation of cases in court if the large number of cases submitted to court causes the case process to be prolonged and costly and often results in poor results. b) Increasing community involvement or empowering the parties to the dispute in the dispute resolution process. c) Enlarge the opportunity for society to get justice. d) Provide an opportunity for the achievement of dispute resolution that results in a decision that is acceptable to all parties. So that, the parties do not take appeals and cassation efforts. e) Settlement of cases is faster and at a lower cost. f) Being closed or secret, thereby reducing the shame of the family. g) Higher level of possibility to carry out the agreement because the decision taken is the will of the parties. So that the relationship between the disputing parties in the future is still possible to be well established. h) Reducing the spread of legal mafia both at the level of investigation, prosecution, and trial and at the level of executing court delegates”.*

Therefore, it can be said that law enforcement does not solely discuss written rules, although in Indonesia the emphasis is still on law enforcement decisions. according to the rules in force. It is these decisions that will affect security and public order in a positive direction or a negative direction depending on decisions taken broadly or decisions taken unilaterally and narrowly.

### **The Criteria for Child Crimes that Can Be Resolved Through the Application of the Principle of Restorative Justice**

Diversion based on Article 1 point 6 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System is the transfer of settlement of child cases from the criminal justice process to processes outside the criminal justice system. This is done because the crime committed by the child is not necessarily the child's fault because children are considered incapable of taking legal action.

It refers to the child's ability to be responsible for his rights and obligations, besides that the age of the child is still young and has a long future and imprisonment will not solve the problem. It refers to the child's ability to be responsible for his rights and obligations, besides that the age of the child is still young and has a long future, and imprisonment will not solve

the problem, In law number 11 of 2012 concerning the juvenile justice system in Article 7 paragraph 2 it is explained that diversion is carried out in terms of criminal acts committed: a) Threatened with imprisonment under 7 years. b) Not a repetition of a crime.

However, there are slight differences regarding criminal acts that can be diverted in PERMA No. 4 of 2014 concerning implementation guidelines in the juvenile justice system namely in article 3 which states that:

*"Child judges are obliged to seek diversion if a child is charged with a crime punishable by imprisonment under 7 years or more in the form of a subsidiary, alternative, cumulative, or combined (combined) indictment".*

From these two rules, we can see that crimes committed by children that can be diverted are crimes that carry a prison sentence of under 7 years or more in the form of subsidiarity, alternative, cumulative, or combined (combined) charges and are not a repetition of a crime.

Crimes punishable by imprisonment for under 7 years include:

1. Persecution

In Article 361 of the Criminal Code paragraph (1) maltreatment is punishable by a maximum prison sentence of two years and eight months. Paragraph (2) if the act results in serious injury, he is guilty of imprisonment for a maximum of five years. Paragraph (3) if this act results in the death of the person, he is sentenced to seven years in prison.

2. Thievery

Article 362 of the Criminal Code, namely that anyone who takes an object, which completely or partly belongs to another person, with the intention of owning the object against his rights, is punished for theft with a maximum prison sentence of five years.

3. Destroy or damage things

Article 406 of the Criminal Code paragraph 1 states that anyone who intentionally violates the right to destroy, damage to make it unusable or lose something that completely or partially belongs to another person, is punished with imprisonment for a maximum of two years and eight months or a fine of up to Rp. 4,500.000.

### **Implementation of Diversion Against Child Offenders Crime of Beatings in the Concept of Justice at Polrestabes Semarang**

Children have a strategic role which is expressly stated that the state guarantees the right of every child to survival, growth, and development as well as to protection from violence and discrimination. Therefore, the best interests of children should be internalized as the best interests for the survival of mankind. This is a consequence of the provisions of Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that every child has the right to survival, growth, and development and is entitled to protection from violence and discrimination.

Restorative justice encourages resolving an event or crime in ways that are more informal and personal, rather than settling in formal (rigid) and impersonal ways by using patterns before and after the judicial process takes place. Before the judicial process, it is meant when the "case" is still in the hands of the police or the prosecutor's office. Either at the initiative of the police, the prosecutor's office, a person, or a community group, efforts are made to resolve the criminal act, utilizing principles of a restorative justice approach (Manan, 2006).

The restorative justice approach to solving crimes committed by children at Polrestabes Semarang is resolved through a restorative justice approach, in which the legal settlement process occurs by bringing the victim and perpetrator (suspect) together to sit in a meeting to talk together. where the role of the police is as a mediator, facilitator, or supervisor. In this

case, the police show the articles and provisions of the juvenile justice legislation, then the community is welcome to find the best way out so that a process of repair, restoration of relations, conciliation, and reconciliation occurs between the victim and the perpetrator, the victim's family and the perpetrator's family, with the community's acceptance back against the perpetrator without any stigmatization of the perpetrator.

