

Implementation Of Diversion For Children Who Are Committed To Theft (Case Study at Semarang Police Headquarters)

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Abstract. *Theft committed by children is a legal issue that requires special handling to prevent negative impacts on their development. Children in conflict with the law should, in principle, receive legal protection, prioritizing their best interests. Therefore, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System mandates the implementation of diversion as an effort to resolve juvenile cases outside the formal criminal justice process through a restorative justice approach. This study aims to determine the implementation of diversion for juvenile theft perpetrators at the Semarang Police Headquarters and identify the obstacles encountered in its implementation. The research method used is a sociological-juridical approach with descriptive research specifications. The research data was obtained through interviews and direct observations in the field, supported by literature review. The results indicate that the implementation of diversion at the Semarang Police Headquarters has been carried out in accordance with statutory provisions. However, in practice, various obstacles are still encountered, including the victim's refusal to reconcile and the community's limited understanding of the concept of restorative justice.*

Keywords: *Children; Crime; Diversion; Theft.*

1. Introduction

The handling of crimes committed by children often deviates from the law. Some communities argue that children must be severely punished to deter them from repeating their crimes. The reality is that when children are in prison, they fail to improve, which actually increases their delinquency, leading to criminal activity. Historically, the handling of juvenile cases in Indonesia has often been dominated by a retributive approach, viewing children as miniature versions of adult criminals, so that the judicial process focuses on sentencing. However, awareness of children's rights and the importance of their growth and development has driven a global paradigm shift. This shift emphasizes that children in conflict with the law must be prioritized for protection and protected from the negative impacts of criminalization, in line with the principle of the best interests of the child.

Children are the next generation of the nation who have limitations in understanding and protecting themselves from the various influences of existing systems.¹ Children have fundamental rights, this is stated in the 1945 Constitution of the Republic of Indonesia Article 28B (2) every child has the right to survival, growth and development and the right to protection from violence and discrimination. Article 34 of the 1945 Constitution states that poor and neglected children are cared for by this means that children are legal subjects of national law who must be protected, cared for and fostered to achieve child welfare and the 5th principle of Pancasila which states that social justice for all Indonesian people is the right of every citizen.

From ancient times to the present, criminal issues have absorbed much of the nation's energy, contributing to social reconstruction. Rising crime rates have led to new considerations regarding future legal policies. Negative impacts include a growing moral crisis in society, potentially leading to an increase in the number of people violating criminal law in various forms.²

In Indonesia, this paradigm shift was formalized through the enactment of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). The SPPA Law is a significant milestone because it explicitly mandates the implementation of diversion at every stage of the examination of juvenile cases. Diversion is the transfer of juvenile cases from the criminal justice process to an out-of-court process. The primary philosophy of diversion is to achieve restorative justice, a resolution that involves the child, the victim, and the community in seeking a peaceful solution, without having to go through a traumatic court process.

2. Research Methods

In this study, the author uses a sociological legal approach, as this approach will enable the author to conduct research with more accurate data collection by directly observing the field for data collection. This approach is a legal scientific logic research procedure, a problem-solving procedure in the form of data obtained from direct observation and supplemented by literature to support this research.

3. Results and Discussion

3.1. Implementation of Diversion for Child Theft Perpetrators at Semarang Police Headquarters

In the Juvenile Criminal Justice System (SPPA), the term "diversion" is used. This term is a key term or a key element in resolving crimes against children. The implementation of this diversion is expected to prioritize restorative justice. There are several main objectives of diversion, namely achieving reconciliation between victims and perpetrators, resolving children's cases outside the judicial process, preventing children from being deprived of liberty (understanding imprisonment), instilling a sense of responsibility in children, and encouraging community participation. In cases of theft committed by children, diversion is an important instrument to prevent children from entering the formal criminal justice system, especially if the crime does not cause significant harm and the victim is willing to reconcile.³

Achieving peace between victims and perpetrators of child crimes is to provide space for resolving child criminal cases from the realm of retributive criminal law (revenge) to the realm of restorative justice (recovery). The purpose of this diversion requires a deliberation that brings together the child as the perpetrator, the victim, parents/guardians from both parties, and facilitators (Investigators, Prosecutors, Juvenile Judges, and/or Community Guidance/PK Bapas). In this peace step, it is hoped that the perpetrator of child crimes can show his guilt, will not repeat, and regret having done something that has harmed others, as well as show deep empathy for the victim. The success of the implementation of Diversion is greatly influenced by the active role of investigators in facilitating the

