

Legal Analysis of The Resolution of The Criminal Act of Assassination Of a Minors Through Diversion Legal Effort at The Demak Resort Police Office

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Abstract. *Children as creatures who are still in the growth and development stage are very vulnerable to committing acts that they think are normal, but in reality, the acts committed by children are included in the category of criminal acts, one of which is assault. This study aims to determine and analyze the efforts of the Demak Resort Police in resolving criminal acts of assault on minors and the obstacles and solutions of the Demak Resort Police in resolving criminal acts of assault on minors. The approach used is empirical juridical, with descriptive analytical research specifications. The data used are primary and secondary data. The theory used in this research is the Pancasila theory of justice. The results of the study indicate that the efforts of the Demak Resort Police in resolving the crime of assaulting minors through diversion are in accordance with the provisions of Law Number 11 of 2012 concerning the Child Criminal Justice System. The diversion process involves all, namely the victim's family, the perpetrator's family, Bapas, namely through deliberations involving children and their parents/guardians, victims and/or their parents/guardians, community counselors, based on a restorative justice approach. The obstacles of the Demak Police in resolving the crime of assaulting minors include the lack of understanding of investigators about diversion and restorative justice, not all units have child-friendly spaces and special investigators for children, and minimal cooperation with schools, DP3A, or children's social institutions. Then the solution is training and capacity building for child investigators regarding the SPPA Law and the restorative approach, providing special facilities for children and establishing a child protection unit at the Police and strengthening partnerships with related agencies for further guidance and victim recovery.*

Keywords: *Crime of Assault; Diversion; Police.*

1. Introduction

Even though they commit the same crimes as adults, children who commit crimes (who are in conflict with the law) require different treatment. This is because children are in dire need of protection due to their immature mental and physical state. A report by the Commission on Safety and Abuse in America's Prisons states that violence (in prisons) remains a serious problem. Factors in the process of child growth and development are influenced by various factors, namely biological, psychological, social, economic, and cultural factors that cause children's rights not to be fulfilled in Indonesia itself. There are several laws and regulations governing children, for example Law No. 11 of 2012 concerning the Juvenile Justice System, Law No. 4 concerning Child Welfare, Law No. 39 of 1999 concerning Human Rights, Law No. 35 of 2014 concerning amendments to Law No. 23 of 2002 concerning Child Protection, and various other regulations related to children's issues. Definition of Child based on Article 1 point 1 of Law No. 35 of 2014 concerning Child Protection, namely "A child is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb." Meanwhile, based on Article 1 paragraph (3) of Law No. 11 of 2012 concerning the Child Justice System, it also explains about children who are in conflict with the law, namely "A child who is in conflict with the law, hereinafter referred to as a child, is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a crime. Then according to Article 1 point 5 of Law No. 39 of 1999 concerning Human Rights, it also explains the definition of a child, namely "A child is every human being who is under 18 (eighteen) years old and not yet married, including a child who is still in the womb if this is in his/her interest.

Factors that enable children to commit delinquency and criminal activities can force them to face the law and the justice system. Children who commit these crimes are also commonly referred to as children in conflict with the law. Regarding efforts to provide protection for children in conflict with the law, the juvenile criminal justice system must be interpreted broadly, not only interpreted as merely handling children in conflict with the law alone. However, the juvenile criminal justice system must also be interpreted to include the roots of criminal acts and efforts to prevent them. Furthermore, the scope of the juvenile criminal justice system includes a wide variety and complexity of issues ranging from children making their first contact with the police, the judicial process, detention conditions and social registration including perpetrators in the process. Children depend on their capacity to continue to develop and therefore need protection and care, as well as protection from negative impacts, if children are faced with the law, whether the child is a victim, perpetrator, or child as a witness, they must

still receive protection in the case of children who commit criminal acts, there are cases in which we can carry out diversion.¹

Diversion is the granting of authority to law enforcement officers to take discretionary measures in handling or resolving child abuse issues by taking formal steps, including stopping or not continuing/releasing them from the criminal justice process or returning/handing them over to the community and other forms of social service activities. The application of diversion can be applied at all levels of investigation, intended to reduce the negative impact of children's involvement in the judicial process. Regarding legal protection for children in conflict with the law through diversion in the juvenile criminal justice system, this is done by establishing laws and regulations governing diversion in the juvenile criminal justice system.² With the issuance of Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System on July 30, 2012, Indonesia now legally has a regulation that provides legal protection for children in conflict with the law, one of the methods of which is diversion.³

