Implementation of Diversion Towards Children in Confence With the Law at the Investigation Level at the Yapen Islands Police [1]

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Abstract

This study seeks to ascertain the implementation of diversion by investigator as a means of resolving criminal cases at the Yapen Islands Police, as well as the efforts and obstacles in implementing diversion for children in conflict with the law at the investigation level at the Yapen Islands Police. This is normative study in which the application of regulations or norms in positive law is examined. Aside from that, academics employ empirical juridical research methodologies, which involve examining events or happenings inside society, which is a social phenomenon related to law. The research findings indicate that the implementation of diversion against minors who are in violation of the law at the investigative level at the police station Yapen Islands in compliance with Law Number 11 of 2012 on the Juvenile Criminal Justice System. Diversion was accomplished by involving linked parties, both victims and children perpetrators of a criminal conduct. However, the processing of criminal crimes committed not all children attempt diversion. This is because juvenile perpetrators who do criminal crimes are performed by people who are the same, so investigators do not need to perform diversion. The presence of institutions with internal authority that provide guidance to children, such as a Development Institute Special Children (LPKA), Temporary Child Placement Institution (LPAS), and The Social Welfare Implementation Institution (LPKS), is expected to reduce the number of crimes committed by children, so that children who are in conflict with the law do not repeat the same act breaking the law. Repetition of criminal activities performed by children who are in dispute with the law demonstrates that the goal of diversion has not been met, and hence diversion measures against minors may not be necessary.

1. Introduction

The key issue in the modern era is child cases and preservation of children's rights. A youngster submits to his nature, which still lacks the ability to discern between good and evil things. Various The situation demonstrates that the youngster still has some issues that are concerning. These children are in a vulnerable state, which might lead to their becoming victims of crime or making them perpetrators of criminal activities. Many criminal acts are perpetrated by children, who are usually carried out by mimicking or being persuaded by other people.

This places the youngster in prison, which might have an impact on the child's growth and development. In the process of punishment delivered to children through the judicial system, formal punishment by incarcerating children does not hinder children from becoming better individual's people.

As a result, in order to solve crimes committed by children, special prevention for children is required, along with the development of the juvenile criminal justice system. Adults' solutions are not the same as children's. Children who obtain justice as perpetrators of required criminal crimes are afforded adequate legal protection.

That is governed by Law No. 11 of 2012 on Juvenile Criminal Justice Systems, abbreviated as UUSPPA. As for The goal of establishing the juvenile criminal justice system is not only to inflict criminal sanctions on children who do criminal actions, but rather to use criminal sanctions as a means of supporting the welfare of children who commit crimes.

In Law According to the Juvenile Criminal Justice System, children who are in conflict with the law are children who are in dispute with the law, children who are victims of criminal activities, and children who are witnesses to a crime. What exactly is a child? A child in dispute with the law is a child who is 12 (twelve) years old but has not yet reached the age of 18 (eighteen) years old and suspected of committing a criminal conduct.[1]

Law Number 11 of 2012 Concerning Systems Juvenile Criminal Justice is a replacement for Law Number 3 of 1997 Concerning Juvenile Justice, which is considered out of date and insufficient to meet society's legal needs because it does not provide comprehensive protection to children in conflict with the law. The values of restorative justice are not yet recognized in Law No. 3 of 1997. Implementation of penalties for children who have behavioral issues. The law still employs the

[1] Ratri Novita Erdianti, 2020, Hukum Perlindungan Anak di Indonesia, Cet. I, UMM Press, Malang, hlm. 2.

mechanism of liberty loss (imprisonment sanctions). Aside from that, there is a scarcity of jail facilities. Children's (prisons) often result in children being integrated with adult convicts, which might encourage youngsters who deal with the law to learn and/or become more skilled in doing criminal activities.

A child-oriented case settlement mechanism is required to avoid the detrimental consequences of the juvenile criminal justice procedure. This effort is to give law enforcement officials the authority to take action and policy in dealing with problems of children in conflict with the law by stopping, continuing, or releasing them from court proceedings or returning them to society, as well as other or usual forms of social service activities known as Diversion.[2]

The aim to avoid detrimental impacts on the child's psyche and development caused by contact with the juvenile criminal justice system motivates the implementation of diversion. The use of discretion by law enforcement agents in implementing diversion is based on the authority of the authorities. Discretion is the ability granted to law enforcement personnel who handle criminal cases to take action to continue or end the case, and to take specific steps in accordance with its laws. Matter this is comparable to the purpose of diversion, which is to find a means to manage transgressions of the law outside of the court or formal judicial system.[3]

The diversion process is carried out through deliberation involving children and their parents/guardians, victims and/or their parents/guardians, community counselors, and professional social workers based on a restorative justice approach, according to the provisions of article 8 paragraph (1) of law number 11 2012 regarding the juvenile criminal justice system.

