

## **Diversion in Juvenile Criminal Investigations: A Study in the Surabaya District Court Jurisdiction**

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### **ABSTRACT**

*Protection of children in conflict with the law has been regulated under Law No. 23 of 2002 on Child Protection and Law No. 3 of 1997 on Juvenile Justice. However, its implementation in practice still faces various obstacles, particularly in handling children in conflict with the law. Diversion and restorative justice have emerged as alternative approaches for resolving juvenile cases, with the police serving as the primary investigator through the exercise of discretionary authority. This study aims to analyze the factors underlying the implementation of diversion, the strategic role of investigators in its implementation, as well as the obstacles and impacts that arise during the diversion process. The research employs both normative and sociological juridical approaches to obtain an in-depth understanding of diversion practices. Primary data were obtained through in-depth interviews with police officers, correctional facility officers, NGO activists, and academics in the field of child protection, while secondary data were collected through a literature review of statutory regulations, books, journals, and various related literature. Data were analyzed qualitatively to provide a comprehensive overview of diversion practices within the juvenile criminal justice system in Indonesia. The research findings indicate that diversion can be implemented through the role of investigators, with the positive impact of restoring social relationships between victims and perpetrators. However, the implementation of diversion still faces structural and cultural barriers, including a lack of awareness among investigators and the public, as well as insufficient supporting facilities.*

**Keywords:** *Diversion, Juvenile Law, Investigators, Restorative justice, Child protection*

## **Penerapan Diversi Proses Penyidikan Anak Yang Melanggar Hukum di Wilayah Pengadilan Negeri Surabaya**

### **ABSTRAK**

*Perlindungan terhadap anak yang berhadapan dengan hukum telah diatur dalam Undang-Undang No. 23 Tahun 2002 tentang Perlindungan Anak dan Undang-Undang No. 3 Tahun 1997 tentang Peradilan Anak. Namun, implementasinya di lapangan masih menghadapi berbagai kendala, khususnya dalam menangani anak yang berkonflik dengan hukum. Diversi dan restorative justice menjadi pendekatan alternatif yang ditawarkan untuk menyelesaikan kasus anak, dengan kepolisian berperan sebagai penyidik utama melalui kewenangan diskresi. Penelitian ini bertujuan untuk menganalisis faktor-faktor yang melatarbelakangi pelaksanaan diversi, peran strategis penyidik dalam implementasinya, serta hambatan dan dampak yang timbul selama proses diversi berlangsung. Metode penelitian ini menggunakan pendekatan yuridis normatif dan yuridis sosiologis untuk memperoleh pemahaman yang mendalam. Data primer diperoleh melalui wawancara mendalam dengan aparat kepolisian, petugas balai pemasyarakatan, aktivis LSM, dan akademisi di bidang perlindungan anak, sedangkan data sekunder dikumpulkan melalui studi kepustakaan yang meliputi peraturan perundang undangan, jurnal, dan berbagai literatur terkait. Analisis data dilakukan secara kualitatif untuk memberikan gambaran komprehensif mengenai praktik diversi dalam sistem peradilan pidana anak di Indonesia. Hasil penelitian menunjukkan bahwa diversi dapat diterapkan melalui peran penyidik, dengan dampak positif pemulihan hubungan sosial antara korban dan pelaku. Namun implementasi diversi masih menghadapi hambatan struktural dan kultural, termasuk kurangnya sosialisasi dan kesadaran pada penyidik dan masyarakat, serta minimnya fasilitas pendukung*