Regarding the number of cases resolved through diversion in the Demak Police jurisdiction from 2020 to 2022, only a few juvenile cases were resolved, while several failed to reach a resolution, resulting in the trial. In 2023, there were no cases, as the Demak Police no longer conducted investigations, only preliminary investigations, and prioritized restorative justice mediation (resolving cases through peace), while diversion was used for cases already under investigation. Crime of Violence against minors that occurred on Monday, November 28, 2022 at approximately 10.00 WIB in the Mts Romaniyyah Mranggen class located at Jl. KH. Abdurrohman, Ds. Menur, Kec. Mranggen, Kab. Demak, as referred to in Article 80 paragraph (1) Jo. Article 76C of the Republic of Indonesia Law No. 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection, with children in conflict with the law in the name of child DAVA MAULANA ILHAM Bin MASROKAN (Alm), child NUZUL MATIN FATHIR SHOFQAL Bin MUSTAGHFIRIN, and child FIKRI MAHENDRA Bin PUJI SUHARTONO.

2. Research Methods

The approach method used by the author to write the thesis is the Empirical Juridical approach, juridical is an approach that uses legal principles and principles that come from written regulations. Empirical is an approach that aims to find information that exists in the community by conducting direct interviews with

¹ Maidin Gultom, (2014), *Perlindungan Hukum Terhadap Anak dalam Sistem Peradilan Pidana Anak di Indonesia*, Bandung : PT Refika Aditama, p. 67.

² Romli Atmasa Smita, (2007), *Peradilan Anak di Indonesia*, Bandung : Mandar Maju, P. 56.

³ Angger Sigit Pramukti & Fuady Primaharsya, (2015), *Sistem Peradilan Pidana Anak*, Yogyakarta : Pustaka Yustia, P. 68.

investigators to obtain information that exists in the field and is based on laws and regulations to make data with primary data obtained at the Demak Police Resort.

3. Results and Discussion

3.1. Demak Police Resort in Resolving the Criminal Act of Assault on a Minor

3.1.1. Demak Police Resort's efforts to resolve the crime of assaulting a minor through diversion

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

Protection of children is a commitment of the community of nations, which is not only aimed at children's rights in general, but also includes a commitment to protecting the rights of children with physical, mental, social, cultural, economic, and political problems. Meanwhile, efforts to protect children's rights are largely determined by the existence of child protection policies and child welfare policies that are conducive to efforts to protect children's rights themselves.⁴

In Indonesia today, special protection for perpetrators of child crimes is regulated in Law Number 11 of 2012 concerning the Juvenile Justice System. This law regulates material criminal law and formal law regarding the protection of children who commit crimes. Special protection and special treatment for children need to be carried out if the child commits an act that violates laws and regulations or a crime with the intention that the child does not experience mental stress that will affect his future and personal development, therefore children who commit crimes are processed through a separate judicial process in accordance with the provisions of Law Number 11 of 2012 concerning the Criminal Justice System.⁵

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System has formulated the concept of restorative justice within it. This is as stated in Article 1

⁴Hadisuprarto, (1996), *Juvenile Delinquency* (Pemahaman dan Penanggulangannya), Semarang : UNDIP, p. 32.

⁵Rina Christina Tampinangkol, *Peran Jaksa sebagai Penuntut Umum dalam Penanganan Tindak Pidana yang dilakukan Anak di Bawah Umur (Studi Kasus di Kejaksaan Negeri Semarang)*, Semarang : Tesis, Unissula, p. 57

number 6, which states that "restorative justice is the resolution of criminal cases by involving the perpetrator, victim, the perpetrator/victim's family, and other related parties to jointly seek a just resolution that emphasizes restoration to the original state rather than retaliation."

Restorative justice Restorative justice is a concept of punishment, but as a concept, it is not limited to criminal law provisions (formal and material). Restorative justice must also be examined from the perspective of criminology and the correctional system. Based on existing reality, the current criminal justice system does not fully guarantee integrated justice, namely justice for the perpetrator, justice for the victim, and justice for society.

Restorative justice encourages resolving an event or crime in more informal and personal ways, rather than resolving it through formal (rigid) and impersonal procedural methods using patterns before and after the judicial process is underway. Before the judicial process, meaning when the "case" is still in the hands of the police or prosecutor's office. Whether on the initiative of the police, prosecutor's office, an individual or community group, efforts are made to resolve the crime, using methods or principles of a restorative justice approach.⁶

The Indonesian National Police, as the spearhead of the juvenile criminal justice system, plays a crucial role in resolving crimes involving child perpetrators through a series of investigative actions. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System provides special treatment for children in conflict with the law, starting from the investigation stage. This special attention and treatment aims to prevent children from becoming victims of the application of rigid and formal legal procedures, which are feared can cause mental, physical, and social suffering.⁷

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System stipulates that investigations of child perpetrators of crimes can only be carried out if they are 12 years old but have not yet reached 18 years old, while for child perpetrators of crimes who are under 12 years old, action can be taken by returning them to their parents/guardians and participating in education, coaching and mentoring programs at government agencies.