These regulations stipulated that restorative justice must be used. The mechanism of diversion is the legal diversion of criminal proceedings from the judicial process to processes outside of criminal justice. As a result, the diversion process will fail if restorative justice is not used as a solution. Diversion based on requirements in Article 7 of Law No. 11 of 2012 relating to systems According to juvenile criminal justice, diversion must be sought at every stage, beginning with investigation, prosecution, and ending with the stage of examining children's cases in district court.[4]

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[2] Laurensius Arliman S, 2015, Komnas HAM dan Perlindungan Anak Pelaku Tindak Pidana, Cet.I, Deepublish, Yogyakarta, hlm. 7.

[3] Rahul Ardian Fikri, "Implementasi Diversi Terhadap Anak Yang Berhadapan Dengan Hukum Ditinjau Dari Undang-Undang Nomor 11 tahun 2012 tentang Sistem Peradilan Pidana Anak", Jurnal Ilmiah Abdi Ilmu, Vol.13, Nomor 2, Desember 2020, Fakultas Sosial Sains Universitas Pembangunan Panca Budi, Medan, hlm 74.

[4] Pasal 7 dan pasal 8 ayat (1) Undang-Undang Nomor 11 tahun 2012 tentang Sistem

He authorized police investigators to act as special child investigators in cases involving children for no other reason than the National Police as a basic law enforcement organization in countries that are directly tied to society. Matter this has significant implications for the preservation of customs and culture in society. By preserving customs and culture in society, diversion, which is founded on the principle of internal deliberation and consensus Pancasila, as in the legal principles of the court system, can be carried out. Criminal punishment is explained as an effort. Finally, investigators must conduct diversion efforts to evaluate whether diversion tactics can be successful in dealing with children in dispute with the law.[5]

A case of theft committed by young criminals is an example of a common occurrence in the Yapen Islands. The implementation of diversion against child offenders in the Yapen Islands Regency is deemed ineffective. This is significant since the theft that occurred was performed by the same minor criminal. One of the main elements that minors repeat illegal crimes is a lack of facilities and infrastructure for offering guidance to youngsters who are in dispute with the law.

For example, because there are no detention facilities specifically designed for children at the Yapen Islands Police, children who are subject to incarceration while waiting for a court ruling are compelled to be housed in an adult prison center. Despite the fact that the juvenile criminal justice system is based on law in article 33 paragraph (4), children are detained in LPAS. It is meant to preserve children's safety and to ensure that children are treated more humanely based on their age.

Furthermore, there is a lack of human resources from internal child investigators managing kid cases, which leads to understanding mistakes in child case management. As stated in article 26 paragraph 3, one of the prerequisites is that child investigators have received technical training in the field of justice. According to the author's observations, there are still various issues in applying diversion to minors facing the law in the Yapen Islands Regency, causing the implementation of this diversion to be ineffective.

2. Research Method

The approach method used for research This law uses Normative Juridical and Juridical methods Empirical. The normative juridical approach

Peradilan Pidana Anak.

[5] Dahlan Sinaga, 2017, Penegakan Hukum Dengan Pendekatan Diversi, Cet. I, Nusa Media Yogyakarta, Yogyakarta, hlm.130.

method is carried out by see the application of regulations or norms in law positive. Meanwhile, the empirical juridical method is carried out using see events or occurrences that occur in society is a social phenomenon that is related to law. This method produces valid and descriptive data obtained orally in the form of interviews / interviews from the parties related to the diversion policy implemented by investigators for children in conflict with the law. Approaches to research problems in legal research can be carried out through laws and approaches case. In this study, researchers used an approach research through laws and approaches case.

3. Results and Discussion

Diversion for children in dispute with the law is being implemented at the investigation level by the Yapen Islands Police.

The System Law has provisions for diversion. Juvenile criminal justice is a legal requirement. Diversion is a component of Restorative Justice, which must be applied by Indonesian police, prosecutors, and judges in their capacity as law enforcement agents. This necessitates the government playing a role in supplying various aspects to aid in the implementation of the Justice System Law.[6] Child Abuse and Neglect this can be seen from the people's income which is still very low and has not had an impact on a better life. Likewise, there has been no significant change inthe level of welfare of the community around the company, such as improvements in their health and education.

