

Investigation of Children as Perpetrators of Aggravated Theft Criminal Act in the Child Criminal Justice System (Case Study at the Samarinda City Police Resort)

Ghalih Kuntoro¹⁾ & Gunarto²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: ghalikhuntoro.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: gunarto@unissula.ac.id

Abstract. *The rise of children as the criminal act of aggravated theft is a crucial matter to be handled by law enforcement officers, especially the police, in conducting investigations to determine the punishment to be given, where children who are in conflict with the law will have different punishments and investigation processes until completion. This study aims to determine, review, and analyze the investigation of children as perpetrators of aggravated theft in the juvenile criminal justice system at the Samarinda Police, obstacles and solutions in the investigation of children as perpetrators of aggravated theft in the juvenile criminal justice system at the Samarinda Police and the concept of investigating children as perpetrators of aggravated theft in the future based on the value of justice. The approach method used in this study is sociological juridical. The specifications of this study are descriptive analytical. The data source used is primary data. While secondary data is obtained from literature study research consisting of primary legal materials, secondary legal materials, and testier legal materials. Based on the results of the study, it can be concluded that the investigation of children who commit aggravated theft in the juvenile criminal justice system at the Samarinda Police is carried out by referring to the Criminal Procedure Code, the SPPA Law, and Law Number 23 of 2002 concerning Child Protection.*

Keywords: *Children; Criminal; Investigation; Perpetrators.*

1. Introduction

The Republic of Indonesia is a country of law as stated in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia. Explicitly, in the Preamble to the 1945 Constitution of the Republic of Indonesia in the fourth paragraph, it clearly states that the purpose of establishing the Indonesian government is,

among others, to protect all Indonesian people and all Indonesian territory, advance public welfare, educate the nation's life, and participate in implementing world order. Children are an inseparable part of human survival and the survival of a nation and state.

As part of the younger generation, children are an important and determining initial link in efforts to prepare and realize the future of the nation and state.¹Children are also the hope of parents, the hope of the nation and state who continue the baton of development and have a strategic role, have special characteristics or traits that guarantee the continued existence of the nation and state in Indonesia.⁴ Given the important role of children, the state guarantees children's rights as in Article 28B paragraph (2) of the Constitution of the Republic of Indonesia (UUD 1945) states that every child has the right to survive, grow and develop and has the right to protection from violence and discrimination.

Children must always be protected because they have inherent dignity, honor and rights as human beings that must be upheld.⁵ Children's rights are part of human rights as stated in the 1945 Constitution and the UN Convention on the Rights of the Child.²Maintaining the survival of children is the responsibility of parents, namely the obligation to maintain and educate children until the child is an adult or can stand on his own. Parents are responsible for realizing the welfare of children.³ Apart from the above, according to the Islamic perspective, children must also be looked after as stated in Surah Al-Nahal verse 78 which means:

One of the illegal acts committed by children is theft. News in various media, both online and offline, regarding aggravated theft often occurs in Indonesia, one of which is in the jurisdiction of the Samarinda Police. Based on the results of a preliminary survey, in 2024 the Samarinda Police have handled children as perpetrators of aggravated theft in 8 cases.

Cases of children as perpetrators of aggravated theft are due to several factors such as environmental and socio-economic factors, as well as weak parental supervision of children who are in their developmental period.⁴Seeing theft, namely a criminal act that has been regulated in Article 362 is theft in the main

¹Ahmad Eko Setiawan, Investigation of Children Who Commit Criminal Acts of Molestation, *Lex Crimen*, Vol. V No. 3, March 2016.

² Aris Munandar Pamungkas, Umar Ma'ruf and Bambang Tri Bawono, The Juridical Analysis of Criminal Responsibility Performer on Children, *Law Development Journal*, Volume 4 Issue 1, March 2022.

³Maidin Gultom, 2014, *Law on Protection of Children in the Juvenile Criminal Justice System in Indonesia*, Refika Aditama, Bandung, p. 1

⁴Bambang Sarutomo, Causes of Minors Committing Theft in Demak Regency, *Unissula Journal*, Doctoral Program in Law, Sultan Agung Islamic University, Vol 1, No 1, 2021.

form, the elements are, namely objective there is an act of taking, which is taken an item in part or in whole or part of another person's property, there is an act and the act is prohibited by law, and gets criminal sanctions in the form of imprisonment. While the subjective elements are, with the intention to own unlawfully.

Theft as regulated in Article 363 is theft where several acts are subject to a maximum sentence of 7 years in prison, namely livestock theft, theft during fire, disaster, accident, riot, and war, theft at night in a house or closed yard where there is a house, theft by two or more people carried out together, theft by breaking, breaking or climbing or by using fake keys, fake orders or fake official clothing.

All of these national legal instruments are intended to provide a stronger guarantee of protection of children's rights when they are faced with the law and must undergo a trial process. Article 1 number 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that "Children in Conflict with the Law, hereinafter referred to as Children, are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a crime". This is what then becomes the basis for why there needs to be special treatment for children, both children as victims or as perpetrators of crimes, so there needs to be special attention to children considering that children are future generations who should be given more special attention and treatment not only by parents but also by the government.

Based on the provisions of the SPPA Law, children who commit crimes diversion must be carried out, however, for criminal acts involved in a crime of aggravated theft. There are also those who can do diversion. While Article 7 paragraph (2) of the SPPA Law determines that the conditions for diversion are if the crime committed is threatened with imprisonment of less than 7 (seven) years and is not a repeat of the crime. Thus, child perpetrators are processed through the courts with a series of investigative actions.