Another specificity in the juvenile criminal justice system is related to investigators who handle juvenile crimes must be juvenile investigators from the Women and

⁶Bagir Manan, (2008), *Retorative Justice* (Suatu Perkenalan), dalam Refleksi Dinamika Hukum Rangkaian Pemikiran dalam dekade Terakhir, Jakarta : Perum Percetakan Negara RI, p. 4.

⁷Anita Indah Setyaningrum, (2018), *Diversi Sebagai Bentuk Penyelesaian Perkara Pidana Anak Melalui Pendekatan Restorative Justice Oleh Penyidik Polda Jawa Tengah*, Tesis, Unissula, Semarang, p. 74.

Children Protection Unit (PPA), which is one of the police functions that specifically provides protection for women and children who are in conflict with the law, so that they have experience and have an interest and dedication to children's issues. This is as regulated in Article 26 paragraph (3) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which states that investigations carried out by investigators into juvenile cases have requirements that must be met.

- 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 against child perpetrators of crimes, diversion is required. This is as stipulated in Article 7 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Justice System, which stipulates that at the level of investigation, prosecution, and examination of child cases in district courts, diversion must be attempted.

The National Police's authority as investigators to conduct diversion in resolving crimes involving child perpetrators is based on their position as the primary law enforcement agency with direct contact with the community. If packaged dynamically, the Police's authority and power will serve as a tool for community development.⁸

The procedures and methods for diversion are regulated in Article 8 of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, which is carried out through deliberation involving the child and his/her parents/guardians, the victim and/or his/her parents/guardians, community counselors, and professional social workers based on a restorative justice approach. The diversion process may take into account:

- a. interests of victims;
- b. child welfare and responsibility;
- c. avoidance of negative stigma;
- d. avoidance of retaliation;

⁸Koesno Adi, (2009), *Diversi Sebagai Upaya Alternatif Penanggulangan Tindak Pidana Narkotika Oleh Anak*, Malang : UMM Press, p. 111.

- e. social harmony;
- f. propriety, morality and public interest.

When carrying out diversion, investigators must consider the matters as regulated in Article 9 paragraph (1) of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, namely:

- a. category of crime;
- b. child's age;
- c. results of community research from Bapas, and
- d. support from family and community environment.

The diversion agreement must obtain the consent of the victim and/or the victim's child family and the willingness of the child and his/her family, except for (Article 9 paragraph (2) of Law Number 11 of 2012):

- a. Criminal acts in the form of violations;
- b. Minor crimes;
- c. Victimless crime;
- d. The value of the victim's losses is no more than the local provincial minimum wage.

The provisions of Article 9 paragraph (2) of Law Number 11 of 2012 indicate that in the event of a criminal act in the form of a violation, minor crime, crime without a victim or the value of the loss is not more than the local provincial minimum wage, then diversion must be carried out without the need for approval from the victim. The agreement can be made by the investigator together with the perpetrator/his family, community counselor and can also involve community leaders. This is as regulated in Article 10 of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System which determines that a diversion agreement to resolve a criminal act in the form of a violation, minor crime, crime without a victim, or the value of the victim's loss is not more than the local provincial minimum wage can be made by the investigator together with the perpetrator and/or his family, Community Counselor, and can involve community leaders. The diversion agreement made by the investigator on the recommendation of the Community Counselor can be in the form of:

- a. Reimbursement of losses in case of casualties;
- b. Medical and psychosocial rehabilitation;
- c. Return to parents/guardians;
- d. Participation in education or training at educational institutions or LPKS for a maximum of three months or,
- e. Community service for a maximum of three months.

To find out the efforts of the Demak Resort Police in resolving the crime of assaulting minors through diversion, the following describes an example of a case of assault in Police Report Number: LP/B/11/I/2023/SPKT/DEMAK POLICE/CENTRAL JAVA POLDA dated January 25, 2023 regarding the case of Violence against minors that occurred on Monday, November 28, 2022 at approximately 10:00 WIB in the MTs Rohaniyyah Mranggen class located at Jl. HK. Abdurrohman, Ds. Menur, Mranggen District, Demak Regency, the victim was YOGA PURNAMA PUTRA Bin SUMIRAN, aged 15 years, who was committed by the child of DAVA MAULANA ILHAM Bin MARSOKAN, the child of NUZULUL MATIN FATHIR SHOFQAL Bin MUSTAGFIRIN and the child of FIKRI MAHENDRA Bin PUJI SUHARTONO, as referred to in Article 80 paragraph (1), (2) in conjunction with Article 76C of the Republic of Indonesia Law No. 35 of 2014 concerning Child Protection.