It appears that there is something in the implementation diversion of children who are in confrontation with the law at the level of investigation. Child investigators conduct legal investigations of child matters as outlined in the Juvenile Criminal Justice System Act. The following are the qualifications for being appointed as an investigator:

a. has experience as an investigator;
b. have interest, attention, dedication, and understand the problem child, and
c. has attended technical training in juvenile justice.

In addition to the provisions for investigators in handling children's problems that have been regulated in the criminal justice system law children, one thing that needs to be paid attention to the process investigation of children in conflict with the law is implementing diversion as the main thing in solving children's problems.

Law No. 11 of 2012 Relating to Systems Restorative Justice is a

[6] Angger Sigit Pramukti dan Fuady Primaharsya, 2014, Sistem Peradilan Pidana Anak, Cet. I, Medpress Digital, Yogyakarta, hlm.103.

concept of thinking that reacts to system development judiciary with an emphasis on the need for involvement society and victims who are perceived to be marginalized by mechanisms that work in the juvenile criminal justice system. There is one. Restorative justice is a deliberate procedure that seeks to provide victims with rights. To be able to accomplish the idea is to bring the victim and the perpetrator together. Through a diversion process, settlement is carried out by considering larger implications on victims, perpetrators, and the community.[7]

According to Tony F. Marshall's restorative justice theory, restorative justice is a process in which parties involved in a specific offense meet together to resolve the consequences of the violation for the sake of the future, by actively involving victims, perpetrators, and society. This is consistent with the implementation diversion contained in the juvenile crime laws that the diversion process is carried out through deliberation involving children and their parents/guardians, victims and/or parents/guardians, community counselors, and social workers using a restorative approach.

Implementation of diversion using a restorative justice method in accordance with the National Police Chief's Regulations No. 8 of 2021 on Handling Criminal Acts Using Restorative Justice. Restorative Justice is the process of resolving a criminal act in which the offender, victims, families of perpetrators, families of victims, community leaders, prominent religious, traditional leaders, or stakeholders work together to achieve a right solution via peace and restore the crime to its original state.[8]

Using restorative justice to deal with criminal offenses general and particular standards must be met under National Police Chief Regulation Number 8 of 2021. The general need addressed to applies to the management of Criminal Acts Based on Restorative Justice in function implementation activities Criminal Investigation, Investigation, or Investigation. Whereas special standards apply to the management of criminal offenses based on restorative justice on investigative activities or investigation.[9]

Diversion implementation on minors confronted with the law at the investigation level has been regulated in law number 11 of 2012, as indicated in article 29, that investigators are required to attempt diversion within 7 (seven) days after the inquiry begins. Diversion

[7] Fajar Ari Sudewo, 2021, Pendekatan Restoratif Justice bagi Anak yang Berhadapan dengan Hukum, Cet. I, Nasya Expanding Management, Jawa Tengah, hlm.16.

[8] Pasal 1 angka Peraturan Kapolri Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan keadilan Restorative.

[9] Pasal 3 Peraturan Kapolri Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restorative

process must be completed within 30 (thirty) days of its inception. If the diversion procedure has achieved an agreement, the investigator sends the diversion minutes as well as the diversion agreement to the chairman of the district court for a decision.

According to the Yapen Islands Police's Head of Criminal Investigation Unit, IPTU FEBRY V. PARDEDE, S.T.K., S.I.K, in an interview scheduled for Thursday 20 April 2023 at 10.00 WIT, the implementation of diversion at the investigation level at the Yapen Islands Police is carried out through deliberation with bringing together the perpetrator and the victim. Diversion implementation carried out by investigators from the Criminal Investigation Unit The Yapen Islands Police Department operates in line with the provisions of the juvenile criminal justice system, using a restorative justice approach, in accordance with National Police Chief Regulation Number 8 of 2021 governing the treatment of criminal acts based on restorative justice.

Restorative justice is used to handle criminal crimes by bringing together victims and perpetrators, as well as involving the family. Following their meeting, the two sides undertook a deliberation in order to fix the problem asserted by the perpetrator outside of the court process. Apart from referring to National Police Chief Regulation Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice, Diversion implementation is contained in government regulation number 65 of 2015 regarding guidelines for implementing diversion and handling children under the age of 12 (twelve).