2. Research Methods

The approach method used in this research is sociological legal approach method, namely a study that review the applicable legal provisions and what happens in them the reality in society to know and find the facts and data needed, after the data needed collected then leads to the identification of problems that are finally leading to solving the problem.⁵ This research uses research specifications with a descriptive analysis method because what is being studied are various legal regulations which are the focus and central theme of a

⁵ Bambang Waluyo, 2002, *Legal Research in Practice*, Sinar Grafika, Jakarta, p.15.

research and a conceptual approach, namely examining the views of legal doctrines that develop in legal science.⁶

3. Result and Discussion

3.1. Investigation of Children as Perpetrators of Aggravated Theft in the Juvenile Criminal Justice System at the Samarinda Police

Based on the results of the study, it shows that in the jurisdiction of the Samarinda Police, there are quite a lot of aggravated theft crimes committed by children as the perpetrators. According to Saifuddin Zuhri, the rampant phenomenon of aggravated theft is caused by the lack of a forum for young people to express themselves in positive ways. When viewed from the perspective of child development psychology theory, adolescence is a phase for finding identity, where in the process of finding identity, quite a lot of teenagers express their expressions or show their existence in various ways.⁷

As part of the younger generation, children are an important and determining initial link in efforts to prepare and realize the future of the nation and state.⁸ Children are also the hope of their parents, the hope of the nation and state that will continue the baton of development. and has a strategic role, has special characteristics or traits that guarantee the continued existence of the nation and state in Indonesia.

Considering the important role of children, the state guarantees children's rights as stated in Article 28B paragraph (2) of the Constitution of the Republic of Indonesia (UUD 1945) which states that every child has the right to survival, growth and development and the right to protection from violence and discrimination.

Children must always be protected because they have inherent dignity, honor and rights as human beings that must be upheld. Children's rights are part of human rights as stated in the 1945 Constitution and the UN Convention on the Rights of the Child.⁹ Maintaining the survival of children is the responsibility of parents, namely the obligation to maintain and educate children until the child is

⁶ Johny Ibrahim, *Theory & Methodology of Normative Legal Research* (Malang: Bayu Media Publishing, 2007), p.300.

⁷ Sumarwoto, *Sarung wars are rife, this is the response of UIN Academician Prof. KH Saifuddin Zuhri*, <https://jateng.antaranews.com>, accessed April 28, 2025.

⁸ Ahmad Eko Setiawan, *Investigation of Children Who Commit Criminal Acts of Molestation*, *Lex Crimen*, Vol. V No. 3, March 2016.

⁹ Aris Munandar Pamungkas, Umar Ma'ruf and Bambang Tri Bawono, *The Juridical Analysis of Criminal Responsibility Performer on Children*, *Law Development Journal*, Volume 4 Issue 1, March 2022.

an adult or can stand on his own. Parents are responsible for realizing the welfare of children.¹⁰

Teenage age is a time of transition that wants something new. Teenagers are still unable to control their physical and psychological. Among teenagers, having many friends increases their value in the eyes of their friends. However, it should be remembered that the influence of playmates not only has a positive impact but also has a negative impact. Children can be influenced by deviant behavior from their playmates.

Illegal acts committed by children are caused by various factors, including weak religious education in the family environment, the decline in morals and ethics, as a negative impact of rapid development, the flow of globalization in the fields of communication and information, and advances in science and technology.¹¹ Children who commit crimes, based on the criminal justice system will have the status of suspects or convicts. In such conditions, special legal protection is needed to protect the rights of children in conflict with the law.¹² In normative law, legal protection for child perpetrators of criminal acts is stated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA).

Criminal acts committed by children or known as juvenile delinquency are increasingly widespread and diverse, both in frequency and in the seriousness of the quality of the crime. This can be seen from the many cases that occur, including fights, extortion/mugging, abuse and so on. Cases of children in conflict with the law, according to data from the Directorate General of Corrections, Ministry of Law and Human Rights, showed an increasing trend in the period 2020 to 2023. As of August 26, 2023, almost 2,000 children were recorded as being in conflict with the law. As many as 1,467 of them have the status of prisoners and are still undergoing the trial process, while 526 children are serving their sentences as convicts.¹³

However, in reality, the order of life that has been regulated in various laws and regulations is still often violated, as evidenced by the many cases of criminal acts that occur, even though government officials have provided mental guidance to

¹⁰Maidin Gultom, 2014, *Law on Protection of Children in the Juvenile Criminal Justice System in Indonesia*, Refika Aditama, Bandung, p. 1

¹¹Oscar Stefanus Setjo and Umar Ma'ruf, *Investigation of Children Who Conflict With Law in Narcotics*, Jurnal Daulat Hukum, Volume 3 Issue 2, June 2020, p. 284.

¹²Robertus David Mahendra Saputra, Jawade Hafidz and Denny Suwondo, *Op.Cit.*, p.462.

¹³Yohanes Advent Krisdamarjati, "The Increasing Number of Cases of Children in Conflict with the Law, an Alarm for Society and the State," *kompas.id*, last modified 2023, <https://www.kompas.id/baca/riset/2023/08/28/meningkatnya-kasus-anak-berkonflik-hukum-alarm-bagi-masyarakat-dan-negara>.

the community through various means, which are expected to be able to minimize the occurrence of legal violations in society.

