

Investigation Process Traffic Accident Offenders Of Minors The Police Resort Kebumen

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Abstract. Often Traffic accidents occur in people's lives, even the culprit is Often a minor. This is due to lack of legal awareness and supervision from parents so that children are allowed to drive motorized vehicles before having a driver's license. As a knife of analysis, the theory of restorative justice and the theory of legal certainty are used. The results of the study Showed that the investigation process towards traffic accident underage perpetrators at the Kebumen Resort Police was in accordance with the provisions of the Criminal Procedure Code and Act Number 11 of 2012 concerning the Child Criminal Justice System. Factors causing traffic accidents with child offenders in the Kebumen Resort Police are dominated by human factors items, namely due to negative attitudes and behaviors of the Offender, Negligence (carelessness) in driving, lack of knowledge of the Offender in traffic and parents the perpetrators. Barriers to carrying out investigations into underage traffic accident perpetrators at the Kebumen Resort Police are suspects of fear during the examination even though they have been accompanied by parents and Bapas officers, the solution is by investigators to divert light questions along with the humor so as not to strain. In addition, It is also difficult, to ask permission from the school, Because if the permit is called by the police it will be a special note. Overcome The solution to this is to call there during school holidays. Barriers to carrying out investigations into underage traffic accident perpetrators at the Kebumen Resort Police are suspects of fear during the examination even though they have been accompanied by parents and Bapas officers, the solution is by investigators to divert light questions along with the humor so as not to strain. In addition, It is also difficult, to ask permission from the school, Because if the permit is called by the police it will be a special note. Overcome The solution to this is to call there during school holidays. Barriers to carrying out investigations into underage traffic accident perpetrators at the Kebumen Resort Police are suspects of fear during the examination even though they have been accompanied by parents and Bapas officers, the solution is by investigators to divert light questions along with the humor so as not to strain. In addition, It is also difficult, to ask permission from the school, Because if the permit is called by the police it will be a special note. Overcome The solution to this is to call there during school holidays.

Keywords: investigation; traffic accident; children

1. Introduction

Traffic accidents that occurred during this partly due to the negligence, inadvertence, inadvertent experienced by motorists. In general, traffic accidents involving private vehicles or public transportation is caused by several factors, including the driver,

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pedestrian infrastructure does not support. The main factor of driver error was the lack of caution in driving.³

Traffic accidents are common in public life, in fact rarely the culprit is the children who are still minors. This is due to the lack of legal awareness and supervision of the parents so that the child is left alone to drive a motor vehicle before having a driver's license.

Police release at least 197 traffic accidents throughout 2018 involving minors. The majority of these accidents involve children aged 11-17 Of with other modes of two-wheel motor vehicles. The amount is increased from the period in 2017. In 2017, the number of traffic accidents recorded 157 events by a majority of 11-17-Of-old rider. From the data obtained in 2018 period *CNNIndonesia.com*, Laka then with riders who are 11-17 Of of age there are eight people died, 20 injured and 116 lightly injured. But the number of fatalities decreased when compared to 2017. The victim was killed by motorists aged 11-17 Of reaches 22 traffic accidents, 24 serious injuries and 68 minor injuries.⁴

Perpetrators of traffic accidents are minors still be processed by legal procedures. But the difference is the prosecution process using the juvenile justice system. This is because the article that regulates traffic violations are not there anyone who entered the category of age for legal proceedings. Thus, if minors who become perpetrators laka then, the system of investigation and pradilan it different, using a system justice child as stipulated in Act Number 11 Of 2012 on Child Criminal Justice System.

In principle Law Number 11 Of 2012 on Child Criminal Justice System (Law SPPA) has been using a model of restorative justice centered on the diversion process as efforts to resolve criminal offenses committed by children. The application of restorative justice is expected to offer answers to important issues such as the critique of the criminal justice system does not provide an opportunity especially for victims; eliminate conflicts especially between the perpetrator to the victim and the community; the fact that the feeling of helplessness experienced as a result of a criminal act must be overcome to achieve the recovery process.⁵

Pursuant to Article 1 paragraph 7 of Law 11/2012, the definition of the transfer settlement diversion is the Son of the criminal justice process to outside the criminal justice process. Then, Article 5 (3) asserts "Children in the Criminal Justice System shall be pursued diversion". Diversion process conducted in an effort to make the opportunity to issue or transfer of a case depends on a legal basis or criteria exist in practice. In the neighborhood is also seen there is an informal model of putting cases one by one formal (such as the police decided not to continue the investigation, thought to bedamai) This state is one action to make changes, returns, healing to the victims and the perpetrators.