Regarding the use of diversion in the treatment of children in dispute with the law, the Yapen Islands Police Department has handled various instances using diversion. One of them is Police report number: LP/B/61/IV/2023/SPKT I/POLRES KEP. YAPEN/PAPUA POLDA, April 26 2023 in the case of the crime of theft as intended in the formulation Article 363 paragraph (1) 4th and 5th of the Criminal Code, which states that threatened with imprisonment for a maximum of seven years, theft committed by two or more people, theft for entering the place of committing a crime, or to arrive at goods taken, done This case was handled by an child aged 12 year.

Implementation of diversion in dealing with criminal acts committed by children in the case is based on the Serui District Court's Determination Diversion with number: 3/Pen.Div/2023/PN Sru, which was previously attempted diversion through diversion deliberations conducted by investigators at the Yapen Islands Police criminal investigation unit on May 10, 2023, attended by:

a. The victim/reporter;
b. Reported party;

c. Parents of the reported party;
d. Community Advisor;
e. Legal advisor.

The implementation of the diversion deliberation produced the following results:

a. Children who commit illegal activities are returned to their parents, under the supervision of local BAPAS and parents, with the following considerations:
   a) the child has acknowledged his error and pledged not to repeat it;
   b) youngsters require religious, moral, and guidance adequate education from expert staff in order to have a better future;
   c) The child's parents show their capacity to guide, educate, and monitor children because the child is basically a decent kid who is not yet in school. Have you ever caused a commotion at home or in the community?
   d) parents agree to pay greater attention to and closely oversee their children's social interactions. Protect children against negative social effects in the child's environment.
b. The boy and his family have apologized to the victim and the parties for the actions he took. The victim has accepted responsibility for the child's behavior.
c. The kid swears not to repeat the same or similar behaviors requiring punishment, both to the victim and to others.

Based on this, the Serui District Court ruled in its decision to:

1) Grant the investigator's request;
2) Order the parties to carry out the diversion Diversion Agreement;
3) Direct the investigator to be in charge of the goods evidence until the Diversion Agreement is implemented.
4) Choose evidence in the form of:
   - 1 (one) Lenovo Brand All in One computer monitor black;
   - 1 (one) small red bag;
   - 1 (one) Lenovo brand keyboard, black;
   - 1 (one) black Lenovo brand mouse;
   - 1 (one) black Lenovo brand computer case;
   - 4 (four) pieces of broken door glass;

used for other suspects, namely suspects YK and EK's

child;

Order the Registrar to provide a copy of this determination to investigators, community counselors, children/people over the age of 18, and the victim/victim's family.

Aside from these cases, there are cases involving the implementation of diversion in dealing with criminal acts committed by children, as documented in the police report number: LP/B/54/IV/2023/SPKT I/POLRES KEP. YAPEN/PAPUA POLDA, April 3 2023, in which WP's son commits the crime of theft as defined in article 362 of the Criminal Code. Based on Judicial Determination number: 5/Pen.Div/2023/PN Sru, which departs from Investigator's Report Number B/186/VI/2023/Reskrim dated 26 June 2023 regarding request for Diversion Determination in this case, where a diversion agreement was formed in the diversion minutes April 10 2023. The meeting was held through. The diversion debate decided on the following diversion results:

a. The child is returned to the parents under the supervision of local BAPAS and parents, taking into account the following factors:
    a) the child regrets and realizes his mistake and promises not to repeat it;
    b) children require religious, moral, and guidance proper education from professional staff for the sake of time better future for children; and
    c) parents express their ability to guide, educate, and supervise children because is a fine boy who has never caused any difficulties at home or in the community where they live;
    d) parents pledge to pay more attention and supervisionStrictly associate with youngsters to protect them from the influence of negative associations in their surroundings.
b. The child and his family have begged the victim's party for forgiveness for his activities, and the victim has forgiven the child's actions;
c. The child has pledged not to repeat what I did or other acts involving illegal crimes to the victim or other people.

The Court Serui State mandates under the diversion agreement:

1) Grant the Investigator's Request;
2) Order the parties to carry out the Diversion Agreement;
3) Hold investigators liable for evidence until the Diversion Agreement is implemented;

4) Choose evidence in the form of: 1 (one) Vivo brand cellphone in Sky Blue color. In the event that the Diversion agreement is implemented, the reporter/victim will be contacted on Amiruddin's behalf.
5) Request that the Registrar submit a copy of the determination. This is intended for investigators, community advisors, children/parents, victims/families of victims, and others.