Based on the problems of children in conflict with the law, the Government has enacted Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Juvenile justice aims to provide the best for children, without sacrificing the interests of society and upholding justice. The purpose of Juvenile Justice is no different from other justice, namely to examine, decide and resolve children's cases. In this case, the implementation of guidance and protection for children requires support both in terms of institutions and better and accommodating legal instruments.¹⁴

In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it has been regulated in such a way that when there is a case of a child in conflict with the law, a Non-penal punishment can be imposed, the term in law is Diversion, where a transfer of the settlement of cases of children suspected of committing certain crimes from the formal criminal process to a peaceful settlement between the suspect/defendant/perpetrator of the crime and the victim facilitated by the family and community of the child's social guidance, police, prosecutors or judges. Therefore, not all cases of children in conflict with the law must be resolved through formal justice, and providing an alternative for settlement with a restorative justice approach, then, for cases of children in conflict with the law, diversion can be carried out in the best interests of the child and by considering justice for the victim.¹⁵

With the existence of this Law, it provides a strong legal basis to differentiate the treatment of children in conflict with the law. Legal treatment of minors in cases of theft should receive special attention from law enforcement officers in processing and deciding on decisions that will be taken to regulate and restore the future of children as responsible citizens in society.

The Samarinda Police have made various efforts, both pre-emptive and preventive, to prevent criminal acts committed by children, one of which is theft. This prevention is carried out in various ways, such as socialization to schools and even social media about the prohibition. In addition, the Samarinda Police also coordinate with various stakeholders such as the UPTD PPA of Samarinda Regency, Bapas, and the Education Office, as well as by making prevention efforts through patrols, but in reality, cases of theft committed by children are still rampant.¹⁶

¹⁴ SuaraPembaruan, "Children's Crime," <http://www.prakarsarakyat.org/artikel/fokus/artikel.php?aid=29687>.

¹⁵Bunadi Hidayat, Criminalization of minors (Bandung: PT Alumni, 2010), p. 83

¹⁶Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

One of the illegal acts committed by children is theft. News in various media, both online and offline, regarding aggravated theft often occurs in Indonesia, one of which is in the jurisdiction of the Samarinda Police. Based on the results of a preliminary survey, in 2024 the Samarinda Police have handled children as perpetrators of aggravated theft in 8 cases.

Cases of children as perpetrators of aggravated theft are due to several factors such as environmental and socio-economic factors, as well as weak parental supervision of children who are in their developmental period.¹⁷

Based on the results of an interview with the Head of the PPA Unit of the Samarinda Police, there are several causes of aggravated theft committed by children, namely:¹⁸

1) Lack of parental attention

Lack of attention given by parents to children can sometimes make children feel that they are not getting enough love from their parents and can feel unappreciated, not considered, and become more easily led to do negative things.

2) Psychological problems

Sometimes some children feel they have difficulty controlling themselves, lack empathy, which can lead to indecent behavior being repeated, such as theft.

3) Emotional condition

Emotional problems are a factor that causes children to do negative things, for example theft. This is because children's emotions such as stress, depression and even trauma can be one of the triggers.

4) Economic factors

Children who feel that their family's economic needs are not being met, or sometimes cannot fulfill something they want due to economic circumstances, cause them to steal in order to get money to buy or even fulfill what they feel they have not yet had enough of.

5) Environmental factors

A bad environment, namely a negative environment or an environment that provides many opportunities to commit crimes, can influence children to commit theft.

¹⁷Bambang Sarutomo, Causes of Minors Committing Theft in Demak Regency, Unissula Journal, Doctoral Program in Law, Sultan Agung Islamic University, Vol 1, No 1, 2021.

¹⁸Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

6) Opportunity factor

Having the opportunity for children to steal can make it easier for them to do so.

Seeing theft, namely a criminal act that has been regulated in Article 362 is theft in the main form, the elements are, namely objective there is an act of taking, which is taken an item in part or in whole or part of another person's property, there is an act and the act is prohibited by law, and gets criminal sanctions in the form of imprisonment. While the subjective elements are, with the intention to own unlawfully.

Theft as regulated in Article 363 is theft where several acts are subject to a maximum sentence of 7 years in prison, namely livestock theft, theft during fire, disaster, accident, riot, and war, theft at night in a house or closed yard where there is a house, theft by two or more people carried out together, theft by breaking, breaking or climbing or by using fake keys, fake orders or fake official clothing.

All of these national legal instruments are intended to provide a stronger guarantee of protection of children's rights when they are faced with the law and must undergo a trial process. Article 1 number 3 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that "Children in Conflict with the Law, hereinafter referred to as Children, are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a crime". This is what then becomes the basis for why there needs to be special treatment for children, both children as victims or as perpetrators of crimes, so there needs to be special attention to children considering that children are future generations who should be given more special attention and treatment not only by parents but also by the government.

In the criminal justice process for children who commit aggravated theft, it is different from adults, where starting from the investigation stage to the trial stage, diversion must be carried out. In conducting an investigation of a child who commits a crime, investigators are required to ask for consideration or advice from a community counselor after the crime has been reported or complained about. This is regulated in Article 27 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The Community Counselor referred to is usually an officer from Bapas.¹⁹

The investigation of the child perpetrator of aggravated theft was carried out by the PPA Unit of the Samarinda Police Criminal Investigation Unit. Based on the results of the study, a picture was obtained of the Samarinda Police PPA Unit which was minimal in personnel and the number was inadequate, because the

¹⁹Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

number of cases in the Samarinda Police PPA Unit could reach more than 10 cases per month.²⁰

In the PPA unit of the Samarinda Police Criminal Investigation Unit, facilities and infrastructure are quite adequate. For the examination room for girls and boys are separate, there is a children's playground, a children's lactation room, and there is a special detention room for children. The standard conditions of the room are good and meet the examination standards.