The victim witness stated that the perpetrators of violence against the witness on Monday, November 28, 2022, at approximately 10:00 WIB in the MTS Romaniyyah Mranggen class located at Jl. KH Abdurrohman, Menur, Mranggen District, Demak Regency were 3 (three) MTS Romaniyyah students named:

- DAVA MAULANA ILHAM Bin MASROKAN (Aim) aged 16 years on July 7, 2007, student at Mts Romaniyyah Mranggen, residence in Tlogorejo Village R1 003/001, Tegowanu District, Grobogan Regency.
- FIKRI MAHENDRA Bin PUJI SUHARTOTO, 16 years old on September 28, 2007. Student at Mts Romaniyyah Mranggen. Residence in Brumbung Village, RT. 003/004, Mranggen District, Demak Regency.
- NUZUL MATIN FATHIR SHOFQAL Bin MUSTAGFIRIN, 15 years old on July 11, 2008, student at Mts Romantyyah Mranggen, residence in Ds. Ngemplak Rt. 006/002, Mranggen District, Demak Regency.

The relationship with the Witness is that they are schoolmates with the Witness. The victim witness explained that, By forcing the Witness to enter the classroom,

then the Witness was beaten and kicked all over the Witness's body by DAVA, FIKRI, FATHIR using their bare hands while 2 (two) other people closed the door and watched the surrounding situation. The victim witness explained that, DAVA, FIKRI, and FATHIR's children committed violence using their bare hands. The victim witness explained that the roles and each child were:

- FATHIR's son hit the witness' head, face and chest with his bare hands, and kicked the witness's legs.
- DAVA's child hit the witness's head, chest and right eye with his bare hands, and kicked the witness's chest.
- FIKRI's son hit the witness's left cheek with his bare hands, and kicked the witness's head, chest and legs.

The victim witness explained that when Saksi was subjected to violence by DAVA FIKRI and FATHIR's children, the witness just kept quiet while trying to ward off the blows and kicks, and the witness did not retaliate because the witness was afraid because there were more than one of them. The victim witness explained that the cause of DAVA FIKRI and FATHIR's children committing violence was that initially the witness was slandered for stealing his girlfriend and FATHIR and Saksi's children were also accused of hitting DAVA's child's head when he wanted to pray in congregation.

The victim witness explained that as a result of the violence committed by the children of DAVA, FIKRI and FATHIR, the witness suffered injuries to the left eye, mouth and left ear of the witness. The victim witness explained that as a result of the violence committed by the children of DAVA, FIKRI and FATHIR, the witness was hampered in carrying out daily activities/studies because on the night of November 28, 2022 at around 23.00 WIB, the witness was taken by the witness's biological parents to be hospitalized at RSI NU DEMAK until December 2, 2022.

The victim witness explained that the beginning was on Monday, November 28, 2022 at around 10:00 WIB during the break, the witness was approached by DAVA's child in front of the class together with FIKRI's child and FATHIR's child and said to the witness "koe jotos aku nopo" (YOU HIT THE WITNESS WHY) and the witness answered "lha seng jotos koe yo sopo" (LHA WHO HIT YOU) then the witness asked his other friends whether the witness had hit DAVA and they answered that the witness did not hit him, because DAVA felt ashamed for wrongly slandering the witness, then FATHIR also accused the witness of stealing his girlfriend, but the witness told FATHIR that he had no relationship with his girlfriend, the 3 (three) were even more embarrassed because all the accusations were wrong, then the witness was forcibly pulled by FATHIR to go up to the third floor and enter the class together with DAVA and FIKRI then when they were in

the class The witness was surrounded by the three children, then FATHIR's child suddenly hit the witness's face using his bare hands and after that DAVA and FIKRI's children also hit and kicked all parts of the witness's body, at that time the witness was subjected to violence until the eye and left ear of the witness bled, then a few minutes later, the witness's friend ARYAN came along with FAIZAL to help separate the witness who was being subjected to violence, and not long after that a teacher came and entered the class, then the witness and DAVA, FIKRI and FATHIR's children were told to go down to the teacher's room, when we were in the teacher's room we were asked what the cause and effect was that the violence could be done to Saksi, after finishing the witness was taken to the health center by ARYAN, and after receiving treatment the witness was taken home by ARYAN, then that evening the witness was picked up by the witness's biological father and taken to RSI NU Demak for a check-up, and there the witness was treated for 5 (five) days. The victim witness explained that the people who knew when the children DAVA, FIKRI and FATHIR committed violence against the witness were:

- AHMAD FAESYAL MA'ARIF Bin MARYANI, 15 years 8 months, resides on Jl. Sumur Kembar RT. 007/001 Ds. Menur District. Mranggen Regency. Demak Regency.
- JOFAN GUNAWAN Bin LUCKY GUNAWAN, 15 years and 1 month old, lives on Jl. KH. Abdurrohman Rt. 005/001 Ds Menur, Mranggen District, Demak Regency.