³ Syakiar, Unit Pratimaratri, Deaf Wahyuni Ramadhani, Investigation Against Child Actors Who Causes Traffic Violations Victim Dies (Study: Police Padang), Journal of Research, (<http://www.ejurnal.bunghatta.ac.id>, Accessed May 20, 2019).

⁴ Throughout 2018.197 Traffic Accidents Involving Laku Children, <https://www.cnnindonesia.com>, Accessed May 20, 2019).

⁵ Fachrizal Afandi, Diversion Implementation Problems in Criminal Investigation with Child Performers in Malang Police, Legal Clinics, Vol.8 No. 1, April 2015, p.20.

In the investigation process like then a child, the police as law enforcers more mengedapatkan peace efforts with the approach of restorative justice approach, which is implemented by way of transfer (diversion). Similarly in Kebumen district police, the investigation process of accident then children, prefer the peace efforts with the Letter Termination of Investigation (SP3).

Based on the above background, the authors are interested in doing research on "Business Process Traffic Accidents Investigation Minors In Police Resort Kebumen".

Based on the description of the background described above, then the problem is formulated as follows: What is the process of investigation against the perpetrators of traffic accidents minors in Kebumen Police? What are the factors that cause traffic accidents with child actors in Kebumen Kebumen Police? What are the barriers and solutions on the investigation of a traffic accident offenders of minors in Kebumen Police?

Research Methods

The approach used in this study is a sociological juridical approach, namely to identify and conceptualize law as a social institution that is real and functional in a real life system.⁶ The specifications of the research is descriptive. The data used are primary data and secondary data collection methods of field studies and literature. The method of data analysis using qualitative analysis.

2. Discussion

2.1. The investigation process against perpetrator of Traffic Accidents in Children Under Age Police Kebumen

The investigation process against the perpetrators of traffic accidents minors in Kebumen Police are not much different from the process of criminal investigations in general. However, because the actors accident then is the child in accordance with the provisions of Article 7 of Act Number 11 of 2012 on the Criminal Justice System Children mandatory diversion efforts at the level of investigation.

Article 8 of Act Number 11 Of 2012 on Child Criminal Justice system determines that the diversion process is done through consultations involving children and parents / guardians, victims and / or their parents / guardians, community counselors, and social workers Professional based restorative justice approach.

Under the provisions of Article 29 paragraph (1) of Act Number 11 Of 2012 on Child Criminal Justice System, the investigator shall seek diversion in no later than seven days after the investigation began. Diversion process implemented a maximum of thirty days after the commencement of diversion. In the case of the diversion process to reach an agreement, an investigator with the news events and their diversion to the chairman of the court of the diversion agreement for the land made the determination. In the case of diversion fails, the investigator shall continue the investigation and to transfer the case to the public prosecutor by attaching the

⁶ Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta: Penerbit Universitas Indonesia Press, 1986.

minutes of diversion and community research report that the examination at a later stage to know no action because the failure of efforts versioned and versioned.

In the mediation process can involve multiple parties, namely Bapas, perpetrators, victims, families (parents) the perpetrator and the victim's parents, village heads, community leaders / religious leaders. Typically in the case of lacquer and then there is an agreement of the perpetrator and the victim, that the offender would provide to victims snatunan example in the case of injuries will pay for treatment in accordance with the agreement. Results diversion oang usually handover back to the parent / guardian. Based on an agreement made in a letter subsequent diversion diversion agreement. The next stage, reported for the conduct of the diversion. Subsequently made a written request for the establishment of diversion to the court. After the court rules in the determination of the investigation before issuing the termination of the investigation.⁷

The process of diversion in cases of traffic accidents with child offenders in accordance with the provisions of Article 12 of Act Number 11 Of 2012 on Criminal Justice System Child which states that the agreement referred to in Article 11 contained in the form of diversion agreement. The result of the diversion agreement submitted by the immediate supervisor responsible officials at all levels to court examination of the country within the legal jurisdiction within a period of three days since the agreement was reached to obtain confirmation. Determination is done within a period of three days from the receipt of diversion agreement. Determination delivered to the Advisor Community, the investigator, the public prosecutor and the judge in no later than three days after enactment. After receiving confirmation,

