

Law Enforcement by Police against Children Who Committed Criminal Acts of Violence that Caused Death

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Abstract.

The purpose of this research; to know and analyze law enforcement by the police against children who commit violent crimes that lead to death. To find out and analyze the obstacles experienced by the police, especially the Criminal Investigation Unit (Criminal Investigation) against children who commit a criminal act that causes death and the solution. The method used by researchers is juridical sociological approach to law and The specifications in this research are descriptive. Based on the results of the study it was concluded that in investigating cases of criminal acts with violence committed by underage school students, they are guided by KUHAP, KUHP. There are still investigators who are only guided by the disposition of the leadership in handling criminal acts against perpetrators of underage school students showing a low level of professionalism of investigators, so there are frequent violations of the provisions of the Criminal Procedure Code. Obstacles experienced by the police, especially the Criminal Investigation Unit (Criminal Investigation) against a child who commits a crime that causes death, which is usually found when the family does not cooperate and tries to cover up the existence of their child as the perpetrator of the crime. Efforts to overcome the obstacles faced by the police, especially the Criminal Investigation Unit, are: Outreach in schools and in the community. Patrol in certain areas is one of the police activities by 2 (two) or more members of the National Police.

Keywords: Law Enforcement; Police; Children; Violence.

1. Introduction

The Unitary State of the Republic of Indonesia is a State based on law, this is expressly stated in the general explanation of the 1945 Constitution. The rule of law aims to enforce the law without exception, meaning that all actions by citizens and government agencies must be based on applicable law. Every citizen has an equal position in the law and is obliged to uphold this law.

Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated to the 1945 Constitution of the Republic of Indonesia) confirms that the Republic of Indonesia is a state based on law (rechtstaat).¹ In Indonesia, in order to enforce the rule of law as we aspire to, efforts need to be made so that the public knows the ins and outs of the applicable law. Indeed, at present, in an effort to ensure the maintenance of solid national stability in order to support the implementation of development, the government

¹ Bambang Waluyo. (2004). *Pidana Dan Pemidanaan*. Jakarta: Sinar Grafika. p. 33.

has made various efforts but in reality there are still actions from members of the community that disturb security and public order, either directly or indirectly which will affect the pattern. Their life.

In the life of the nation and state, security is a determining factor in the life of the nation and the state of implementing a sovereign and authoritative government, which is the main condition that supports the realization of a just, prosperous, prosperous and civilized life in a civil society system based on Pancasila and the Constitution of the Republic of Indonesia. 1945 Indonesia. Domestically, the National Police carries out law enforcement efforts through the process of investigating and investigating criminal acts as regulated in Act No. 2 of 2002 concerning the Indonesian National Police.²

Today's developments not only have a major influence on the Indonesian State but also have an impact on the development of society, behavior, and cultural shifts in society. This problem causes the crime rate to increase and the number of violations and criminal acts that both occur in the community and in the family environment. The flow of globalization followed by the development of economy, science and technology has positive and negative impacts.³

The problem of law enforcement against criminals is confronted by the criminal justice system in Indonesia. Perpetrators who commit these crimes can be committed by persons and corporate institutions as subjects of criminal law, in the case of persons, children and adults can be perpetrators, because the law enforcement area does not see whoever commits a crime, then children will be punished with no exception. Children with all their weaknesses and strengths as humans who are in an unstable stage of searching for identity. Children are also the nation's next generation who should be given full protection by the state, this is because children are the forerunners or candidates for future leaders of the nation and are naturally given good and sufficient education for their future life provisions.

Children who violate the law or commit criminal acts are strongly influenced by several other factors outside of the child such as association, education, playmates and so on, because criminal acts committed by children are generally a process of imitating or being influenced by negative actions from adults or people surrounding. When the child is suspected of committing a criminal act, the existing formal justice system ultimately places the child in the status of a prisoner, of course, has considerable consequences in terms of child development. The process of punishing children through the formal criminal justice system by putting children in prison has failed to deter children and become better individuals to support their growth and development processes.⁴

The influence from inside and outside of the child causes the child's behavior to be good or bad. If the influence he gets is good by instilling religious

² Ni Made Srinetri, Umar Ma'ruf, *Progressivity Of Criminal Handling Fraud And Disease By The Directorate Of The General Criminal Reserse Of Central Java Regional Police (POLDA)*, Jurnal Daulat Hukum Volume 3 Issue 1, March 2020 ISSN: 2614-560X

³ Marlina. (2009). *Peradilan Pidana Anak di Indonesia*. Bandung: Refika Aditama. p. 1.

