

Criminal statistics: Implementation of diversion against criminal acts for children in violation of the law

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Abstract

The numerous criminal cases involving children who have to face the law constitute a current and factual problem, a social and criminal phenomenon that has raised concerns among parents in particular, the public in general, and law enforcement. Children have the right to special protection, particularly within a judicial system that prioritizes the concept of justice for children in conflict with the law. One way to protect children from the judicial and criminal process is through diversion. Diversion refers to an intervention that provide juvenile offenders with an opportunity to not be formally processed and charged. This study aimed to determine the implementation of diversion for juvenile offenders according to criminology statistic as well as the efforts to implement diversion for juvenile offenders. This study was empirical normative research conducted using a statutory approach, a structural approach, and an interdisciplinary approach. The data sources in this study consisted of primary data sources and secondary data sources and were collected using library research and interview. The results of this study indicate that, given the obligation of investigators to conduct diversion in juvenile cases, investigators at the Yogyakarta Police have made every effort to implement diversion in juvenile cases. Regarding the obstacles encountered in implementing diversion, these are both internal and external. To date, the Yogyakarta Police have not taken any action if the implementation of diversion for crimes committed by juveniles fails.

Keywords

Juvenile justice system, Diversion policy, Children in conflict with the law, Criminological statistics

Introduction

Social change in both community life and the public sphere is shaped by various underlying factors. One of the most visible factors is the growing occurrence of violent acts involving children, either as perpetrators of crimes or as victims of unlawful conduct committed by others [1]. In response to this issue, Law No. 23 of 2002 provides classifications of criminal sanctions applicable to children in conflict with the law, while also ensuring that legal procedures are properly observed. However, the main objective

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of handling child cases should not merely be punishment, but the protection and welfare of children. Therefore, sanctions imposed on children should not be based solely on a retributive approach that measures punishment according to the seriousness of the legal violation [2].

Although various legal instruments have been established to protect children's rights, in practice, the treatment received by children has not always reflected their best interests. Children remain highly vulnerable in criminal law matters, whether they are positioned as offenders, victims, or witnesses of criminal acts [3] [4]. Unlike adults, children possess special rights because of their age, psychological condition, and developmental stage. These characteristics make them more susceptible to violence, mistreatment, and exploitation [5] [6]. The increasing number of criminal cases involving children has therefore become a serious and current social problem, attracting the attention of parents, society, and law enforcement authorities.

To preserve their dignity and worth, children must receive special protection, particularly legal protection within the justice system. The juvenile justice system is required to uphold the principle of child protection and provide special treatment for children who come into conflict with the law. The urgency of legal protection is closely connected to the growing complexity of cases involving children as perpetrators of criminal acts. For this reason, further study is needed to examine how diversion should ideally be implemented for children in conflict with the law.

One important mechanism for protecting children from the negative consequences of formal criminal proceedings is diversion. Diversion refers to the transfer of a child's case from the formal criminal justice process to a process outside the criminal justice system. Through this mechanism, children can avoid social stigma that may interfere with their growth and future development [7]. Diversion also represents a method of resolving juvenile criminal cases that emphasizes justice [8]. In this context, justice means recognizing and respecting the dignity and value of every individual. Therefore, diversion serves as an alternative solution for handling children in conflict with the law without directly exposing them to formal court proceedings [9].

Diversion also gives law enforcement officials the authority to determine whether a case should be continued or discontinued [10] [11]. In this sense, diversion functions as a legal mechanism that redirects the judicial process toward other social settlement processes [12]. Its implementation may occur at various stages, including preventive efforts within the community before criminal conduct takes place [13]. Article 7 paragraph (1) of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System expressly requires that diversion be attempted at the stages of investigation, prosecution, and examination of child cases before the district court.

Children in conflict with the law refer to those who are at least 12 years old but have not yet reached 18 years of age and are suspected of committing a criminal act. This classification is based on the understanding that children do not yet possess the same

level of responsibility as adults. Therefore, when children must face the law, their cases should be handled carefully, in accordance with applicable legal provisions, and only as a last resort. Children in conflict with the law are also entitled to legal assistance and other forms of support according to their needs, including psychological assistance. In addition, they have the right to defend themselves during the legal process [14] [15].

Furthermore, Article 8 paragraph (3) letter c of Law No. 11 of 2012 emphasizes that the diversion process must prevent children from being exposed to negative stigma from society. The process should also avoid a retaliatory or punitive orientation toward children who commit criminal acts. From a criminological perspective, crimes committed by children are important to examine because criminology studies crime, offenders, criminal behavior, and the factors that contribute to the occurrence of criminal acts.

Based on this background, the present study focuses on the increasing number of criminal cases involving children and the urgency of implementing diversion as mandated by Law No. 11 of 2012. This study also examines how diversion programs for child offenders are implemented by considering criminological statistical data, as well as the efforts made to ensure the effective application of diversion in cases involving children.