Based on the above investigation process laka then with child actors in Kebumen district police in accordance with the theory of Restorative Justice(Restorative justice). Restorative Justiceis a process in which the parties concerned in the specific violation meet together to solve problems together how to accomplish a result of these violations for the sake of the future.⁸Restorative justice focuses on the needs of the victims, the perpetrators, and also involves the participation of the community, and not merely comply with legal requirements or solely of sentences. In this case the victim was also involved in the process, while offenders are also encouraged to take responsibility for his actions, namely to fix the mistakes they have done with the apology, provide compensation to the victims to pay for treatment, or to perform community service.⁹

Judging from the theory of legal certainty, the interrogation of child offenders in the police station laka then Kebumen has met the principle of legal certainty. sebagaimana proposed by Gustav Radbruch, law must contain three (3) identity value saslegal certainty(Rechtmatigheid) from the point of judicial, legal justice principle (gerechtigheit) that ditinau from a philosophical angle, where justice is equal rights for

⁷ Interview with AKP Ahdi Rezaliansyah Resort Police, Adj as Kebumen, dated August 14, 2019 in Kebumen district police.

⁸ "Justice Restoration", (<http://www.negarahukum.com>, Diakses May 20, 2019).

⁹ Restorative Justice, (<https://www.kompasiana.com>, August 25, 2019).

all people before the courts and the principle of legal expediency (zwechmatigheid or doelmatigheid or the utility).¹⁰

In terms of jurisdiction, the investigation process against the perpetrators of the child at the police station laka then Kebumen meet juridical principle. As it is known that in the process of diversion has been set in the legislation that is in Act No. 11 of 2012 on the Criminal Justice System Child. Furthermore, after the diversion agreement filed with the Court's determination to get the decision of the court ruling. On the basis of the court decision, the investigator issued a letter of termination investigation. Judging from the principles of justice, diversion agreement is in compliance with the principle of justice for the perpetrators and victims, where in this case the offender liable to apologize, provide compensation for victims, and the victims who were injured could get treatment. While in terms of usefulness, implementation of diversion in the investigation process provides benefits for society. Diversion efforts is pengalihanperkara out of court, so that children who are considered weak capacity to think they could do a lesson in the form of penalties bukannya criminal penalties. Similarly, children still acquire the right to education in order to become human yangberguna for the family, society and religion. Thus the process of the investigation against the perpetrators of lacquer and then children in Kebumen district police have corresponded to the theory of legal certainty. Similarly, children still acquire the right to education in order to become human yangberguna for the family, society and religion. Thus the process of the investigation against the perpetrators of lacquer and then children in Kebumen district police have corresponded to the theory of legal certainty. Similarly, children still acquire the right to education in order to become human that used for the family, society and religion. Thus the process of the investigation against the perpetrators of lacquer and then children in Kebumen district police have corresponded to the theory of legal certainty.

Judging from the theory of the legal system, the investigation laka then with child actors in Kebumen district police has met the legal theory by Lawrence M. Friedman who argued that effective law enforcement and the success or failure depends on three elements of the legal system, the legal structure (structure of law), legal substances (substance of the law) and legal culture (legal culture).¹¹ With all three elements of the aforementioned legal system, the process of investigation of the offenses laka then with child actors dapat run effectively.

2.2. Factors Contributing to the occurrence of traffic accidents with Child Performers in Police Kebumen

Based on interviews with Police Kasatlantas Kebumen, obtained information that the causes of traffic accidents with child actors in Kebumen Police are as follows:¹²

- The human factor

¹⁰ Dwika, "Justice Dimension Legal System", (<http://hukum.kompasiana.com>, Accessed May 20, 2019).

¹¹ Hermanwanto Kurniawan et al, "theories have Lawrence M. Friedman Legal System", Magister Notary Program, University of Surabaya 2017 (<https://www.academia.edu>, Accessed August 25, 2019), p. 1.

¹² Interview with AKP Ahdi Rezaliansyah Resort Police, Adj as Kebumen, dated August 14, 2019 in Kebumen district police.