**Kata kunci:** *Diversi, Hukum anak, Penyidik, Restorative justice, Perlindungan anak*

## **INTRODUCTION**

Indonesia has ratified the Convention on the Rights of the Child through Presidential Regulation Number 36 of 1990, reinforcing the state's commitment to protecting children, including those in conflict with the law. Although the national legal system provides a solid legal foundation, many children remain trapped in a repressive criminal justice system that affects their mental and social development as well as their future<sup>1</sup>. In this situation, diversion serves as a strategic approach to resolving cases involving children by redirecting them away from formal judicial processes toward more rehabilitative mechanisms. Investigators have a crucial role in making diversion decisions through their discretionary authority. Childhood requires guidance from an early age, as children need the broadest possible opportunities to grow and develop in physical, mental, and social aspects. Furthermore, childhood represents a critical stage for character formation and identity development. During this period, the character, personality, and individual's identity are shaped, enabling them to develop the strength and resilience necessary to navigate their lives.<sup>2</sup>

Law No. 11 of 2012 on the Juvenile Justice System (Juvenile Justice Law) mandates the implementation of diversion at every stage of the judicial process as a manifestation of restorative justice. Diversion aims to avoid the negative effects of conventional criminal proceedings on children, both from the court process itself and the stigma it creates<sup>3</sup>. Data from the Correctional System Database indicates that as per June 2025, there were 2,018 children in conflict with the law, with 449 children still in custody and undergoing the judicial process. This indicates that the implementation of diversion has not been optimal in preventing children from entering the formal judicial process<sup>4</sup>. The direction of case handling for juveniles is determined by investigators, who play a crucial role in the criminal justice system, through their discretionary authority. However, the implementation of diversion at the investigative stage still faces various challenges that require in-depth analysis to identify appropriate and sustainable solutions.

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<sup>1</sup> Nia Khairunnisya et al., "Kebijakan Diversi Terhadap Anak Yang Berkonflik Dengan Hukum Dalam Tindak Pidana Kekerasan Terhadap Orang Yang Menyebabkan Luka," *Locus Journal of Academic Literature Review* 2, no. 3 (2023).

<sup>2</sup> Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia* (Bandung: Refika Aditama, 2008).

<sup>3</sup> Muhammad Faizin, Fahmi, and Rudi Pardede, "Efektivitas Diversi Berdasarkan UU SPPA: Analisis Yuridis Dan Perspektif Keadilan Restoratif Di Indonesia," *Jurnal Pustaka Cendekia Pendidikan* 3, no. 1 (2025), <https://doi.org/https://doi.org/10.70292/jpcp.v3i1.130>.

<sup>4</sup> Almira Afini, "Mengupas Esensi Diversi: Partisipasi Masyarakat Dalam Sistem Peradilan Pidana Anak," KEMENTERIAN IMIGRASI DAN PEMASYARAKATAN REPUBLIK INDONESIA, 2025, <https://kemenimipas.go.id/publikasi-2/kolom-opini/mengupas-esensi-diversi-partisipasi-masyarakat-dalam-sistem-peradilan-pidana-anak>.

Previous research has examined various forms of diversion within different juvenile criminal justice systems. Arnita et al. examined the application of diversion at the investigative stage at the Gayo Lues Police Department in cases of child abuse and found that, out of 6 cases handled over a two year period, only 2 were successfully resolved through diversion<sup>5</sup>. Khairunnisya et al. examined diversion policies for children in conflict with the law in cases of violent crimes through a study of decisions at the Rantau Prapat District Court and the Medan District Court, revealing that diversion was successfully implemented during the prosecution and court proceedings<sup>6</sup>. Dwiprigitaningtias conducted a comprehensive study on the implementation of diversion within the juvenile justice system using a multi-stakeholder approach, identifying structural and cultural barriers to diversion implementation<sup>7</sup>. Although previous studies have identified various obstacles to diversion implementation, there remains a significant gap in understanding how investigators exercise their discretionary authority in diversion decisions. Most research has focused on the outcomes of diversion implementation rather than analyzing the decision-making process or the factors influencing investigators in carrying out diversion. This study aims to examine how investigators exercise their discretionary authority in diversion decisions for children involved in the legal system, as well as to identify the challenges they face in the diversion process.