During the investigation process, investigators conducted diversionary efforts. The diversion mechanism for child perpetrators of assault is as follows:⁹

1. The conditions for diversion are as regulated in Law Number 11 of 2012 concerning the Child Criminal Justice System, Article 7 paragraph (1), paragraph (2) states that every child perpetrator who is threatened with a sentence of less than 7 (seven) years and the child perpetrator is not a repeat offender (recidivist) must undergo diversion at every level of investigation, prosecution and examination of the case in the District Court. In this case, the child is suspected of Article 76C of Law Number 35 of 2014 with a criminal threat as regulated in Article 80 paragraph (1) which states that "any person who violates the provisions as referred to in Article 76C, shall be punished with a maximum prison sentence of 3 (three) years 6 (six) months and/or a maximum fine of Rp. 72,000,000.00 (seventy-two million rupiah). With a maximum criminal threat of 3 years 6 months, the conditions for diversion have been met. In addition, the child perpetrator is also not a recidivist.

⁹Interview with IPDA Sukarli, Head of the PPA Unit, Criminal Investigation Unit, Demak Police, July 31, 2025, 15.00 WIB

2. In every examination, child perpetrators must be accompanied by parents/guardians/community leaders/social workers from the Social Services Agency, BAPAS, and advocates. During the examination, child perpetrators were accompanied by legal counsel appointed by the Demak Police, namely LBH KAMILIA;
3. After the publication of the results of the Community Research published by Bapas and the results of the Social Report from the Social Workers of the Social Service, a Diversion is scheduled to be implemented with the attendance of all parties (Victim, Perpetrator, Family, Community Leaders, Social Workers of the Social Service, Bapas, TP2AKB Service, Investigators). Investigators present both parties (the victim's family, the victim and the child's family (suspect) as well as other related parties for a meeting, sitting together to find an agreement that is essentially best for the child and the victim.
4. The results of the agreement (Diversion) are stated in the form of a Diversion Agreement/Diversion Minutes and sent to the District Court within a maximum of 3 (three) days to obtain a Diversion Determination.
5. After receiving the Diversion Determination, the Investigator issued a Letter of Termination of Investigation (SP3) for the case.
6. In this case, child perpetrators who commit the crime of assault cannot be detained and must be returned to their parents/guardians.

Based on the description above, it can be seen that the diversion mechanism for child perpetrators of assault crimes at the Demak Police is in accordance with the provisions of the Child Protection Law. In the example case, the child perpetrator has committed the crime of placing, allowing, committing, ordering, or participating in committing violence against children, anyone who violates the provisions as referred to in Article 6 C in conjunction with Article 80 paragraph (1) of Law of the Republic of Indonesia No. 35 of 2014 concerning Amendments to Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection. The criminal threat is a maximum of 3 (three) years and 6 (six) months in prison and/or a maximum fine of Rp. 72,000,000.00 (seventy-two million rupiah). Criminal acts committed by children with a prison sentence of less than 7 years have required investigators to carry out diversion. Thus, the diversion efforts carried out are in accordance with the provisions of Article 7 and Article 9 of Law Number 11 of 2012 concerning the Child Criminal Justice System.

The implementation of diversion for child criminals at the Demak Police Station does not always run smoothly. As stated by Mr. Rifai, an investigator, several obstacles sometimes arise during diversion, including:¹⁰

1. Each party is adamant about submitting a request for material costs/compensation which is very burdensome.

Parties involved in the crime of assault sometimes the victim to continue the judicial process or by submitting compensation for material and non-material losses of high value, so that the perpetrator cannot fulfill it because it is considered burdensome. Efforts to overcome obstacles are the obligation of investigators to provide understanding and explanations regarding the diversion process, the handling of ABH (Children in Conflict with the Law) and also investigators repeatedly carry out the diversion process if in each process is still hampered by not reaching an agreement from the parties.

2. The public's view of diversion is considered to be more biased towards the perpetrator.

Diversion is considered by some to be biased, favoring the perpetrator. Many people don't understand the obligation to implement diversion for juvenile offenders, leading them to perceive investigators as biased or solely defending the perpetrator without considering the victim. Efforts to address this issue include adopting an educational and persuasive approach so that relevant parties understand the importance of diversion in handling juvenile offenses.