To analyze criminal acts committed by children from the perspective of the offender, this study employs criminological statistical methods. These methods are used to assess the success of diversion implementation by the Yogyakarta Police in handling children in conflict with the law. Diversion for child offenders is closely related to criminology because it concerns the behavior and treatment of individuals who commit crimes. In this study, criminological statistics are applied by examining numerical data on recorded crimes within a particular time and place, thereby linking statistical analysis with the study of crime [16].

Method

In this study, the author uses empirical normative research, which means that empirical normative research is a legal provision or positive legal product that is applied in concrete legal events in society. Therefore, when this research is conducted, it will go through two stages of study [17] [18]. First, the stage of examining positive legal products in society. Second, the stage of examining concrete events that occur in society to achieve the research objectives.

The approach chosen in this research is sociological juridical. This approach is useful for examining the legal reality as it applies to society [19] [20]. The sociological juridical approach is used to examine various legal aspects occurring in society and the non-legal findings needed in writing the research [21]. Specifically, the legal approach methods used in this research are the criminal statistics approach, where statistics is mass observation using numbers [22]. The function of crime statistics is to provide an

overview of crimes that occur each year so that action can be taken to prevent them [23]. Crime data analysis uses statistical techniques to extract information from available data, thereby providing in-depth insights into crime dynamics [24].

Result and discussion

Implementation of diversion for criminal acts for children in conflict with the law through criminological statistics methods

The diversion process, which takes place during the investigation, is followed by consultations with police officers, if necessary, and with social welfare workers and the community at Figure 1. If the diversion is accepted and approved, the case will proceed to the diversion program, which will then be documented with a diversion agreement letter. If the diversion is rejected or rejected, the case will be continued for further investigation. Regarding the mechanism for implementing diversion, Article 8 of Law No. 11 of 2012 on the Juvenile Criminal Justice System states that diversion must be conducted through a deliberative process. This process involves the child and their parents or guardians, the victim and/or their parents or guardians, community counselors, and professional social workers. The entire process is carried out by prioritizing the principles of restorative justice.

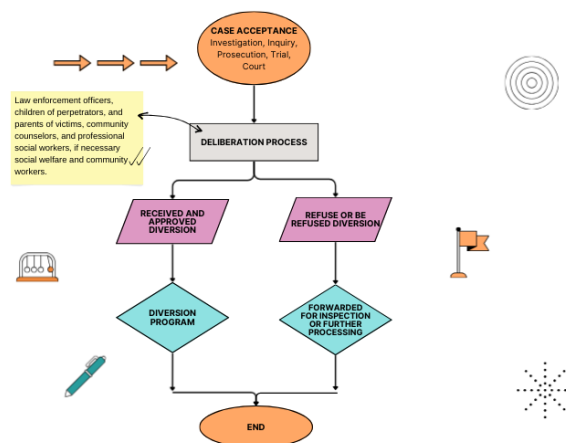


Figure 1. Diversion Process Flowchart

According to the statement of Akp Archye Nevadha, S.I.K, M.M as Head of Criminal Investigation Unit of Yogyakarta Police, in the diversion process for child perpetrators who are in conflict with the law, of course there are failures and also successes. He added that with the obligation for investigators to carry out diversion in child cases, investigators at the Yogyakarta Police have made every effort to carry out diversion in child cases and optimize these efforts to achieve success, of course by adhering to the principle of diversion contained in the convention on the rights of the child, namely a

diversion from a formal criminal process to an alternative form of settlement in another form that is considered best in the interests of the child.

The stages carried out by investigators in implementing Diversion at the Yogyakarta Police Department are:

1. Investigators first receive a report;
2. They then examine the victim and witnesses;
3. After completing the witness examination, investigators will then examine the suspect;
4. Investigators will then conduct a survey at the Yogyakarta Prosecutor's Office (BAPAS);
5. After receiving a recommendation from the BAPAS, investigators from the Yogyakarta Police Department will summon both parties the victim's family and the suspect's family, NGOs, and the local community to implement Diversion.

The decision to divert children by a special investigator can be granted by the Court in the form of a decision if it meets the requirements and does not conflict with statutory regulations and also contains the consideration that the guidance of the child suspect is carried out at the home where the parents live according to the parents' request and is guaranteed by the local Village Head.

The consideration of the diversion was also stated that the diversion was carried out because the child defendant had only committed a crime once, this consideration is the rule that diversion does not apply if the child suspect repeats his actions by the Head of the District Court who granted the request of the special child investigator applicant in the diversion. Related to the results of the diversion, it was then stated in a diversion agreement letter, in this case the letter contained a statement that a child was suspected of committing a crime which was stated as a regulation violated by the Child Convict. The document also contained a statement related to the child being returned to his parents with supervision carried out by the relevant agency.

The suspect's counseling was conducted at his parents' home at their request. The parents' request was guaranteed by the local village head, a guarantor acknowledged by the relevant agencies. The document also states that the diversion was implemented because the suspect committed the crime for the first time. The document also states that the diversion does not apply if the suspect repeats the offense. Prior to the determination of diversion at the investigation stage, a Diversion Report is also prepared.