⁴ Fiska Ananda, 2018, *Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana*, Jurnal Daulat Hukum Vol. 1. No. 1 March 2018 ISSN: 2614-560X

norms, good manners in his personal and daily life, this is the initial capital for the child to be able to live a better life. The opposite happens when the influence from inside and outside of the child is bad, then this can make the child behave badly too.⁵

The purpose of this study is to determine and analyze law enforcement by the police against children who commit violent crimes that cause death. To find out and analyze the obstacles experienced by the police, especially the Criminal Investigation Unit (Criminal Investigation) against children who commit a criminal act that causes death and the solution.

2. Research methods

The research approach method used in this research is the Sociological Juridical approach. The sociological juridical approach method is a study in which it looks at the discipline of regulations or laws based on the reality or reality that occurs in society.⁶ The specifications in this research are descriptive. The sources and types of data in this study are secondary data obtained from literature studies related to law enforcement theory and legal certainty.

3. Results and Discussion

3.1. Law enforcement by the police against children who commit violent crimes that lead to death

In the development of the application of criminal law in Indonesia, the existence of a child who commits a crime or a criminal act commonly known as "child" is still legally processed. This occurs because the child's crime has caused losses to other parties (victims) both materially and in life. But on the other hand, law enforcement against child crimes creates problems because the perpetrators of these crimes are children who are not legally competent. Thus it can be said that law enforcement on children sometimes ignores the age limit of children. Children are national assets, as part of the younger generation, children play a very strategic role as successors of a nation. In the Indonesian context, children are the successor to the ideals of the nation's struggle.⁷

Therefore, the quality of these children is largely determined by the process and form of treatment against them in the present. Indonesian children are Indonesian people who are raised and developed as whole human beings, so that they have the ability to exercise their rights and obligations as rational, beneficial and responsible citizens. The Unitary State of the Republic of Indonesia guarantees the welfare of every citizen of its country, including the protection of children, which is a human right. Every child has the right to live, grow and develop,

⁵ Romli Atmasasmita cited in Nashriana. (2011). *Perlindungan Hukum bagi Anak di Indonesia*. Jakarta: Raja Grafindo Persada. p. 36.

⁶ Bambang Sunggono. (2007). *Metode Penelitian Hukum*. Jakarta: Raja Grafindo Persada. p. 72.

⁷ Ruben Achmad. (2005). *Upaya Penyelesaian Masalah Anak yang Berkonflik dengan Hukum di Kota Palembang*, Jurnal Simbur Cahaya, Nomor 27, p. 24.

participate, and have the right to protection from criminal acts and discrimination as well as civil rights to freedom.⁸

Moeljatno stated that the term punishment which comes from this straf word and the term "punished" which comes from the wordt gestraft, is a conventional term. Moeljatno disagreed with these terms and used unconventional terms, namely "criminal" to replace the wordt gestraft. If straf means "punishment" then strafrecht should mean punishments. Furthermore, Moeljatno said that "punished" means "being punished" in both criminal law and civil law. Punishment is the result or result of the application of the law, which has a broader meaning than punishment, because it also includes judges' decisions in the field of civil law.⁹

Article 170 of the Criminal Code regulates legal sanctions for perpetrators of violence against people or goods in public. If it can be said that this article is a combination of Article 351 of the Criminal Code concerning persecution and Article 55 of the Criminal Code concerning participating in an act. However, when compared, of course, there are different definitions or goals desired by Article 170 of the Criminal Code with Articles 351 and 55 of the Criminal Code.

Carefulness is needed in the application of this article, because it could touch the provisions of Article 351. Therefore, investigators often make this article in conjunction with 351 and at the level of the prosecution the Public Prosecutor often uses the alternative type of indictment, where the judge can directly choose which indictment which if appropriate and in accordance with the results of evidence at trial. The object of the treatment of the perpetrators in this article is not only human but can be in the form of objects or goods. This is one of the differences between this article and Article 351 concerning persecution.