¹Juvenile Criminal Justice in Indonesia, Bandung: PT Reflika Aditama, 2012, p. XV

²Marlina, Juvenile Criminal Justice in Indonesia, Bandung, PT Reflika Aditama, 2012, p. 1

³ Fuad, Aida Dwi, and Fifink Praiseda Alviolita, Application of Diversion in the Crime of Theft Committed with Adults, Jurnal Judisial, Volume 15 Number 3, 2022

deliberation process and building effective communication between the perpetrator, victim, and related parties.⁴

Resolving children's cases outside the judicial process is at the heart of the restorative justice philosophy adopted by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). This process specifically aims to prevent the negative impacts of formal legal proceedings on children's development. Children's development is given utmost attention, with the hope that children can improve their behavior. Formal justice carries a very negative social stigma. The implementation of diversion still faces various obstacles, including victims' rejection of reconciliation, limited human resources, and low public understanding of the concepts of diversion and restorative justice.⁵ Even though the child's journey is still very long and can make changes for the better.

The purpose of diversion to prevent children from being deprived of liberty (understanding imprisonment/detention) is a manifestation of the principle of "The Best Interest of the Child" which is regulated in the Convention on the Rights of the Child and the SPPA Law. The principle of "The Best Interest of the Child" is a fundamental principle and the main guideline in all policies, actions, and decisions related to children, especially in the legal context. This principle is stated in Article 3 paragraph (1) of the CRC, which states: "In all actions concerning children, whether carried out by governmental or private social welfare institutions, courts, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration."

Instilling a sense of responsibility in children is one of the main pillars of the restorative justice approach. This aims to shift the child's mindset from simply accepting punishment (passively) to actively acknowledging mistakes and working to correct them. Punishment that fails to create awareness in the perpetrator will only lead to deep resentment and even more brutal acts. Acknowledging the wrongdoing of their actions will foster a sense of responsibility as a better person.

Encouraging community participation is expected to contribute to resolving crimes against children. The responsibility for law enforcement lies not solely with official government institutions; the community is highly valued. Support and active participation from all elements of society are essential for law enforcement. Likewise, diversion requires the community's involvement in its implementation, particularly community and religious leaders. The community can influence

⁴ Shintia Febby, Sry Wahyuni, and Elwidarifa Marwenny, *Diversion Reviewed from the Theory of Law Enforcement for Child Perpetrators of Theft Crimes*, Journal of Social Sciences, Humanities and Arts, Volume 2 Number 2, 2023

⁵ Devi Mareta Suyoto and Yeni Widowaty, *Implementation of Diversion in Criminal Acts of Theft by Children*, Indonesian Journal of Criminal Law and Criminology, Volume 5 Number 2, 2024

children's mental health, and it must also provide a comfortable and safe environment for children to develop into better individuals. Diversion is a form of legal protection that reflects the principle of the child's best interests, as it provides children with the opportunity to correct their mistakes without facing imprisonment.⁶

In the process of investigating crimes against children, child investigators (Women and Children's Services Unit/PPA) of the Criminal Investigation Unit ensure that the child theft perpetrator meets the diversion requirements (criminal threat under 7 years and not a recidivist). The examination of the child must be carried out in a family atmosphere and must be accompanied by a parent/guardian, as well as a Community Guidance Counselor (PK) from the Correctional Center (Bapas) (Article 21 of the SPPA Law). In addition, Semarang Police investigators must request a Community Research (Litmas) from the PK Bapas to obtain social, psychological, and background data on the child, which will be used as consideration in the diversion process. Empirically, Diversion has proven effective in resolving child cases and preventing

The diversion process at the Semarang Police Headquarters (Polrestabes) itself occurs due to a public complaint filed with the police regarding a child committing a crime. The next step is to conduct an investigation in accordance with applicable regulations. A deliberation is conducted if the perpetrator meets the requirements for diversion. The parties involved are the child perpetrator, the victim, the parents of both parties, and police investigators. If the deliberation is successful, a letter of termination of the investigation is issued, and the diversion is declared successful. If the deliberation fails, the case is referred to the court.

The diversion process can be carried out if the victim has agreed to carry out diversion, therefore the authorities must succeed in carrying out diversion, because children should not face the court, children have a nature that is still unstable and it is not yet time for them to be in court, children are feared to be able to influence their mental state in community life, but many also fail to carry out diversion, this is usually because the victims experience losses that cannot be recovered such as victims of murder, curras (theft with violence), and rape.