## **LITERATURE REVIEW**

The criminal justice process for juvenile offenders in Indonesia is governed by a solid legal framework based on both national and international law. The approach used to handle children within the criminal justice system is diversion, which involves transferring a criminal case involving a child from the criminal justice process to a non-judicial process, emphasizing the principles of restorative justice.

### **Diversion in the Juvenile Criminal Justice**

Diversion is recognized as an effective mechanism to prevent children from being exposed to the negative impacts of the criminal justice system. Marlina states that diversion aims to protect children from labeling, imprisonment, and other psychosocial consequences resulting from involvement in the formal criminal justice

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<sup>5</sup> Citra Mahara Rezeki, Ferdy Saputra, and Arnita, "PENERAPAN DIVERSI DITINGKAT PENYIDIKAN TERHADAP ANAK SEBAGAI PELAKU TINDAK PIDANA PENGANIAYAAN," *Jurnal Ilmiah Mahasiswa UII* (2024), <https://ojs.unimal.ac.id/jimfh/>.

<sup>6</sup> Khairunnisya et al., "Kebijakan Diversi Terhadap Anak Yang Berkonflik Dengan Hukum Dalam Tindak Pidana Kekerasan Terhadap Orang Yang Menyebabkan Luka."

<sup>7</sup> Evariawati Sinaga, Sherly M. Imam Slamet, and Indah Dwiprigitaningtias, "Pelaksanaan Diversi Dalam Sistem Peradilan Anak Dikaitkan Dengan Undang Undang Nomor 11 Tahun 2012," *Jurnal Dialektika Hukum* 1 No 1 (2019).

system. This approach encourages peaceful and participatory problem resolution by involving the offender, victim, their families, and community<sup>8</sup> The concepts of diversion and restorative justice represent a new approach to resolving cases involving juvenile offenders in Indonesia, which aims to redirect the resolution of cases from the formal judicial to alternative mechanisms that are more rehabilitative. Setiawan and Sumaryanto affirm that the application of diversion and restorative justice represents an alternative approach to resolving juvenile cases without formal judicial proceedings.

This approach aims to create humane justice by providing dedicated child companion officers and ensuring humane treatment. It aligns with the principle of the best interest of the child, which serves as the philosophical foundation of the juvenile criminal justice system. In this system, sanctions against children must be oriented toward the best interests of the child's development and future, rather than toward mere retribution or deterrence. Restorative justice, in the context of diversion, emphasizes a resolution process involving the perpetrator, victim, family, and community. This process seeks a jointly agreed and fair solution with a focus on recovery and reconciliation, rather than on stigmatization and punishment.

This approach aims to create humane justice by providing special treatment, through the availability of dedicated child companion officers and humane treatment<sup>9</sup>. It is aligned with the principle of the best interest of the child, which serves as the philosophical foundation of the juvenile criminal justice system, wherein sanctions against children must be oriented toward the best interests of the child's development and future, rather than merely retribution or deterrence. Restorative justice in the context of diversion emphasizes a resolution process that involves the perpetrator, victim, family, and community to seek a jointly agreed and fair solution, with a focus on recovery and reconciliation, rather than stigmatization and punishment.

### **Discretion as the Legitimacy of Diversion**

Discretion is defined as the authority possessed by law enforcement officers, particularly investigators, to resolve criminal cases without having to follow the formal judicial process<sup>10</sup>. This is regulated under Law No. 2 of 2002 on the Indonesian National Police, which provides room for investigators to consider alternative case

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<sup>8</sup> Marlina, *Peradilan Pidana Anak Di Indonesia Pengembangan Konsep Diversi Dan Restorative Justice* (Bandung: PT Refika Aditama, 2009).

<sup>9</sup> Anggara Setiawan and Djoko Sumaryanto, "PERLINDUNGAN TERHADAP ANAK YANG BERHADAPAN DENGAN HUKUM," *Urnal Magister Ilmu Hukum 'DEKRIT'* 12 No 1 (2022), <https://ejournal.fh.ubhara.ac.id/index.php/dekrit/article/view/108/102>.