The child investigation process is the legal steps taken to investigate a crime involving a child as a perpetrator, victim, or witness. In the process of investigating children, there is a different approach from investigating adults, by considering the protection of children's rights. Every step of the investigation of children must pay attention to the principle of child protection, so that the legal process does not harm the child's psychological and social development. During the child examination process, investigators do not wear police uniforms. The general stages in the investigation of children who commit crimes are as follows:²¹

- 1) Reporting, investigation begins after there is a report of a criminal act involving a child, which can be carried out by the community, members of the Police who know about the incident.
- 2) Initial Examination, investigators conduct an initial examination to determine whether the report meets the requirements to proceed to the investigation process.
- 3) Investigation, if the report is deemed valid, the investigator will conduct an investigation which includes gathering evidence, witness statements, and examining the child involved in the crime.
- 4) Accompaniment, during the investigation process the child must be accompanied by a parent, guardian, or lawyer. This is to ensure that the child's rights are protected and they do not experience pressure.
- 5) Psychological examination, in certain cases, the child may need to undergo a psychological examination to assess the child's mental and emotional condition.
- 6) Event reconstruction, in some cases, investigators may conduct a reconstruction to better understand how the event occurred.
- 7) Preparation of Minutes, all investigation results are recorded in minutes which will form part of the case file.

²⁰Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

²¹Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

8) Special handling of children who commit crimes will be carried out using a rehabilitative approach, not a punitive one, to help the child reintegrate into society.

9) The next legal process, if there is sufficient evidence, the case will be forwarded to court by taking into account the regulations applicable to children.

In this case, after the police receive a police report about a child committing aggravated theft, an investigation will be conducted to determine whether the elements of the crime in the article charged against the child are fulfilled. In the investigation process, an examination will be carried out on witnesses, the reporter, and the reported party (child). After that, if there is sufficient evidence, the reported party's status will be raised to that of a child perpetrator.²²

During the examination process at the investigation level, the child perpetrator is accompanied by parents, Bapas, and lawyers. In the preparation of the case file, there are results of community research (litmas) from Bapas. After the case file is completed and compiled, it is sent to the prosecutor's office. After the case file is considered complete by the prosecutor's office, P21 is issued.²³

Based on the results of interviews with Child Investigators at the Samarinda Police, the implementation of investigations into child perpetrators of aggravated theft is guided by the Criminal Procedure Code, Law Number 11 of 2012 concerning the Child Criminal Justice System (UU SPPA) and Emergency Law No. 12 of 1951. At the stage of investigation and inquiry into criminal acts with child perpetrators, then in accordance with the provisions of Article 5 of the SPPA Law, it is mandatory to prioritize the restorative justice approach through diversion.²⁴

According to Article 1 number 7 of Law Number 11 of 2012, Diversion is the transfer of the settlement of a child's case from the criminal justice process to a process outside the criminal justice process. Diversion itself aims to achieve peace between the victim and the child, resolve the child's case outside the judicial process, prevent the child from being deprived of liberty, encourage the community to participate, and instill a sense of responsibility in the child. As one of the requirements for implementing diversion is that the crime committed by the child perpetrator is under 7 (seven) years old. As the implementation of diversion in this law is regulated in Article 52 paragraph (3) of the SPA Law.

Basically, children who commit crimes at a certain age are not yet able to properly realize what they are doing, meaning that children at a certain age are also not able to distinguish between good and bad actions. Of course, this also

²²Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

²³Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

²⁴Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.

affects children who cannot realize their actions. If a child at a certain age commits a crime and because of their actions, they are subject to criminal proceedings, it will have a psychological effect on their adulthood.

Legal facts in the jurisdiction of the Samarinda Police also include several cases that were actually successful in being fully diverted, but there were also several cases that were unsuccessful, which ultimately resulted in the judge imposing a prison sentence for a certain period of time. Some examples are based on the Decision of the Samarinda District Court Number 5 / Pid.Sus-Anak / 2025 / PN.Smr dated February 6, 2025, the Child Convict in conflict with the law with the initials RRF was declared to have been legally and convincingly proven to have committed the Crime of Theft with aggravation with a prison sentence of guidance at the Class IIA Tenggarong IPKA for 10 (ten) months.

Other cases as stated in Case Number 6/Pid.Sus-Anak/2025/PN.Smr dated March 7, 2025 as a child facing the law who was legally declared and proven guilty of committing a crime of aggravated theft which is punishable by imprisonment for a certain period of 1 year.

Based on the results of research conducted in the investigation process of criminal cases committed by children, and referring to the legal regulations contained in the Criminal Code, regarding the investigation process and the Juvenile Court Law Number 3 of 1997 which has been replaced by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System and the role of Law Number 23 of 2002 concerning Child Protection.

Samarinda Police investigators in conducting an investigation into a criminal case of aggravated theft committed by a child, have complied with the legal regulations governing the process of carrying out investigations of children, both in terms of the investigation process regulated in the Criminal Code and the Law on Juvenile Courts and Child Protection, as regulated in the Criminal Code, specifically in Article 5 paragraph (1) of the Criminal Code, which states that the summons of suspects and witnesses, arrest, detention, search and examination at the scene of the crime and also the confiscation of evidence.²⁵

The investigation of the child perpetrator of aggravated theft at the Samarinda Police Department has been in accordance with the provisions of the Criminal Procedure Code, the SPPA Law, and Law Drt Number 12 of 1951. The stages in the investigation have been in accordance with the provisions of the Criminal Procedure Code, where every action taken by investigators such as arrest, detention, search, confiscation, examination of witnesses and examination of children, is based on the existence of a warrant and a report is made. Furthermore, during the investigation process, the child is given legal assistance

²⁵Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.