A child committing a crime at a young age does not necessarily mean that the child is evil, so we should not be too quick to label them as criminals or any other label that could make them uncomfortable in social interactions. The child is also a victim of a social system caused by several factors such as unhealthy environmental and social factors, the influence of consumerism culture, and the absence of positive role models in their family (broken homes) that can be used as role models for the child in living their life. These factors cause children who feel isolated and ostracized by their social environment to take shortcuts to exist by committing various kinds of crimes.¹¹

Diversion through restorative justice that is in line with Indonesian culture has at least the following advantages:¹²

¹⁰Interview with Bripka Rifai as an investigator at the Demak Police, July 31, 2025, 16.00 WIB

¹¹Muliyawan, Era Baru Sistem Peradilan Pidana Anak, <http://www.pn-palopo.go.id>, accessed July 29, 2025).

¹²Ahmad Ratoni, *Op.Cit.*, p. 399.

1. It can reduce congestion and the backlog of cases in court. The large number of cases filed in court often results in lengthy, costly litigation processes, and often results in less than satisfactory outcomes.
2. Increasing community involvement or empowering disputing parties in the dispute resolution process.
3. Increase people's opportunities to obtain justice.
4. Providing an opportunity to reach a dispute resolution that results in a decision acceptable to all parties, thus avoiding the need for appeals or cassation.
5. Faster and lower cost case resolution.
6. It is closed or confidential, so as to reduce the family's embarrassment.
7. The likelihood of implementing an agreement is higher because the decision is made in accordance with the wishes of the parties. This means that a good relationship between the disputing parties in the future is still possible.
8. Reducing the spread of legal mafia at the investigation, prosecution, court and court decision implementation levels.

Diversion, as an effort to encourage the public to obey and uphold state law, prioritizes a sense of justice while also providing perpetrators with the opportunity to pursue non-criminal avenues such as compensation, community service, or parental supervision. Diversion does not aim to perpetuate law and justice entirely, but rather seeks to minimize coercion to encourage compliance. Therefore, the involvement of all parties is essential to achieving this.

3.2. Obstacles and Solutions of the Demak Police Resort in Resolving Criminal Acts of Assault on Minors

The crime of assaulting a minor falls under the category of children in conflict with the law (ABH). Such cases must be handled in accordance with Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), which prioritizes diversion and restorative justice approaches, namely resolving cases outside the criminal justice process with the aim of restoring the original situation and protecting the child's rights.

1. Normative Constraints (Rules/Regulations)

Normative constraints mean constraints that originate from legal regulations or statutory provisions, either because of the restrictive nature of the regulations or because of the lack of clarity in the norms.

a. Diversion Limits According to the SPPA Law

Legal basis: Article 7 paragraph (2) of Law No. 11 of 2012 concerning the Child Criminal Justice System (SPPA Law) Diversion issues can only be carried out if the threat of punishment is under 7 years and the perpetrator is not a recidivist, however the relevance to assault: Assault on children (Article 170 of the Criminal Code) is often threatened with a sentence of more than 7 years if it results in serious injury or death and as a result, normatively diversion cannot be carried out, even though the perpetrator is still a child and the nature of the act is related to juvenile delinquency, and the impact is that the Demak Police cannot process the settlement through restorative justice in cases of serious assault, even though all parties want to make peace.

b. The Absence of a Special Operational Police Regulation on Diversion

General legal basis: Existing National Police Regulations, such as Perkap No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, only provide general guidelines, not specifically for child cases, the problem is that there is no detailed internal SOP at the Demak Police that guides the technical steps of diversion in child cases and coordination procedures with the Correctional Center (Bapas) and the Prosecutor's Office as well as the format of diversion minutes, the impact of which is that the implementation of diversion in vulnerable child cases varies depending on the investigator's interpretation, so there is no uniform legal certainty.

c. The Absence of Firm Sanctions for Officials Who Do Not Attempt Diversion

Legal basis: The SPPA Law requires diversion, but does not regulate administrative or criminal sanctions if the authorities (investigators) do not do so, but the problem is that the authorities can skip the diversion stage without direct legal consequences, the implementation of diversion depends on the investigator's initiative, not a strictly supervised requirement and the impact can occur Potential neglect of children's rights to obtain alternative solutions at the investigation stage.

d. Absence of Technical Regulations Regarding Refusal of Diversion by Victims

Legal basis: Article 9 of the Juvenile Justice and Crimes Law requires consideration of the victim's interests, but does not explain the mechanism if the victim refuses. However, in cases of assault, victims or their families often refuse diversion, and the Juvenile Justice and Crimes Law does not provide for further steps such as remediation, third-party involvement, or intervention by the Penitentiary Supervisory Agency (Bapas). Furthermore, once the victim refuses, the diversion process automatically fails, even though social reconciliation remains a possibility.

e. Overlap with the Criminal Code and Other Laws

Legal basis: Article 170 of the Criminal Code (mob violence) vs. the Child Protection Act (SPPA). However, the problem is that the Criminal Code is repressive with high threats, while the SPPA Act prioritizes restorative action. In cases of mob violence that cause serious injuries, the high criminal penalties of the Criminal Code automatically invalidate the opportunity for diversion, and as a result, the child protection objectives of the SPPA Act are difficult to achieve in cases of serious mob violence.