<sup>10</sup> D. Rismana et al., "The Legal Effectiveness of Juvenile Diversion: A Study of the Indonesian Juvenile Justice System," *Khazanah Hukum* 7, no. 2 (2025), <https://doi.org/https://doi.org/10.15575/kh.v7i2.44162>.

resolution mechanisms in the public interest, including juvenile offenders. Under article 18 of Law No. 2 of 2002 on the Indonesian National Police grants investigators the authority to exercise discretion in the public interest. Under article 7 paragraph (1) and Article 8 of the Juvenile Criminal Justice System Law state that investigators are entitled to make diversion decisions without having to follow the formal judicial process, subject to the following conditions: the offense constitutes a minor criminal act, the offender committed by a child between the ages of 12 and 18 years, there is support and consent from the family, and there is an agreement to undergo the diversion process. However, this authority carries the risk of abuse if it is not accompanied by a thorough understanding of the principles and practices of diversion, and if there are no adequate control and accountability mechanisms in place.

### **Fundamentals of International Law**

Several international regulations serve as references for the implementation of diversion, including:

1. The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), which encourages the existence of diversion mechanisms from the earliest stages of the legal process.
2. The Convention on the Rights of the Child (CRC), which emphasizes the importance of protecting children throughout the entire judicial process.
3. The United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), which prioritizes prevention efforts and the reintegration of children back into society.

### **National Legal Framework**

Regulations supporting the implementation of diversion include:

1. Law No. 3 of 1997 on Juvenile Courts, Law No. 23 of 2002 on Child Protection, and Law No. 11 of 2012 on the Juvenile Criminal Justice System (Juvenile Criminal Justice Law), which explicitly regulate diversion mechanisms as a mandatory approach in cases of juvenile offenders who commit minor offenses.

### **Social and Psychological Implications of Diversion**

Diversion is not only legal-formal in essence, but also carries social and psychological dimensions. Through diversion, children in conflict with the law will not experience the traumatic effects of juridical proceeding. According to Gultom, children are individuals who are not yet psychologically mature need to be given space for

guidance and development, not punishment. Diversion is considered the best strategy in realizing the best interest of the child.<sup>11</sup>

## **RESEARCH METHODOLOGY**

This research employs both normative juridical and sociological juridical approaches, in order to understand both the aspects of written law and the application of law in practice. This method aims to examine the legal provisions related to diversion as well as how it is implemented within the jurisdiction of the Surabaya District Court.

### **Research Design**

This research is sociological juridical (empirical) in nature, which analyzes the application of legal provisions in social reality. This research was conducted by describing the process of diversion implementation based on field observations and interviews with the parties involved, such as investigators, correctional institution officers (Bapas), academics, and NGO activists.

### **Research Approach**

The approach used is descriptive qualitative, with emphasis on the interpretation of legal phenomena, rather than quantitative measurement. This approach provides a factual description of the implementation of diversion as well as the role of investigators in the field.<sup>12</sup>

### **Data Source**

Primary data were obtained through direct interviews with relevant informants, including law enforcement officials. Secondary data consists of laws and regulations, reference books, official documents, and previous research findings.

### **Data Collection Techniques**

Data were collected through: Interviews with investigators, Bapas, and other relevant parties. Documentation studies, using a card system as developed by Winarno Surakhmad, which is divided into:

1. Bibliography Cards
2. Quotation Cards
3. Content Cards (containing field findings and interview results).

### **Data Analysis Techniques**

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<sup>11</sup> Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia*.

<sup>12</sup> Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: PT Remaja Rosdakarya, 2018).