(lawyer) appointed by the investigator and also a community mentor from the Samarinda Bapas.²⁶

For the implementation of the investigation of the child suspect during the investigation process, the Samarinda Police investigators detained the child for 7 days in accordance with the provisions of Law Number 11 of 2012 concerning the Child Criminal Justice System, for suspects, an extension of detention is carried out, but there must be a letter of suspension of detention from the family where the investigator remembers the development of the child's physiological factors. So that in the examination of the child suspect, the suspect is accompanied by a parent/guardian or accompanying officer as regulated in the SPA Law.²⁷

Samarinda Police Child Investigator also said that da²⁸In the event of an examination carried out by investigators for child cases, investigators are also required to report, ask for considerations or suggestions from community officers in this case BAPAS (Correctional Center) which has the aim of being a consideration for judges in imposing sanctions on children as perpetrators of criminal acts.²⁹

The investigation of a child who committed aggravated theft by the PPA Unit of the Samarinda Police Department can be analyzed using the legal system theory put forward by Lawrence M. Friedman, who is a legal sociology expert from Stanford University, that the effectiveness of law enforcement depends on the legal system which includes three components or sub-systems, namely the legal structure component (Structure of law), legal substance (Substance of law), and legal culture (legal culture).

1) Components of legal structure (Structure of law)

The legal structure is related to the institution or law enforcement which includes its performance or can be said to include the implementation or execution of the law. The legal structure has different authorities in carrying out its duties and authorities and of course is free from the influences of government power or other influences that will have a negative impact on the implementation of good law and grow or even develop in a community life.

In this case, the legal structure in the investigation stage as the author raised in the research, namely the Police conducting an investigation into the crime of aggravated theft committed by a child, in the process of implementing the investigation of the child perpetrator of the crime of aggravated theft at the Samarinda Police has been in accordance with the provisions of the Criminal

²⁶Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.

²⁷Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.

²⁸Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.

²⁹Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.

Procedure Code, the SPPA Law, and Law Drt Number 12 of 1951.

In this case, the investigators in the PPA Unit are appointed general investigators and there are only two personnel who have received training in the Juvenile Criminal Justice System. This is in line with the provisions of Article 26 of the SPPA Law which states that investigations into juvenile cases are carried out by investigators appointed based on the Decree of the Chief of Police or other officials appointed by the Chief of Police with the following conditions:

- a. has experience as an investigator;
- b. have interest, attention, dedication, and understand children's problems;
- c. has attended technical training on juvenile justice.

In the investigation process, investigators ask for consideration or advice from community officers in this case the Samarinda Bapas. Investigator actions will be in accordance with the advice or recommendations from community officers.

The stages in the investigation are in accordance with the provisions of the Criminal Procedure Code, where every action taken by investigators such as arrest, detention, search, confiscation, examination of witnesses and examination of children, is based on the existence of a warrant and a report is made. Furthermore, during the investigation process, children are given legal assistance (lawyers) appointed by the investigator and also have community guidance from Bapas Samarinda. This means that the investigation of children as perpetrators of aggravated theft at the Samarinda Police is in line with applicable laws and regulations as its authority in the field of legal structure.

2) Substance of Law Components

Substance means rules, norms, and patterns of behavior of people in the system whose emphasis is actually on living law, not just regulations in legislation. Substance also means a product produced by people in the legal system which includes a decision issued, or new rules which have been compiled or arranged.

In this case, the legal substance in the investigation stage as the author raised in the research, namely the Police who conducted an investigation into the crime of aggravated theft committed by a child in the process of implementing the Investigation of the child perpetrator of the crime of aggravated theft at the Samarinda Police has been guided by the provisions of the Criminal Procedure Code, the SPPA Law, and Law Number 23 of 2002 concerning Child Protection as a consideration for imposing sanctions. This means that the investigation of the child as the perpetrator of the crime of aggravated theft at the Samarinda Police has been guided by the applicable laws and regulations as in the field of legal substance.

3) Components of Legal Culture

Legal culture is the atmosphere of social thought and social power that determines how the law will be used, avoided, or abused. Legal culture must be closely related to the legal awareness of society. Because the higher the legal awareness of society, the better the legal culture will be created and can change the mindset of society regarding the law so far.

In this case, the community also determines the process of investigating criminal acts of theft committed by children. The participation of the community, for example, being willing to report to the police if they see theft committed by children, will greatly assist in the enforcement process, so that it will become a good habit in helping to maintain public order. For most people, this theft may be seen as normal. However, the culture of the community in the jurisdiction of the Samarinda Police, even aggravated theft can create a stigma against children involved in crimes. This can certainly affect the investigation process, where investigators tend to see children as perpetrators of crimes, not as children who need to be protected.

Investigation of children who commit aggravated theft is also in line with the theory of justice. Investigation of children who do not commit crimes where the child is processed by law (not diversion), will provide legal justice for the child himself as a form of legal protection for the child.

3.2. Obstacles and Solutions in the Investigation of Children as Perpetrators of Aggravated Theft in the Juvenile Criminal Justice System at the Samarinda Police

Examination during an investigation must be carried out in a family atmosphere, remembering that the perpetrator is a child.³⁰The family atmosphere that was carried out during the examination at the Samarinda Police Department was that investigators used language that was easy for children to understand and comprehend by asking questions that did not contain elements that were too negative, and none of the investigators wore uniforms that did not indicate that the investigator was a police officer.