Investigators from the Semarang Polrestabes have conducted an investigative process into cases where the perpetrators are minors, namely Lintang, under Law Number 11 of 2012 concerning the juvenile criminal justice system, namely by carrying out restorative justice efforts through the diversion of children involved in cases criminal.

Based on the results of research in settlement carried out using a restorative justice approach at the Semarang Polrestabes, the mediation process is following the habit of deliberating. In the application of the principles of restorative justice at the Semarang Ppolrestabes carried out by the police, namely carried out through activities such as mediation between victims and perpetrators/offenders; family group deliberations, which are remedial for both victims and perpetrators where involvement in the settlement process is the victim and the perpetrator as well as a third party namely the police who become the mediator and facilitator to bridge the two parties to reach an agreement and the goals to be achieved through the deliberation process are to recover all losses and injuries that have been caused by the incident of child delinquency.

Thus, the negative impact caused by children who commit criminal acts when dealing with law enforcement officials can be minimized. The police as diversion authorities are responsible for determining the policy mechanism to be followed in implementing diversion. There are 3 forms of the concept of diversion implementation mechanism by the police:

1. Police deliberation The parties involved in this process are the police and the child (perpetrator). Types of crimes that can be resolved through this mechanism are generally crimes in the form of misdemeanors. These crimes are contained in both the Criminal Code and those outside the Criminal Code. When the police know that a crime has occurred either directly (caught in the act) or through a report or complaint from the victim or the public, then at that time the police can summon a child who is suspected of committing a crime to be questioned about the actions he has committed.

The police provide opportunities for children to tell clearly and completely what they have done. After the police heard the statement from the child. Furthermore, the police can conclude whether the child is proven guilty of committing the alleged crime. If the child is not proven, the police must release him, but if the child is proven guilty, the police can sanction the child.

The police can immediately give sanctions if the child has admitted his actions. Police can give informal warnings, in the form of verbal warnings and written warnings, to children who commit crimes. Oral warnings are in the form of advising children not to commit crimes again and to stay away from negative actions. Meanwhile, a written warning is a strong warning, not just giving advice, but the child is given a strong warning, one of which is the child having to apologize to the victim. This informal warning can only be given to a child who has committed a crime for the first time. (not repeating the crime) and it is not necessary to obtain consent from the victim or/his family if the victim is underage. This informal warning is not recorded in an agreement and there is no need to ask for a determination from the district court.

2. Family meetings with the parties involved in the diversion process are the police, perpetrators, parents/guardians, and social counselors. Types of crimes that can be resolved through this mechanism are minor crimes, crimes without sacrifice, and crimes where the value of the victim's loss is no more than the value of the local provincial minimum wage.

Furthermore, the opportunity is also given to social counselors to provide considerations that are not the same as the results of social research. The position of social counselor here is more of an expert who can provide recommendations on what sanctions are appropriate to give to children. So, the task of community advisors is not formal. The form of sanction that can be given in the form of a mechanism through this family deliberation is a formal warning. This formal warning can take the form of:

- a. Hand over to parents/guardians
- b. Public apology to the victim
- c. Medical and psychosocial rehabilitation
- d. Correction due to criminal acts
- e. Payment of compensation.

Child cases at the Semarang Polrestabes often end with giving formal warnings. These formal warnings need to be recorded in the police notebook and do not need to be submitted to the head of the district court to obtain a determination.

3. Community consultation The parties involved in this process are the police, perpetrators and/or their parents/guardians, victims and/or their parents/guardians, community and community advisers (community leaders or from the school). Types of crimes that can be resolved through community deliberations are crimes with a criminal penalty of under 7 (seven) years and not repetition of a crime.

In the case experienced by brother Wikan Wirawan for acts of violence committed by brother Lintang, the Semarang Polrestabes police carried out a case settlement on the principle of restorative justice/diversion in which the Semarang Polrestabes police mediated the case that Wikan experienced for the violence he experienced. Here the police apply the principle of diversion by referring to law number 11 of 2012 concerning the juvenile justice system regarding the implementation of diversion. In this case, the Semarang Ppolrestabes police also brought in the guardians of the victims and perpetrators as well as the community in resolving the conflict, in this case, an agreement was obtained to sanction Lintang for the actions committed to Wikan by imposing fines for the losses suffered by Wikan. The application of restorative justice is only for minor types of criminal acts, with a deliberative mediation process.

## **CONCLUSION**

The implementation of diversion towards children who commit the crime of beatings in the concept of justice at Polrestabes Semarang is in accordance with the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The diversion process involves all, namely the victim's family, the perpetrator's family, the Bapas, namely through deliberations involving children and their parents/guardians, victims and/or their parents/guardians, community counsellors, based on a restorative justice approach. After a diversion agreement has been reached, the investigator submits a request for a diversion determination to the Head of the Semarang District Court, and then an SP3 is made. The application of diversion is in line with the theory of justice which provides justice for both perpetrators and victims. Children will learn to be responsible for their actions by providing medical expenses, while victims receive medical expenses caused by the perpetrators.

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