According to BRIPKA BUDIMAN, Head of the PPA Unit of the Police Criminal Investigation Unit Yapen Islands, in an interview scheduled for Thursday 20 April 2023 at 12.00 WIT, the implementation of diversion is appropriate as a concept transfer of formal justice to informal justice with diversion deliberations carried out through a justice approach restorative by paying attention to children's rights.

According to Satjipto Raharjo's legal protection theory, legal protection is giving protection for human rights that have been violated by others, and that protection is provided to the community so that they can enjoy all of the rights afforded by law. Law is required for people who are weak socially and politically in order to attain social fairness. Children should be understood as a person who has not been able to comprehend the difficulty that the law has caused him.

The following are the children's rights as intended by Law number 11 of 2012 addressing the juvenile criminal justice system:

a) treated humanely with care needs according to age;
b) separated from adults;
c) obtain legal aid and other assistance effectively;
d) engage in recreational activities;
e) free from torture, punishment or other treatment cruel, inhumane and degrading his dignity;
f) not sentenced to death or life imprisonment;
g) not arrested, detained, or imprisoned, except as a measure last and in the shortest time;
h) obtain justice before an objective juvenile court, impartially, and in a trial closed to the public;
i) identity not published;
j) obtain the assistance of parents/guardians and other people trusted by children;
k) obtain social advocacy;
l) acquire a personal life;
m) obtaining accessibility, especially for disabled children;
n) obtain education;
o) obtain health services; And

p) obtain other rights in accordance with regulatory provisions legislation.

The implementation of diversion through a restorative justice strategy will fail if the victim does not forgive the child who was confronted with the law. So that the debates can take place, the victim must apologize for the mistake made by the perpetrator.[10] According to Robert D. Enright's notion of forgiveness, forgiveness is the desire of someone to leave behind wrath, negative judgment, and apathetic behavior toward others who have wronged him unfairly. According to McChullough, forgiveness is a series of changes in motivation/behavior that include less incentive to exact revenge, remove yourself from others, or avoid aggressive conduct and more motivation or desire to make peace with others perpetrator. This is consistent with the goal of distraction, which is to achieve peace between victims and children.

The table below describes the progression of criminal crimes committed by children that are addressed through a diversion mechanism or process within the jurisdiction of the Police Yapen Islands.

Tabel 1
Managing Diversion at the Yapen Islands Police Department

No	Case Type	Year			
		2020	2021	2022	2023
1	Stealing	7	2	5	7
2	Violence	0	0	0	0
3	Copulation	1	0	0	0
4	Fornication	1	1	0	0
Total		9	3	5	2
Diversion efforts were successful		0	0	0	2
Diversion Attempt Failed		0	0	0	0

According to the explanation regarding the implementation of diversion at the investigation stage at the Yapen Islands Police regarding crime crimes committed by children who are in conflict with the law, the concept of diversion is regulated in Law number 11 of 2012 concerning the Judicial System Child crime. Diversion is carried out by bringing together the victim, the reported party, and the reported party's parents/guardians, as well as social consultants, to settle the problem. To make advice to investigators in carrying out diversion, the function

[10] Made Tambir, Pendekatan Restorative Justice dalam Penyelesaian Tindak Pidana di Tingkat Penyidikan, Jurnal Magister Hukum Udayana, Volume 8, Nomor 4, 2019, hlm. 565

of community adviser in solving the challenges children experience under the legislation is required. In an interview, M. Octaf Batubara, S.H, the Community Advisor at POS SERUI PRISON OFFICER, stated that performed on May 17, 2023 at 09.00 with his involvement in provide direction to children who are faced with

The law is designed to aid children in conflict by law (ABH) from pre-adjudication to post-adjudication, with the goal of ensuring that children receive equitable legal treatment and therefore completing restorative justice. Community Counselors, in addition to mentoring, supervise service programs, coach and guide incarcerated inmates based on suggestions for litmas reports/determinations/judge judgments, and review programs operated by residents fostered by the community and kid clients.

In addition to being accompanied by a parent/guardian community, professional social worker, Investigations can also be accompanied by community leaders at the level. After the two parties reach an agreement, it is expressed in the diversion agreement and signed by the party concerned. According to article 9 paragraph (2), a diversion agreement must be obtained with the approval of the victim and/or the victim's child's family, as well as willing youngsters and their families. with the exception of:

a) criminal acts in the form of violations;
b) minor criminal offenses;
c) victimless crime; or
d) the value of the victim's losses is not more than the provincial minimum wage local.