The author uses statistical criminology methods in this study by analyzing figures showing the number of recorded crimes at a certain time and place so that there is continuity between statistical science and criminal science. In 2020, there were a total of 9 cases of children in conflict with the law, with 3 cases experiencing failed diversion

processes and 6 cases experiencing successful diversion processes, where the average perpetrator was 16-17 years old. In 2021, there were a total of 6 cases of children in conflict with the law, with 4 cases experiencing failed diversion processes and 2 cases experiencing successful diversion processes, where the average perpetrator was 16-17 years old. In 2022, there were a total of 3 cases of children in conflict with the law, with 1 case experiencing failed diversion processes and 2 cases experiencing successful diversion processes, where the average perpetrator was 16-17 years old like [Figure 2](#).



Figure 2. Child diversion data report 2020-2022



Figure 3. Diversions trend difference diagram 2020-2022

The average age of child offenders in conflict with the law during 2020-2022 remained consistently between 16 and 17 years show in [Figure 3](#). There was a consistent

downward trend in case volume (-66% from 2020 to 2022). The highest failure rate occurred in 2021 (66.7% of total cases that year).

According to AKP Archye Nevadha, S.I.K., M.M., Head of the Criminal Investigation Unit of the Yogyakarta Police, mediation between the perpetrator and the victim is carried out when the perpetrator is still a minor. In cases involving children in conflict with the law, diversion must be implemented when the criminal threat is less than seven years of imprisonment. This obligation applies to both the police and investigators, as stipulated by law. Diversion is required at three stages of the criminal justice process: investigation, prosecution, and trial. At the investigation stage, the police, through investigators, must first attempt diversion. If this effort is unsuccessful, diversion is attempted again at the prosecution stage. If it still fails, the process is repeated once more at the court stage. Thus, diversion provides several opportunities for resolving cases involving child offenders outside the formal criminal justice process.

Obstacles and efforts to implement diversion for criminal offenses for children in conflict with the law

Regarding the obstacles to the diversion process at the Yogyakarta Police, according to Acp Archye Nevadha, S.I.K, M.M as Head of the Yogyakarta Police Criminal Investigation Unit, these can be divided into internal and external obstacles. The following explains the internal obstacles originating from parties interested in diversion, including the lack of common ground in the diversion, or in other words, the failure to reach an agreement between the two parties. This agreement failed because the victim asked the perpetrator to pay a substantial sum, but the perpetrator was unable to afford it. The perpetrator offered to pay only an amount commensurate with the victim's losses, as the perpetrator was of modest means, and therefore could not afford such a large sum. The victim refused the offer, arguing that if they refused to pay the requested amount, the case would proceed to trial.

In addition, there are factors from the perpetrators themselves who do not implement the diversion agreement, and the lack of supervision of the diversion agreement. There are psychological problems of the victim and perpetrator who have a sense of revenge for events experienced by the parties in the past so that it becomes a factor that hinders and hinders the agreement in diversion. This resulted in the diversion process failing to reach an agreement between the two parties, forcing the case to proceed to trial.

Furthermore, external factors influence the negative stigma that has already been attached to child criminals by society. This is because the diversion process requires the presence of both the perpetrator and the victim, as well as community leaders, schools, the Correctional Supervisory Agency (Bapas), and the social team. The involvement of many people can make seemingly trivial issues appear larger (exaggerated) by the various perspectives of the parties involved in the diversion process. The investigator must be interactive with the problems experienced by the parties. The high level of harm

experienced by victims in cases leads many victims to be reluctant to have their cases resolved through diversion.

The efforts made by the police to deal with all these obstacles are by doing the following things:

1. Conducting diversion training for investigator facilitators who assist in the diversion process, so that the investigators involved in assisting in the diversion process can be more interactive and thus optimize the success of the diversion process.
2. Optimizing the diversion system for resolving criminal cases involving children in conflict with the law by providing services in accordance with applicable regulations.
3. The police have conducted massive outreach and education to the general public through school visits so that the public understands the diversion process in resolving problems of children in conflict with the law.

The realization of welfare for children in conflict with the law is aimed at preventing children from being involved in the criminal justice process. The ideal legal framework for children undergoing a series of stages in resolving cases through the courts actually criminalizes them [25]. Every agency that is part of the juvenile criminal justice system is given the authority to resolve the case process outside the court, namely diversion based on a restorative justice approach [26]. The goal of using diversion is to shield kids from potential harm, particularly to their development and psyche, which could happen if the criminal procedure is handled by the criminal justice system [27] [28].

Conclusion

Investigators at the Yogyakarta Police have made every attempt to carry out diversion in juvenile cases because it is required of them. The author uses statistical criminology methods in this study by analyzing figures showing the number of recorded crimes at a certain time and place so that there is continuity between statistical science and criminal science. Regarding the obstacles faced in implementing diversion, the police, particularly the Yogyakarta Police, face both internal and external challenges. To address these obstacles, the police have undertaken several extensive efforts aimed at correcting the failures of the diversion process.

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