The human factor becomes the main causes of accidents with child actors. It can be seen from the mental attitudes and behavior of children, lack of knowledge of children about traffic, neglect of children. From the actors themselves, for example driving while operate a mobile phone such as phone calls, massager, WhatApps, it may interfere with driving concentration to cause an accident-prone.

- factors vehicle
Factors associated with the vehicle roadworthy condition of a motorcycle or a car used for driving, Such as braking systems, tire condition, or a steering system that is not functioning, or even modifications that are not in accordance with the safety rules. The vehicle can be started either from braking and engine problems, tire and oil should also be considered so as not to endanger motorists.¹³
- factors road
This road factors such as road geometric design and layout that is not suitable, the road surface conditions that are less qualified (perforated), inadequate pedestrian facilities, street lighting.
- Environmental factor
Environmental factors that cause accidents, such as natural conditions as possible at the time of floods, earthquakes, winds caused fallen trees and so it can also cause accidents.

2.3. Barriers and Solutions Implementation Actors Traffic Accident Investigation Minors Police In Kebumen

Based on the interview with Chief Unit Kebumen Resort Police obtained information that the obstacles in the implementation of the traffic accident investigation offender minors are as follows:¹⁴

- Performers fear at the time of inspection by despite being accompanied by their parents and from the Bapas
In accordance with the provisions of Law Criminal Justice System Children, when a child is involved in a criminal act, then in any process of investigation shall be mentored by community of Bapas and parents. Similarly, in the process of investigation against the perpetrators laka then minors in Kebumen district police child accompanied by a parent and of the officers of Bapas. However, children are still looked terrified.
Conditions frightened child during examination difficult for investigators to request information on the perpetrators of accidents related to the incident. This is because the flow of traffic accidents presented by the offender becomes sequence or hopping and unclear.
- Performers average school still difficult to ask permission from the school, as if the police were called license then it will be a special note

¹³ Interview with AKP Ahdi Rezaliansyah Resort Police, Adj as Kebumen, dated August 14, 2019 in Kebumen district police

¹⁴ Interview with Ipda Ratimin as Laka Police Chief Unit Kebumen, dated August 15, 2019 in Kebumen district police.

The culprit in the traffic accident are still under the age of majority is still student status. If the checks will be performed on children then had to ask permission from the school authorities. On the other hand, if the child asked for permission from the school to meet the police call it will be included in a special note by the school.

The solution to overcome these obstacles are as follows:¹⁵

- Investigators examined the suspect, accompanied by a relaxed humor
Given suspects are still minors, to eliminate fear in investigators suspect checks with a relaxed family atmosphere. Investigators often divert to question the conversation light against the suspect with mild humor that the atmosphere becomes more relaxed and less tense.
- Summoning during school holidays
To avoid the negative stigma against suspects in the institution where the suspect went to school, then the calling of the suspect to the inspection process carried out during the school holidays. Thus the school will not give a special note of the suspect, and the suspect did not run into problems when returning to continue the educational process at school.

3. Closing

3.1. Conclusion

- The investigation process against the perpetrators of traffic accidents minors in Police Kebumen always strived to always do diversion involving various parties, both of the perpetrator, the victim, Bapas, even community leaders to reach an agreement diversion. Results of further diversion agreement filed determination of the judge's decision to the local court. After investigators received a copy of the determination putsuan versioned, immediately issued termination letters investigation.
- The factors that cause traffic accidents with child actors in Kebumen Police are dominated by human factors, namely due to the negative attitude and behavior of the offender, negligence (inadvertently) in driving, lack of knowledge in road traffic offenders.
- Barriers to the implementation of the traffic accident investigation perpetrators of minors in Kebumen is a suspect Police fear for examination despite being accompanied by a parent and officers Bapas, the solution is to divert investigators light kepertanyaan with humor so as not strained. It is also difficult to ask permission from the school, as if the police were called license then it will be a special note. Solutions to overcome them is to call the current school holiday.

3.2. Recommendation

- Need socialization to schools or in society about orderly traffic, including a ban for minors to drive a motor vehicle.

¹⁵ Interview with Ipda Ratimin as Laka Police Chief Unit Kebumen, dated August 15, 2019 in Kebumen district police.

- Parents should not give permission for their children who are under age for driving a motor vehicle for the sake of safety.

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