Investigators carry out the diversion agreement based on suggestions. Community guidance can take the following forms:

a) refund of losses in the event of a casualty;
b) medical and psychosocial rehabilitation;
c) handover back to parents/guardians;
d) participation in education or training at the Institution education or LPKS for a maximum of 3 (three) months; or
e) Community Service for a maximum of 3 (three) months.

The outcomes of the diversion agreement are then presented to the direct superior at the police investigation level within 3 (days) of attaining diversion in order for the head of the district court to make a diversion determination. The court decision is subsequently sent to the community counselor, investigator, public prosecutor, or judge. The investigator then wrote a letter opting to halt the probe.

Based on this, the implementation of diversion as stipulated by the Juvenile Criminal Justice System Law Number 11 of 2012 has been carried out in accordance with the restorative justice approach through deliberations involving relevant parties in order to achieve peace between the victim and the child as the perpetrator.[11] A restorative justice strategy is used to resolve criminal crimes by prioritizing rehabilitation, return to its original state, and protective balance, as well as the interests of victims and perpetrators of criminal acts who do not seek punishment. This is to protect children from negative stigma, therefore implementing diversion is an alternative for providing possibilities for children who commit crimes through planned activities and giving shape to genuine social service to society.

Efforts and Obstacles in Implementing Diversion for Children Dealing with the law at the investigation level at the Yapen Islands Police.

Although restorative justice and diversion have become alternatives in resolving problems for children in conflict with the law, the obstacles faced by investigators in The Yapen Islands Police Criminal Investigation Unit, particularly those related to infrastructure and related constraints with investigators as law enforcement officers in the Unit, remain in practice. The Yapen Islands Police Criminal Investigation is an issue in and of it self.

One of the challenges in implementing diversion for children in dispute with the law is a lack of child investigators at the Islands Police Criminal Investigation Unit Yapen. In Law Number 11 of 2012 regulating the Juvenile Criminal Justice System, it is stated that in case investigations of children are conducted by a child investigator. This matter strives to guarantee that the child does not feel pressured during the examination, so that when asking questions, do not corner or force the youngster to acknowledge or disclose information to investigators. Given that the culprit is still a child, the examination must take place in a family setting.

Referring to Satjipto Raharjo's legal protection theory Human rights are protected by law. Humans are hurt by others, and the community is protected so that they can enjoy all of their legal rights. This covers children who are involved in the legal process, as defined by the law. The Juvenile Criminal Justice System specifies in article 3 letter e that

[11] Yati Sharfina Desiandri, "Diversi Terhadap Anak yang Berkonflik dengan Hukum di Tingkat Penyidikan", USU Law
Journal, Vol. 5 No. 1 (Januari 2017), hal. 147-157.

"children have the right to be free from torture, punishment, or other cruel, inhumane, and degrading treatment and dignity."

According to the Yapen Islands Police's Head of Criminal Investigation Unit, IPTU FEBRY V. PARDEDE, S.T.K., S.I.K, in an interview scheduled for Thursday, April 20, 2023 at 10 a.m. WIT, there are no investigators at the Yapen Islands Police Criminal Investigation Unit who have received technical training in juvenile justice. In dealing with children's concerns, legal investigations are carried out by investigators who have investigative tasks. This leads to confusion in the execution of diversion against law-abiding youngsters. Even if the implementation of diversion takes a justice perspective, restorative justice is a frequent activity carried out by investigators in the Yapen Islands Police Criminal Investigation Unit, there are significant distinctions in implementation when it comes to children. Those who are in confrontation with the law must seek the assistance of a Community Counselor as well as a Social Worker. However, resolving instances involving children who are in dispute with the law is not easy. This can only be accomplished by bringing both the victim and the victim together also the perpetrator.[12]

According to Bripka Budiman, Head of the PPA Unit at the Kep Police Criminal Investigation Unit. Yapen, Brigadier Police Ramayadi Drakel, S.H and Bripda Astri Wulandari, members of the Women and Children's Protection Unit in the Investigation Unit Yapen Islands Police Crime, in an interview conducted on Thursday 20 April 2023 at 12.00 WIT, members of the Women's and Children's Protection Unit themselves have not participated in training activities related to So that the victims, child perpetrators, and parents of children in conflict with the law are more involved in the implementation of the solution for children in dispute with the law.[13]

Octaf Batubara, S.H, Supervisor Community at the Islands Regency Prison BAPAS Post Yapen, stated in an interview conducted on Wednesday, May 17th, 2023 at 09.00 that there is a general desire for help to children in confrontation with the law.