In this case, the author conducted research at the Semarang City Police, which from January 2025 to July 10, 2025, 100% of the diversion process at the Semarang City Police did not proceed to the court stage.⁷

⁶ Eggha Maulani, Sunardi, and M. Muhibbin, *Diversion Policy in Resolving Criminal Acts of Theft by Children*, Mercatoria Journal, Volume 16 Number 2, 2023

⁷ Personal Interview, AKP Agus Tri Yulianto, Semarang Police, July 10, 2025, at 09.00 WIB.

Table 2.1

Year	Case	Successful Diversion	Failed Diversion
2025	4	4	0

Data source: Semarang Police Headquarters

Based on the information from the chart above, from January 2025 to July 10, 2025, there have been 4 cases reported to the Semarang City Police, and all cases have been successfully diverted, with the important role of the Semarang City Police, both parents reached an agreement, resulting in peace before the case was continued to court. The role of the victim's parents is very important to make the Diversion goal successful, the Semarang City Police really appreciates it if the victim's parents stop the reporting process and do not proceed to court.

Children involved in criminal cases must prioritize the implementation of diversion, but this diversion will occur if the victim also wants to do diversion. The implementation of diversion can be directly carried out by the police if the victim's loss is not too much, for example, a child who steals a helmet or breaks a neighbor's window, if this is reported to the police then diversion must be carried out, however if the victim dies and the victim's family wants to do diversion then it cannot be done by the police because it is a serious criminal case that results in death.⁸

3.2. Obstacles in the Implementation of Diversion for Child Theft Perpetrators at the Semarang Police Headquarters

The implementation of diversion for child theft perpetrators in the Semarang Police Department often faces significant obstacles that hinder the achievement of a peace agreement. The main obstacle often arises from the victim, in the form of rejection of the diversion mechanism due to excessive compensation demands, or based on the assumption that justice can only be achieved through a formal criminal process and the provision of a deterrent effect. The economic limitations of the child perpetrator's family are an interrelated obstacle, because their inability to meet the material compensation requested by the victim automatically thwarts the diversion deliberations. In addition, internal problems also arise such as the limited number of Community Guidance Counselors (PK Bapas) who are crucial in conducting assessments and facilitation, and the fact that a small number of law enforcement officers still have a retributive (revenge) rather than restorative legal paradigm. Overall, the biggest obstacle is a combination of unmet

⁸Personal Interview, AKP Agus Tri Yulianto, Semarang Police, July 10, 2025, at 09.00 WIB

material demands and a lack of public understanding of the importance of protecting children's futures through resolving cases outside the judicial process.

Diversion will certainly not be implemented in all cases. Every year, there will be cases of children who commit crimes but whose cases fail to be diverted. This is usually due to a lack of understanding on the part of the victims regarding diversion, which is essential for the child's development. Children should be kept as far away from justice and prison as possible. Imprisonment for children is also carried out as a last resort if diversion efforts are not implemented, and imprisonment for children who commit crimes must be carried out for a very short time to prevent the child from being mentally and psychologically affected in living after release from prison. Empirically, diversion has proven effective in resolving children's cases and preventing stigmatization of children in conflict with the law, as long as it is supported by law enforcement officials and community participation.⁹

Juvenile criminal justice in Indonesia must protect and maintain the privacy of child perpetrators of crimes, this must be in accordance with Law Number 11 of 2012 concerning the juvenile criminal justice system, how the identity of children as perpetrators of crimes must be kept confidential starting from the names of parents, residence, child's name, and who can reveal the child's identity. This is with the aim of preventing children from experiencing psychological and mental disorders, because children are not yet able to overcome this, so the need for serious protection for children in undergoing criminal cases.

The implementation of diversion at the Semarang City Police Headquarters has encountered obstacles. These obstacles are both internal and external. Internal factors refer to anything that originates from within or within the immediate environment of the parties directly involved in the child's case, which can influence the success or failure of the diversion deliberation process. Essentially, internal factors are obstacles stemming from the subjectivity and mental/social readiness of the primary individuals directly interacting in the diversion deliberation, in contrast to external factors that originate from the legal system, regulations, or broader societal conditions.