In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, it has been regulated in such a way that when there is a case of a child in conflict with the law, a Non-penal punishment can be imposed, the term in law is Diversion, where a transfer of the settlement of cases of children suspected of committing certain crimes from the formal criminal process to a peaceful settlement between the suspect/defendant/perpetrator of the crime and the victim

³⁰Andreas Ronaldo, Investigation Process of Aggravated Theft Crime Committed by Children Reviewed from Law Number 11 of 2012 Concerning the Juvenile Justice System (Case Study of Pasaman Police Area), *Menara Ilmu*, Vol. XII, No.4, April 2018.

facilitated by the family and community of the child's social guidance, police, prosecutors or judges. Therefore, not all cases of children in conflict with the law must be resolved through formal justice, and providing an alternative for settlement with a restorative justice approach, then, for cases of children in conflict with the law, diversion can be carried out in the best interests of the child and by considering justice for the victim.³¹

With the existence of this Law, it provides a strong legal basis to differentiate the treatment of children in conflict with the law. Legal treatment of minors in cases of theft should receive special attention from law enforcement officers in processing and deciding on decisions that will be taken to regulate and restore the future of children as responsible citizens in society.

During the investigation process into the criminal case of aggravated theft committed by a child, the Samarinda Police also experienced several obstacles in the process, namely:³²

1) Lack of evidence and witnesses

Investigations in this case involving children as perpetrators of aggravated theft often have difficulty in collecting sufficient evidence and witnesses to prove the involvement of children in the crime of aggravated theft.

The solution to deal with the lack of evidence and witnesses in the investigation of children as perpetrators of aggravated theft is to maximize the role of existing investigators in how to obtain the inadequate evidence and witnesses.

2) Difficulty in presenting children in the examination process and mandatory absence

In the investigation process against the child perpetrator of aggravated theft, the child was not detained because there was a letter of guarantee from the parents. However, when the investigator was going to ask for information from the child perpetrator, the investigator had difficulty in presenting the child. In addition, the child may not necessarily be able to carry out mandatory reporting every Monday and Thursday because the child is still in school.

The solution to overcome these obstacles is for investigators to coordinate with the parents and the child's school to be jointly responsible for presenting the child when they are asked for information and also the obligation to report every Monday and Thursday by giving permission not to attend lessons during the examination process or reporting to the Samarinda Police.

3) Inadequate coaching institutions

³¹Bunadi Hidayat, *Criminalization of minors* (Bandung: PT Alumni, 2010), p. 83

³²Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.

In the process of investigating children who are perpetrators of aggravated theft, the institutions responsible for fostering children involved in criminal acts, such as social welfare institutions, are not fully available and therefore the process of implementing rehabilitation and fostering is less effective.

The solution to overcome these obstacles is to maximize what is available first in an optimal way so that it will slowly become effective as other needs are met.

4) Limited resources

The description that the number of personnel in the PPA Unit of the Polresta Samarinda Criminal Investigation Unit is not comparable to the number of child cases handled by the PPA Unit of the Polresta Samarinda Criminal Investigation Unit. This condition can hinder the investigation process against child perpetrators of criminal acts due to a lack of personnel. While the number of child cases is quite large, and considering that children require special handling, investigators must also have qualifications as child investigators.

The solution to overcome these obstacles is to increase the budget and training for law enforcement officers who handle child cases. In addition, investigators must also collaborate with non-governmental institutions in the child investigation process.

5) Barriers to diversion

Not all cases of aggravated theft committed by children can be resolved through diversion mechanisms. Diversion can only be done if it meets certain requirements and will involve various parties such as parents/guardians and even social welfare institutions.

6) Lack of public understanding of law

In social life, many parents do not control or supervise their children in their social interactions, so that many children are involved in cases of violence such as being involved in aggravated theft. Parents do not understand the legal consequences if their children are involved in aggravated theft. Likewise, many children do not understand the legal consequences of their actions by being involved in aggravated theft. As a result, in society, there are still many cases of being involved in aggravated theft, the perpetrators of which are mostly minors.

The solution to overcome these obstacles is to conduct socialization in schools and socialization through social media about the prohibition of being involved in aggravated theft. In addition, patrols are also carried out in locations that are often used as places for child theft.

3.3. Concept of Investigation of Children as Perpetrators of Aggravated Theft in the Future Based on the Value of Justice

The increasing number of children in conflict with the law over time illustrates a shared concern to overcome it. From the various cases, legal protection is needed for children, both from the perspective of the perpetrator and the victim, because in reality children who are still minors in the eyes of the law certainly still need protection, both psychologically and otherwise, in their handling so as not to cause deep trauma effects.

Child criminals who are awaiting the trial process have additional problems in terms of morality and psychology. However, the important problem to be studied is how the punishment faced by children who are still vulnerable in their physical and mental abilities. For children who are 14 years old who commit crimes with a criminal threat of more than 7 (seven) years, then they can be punished. In Indonesia itself, it is known as restorative justice and diversion which requires the resolution of children's cases through the criminal path between the two parties. However, this diversion legal effort can only be applied to children who are under 14 years old. In addition, children must still follow the trial mechanism/procedure, and children can even be detained for the actions they have committed.

In the existing legal system, the handling of criminal penalties for children who have problems with the law in Indonesia has not yet brought about good changes. The process of resolving cases of children involved in legal problems should be different from adults. The procedure must also be carried out properly and correctly so that later the child will still receive maximum protection. Because basically the position of children in the social order that still needs protection can be used as a basis for finding an alternative solution related to their criminal penalties when they are in conflict with the law.

However, in reality, the resolution of cases committed by children is still the same as adults, namely through the judicial process. Although through diversion with restorative justice, often the diversion process does not get an agreement from the related parties so that it ends up back in the judicial process.