This was done by investigators from the Yapen Islands Police Criminal Investigation Unit. There is not much in this aid during the inquiry procedure against the child who is confronted with Diversion attempts are not carried out by the law, which is related to The threat of punishment that the kid receives in connection with the act of committing a crime that does not require it to be carried out diversion,

[12] Febbry V.Pardede, Kasat Reskrim Pada Polres Kepulauan Yapen, wawancara dilakukan di Polres Kepulauan Yapen pada tanggal 22 Mei 2023.

[13] Budiman,Ramayadi dan Astri, Unit PPA Pada Polres Kepulauan Yapen, wawancara dilakukan di Polres Kepulauan Yapen pada tanggal 24 Mei 2023.

and children who are recidivists of crimes committed do it.[14]

However, Koni Missy Watimena, S.H as Yapen Islands Regency social worker stated in an interview on Wednesday 17 May 2023 at 11.00 that assisting children who are facing The law is carried out if there is a request from the investigator at the Unit Yapen Islands Police Criminal Investigation, but due to a lack of requests for assistance from investigators at the Unit Yapen Islands Police Criminal Investigation in progress diversion of children who are facing The law.

Restorative justice, according to Tony F. Marshall, is a process in which parties involved in particular crimes gather together to settle the repercussions of violations for the purpose of the future, by incorporating active victims, perpetrators, and society. In implementing diversion, which is based on a deep restorative justice approach, Article 8 of Law Number 11 of 2012 concerning Systems Juvenile Criminal Justice states that the diversion procedure is carried out with a deep restorative justice approach Community Counselors and Professional Social Workers will be involved. This attempts to facilitate decision making by investigators by allowing them to use the findings of research undertaken by community counselors and social workers in order to resolve children's problems outside of the legal process.[15]

The lack of facilities and infrastructure is an impediment to conducting diversion on youngsters confronted with the law at the Yapen Islands Police. There are provisions in the Law Juvenile Criminal Justice System for Child Protection Institutions such as Special Development Institutions for Children (LPKA), Temporary Child Placement Institutions (LPAS), Social Welfare Implementation Institutions (LPKS), and Special Children's Service Room (RPKA). According to IPTU FEBRY V. PARDEDE, S.T.K., S.I.K, Head of Criminal Investigation Unit Yapen Islands Police, in an interview conducted on Thursday 20 April 2023 at 10.00 WIT at the Yapen Islands Police, there is a Special Children's Service Room (RPKA) available for children in conflict with the law.

Children who become offenders of criminal crimes performed in space incarceration are placed in facilities not designed for children, bringing discomfort to the youngster. This is what makes it difficult for investigators to place youngsters who have broken the law. Apart from that, Octaf claims In an interview conducted on Wednesday, May 17 2023 at 09.00 WIT in the district Yapen Islands does not yet have a Child

[14] Octaf Batubara, Pembimbing Kemasyarakatan pada Pos BAPAS LAPAS Kabupaten Kepulauan Yapen, wawancara dilakukan di Polres Kepulauan Yapen pada tanggal 8 Juni 2023

[15] Barunggam Siregar, Nilai Kebenaran Dalam Keterangan Saksi "Meringankan" Menjadi Saksi Memberatkan (Analisa Perkara Pidana Nomor:696/Pid.B/2015/Pn.Plg), Lex Lata Jurnal Ilmiah Ilmu Hukum, Vol. 01 No. 03, 2019, hlm. 232

Placement Institution Temporary (LPAS), investigators are in the process of investigating the Yapen Islands Police Criminal Investigation Unit is having difficulties in placing children as perpetrators of criminal acts detention. Another barrier discovered is the lack of Special Children's Development Institutions (LPKA), so in order to carry out special development for children, Octaf Batubara, S.H as Community Advisor at the BAPAS Prison Post Yapen Islands Regency conducted a Home Visit (visit to home), but this coaching is deemed ineffective.

