

**Study of Treatment Families in Battle with Post-Usa Law in Accountability and
Sociological Method**

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Abstract

A child 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. So in this case, a child protection system is needed that can guarantee the growth and development of children who are in conflict with the law. One form of discrimination protection is against children in conflict with the law, namely by diversion and restorative justice. This study aims to see the effectiveness of the application of diversion and restorative justice in Indonesia by taking samples of cases of children that occurred at the Ponorogo Police and the Ponorogo District Court in terms of the Legal and Sociological Accountability approach. The purpose of this study is that the child who is the perpetrator of a crime is able to take responsibility and be held accountable for his actions both for himself, the victim, his family and society, so as to provide a deterrent effect and not repeat the same or different crimes. This research is a qualitative approach, the process is more important than the result, the analysis tends to be done by inductive analysis, and meaning is essential. While the type of research is a case study, namely children in conflict with the law, namely the Police and the Ponorogo District Court. so that it provides a deterrent effect and does not repeat the same or different crimes. The research method used in this study is a qualitative approach, the process is more important than the results, the analysis tends to be carried out by inductive analysis, and meaning is essential. While the type of research is a case study, namely children in conflict with the law, namely the Police and the Ponorogo District Court. so that it provides a deterrent effect and does not repeat the same or different crimes. The research method used in this



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study is a qualitative approach, the process is more important than the results, the analysis tends to be carried out by inductive analysis, and meaning is essential. While the type of research is a case study, namely children in conflict with the law, namely the Police and the Ponorogo District Court.

Keywords: Diversion; Liability; Children

Introduction

Children are the future hope of a nation. However, the development of the era in the current era of technology and globalization, also affects the behavior of children and does not even rule out the possibility of children becoming perpetrators of criminal acts. Children whose behavior deviates from a social and legal order are often referred to as "bad children". A child who commits a crime or in the Juvenile Court System Act is called a child in conflict with the law, in this case as stipulated in Article 1 (number 3) of Law no. 11 of 2012 concerning the Juvenile Criminal Justice System (abbreviated UUSPPA): "A child 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."¹

In the context of criminal procedural law, it is emphasized that criminal investigation activities carried out by the police, prosecutors, judges and other officials must prioritize the interests of the child or see what criteria are best for the welfare of the child concerned without reducing attention to the interests of the community.

Meanwhile, from the perspective of criminal science,² Paul Hadisuprpto,³ believes that the imposition of criminal charges against delinquents or children in conflict with the law tends to harm the mental development of children in the future. This detrimental tendency is the result of the effects of criminal penalties,

especially imprisonment, which is in the form of a stigma (bad stamp). This was also stated by Barda Nawawi Arief,⁴ imprisonments can provide a stigma that will carry over even if the person concerned does not commit another crime. As a result of applying stigma to children, it will be difficult for them to return to being "good" children.

Therefore, the alternative for handling juvenile criminal cases based on the mandate of the Juvenile Criminal Justice System Law is diversion. Diversion comes from English diversion which means "diversion". Based on the general guidelines for the Indonesian language, which were refined and the general guidelines for the formation of terms, adapted in Indonesian into diversion.⁵ According to Romli Atmasasmita, diversion is the possibility of the judge stopping or diverting/not continuing the examination of cases and examination of children during the examination process before the trial.⁶ In Article 1 point 7 of the Juvenile Criminal Justice System Law, it is stated that diversion is the transfer of settlement of children's cases from the criminal justice process to processes outside of criminal justice.

The Juvenile Criminal Justice System Act has regulated diversion which functions so that children in conflict with the law are not stigmatized as a result of the judicial process they must undergo. The use of the diversion mechanism is given to law enforcers (Police, Prosecutors, Judges, other institutions) in dealing with lawbreakers involving children without using a formal court. The application of diversion is intended to reduce the negative impact of children's involvement in a judicial process and to improve children's welfare and provide special protection to children who are in conflict with the law.⁷

Based on the description of the background above, there are several cases of handling diversion and restorative justice which eliminate the ability of children to be legally responsible and are not in accordance with the

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principles contained in the Child Protection Act. This is based on the results of research by researchers on the diversion and restorative justice process from 2017 – 2019 in the Ponorogo Police KPPA unit, and the Ponorogo District Court.¹² In practice, there are several juvenile criminal cases that result in children as perpetrators being able to repeat their actions again, although in different criminal acts, and can get diversion and restorative justice both at the police, prosecutor's and court levels. From this, the researcher is interested in examining the handling of diversion and restorative justice, related to the aspect of legal responsibility for children and a sociological approach. The purpose of this study is that the child who is the perpetrator of a crime is able to be responsible and accountable for his actions both for himself, the victim, his family and society, so that it provides a deterrent effect and does not repeat the same or different crimes.

The research method used in this study is a qualitative approach, which has natural characteristics (natural setting), is descriptive, the process is more important than the result, the analysis tends to be done by inductive analysis, and meaning is essential.¹³ While the type of research is a case study,¹⁴ namely an intensive description and analysis of certain phenomena or social units such as individuals, groups, institutions or society.¹⁵ The case research here is the handling of cases of children in conflict with the law, namely the Police and the Ponorogo District Court.

The Concept of Legal Liability

According to the Big Indonesian Dictionary (KBBI) responsibility is the obligation to bear everything, if anything happens, you can be prosecuted, blamed, and sued. In the legal dictionary, responsibility is a must for someone to carry out what has been required of him.¹⁶ According to the

law, responsibility is a consequence of the consequences of a person's freedom regarding his actions related to ethics or morals in carrying out an act.¹⁷ Furthermore, according to the Quarterly Point, accountability must have a basis, namely things that cause a legal right for a person to sue another person as well as in the form of things that give birth to other people's legal obligations to provide accountability.¹⁸

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