If we examine the comparison with other countries, in this case the author takes a comparison with other countries related to the investigation of children as perpetrators of aggravated theft such as in the United States which uses the Juvenile Justice System, which carries out investigations by Juvenile Officers, namely special child officers, where children can be detained but with the Diversion First policy increasingly being applied. Several states such as the United States require that children are not processed criminally for minor violations such as theft but are diverted to rehabilitation or counseling programs. While

children's rights are protected through Miranda Rights specifically for children and must be accompanied by a lawyer.

The United Kingdom in investigating children as perpetrators of aggravated theft uses the Youth Justice System, namely the investigation process involving the Youth Offending Team consisting of police, social workers, and psychologists. Children are not immediately detained but are transferred to the Youth Caution or Youth Conditional Caution program, if processed criminally there is a special juvenile court system or Youth Court.

The Netherlands in investigating children as perpetrators of aggravated theft uses a restorative and rehabilitative approach where the child will be examined by the child police unit, and must be accompanied, so that the investigation of children usually ends with a peace agreement between the perpetrator and the victim or often called mediation. If the case goes to court, the punishment will be educational such as compulsory school or community service.

Meanwhile in Indonesia, specifically in the applicable legislation, namely Law Number 12 of 2011 concerning the Child Criminal Justice System as related to the current urgency that in Article 71 paragraph (1) letter b number 2, uses the term community service punishment. Article 76 paragraph (1) Community service punishment is a punishment intended to educate children by increasing concern for positive community activities. Community service punishment for children is a minimum of 7 (seven) hours and a maximum of 120 (one hundred and twenty) hours. The Child SPP Law does not include the type of crime, minimum age limit, and the child's whereabouts during the period of serving the community service punishment.

According to Analysis the author, if associated with the theory of Pancasila justice as it includes social justice for all Indonesian people with the values of the Almighty God to realize a just and civilized humanity towards the Unity of Indonesia through Deliberation and Consensus. There fore Good legislation can be concluded that legislation that must meet the basic requirements for the formation of legislation in accordance with what the Indonesian nation has. This must of course be in accordance with justice based on Pancasila, so that later legal justice can be realized which is recognized by the entire Indonesian nation without doubting the form of legal justice that exists, because basically legal justice is formed based on several principles of the formation of legislation based on Pancasila justice. So that with the concept of investigation for children in the new Criminal Code, it is felt that justice will be achieved and in accordance with the values of Pancasila.

4. Conclusion

Investigations of children who commit aggravated theft in the juvenile criminal justice system at the Samarinda Police are carried out based on the Criminal

Procedure Code, the SPPA Law, and Law Number 23 of 2002 concerning Child Protection. After a police report is received regarding a child who has committed a crime of carrying a sharp weapon, an investigation will be carried out to determine whether the elements of the crime in the article charged against the child are fulfilled. In the investigation process, examinations are carried out on witnesses, reporters, and the reported party (child). If there is sufficient evidence, the reported party's status is raised to that of a child perpetrator. In the investigation process, the child perpetrator is accompanied by parents, Bapas, and lawyers and also involves community officers from Bapas to prepare a research report for the investigator's consideration. If the investigation is complete, the files are compiled and sent to the prosecutor's office. The investigation ends with the child and evidence being handed over to the public prosecutor for prosecution.

5. References

Al-Quran:

Q.S An-Nahal: 78

QS. Al-Maidah: 38

Journals:

Abdul Aziz dan Yasaman, Wanprestasi Perjanjian Sebagai Tindak Pidana Penipuan, *Jurnal Ilmiah Publik*, Vol 10 No 2, Juli-Desember 2022.

Ahmad Eko Setiawan, Penyidikan Terhadap Anak Yang Melakukan Tindak Pidana Pencabulan, *Lex Crimen*, Vol. V No. 3, Maret 2016.

Andreas Ronaldo, Proses Penyidikan Tindak Pidana Pencurian Dengan Pemberatan Yang Dilakukan Oleh Anak Ditinjau Dari Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Anak (Study Kasus Wilayah Polres Pasaman), *Menara Ilmu*, Vol. XII, No.4, April 2018.

Aris Munandar Pamungkas, Umar Ma'ruf and Bambang Tri Bawono, The Juridical Analysis of Criminal Responsibility Performer on Children, *Law Development Journal*, Volume 4 Issue 1, March 2022.

Bambang Sarutomo, Penyebab Anak Di Bawah Umur Melakukan Tindak Pidana Pencurian di Kabupaten Demak, *Jurnal Unissula*, Program Doktor Ilmu Hukum Universitas Islam Sultan Agung, Vol 1, No 1, 2021.

Ferry Irawan Febriansyah, *Keadilan Berdasarkan Pancasila Sebagai Dasar Filosofis Dan Ideologis Bangsa*, Gih Jurnal Ilmu Hukum, 2017.

Hysa Ardiyanto & Syarief Fajaruddin, Tinjauan atas artikel penelitian dan pengembangan Pendidikan di Jurnal Keolahragaan, *Jurnal Keolahragaan*, Vol 7 No 1, 2019.

Miza Nina Adlini, dkk, Metode Penelitian Kualitatif Studi Pustaka, *Edumaspul: Jurnal Pendidikan*, Vol 6 No 1, 2022.

Oscar Stefanus Setjo and Umar Ma'ruf, Investigation of Children Which Conflicting with Law in Narcotics, *Jurnal Daulat Hukum*, Volume 3 Issue 2, June 2020.

Books:

Abdullah, Yatimin .2006. *Pengantar Studi Etika*. Jakarta: PT. Raja Grafindo Persada.

Agnesta Krisna, iza. 2012. *Hukum Perlindungan Anak* . Sleman: CV. Budi Utama.