The data were analyzed qualitatively, using a deductive approach, in which conclusions are drawn from general legal principles to their application in concrete cases. The analysis was conducted in three stages: data reduction, data presentation, and conclusion drawing.<sup>13</sup>

## **RESULT AND DISCUSSION**

### **Diversions Background**

Diversions is a mechanism for redirecting the resolution of cases involving children from the formal criminal justice to non-judicial resolutions guided by the principles of restorative justice. Its purpose to protect children from the adverse effects of judicial consequences, including stigmatization, social labeling, and moral degradation in juvenile detention facilities. Diversions is based on the principle of the best interests of the child, this principle is reflected in various international instruments, including the Beijing Rules and the Convention on the Rights of the Child, as well as in national law through Law No. 11 of 2012 and Law No. 23 of 2002.

Data on criminal cases involving children in Surabaya indicate several types of offenses with the number of cases recorded in recent years. Theft cases involving child offenders were successfully resolved through diversions, with 87 cases in 2019, 71 cases in 2020, and 39 cases in 2021 at the Surabaya District Attorney's Office.<sup>14</sup> In addition, human trafficking cases involving children were recorded at 32 cases during the period of 2011 to 2018 in the jurisdiction of the Surabaya Metropolitan Police<sup>15</sup>. Furthermore, during the COVID-19 pandemic, there was an increase in cases of sexual violence against children in Surabaya, although their resolution was constrained by a lack of evidence and witnesses.<sup>16</sup> Narcotics abuse cases involving children have become a serious concern, with medical and social rehabilitation approaches applied in

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<sup>13</sup> Mukti Fajar ND and Yulianto Achmad, *Dualisme Penelitian Hukum: Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2017).

<sup>14</sup> Sri Rahayu Oktavia and Hervina Puspitosari, "Analisis Perlindungan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Pencurian Dengan Diversi Berdasarkan Undang-Undang No 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak," *COMSERVA: Jurnal Penelitian Dan Pengabdian Masyarakat* 2, no. 12 (2023), <https://doi.org/https://doi.org/10.59141/comserva.v2i12.717>.

<sup>15</sup> Chintya Dewi Saraswati, "The Modus Operandi of Children as the Offender in Committing Human (A Study in Kepolisian Resor Kota Besar Surabaya)," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 13, no. 1 (2019), <https://doi.org/https://doi.org/10.25041/fiatjustisia.v13no1.1508>.

<sup>16</sup> Siti Syafa Az Zanubiya, Bambang Waluyo, and Beniharmoni Harefa, "Restorative Justice from a Feminist Jurisprudence Perspective in Domestic Violence Cases," *International Journal of Social Science and Human Research* 08, no. 03 (March 2025), <https://doi.org/10.47191/ijsshr/v8-i3-38>.

accordance with applicable regulations.<sup>17</sup> Overall, these data reflect law enforcement and child protection efforts in Surabaya through rehabilitative and diversion approaches to reduce the negative impacts on children in conflict with the law.

According to a senior investigator who was interviewed, approximately 60–65% of cases involving children in conflict with the law proceed through the diversion process, only 35–40% were successfully resolved through diversion process. Several factors underlying the implementation of diversion in Surabaya including, first, an increased understanding of the negative psychological impacts caused by the formal justice system, including exposure to trauma, loss of educational and employment opportunities. Second, efficiency within the justice system. Diversion helps reduce the workload of the courts and the police, enabling a more effective and efficient allocation of resources to handle complex cases that require the intervention of the formal justice system. Third, the commitment of both local and central government toward child protection, as reflected through various programs and policies.

### **Investigator's Discretion in the Diversion Process**

Investigators have a crucial role in the implementation of diversion, as they are positioned at the earliest stage of the criminal justice system. Based on Article 18 of Law No. 2 of 2002, investigators are granted the authority to exercise legal discretion to determine whether the case is eligible to be redirected to the diversion process<sup>18</sup>. This role requires social analytical skills, sensitivity toward child psychology, as well as collaboration with Bapas and the community. In implementation in Surabaya, investigators not only act as technical executors of the investigation, but serve as facilitators of dialogue among victims, offenders, and family in order to reach a peaceful agreement. This role is further reinforced by TR Kabareskrim No. 1124/XI/2006, which regulates the guidelines for the implementation of diversion within the Indonesian National Police.<sup>19</sup>