2. Structural constraints (HR/Facilities)

The structural obstacles of the Demak Police in resolving the crime of assaulting minors include the following:

a. Limited trained human resources in the PPA Unit

The fact that occurred in the Women and Children's Service Unit (PPA) of the Demak Police has a limited number of personnel, and not all investigators have certification or special training in restorative justice-based mediation and child protection, this has an impact on the diversion process requiring communication skills and facilitation techniques, so that without trained human resources, the quality of diversion deliberations decreases and the handling of child assault cases tends to follow ordinary criminal procedures.

b. Limited Child-Friendly Space Facilities

The fact is that the Child Protection Act and the National Police Chief Regulation No. 8 of 2021 require that child examinations be conducted in child-friendly rooms. However, not all police stations have adequate facilities. As a result, child perpetrators and victims are sometimes still questioned in general investigation rooms, causing psychological stress and making the mediation or diversion process less conducive.

c. Slow Inter-Agency Coordination

The fact is that diversion in child cases requires the involvement of the Correctional Center (Bapas), the Prosecutor's Office, and the victim's side. However, in cases of assault, especially those involving multiple perpetrators and victims, coordination becomes complex and scheduling of diversion deliberations is often delayed, hindering completion within the child's detention time limit (maximum 7 days during investigation).

d. Operational Budget Limitations for Diversion

The fact is that the costs of transportation, consumption, and accommodation for diversion deliberations are usually charged to the operational budget of the Police, whose priority tends to be formal investigations. This has the effect that Diversion can be delayed or not optimal due to limited funds to bring all parties together and investigators sometimes choose the formal route which is more certain in terms of budget.

e. Lack of an Integrated Database of Child Cases

The fact is that data on child cases, including assaults, is often only documented in manual reports or internal police systems. This makes it difficult to monitor the number of diversion cases versus cases processed formally, and policy evaluations and improvements are not based on accurate data.

f. High Social and Environmental Pressure

The fact is that cases of child assault in Demak often occur in school environments or between groups of teenagers, and have received public attention, which has an impact on the Police Department sometimes receiving pressure from the community or victims to process repressively, not restoratively, and the police structure must maintain the image of firm law enforcement, so that diversion is less prioritized.

3. Cultural Barriers (Public Awareness and Participation)

Cultural Obstacles of the Demak Police in Resolving Criminal Acts of Assault on Minors are as follows:

a. The Repressive Law Enforcement Paradigm

Some officials and members of the public still view law enforcement for children as a retributive justice approach, not a restorative justice approach.

b. Public Perception of Diversion

Many victims and their families consider diversion to be detrimental because it does not provide a maximum deterrent effect.

c. Culture of Shame and Social Prestige

In some local communities, the victim's family felt that their self-respect had been tarnished because their child had become a victim of a mob attack.

d. Lack of Understanding among Officials and the Public regarding the SPPA Law

Not everyone understands that Law No. 11 of 2012 requires diversion as the primary effort in child cases.

e. Media Pressure and Public Opinion

The case of child assault that went viral on social media has given rise to public opinion demanding the perpetrator be punished as severely as possible.

f. Internal Police Culture that Assesses Performance from Formal Resolution

In several internal indicators, the success of investigators' performance is measured by the number of cases completed in court, not by the success of diversion.

In conclusion, the Demak Police, as the law enforcement agency at the district level, plays a crucial role in the initial stages of the legal process, including investigations, inquiries, and diversion of child perpetrators and victims. Based on an interview with Mr. Rifai, an Assistant Investigator at the Demak Police's Women and Children Unit, the following obstacles were identified:¹³

1. Lack of Understanding and Awareness of the Principle of Diversion

Not all investigators understand diversion procedures or have experience in restorative juvenile cases. As a result, many cases proceed to court even though they could have been resolved out of court. Some cases do not qualify for diversion because they carry a sentence of more than seven years or the perpetrator is a repeat offender.

¹³Interview with Bripka Rifai as an investigator at the Demak Police, July 31, 2025, 16.00 WIB

2. Limited Police Facilities/Investigative Human Resources

Not all units at the Demak Police Department have specialized child investigators, child-friendly examination rooms, or community guidance officers. This hinders the investigation process in accordance with the Child Protection Law.

3. Lack of Willingness of Victims or Parents to Reconcile

The restorative justice process requires a peace agreement from the victim. In some cases of assault, the victim or their parents refuse to reach a peace agreement due to the physical or psychological injuries they have suffered, forcing investigators to proceed with the trial.