Law enforcement by the police against children who commit violent crimes that lead to death among them: Investigators in investigating cases of violent crimes committed by underage school students are guided by the Criminal Procedure Code, the Criminal Code. There are still investigators who are only guided by the disposition of the leadership in handling criminal acts against perpetrators of underage school students showing a low level of professionalism of investigators, so that there are frequent violations of the provisions of the Criminal Procedure Code. The length of experience as an investigator affects the level of professionalism of investigators in handling violent criminal cases committed by school students. In conducting investigations of student suspects who are perpetrators of violent crimes, treatment is not much different from examining adult suspects.

3.2. Constraints and solutions experienced by the police

In general, law enforcement can be interpreted as the act of implementing certain legal means to impose legal sanctions to ensure compliance with the stipulated provisions, whereas according to Satjipto Rahardjo, law enforcement is

⁸ Article 1 of Act No. 35 of 2014 concerning Amendments to Act No. 23 of 2002 concerning Child Protection.

⁹ Moeljatno. (2005). *Asas-asas Hukum Pidana*. Jakarta: Bina Aksara. p. 22.

a process to realize legal desires (namely the thoughts of a lawmaking body. -the laws formulated in legal regulations) come true.¹⁰

Things that lighten and burden: Which relieve:

- the client admits guilt has committed an act that has violated the law, regrets his actions that have hurt the victim, promises not to repeat the unlawful act again, and lie is frank in giving information to the officer;
- The client's age is still classified as a child, namely 16 years 07 months
- The client admits that at first the client did not have the intention of committing the suspected criminal act, the client also previously had no problems with the victim but because at the time of the incident the victim had stabbed his friends until they were injured so that the client became annoyed with the victim and wanted to retaliate.

Which relieve:

- the criminal act committed by the client resulted in the victim's death.

Obstacles experienced by the Police, in particular the Criminal Investigation Unit (Criminal Investigation) Against Children Who Commit a Criminal Act That Leads to Death What is commonly found is when the family does not cooperate and tries to cover up the existence of their child as the perpetrator of the crime. Efforts to enforce the law of criminal acts of violence that are carried out jointly against people in public that cause death are prioritizing kinship but if the kinship system does not work, then it is pursued through a legal process. Where the legal process is started and the research stage is then the investigation stage. Where the definition of an investigation is a series of acts by an investigator to search for and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out in a manner regulated in the Law.

Attempts to overcome obstacles experienced by the police, especially the Criminal Investigation Unit (Criminal Investigation) are: Outreach in schools and in the community. Patrol in certain areas is one of the police activities by 2 (two) or more members of the National Police.

4. Closing

Based on the research results that have been described, conclusions are drawn from: Law enforcement by the police against children who commit violent crimes that lead to death among them: Investigators in investigating cases of violent crimes committed by underage school students are guided by the Criminal Procedure Code, the Criminal Code. Obstacles experienced by the police, especially the Criminal Investigation Unit (Criminal Investigation) against a child who commits a crime that causes death, which is usually found when the family does not cooperate and tries to cover up the existence of their child as the perpetrator of the crime. Attempts to overcome obstacles experienced by the police, especially the Criminal Investigation Unit (Criminal Investigation) are: Outreach in schools and in

¹⁰ Satjipto Rahardjo. (1983). *Masalah Penegakan Hukum*. Bandung: Sinar Baru. p. 24

the community. Patrol in certain areas is one of the police activities by 2 (two) or more members of the National Police.

Police officers should be more active in disseminating information to schools about criminal acts of violence committed by students, so that these students can clearly know the consequences and their actions if these actions lead to criminal acts, especially violence. For parents of children to be more concerned with, maintain and control their children's activities so that children do not take actions that lead to criminal acts, and educate children properly because children are a gift entrusted by Allah SWT. For students, each individual has the thickness of faith in religion so that he can distinguish between what is good and what is not good and which actions are appropriate and inappropriate for a student to do.

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