Alia Maerani, Ira . 2018. *Hukum Pidana & Pidana Mati* .Semarang: Unissula Press.

Atmasasmita, Romli . 1983. *Problem Kenakalan Anak-Anak Remaja* .Bandung: Armico.

Chazawi, Adami . 2009. *Pelajaran Hukum Pidana Bagian I* .Jakarta: Raja Grafindo Persada.

Departemen Pendidikan Nasional. 2005. *Kamus Besar Bahasa Indonesia*. Edisi Ketiga. Jakarta: Balai Pustaka.

Dwi Baskoro, Bambang .2001. *Bunga Rampai Penegakan Hukum Pidana*. Semarang : Badan Penerbit Universitas Diponegoro.

Gosita, Arif . 2009. *Masalah Perlindungan Anak* .Bandung: Mandar Maju.

Gultom, Maidin. 2014. *Hukum Perlindungan Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia*. Bandung: Refika Aditama.

Hamzah, Andi. 2005. *Hukum Acara Pidana Indonesia*. Jakarta: Sinar Grafika.

Hidayat, Bunadi. 2010. *Pemidananan anak dibawah umur*. Bandung: PT Alumni.

Ibrahim, Johny . 2007. *Teori & Metodologi Penelitian Hukum Normative* .Malang: Bayu Media Publishing.

Johny Ibrahim. 2007. *Teori & Metodologi Penelitian Hukum Normative* .Malang: Bayu Media Publishing.

Kartini dan Pathologi sosial Kartono. 1992. *Kenakalan Remaja* .Jakarta: Rajawali Press.

- Kusumaningrum, Santi . 2014. *Penggunaan Dieskresi Dalam Proses Peradilan Pidana* . Jakarta: UI Press.
- Lawrence W. Friedman. 1984. *American Law: An Introduction*. New York: W.W. Norton and Co.
- M. Husein Harun. 1991. *Penyidik Dan Penuntut Dalam Proses Pidana*. Jakarta: PT Rineka Cipta.
- Markus Munaj. 2004. *Dekonstruksi Hukum Pidana Islam* .Yogyakarta: logung Pustaka.
- Miskawaih, Ibnu .1995. *Menuju Kesempurnaan Ahlak*. Bandung: Sinar Baru.
- Muhammad Abu Zahrah. 2013. *Ushul Fiqih di Terjemahkan oleh Saefullah Mashumdkk*. Jakarta: Pustaka Firdaus.
- Nashriana. 2001. *Perlindungan Hukum Pidana Bagi Anak di Indonesia*. Jakarta: Raja Grafindo Persada.
- Nawawi Arief, Barda . 2012. *Pendekatan Keilmuan dan Pendekatan Religius dalam rangka Optimalisasi dan Reformasi Penegakan Hukum (Pidana) di Indonesia* . Semarang: Badan Penerbit UNDIP.
- Nur Azisa dan Andi Sofyan. 2016. *Hukum Pidana* . Makassar: Pustaka Pena Press.
- Nurhayati, Yati . 2020. *Pengantar Ilmu Hukum* . Bandung: Penerbit Nusa Media.
- P.A.F lamintang. 1984. *Dasar-Dasar Hukum Pidana Indonesia* . Bandung: Sinar Baru.
- Poerwadarminta WJS. 1986. *Kamus Umum Bahasa Indonesia*. Jakarta: Balai Pustaka.
- Prodjodikoro, Wirjono . 2003. *Tindak-Tindak Pidana Tertentu di Indonesia* . Bandung: Refika Aditama.
- Raharjo, Satjipto . 1982. *Ilmu Hukum*. Bandung: Alumni.
- Sudarto. 1990. *Hukum Pidana* .Purwokerto: Fakultas Hukum Universitas Jendral Soedirman.
- Sujono dan Bony Daniel, AR. 2011. *Komentar dan Pembahasan Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika*. Jakarta: Sinar Grafika.
- Tongat. 2003. *Hukum Pidana Materiil* . Malang: UMM Press.

Wahyudi, Setyo. 2011. *Implementasi Ide Diversi dalam Pembaruan Sistem Peradilan Pidana Anak di Indonesia*. Yogyakarta: Genta Publishing.

Regulation:

Criminal Code (KUHP).

Law Number 1 of 2023 concerning the Criminal Code (KUHP).

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

Law Number 23 of 2002 in conjunction with Law Number 35 of 2014 concerning Child Protection.

Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP).

The 1945 Constitution of the Republic of Indonesia.

Internet:

Siti Badriyah, "Kerangka Konseptual: Pengertian, Tujuan, dan Cara Membuat," *Gramedia Blog*, https://www.gramedia.com/literasi/kerangka-konseptual/#google_vignette.

SuaraPembaruan, "Kejahatan Anak," <http://www.prakarsarakyat.org/artikel/fokus/artikel.php?aid=29687>.

Sumarwoto, Marak perang sarung, Ini Tanggapan Akademisi UIN Prof KH Saifuddin Zuhri, <https://jateng.antaranews.com>, accessed on 28 April 2025.

<https://www.kompas.id/baca/riset/2023/08/28/meningkatnya-kasus-anak-berkonflik-hukum-alarm-bagi-masyarakat-dan-negara>.

Yohanes Advent Krisdamarjati, "Meningkatnya Kasus Anak Berkonflik Hukum, Alarm Bagi Masyarakat dan Negara," *kompas.id*, last modified 2023,

Interview:

Results of an interview with the Head of PPA Unit of the Samarinda Police, April 28, 2025.

Results of interviews with Child Investigators at Samarinda Police, April 28, 2025.