4. High Pressure from Society and Media

If a case of assault goes viral or receives widespread attention, pressure often arises to impose the harshest possible punishment on the perpetrators, even if they are minors. This can hinder a restorative approach.

5. Lack of Cross-Sector Coordination

The less than optimal cooperation between the police and schools, child welfare institutions (LKSA), and the Women's Empowerment and Child Protection Service (DP3A) makes it difficult to supervise and provide further guidance to child perpetrators.

Furthermore, based on the results of the interview with Mr. Rifai as Assistant Investigator at the PPA Unit of the Demak Police, he mentioned several solutions to the above obstacles faced by the Demak Police as follows:¹⁴

1. Human Resource Capacity Building and Child Unit Establishment

The Demak Police Resort needs to increase the number of child investigators and provide training on child examination techniques, diversion, and restorative justice.

2. Provision of Child-Friendly Facilities

A safe and comfortable mediation room and child examination room are needed so that children feel protected during the legal process.

¹⁴*Ibid.*,

3. Socialization and Education to the Community

Providing an understanding to the community, especially victims and parents, that diversion does not mean that the perpetrator is free without sanctions, but rather a solution that prioritizes justice and mutual recovery.

4. Partnership Approach with Schools and Communities

The Demak Police Resort can collaborate with schools and community leaders to provide education and moral guidance to teenagers so they do not get involved in acts of violence.

5. Psychological Assistance for Perpetrators and Victims

Involve child psychologists or social counselors so that victim recovery and perpetrator development are balanced, and strengthen legal awareness.

The solution to increasing diversion at the Demak Police can be linked to the values of justice from the perspective of Pancasila, especially Social Justice (5th Principle), Deliberation/Consensus (4th Principle), and Just and Civilized Humanity (2nd Principle), and can be explained as follows:

1. Social Justice (5th Principle)

The meaning in the context of diversion is that social justice demands that every child, both perpetrators and victims, receive fair, equal, and non-discriminatory legal treatment, and is directed at recovery, not just punishment. Reflection on the Solution Special training for investigators ensures that all child perpetrators have the same opportunity to receive a quality diversion mechanism, without depending on who the investigator is, and the MoU with the Social Service/DP3A allows child perpetrators to receive rehabilitation and child victims to receive the same protection without being hampered by bureaucracy, and ensures that access to restorative justice can be felt by all parties, not only by those with financial ability or influence.

2. Deliberation/Consensus (4th Principle)

Meaning in the context of diversion Deliberation is the core of restorative justice, where the resolution is carried out through dialogue involving the perpetrator, victim, family, and community to find the best solution together, Reflection on the Solution The socialization program to the community will reduce rejection of diversion because all parties understand that the results of the deliberation can contain a fair agreement for the victim and provide a remedial effect on the perpetrator and trained diversion facilitators can keep the deliberation running in

a balanced, impartial manner, and produce a consensus that is accepted by all parties and cooperation with schools facilitates community-based deliberation, so that the agreement is more appropriate to the child's social environment.

3. Just and Civilized Humanity (2nd Principle)

The meaning in the context of diversion is Treating children as human beings who have the right to be improved, not just punished, while maintaining the dignity of victims through a humane process, Reflection on the Child-friendly Space Solution at the Police Resort reflects respect for the dignity of children during the legal process and psychological assistance by the Social Service or DP3A shows humanitarian protection for victims and perpetrators as well as a recovery approach, not revenge, recognizing that child perpetrators are still in the stage of moral development and can be directed to become good citizens.

4. Conclusion

The efforts of the Demak Police Resort in resolving the crime of assaulting a minor through diversion are in accordance with the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. The diversion process involves all parties, namely the victim's family, the perpetrator's family, Bapas, namely through deliberations involving the child and his/her parents/guardians, the victim and/or his/her parents/guardians, community counselors, based on a restorative justice approach. After a diversion agreement is reached, the investigator submits a request for a diversion determination to the Head of the Demak District Court, and then an SP3 is made. The application of diversion is in line with the theory of justice that provides justice for both the perpetrator and the victim. The child will learn to be responsible for his/her actions by providing medical expenses, while the victim receives medical expenses caused by the perpetrator. Obstacles faced by the Demak Police in resolving cases of child assault include investigators' lack of understanding of diversion and restorative justice, not all units have child-friendly spaces and special child investigators, and minimal cooperation with schools, DP3A, or children's social institutions. Then the solution is training and capacity building for child investigators on the SPPA Law and restorative approaches, providing special facilities for children and establishing a child protection unit at the Police, and strengthening partnerships with relevant agencies for further guidance and victim recovery.

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