Investigators occupy a strategic and fundamental position as gatekeepers in the diversion process, as they are at the initial stages of the criminal justice system. This position grants investigators the authority and responsibility to determine the course of action for cases involving children. The role of investigators in diversion encompasses several key, and interrelated functions:

Receipt of reports and preliminary investigations. Investigators receive reports from the public or aggrieved parties, then conduct preliminary investigations to verify

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<sup>17</sup> P. Pratama and N Soeprijanto, T., Nugraheni, "LEGAL ANALYSIS OF THE CRIMINAL JUSTICE SYSTEM IN HANDLING DRUG ABUSE CRIMES COMMITTED BY CHILDREN IN SURABAYA," *Jurnal Meta-Yuridis* 7, no. 1 (2024), <https://doi.org/https://doi.org/10.26877/m-y.v7i1.19805>.

<sup>18</sup> Undang-Undang No. 2 Tahun 2002 Tentang Kepolisian Negara Republik Indonesia Pasal 18 Ayat (1).

<sup>19</sup> *TR Kabareskrim Polri No. 1124/XI/2006 Tentang Pedoman Pelaksanaan Diversi.* (n.d.).

the existence of criminal offense, gather preliminary evidence, and identify the offender. Comprehensive assessment of eligibility for diversion. Based on the results of the investigation, the investigator conducts a comprehensive assessment of the case's eligibility for diversion, taking into account various criteria established under the Juvenile Criminal Justice System Law (UU SPPA), including: the nature of the offense (whether it constitutes a minor or moderate criminal offense), the child's psychological characteristics (age, mental maturity, social background), family circumstances (family support, household stability), the child's motivation to reform, the victim's consent to proceed through diversion, and the perception of the local community.

**Coordination and Facilitation with Various Stakeholders.** If the investigator determines that a case is eligible for diversion, investigators are responsible for coordinating with Bapas to conduct an in-depth social assessment, inviting the victim and their family, facilitating constructive dialogue and negotiation among all stakeholders involved, as well as guiding discussions on the forms of recovery and responsibility that can be undertaken by the juvenile offenders. In this process, the investigator functions as a neutral mediator and facilitator who is capable of creating a safe, respectful, and productive dialogue atmosphere. **Documentation and Reporting of Diversion Outcomes.** Investigators are required to prepare a formal report regarding the diversion process and its outcomes, including the agreements reached, the commitments made by each party, and the monitoring mechanisms that will be carried out to ensure the implementation of those agreements.

In Surabaya, investigators function as more than mere technical executors of investigation, but they serve as dialogue facilitators and mediators who are attentive to the psychological needs of children, families, and victims. Research findings indicate that investigators that successfully implement diversion are those who possess a deep understanding of child developmental psychology and theories of adolescent deviant behavior, operational knowledge of restorative justice principles and effective mediation mechanisms; strong interpersonal communication skills, including the ability to listen, empathize, and negotiate; a high level of personal commitment and intrinsic motivation toward child protection and meaningful justice; and institutional support from a police structure that supports and values diversion initiatives.

### **Challenges to the Implementation of Diversion**

Despite the existence of a legal framework and the government's increasing commitment to child protection, the implementation of diversion in Surabaya still faces various structural and cultural obstacles, including:

1. Lack of socialization to law enforcement officers and the public.

The first challenge is the dissemination of information regarding the concept, objectives, and mechanisms of diversion, both to law enforcement officers and to the general public. Based on the results of the researcher's interviews with investigators at the Surabaya Metropolitan Police in January 2025, a number of investigators were still found to regard the formal criminal process as the only legitimate and effective means of law enforcement against children in conflict with the law.<sup>20</sup>