External factors in handling diversion include all obstacles stemming from systems, environments, and policies beyond the direct control of child perpetrators and their families. The main obstacles include regulations and inter-institutional coordination. Although the Child Protection and Child Protection Law (UU SPPA) regulates diversion, there is often a lack of uniformity in understanding or synchronization in implementation among law enforcement officials (police,

⁹ Daud Rismana et al., *The Legal Effectiveness of Juvenile Diversion*, *Khazanah Hukum*, Volume 7 Number 2, 2025

prosecutors, judges) and correctional institutions (BAPAS). Lack of supporting facilities and resources is also an external factor; for example, the availability of trained mediators, professional social workers, or adequate means to implement diversion agreements (such as skills training programs or community activities) is often limited. Furthermore, strong societal views and pressures that still adhere to a retributive (revenge) paradigm rather than a restorative one also hinder the process. When the public demands harsh sanctions, this can influence officials' decisions and complicate the acceptance of peace agreements. Finally, environmental conditions, such as geographic accessibility and socioeconomic differences within a region, can hinder the effective and timely implementation of diversion deliberations.

The following is an explanation of the obstacles from internal and external factors in handling criminal acts against children.

Internal factors:

1) Lack of professional staff

Professional staff to handle cases of children involved in criminal cases is crucial for achieving diversion. The City Police (Polrestabes) itself still lacks professional staff to handle cases of children involved in crime. The lack of availability and capability of professionals handling children's cases can also be categorized as an internal constraint within the justice system itself. This constraint refers to the limited number of investigators, social workers, or community counselors (PK) who have specialization and in-depth competence in child psychology and restorative justice. This lack of professional staff has a direct impact on the quality of diversion case handling. For example, PK BAPAS (Corruption Eradication Commission) who must accompany the diversion process may have a very high caseload, limiting the time and energy they can devote to each child, reducing the effectiveness of community assistance and research. Furthermore, the lack of advanced training for law enforcement officers regarding mediation and facilitation techniques in diversion deliberations results in the process being less than optimal in reaching truly restorative and sustainable agreements. Thus, although these professionals are within the institutional structure, internal deficiencies in the quantity and quality of human resources significantly hamper the successful implementation of diversion.

2) Time

The time factor is one of the factors that influences the implementation of diversion, the decision to grant diversion must be made quickly whether the decision is to divert or continue to court.¹⁰

The regulations in Article 29 paragraph (1) of Law Number 11 of 2012 concerning the juvenile criminal justice system, provide investigators with a maximum of 7 days to attempt to provide diversion.¹¹ Time constraints, categorized as internal factors in diversion management, arise from the limited time available to juvenile justice system personnel to provide in-depth and personalized case management. Although Law Number 11 of 2012 concerning the Juvenile Justice System (SPPA) has set strict time limits (for example, the diversion period at the investigation and prosecution levels), internal constraints arise when professionals (such as investigators, public prosecutors, or community counselors/PK) are overloaded and must handle a large number of juvenile cases. This time constraint results in a rushed diversion deliberation process, reducing the opportunity for intensive mediation and a thorough understanding of the root causes of juvenile behavior. Furthermore, PK BAPAS may not have sufficient time to conduct a comprehensive community research (Litmas), even though Litmas is a crucial basis for determining the success of diversion and child development plans. As a result, the focus shifts from the quality of restorative resolution to merely meeting procedural deadlines, ultimately detrimental to the primary goal of diversion, which is to achieve the best interests of the child.

4. Conclusion

The implementation of diversion for child perpetrators of theft crimes at the Semarang Police Headquarters has been carried out in accordance with the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Diversion is attempted from the investigation stage by prioritizing a restorative justice approach through deliberations involving the child perpetrator, victim, parents or guardians of each party, Community Guidance (Correctional Center), and investigators. This approach aims to achieve peace, restore the victim's losses, instill a sense of responsibility in the child, and prevent the child from the negative impacts of the formal criminal justice process. The implementation of diversion in child theft cases at the Semarang City Police Headquarters has shown a high level of success. Based on research data conducted by the author from January to July 10, 2025, all theft cases committed by children were successfully resolved through the diversion mechanism and did not proceed to the court stage. This success is influenced by the active role of

¹⁰Personal Interview, AKP Agus Tri Yulianto, Semarang Police, July 10, 2025, at 09.00 WIB

¹¹Article 29 Paragraph (1) of Law Number 11 of 2012

investigators in facilitating deliberations, the willingness of victims to reconcile, and the involvement of parents from both parties in reaching an agreement. The implementation of Diversion also actually still faces several internal obstacles including the limited number of professional staff, especially community counselors, and limited time in the Diversion process. External obstacles include the victim's rejection of peace, demands for compensation that cannot be met by the child's family, low understanding of the community and parents regarding the concept of diversion, and the impossibility of diversion for children who repeat crimes or commit serious crimes. These obstacles have the potential to hinder the optimal application of the principle of the best interests of the child.

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