This problem is based on reports of requests for aid from clients youngsters who are in confrontation with the law or have already committed a crime. Aside from that, one of the challenges faced by social workers in Yapen Islands Regency is the lack of Social Welfare Implementation Institutions (LPKS). Koni Missy Watimena, S.H stated in an interview on Wednesday, May 17 2023 at 11.00 that in the implementation of the diversion carried out at the investigative level at the police criminal investigation unit Yapen Islands. The final decision is to return to parents, but only under certain conditions returns to parents are deemed less effective without coaching or help in institutions that handle children's difficulties who are in dispute with the law, as occurred in the Yapen Islands district. According to Sanny Wattimury, S.E, Head of Women and Children Protection from the Women's and Children's Empowerment Service interview on Wednesday 17 May 2023 at 14.00, the problem with the child is facing with laws that generally occur due to environmental factors and children's interactions and lack of parental supervision towards children. As a result, the child is in violation of the law. Apart from parental supervision, guidance from institutions with authority in coaching youngsters is required.

Restorative justice theory, according to Zehrdan Mika, is supported by three factors: first, an understanding that the victim and the community are connected and are harmed by the perpetrator; second, the perpetrator's obligation to make amends with the victim and involve the community; and third, recovery for victims, perpetrators, and society. The child has the legal right to receive coaching, mentoring, supervision, mentoring, education, and training, as well as other rights under legislative restrictions. This indicates that the presence of a coaching institution or supervision of children in dispute with the law in each location has a significant impact on ensuring that children who do illegal activities receive correct guidance and do not repeat unlawful acts.

Based on the aforementioned, that becomes an impediment in the execution of dealing with criminal crimes committed by children through diversion efforts; in reality, not everything runs in accordance with the provisions of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. According to IPTU FEBRY V. PARDEDE,

S.T.K., S.I.K as Kasat Yapen Islands Police Criminal Investigation Unit in an interview conducted on April 20, 2023 at 10.00, dealing with criminal activities perpetrated by children is not done entirely through diversion efforts.

That is significant since there are so many illegal offenses performed by the same person that investigators do not need to perform diversion. As a result, the existence of institutions with the authority to provide direction Children are expected to limit the number of crimes committed by children so that children who are in dispute with the law do not repeat illegal behaviors. Recurrence of criminal crimes performed by minors when confronted with Because the legislation demonstrates that the aims of diversion have not been met, efforts to divert minors may no longer be necessary.[16]

4. Conclusion

The Yapen Islands Police implemented diversion towards children in contact with the law at the investigation level using a restorative justice approach that brings together the victim, the perpetrator, and related parties in order to resolve children's cases outside of the judicial process. Implementation of diversion for minors who have broken the law At the investigative stage, attempts must be done in a limited amount of time. 7 (seven) days after the investigation begins. The diversion process must be completed no later than 30 (thirty) days after the start of the diversion. After reaching an agreement, the investigator forwarded the news diversion event and the diversion agreement to the head of the court country for a decision. Following the issuance of the court order and then submitted to investigators. The investigator issues a letter deciding to end the investigation. Implementing diversion for children who have been subjected to The law attempts to protect children from negative stigma, offering them the option to become perpetrators of criminal crimes through programming and activities that provide a genuine form of contribution to society.

Obstacles to adopting diversion for children in confrontation with the law, while restorative justice and diversion have emerged as viable options for resolving problems with children in conflict with the law, their implementation remains a work in progress. The difficulties encountered were related to both investigators as law enforcement officials and facilities and infrastructure. There is a shortage of child investigators in the Yapen Islands Police Criminal Investigation Unit. Child investigators conduct legal investigations on children involved in

[16] R. Wiyono, 2016, Sistem Peradilan Pidana Anak Di Indonesia, Cet. I, Sinar Grafika, Jakarta Timur, hlm.51.

conflict. This is meant to The child did not feel compelled to make a statement throughout the assessment. The requirement for child investigators to handle issues Children who are in violation of the law, so that investigators can investigate, are not cornered or coerced into admitting or providing information to investigators. Aside from that, a lack of institutions that provide guidance for children who are in conflict with the law, such as Child Protection Institutions such as Special Development Institutions for Children (LPKA), Temporary Child Placement Institutions (LPAS), Social Welfare Implementation Institution (LPKS), and Space Special Children's Services (RPKA), is one of the obstacles in dealing with problems involving children who are in conflict with the law, particularly in the implementation of diversion. Not all criminal crimes committed by children are handled by diversion programs. This is because no criminal crimes are performed by minors, and only a handful are committed by the same person. Repetition of criminal activities committed by children in dispute with the law serves as indication that diversion objectives have not been met, implying that diversion initiatives for children may not be necessary.

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