2. Weak technical regulations at the operational level, particularly at the regional police implementation level. The absence of standardized working procedures has led to variations in understanding and implementation.<sup>21</sup> A recent normative study assessed the practice of diversion by investigators as "not yet optimal" despite the existence of a legal basis (the Juvenile Criminal Justice System Law, Perpol 8/2021), because adaptive operational guidelines and the capacity of officers remain weak, causing implementation to tend to be formalistic and inconsistent.
3. Inadequate supporting facilities, such as consultation rooms, psychosocial companions, and officers specifically trained in restorative justice. Structural barriers include a shortage of trained personnel, limited mediation facilities and child-friendly spaces, and weak inter-agency coordination. The limited availability of rehabilitation facilities and psychosocial services makes the goals of recovery and recidivism prevention difficult to achieve.
4. Barriers to victim and community participation, who are sometimes reluctant to engage in the dialogue or peaceful resolution process due to limited legal understanding or psychological trauma.

### **Positive Impact of Diversion**

Despite facing obstacles, diversion has been proven to have a number of positive impacts on children in conflict with the law, including the following:

1. Preventing children from being labeled as criminal offenders, which can have an impact on their social and educational future. Children who undergo diversion are protected from the labeling and social stigma of being branded as a "criminal offender" that is attached to children who go through the formal judicial process. This social stigma is detrimental as it will affect the child's social identity, the way the child perceives themselves (self-image), and the way society views and treats the child in the future.

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<sup>20</sup> *Wawancara Peneliti Dengan Penyidik Polrestabes Surabaya, Januari 2025.* (n.d.).

<sup>21</sup> Marlina, *Peradilan Pidana Anak Di Indonesia Pengembangan Konsep Diversi Dan Restorative Justice.*

2. Restoring the social relationship between the victim and the perpetrator, through mutually agreed dialogue and a compensation mechanism. Through the dialogue mechanism, diversion creates an opportunity for both parties to mutually understand each other's perspectives and feelings. The victim is able to express to the perpetrator how the perpetrator's actions have affected them, not only in material terms but also in terms of emotional and psychological impact.
3. Giving children the opportunity to take active responsibility, rather than merely undergoing passive punishment. Unlike the formal system, in which a child simply "serves" a penalty imposed by an authority, diversion engages the child in a guidance program that is mutually agreed upon with the victim, family, and community. This active participation fosters a deeper sense of accountability than serving a sentence in a correctional institution.
4. Reducing the burden on the correctional system and the juvenile criminal justice system, while accelerating case resolution more efficiently. The positive impact is efficiency within the justice system and more optimal allocation of resources for more complex and serious cases.

## **CONCLUSION**

Diversion as an approach within the juvenile justice system holds an important position in ensuring that the process of law enforcement against children is not merely repressive in nature, but also educative and rehabilitative. This research demonstrates that diversion is a concrete implementation of the principle of the best interest of the child, which prioritizes the protection and optimal development of the child. Through diversion, children can be spared from a lengthy, exhausting, and potentially traumatic formal legal process, and are given the space to take responsibility for their actions through a restorative approach.

This research found that the role of investigators in implementing diversion is strategic through the exercise of legal discretion that takes into account three main aspects: juridical considerations, sociological considerations, and criminological considerations. The implementation of this discretion provides room for investigators to redirect cases toward a more constructive and rehabilitative resolution pathway. However, in order to prevent misuse or suboptimal application, clear standard criteria and operational procedures are needed, along with capacity building for investigators through continuous training on restorative justice principles.

The main obstacles identified in this research include insufficient understanding among investigators regarding diversion principles, the uneven distribution of technical training on diversion implementation, and limited coordination among relevant

institutions. Furthermore, there remains a legal gap in the form of operational technical regulations, which should serve as practical guidelines at the investigative level.

Addressing these challenges requires sustained synergy among the government, law enforcement agencies, and relevant social institutions. Necessary steps include continuous capacity building for investigators, large-scale dissemination of diversion policies, and the drafting of more detailed Government Regulations as a complement to the Juvenile Criminal Justice System Law. With these measures in place, diversion is expected to operate effectively and serve as the most appropriate mechanism for resolving cases involving children in conflict with the law.

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