

Research Article

The Role of Probation Officer in Handling Children in Conflict with the Law Under the Age of 12 at the Class I Correctional Center in Palembang, South Sumatra

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Abstract.

Since the issuance of Law of the Republic of Indonesia No. 11 of 2012 concerning the Juvenile Criminal Justice System—a replacement for Law of the Republic of Indonesia No. 3 of 1997 concerning Juvenile Justice, the rules regarding resolving problems of children in conflict with the law whether as children of perpetrators, children of witnesses, or children of victims, have been indirectly strengthened. Through the Juvenile Criminal Justice System Law, it is believed that it can be a part of realizing children's constitutional rights such as the right to survival, the right to protection, the right to growth and development, and the right to participate in legal problems faced by children. In this case, the correctional center, which is a technical implementation unit of the Ministry of Law and Human Rights of the Republic of Indonesia, through the Probation Officer has an important role in carrying out the mandate of the Juvenile Criminal Justice System Law with the task and function of carrying out assistance to children who conflict with the law since pre-adjudication, adjudication, to post-adjudication period, or from the start of the investigation process until later the implementation of the court decision. However, the focus of this research is the role of the Probation Officer for children in conflict with the law under the age of 12 years, where in Article 21 of the Juvenile Criminal Justice System Law, the implementation of case resolution for children in conflict with the law under the age of 12 years who commit or are suspected of committing a criminal act requires that investigators, Probation Officer, and professional social workers make a decision to hand him back to his parents or guardians or include him in an education, coaching, and mentoring program at a government agency or Social Welfare Implementation Institution for a maximum of 6 months. Therefore, problems will arise when the family of the victim of a criminal act committed by a child in conflict with the law under the age of 12 years does not accept the provisions of the punishment given to the child perpetrator, which they feel is unfair to the victim. This research used descriptive analysis with data collection obtained from data on children in conflict with the law under the age of 12, and who were assisted by Probation Officer at the Class I Palembang Correctional Center; followed by in-depth interviews with Probation Officer at the Class I Correctional Center Palembang and children in conflict with the law under the age of 12 and their families.

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The results of the data collection are then identified and analyzed, and presented in descriptive form so that they can then provide an overview of the existing problems. The results of the research show that this problem comes to the surface when the victim of a child protection crime is dissatisfied with the recommended punishment given to children in conflict with the law under the age of 12, which is the result of a joint decision between investigators, Probation Officer, and professional social workers. Namely by involving them in educational, coaching, and mentoring programs at government agencies or social welfare implementation institutions for a maximum of 6 months. Therefore, the role of Probation Officer can be further enhanced, especially in assisting children who are in conflict with the law under the age of 12 so that ultimately they can realize restorative justice, which aims at the best interests of the child.

Keywords: robation officer, children in conflict with the Law Under 12 Years of Age

1. Introduction

Children in conflict with the law (ABH) according to Law of the Republic of Indonesia No. 11 of 2012 (UU SPPA) are children in conflict with the law, children who are victims of criminal acts, and children who are witnesses to criminal acts. Meanwhile, children in conflict with the law, hereinafter referred to as children in the SPPA Law, are children who are 12 years old but not yet 18 years old who are suspected of committing a crime. This regulation clearly states the handling of children in conflict with the law in accordance with the guidelines for the juvenile criminal justice system in lieu of Law No. 3 of 1997 concerning juvenile justice. In the International Convention which regulates the protection of children and how to resolve children's problems in the criminal justice process, the state is obliged to fulfill the rights of every child to survival, growth and development, protection from acts of violence and discrimination. Apart from that, the government, society and families are also responsible for providing protection for children [1].

And as time goes by, it has been almost 10 years since the implementation of the SPPA Law in Indonesia, since its enactment in 2014, there is a role for the Correctional Center (BAPAS) which is a technical implementation unit from the Ministry of Law and Human Rights of the Republic of Indonesia in providing assistance to children who are in conflict with the law, from the pre-adjudication, adjudication, to post-adjudication period, or from the start of the investigation process until later the implementation of the court decision. BAPAS itself, through the Probation Officer, plays an important role in

the implementation of the SPPA Law, where the Community Research Report prepared by the Probation Officer contains recommendations given for the best interests of the child. This recommendation is taken into consideration by the judge when deciding on a child's case. Then in Article 21 of the SPPA Law, where there are differences in the handling of children in conflict with the law under the age of 12 who are suspected of committing a criminal act, which is only determined through a joint decision between Investigators, Probation Officer and Professional Social Workers. The results of this joint decision contain the provision of the best recommendations for the child, whether by handing him back to his parents/guardians or involving him in educational, coaching and mentoring programs at government agencies or Social Welfare Implementation Institutions (LPKS) for a maximum of 6 months. However, problems will arise when the family of the victim of a criminal act committed by a child in conflict with the law under the age of 12 years does not accept the provisions of the punishment given to the child perpetrator, which they feel is unfair to the victim.

Based on the background that the author explained above, there needs to be further discussion regarding the handling of children in conflict with the law under the age of 12 years carried out by Probation Officer at BAPAS Class I Palembang. As the author has obtained from register data on Child Client Guidance (BKA) at BAPAS Class I Palembang, throughout the last 4 years there have been 15 requests for assistance originating from Sector Police and Police Stations in the BAPAS Class I Palembang work area. And from this data, 11 of them were child protection crimes. Probation Officer themselves, in providing assistance to children in conflict with the law under the age of 12, always coordinate with Investigators and Professional Social Workers in determining appropriate recommendations for the best interests of child perpetrators and child victims.

This research uses references from previous research regarding the handling of children in conflict with the law through diversion efforts carried out by Lumajang Resort Police investigators as facilitators and mediators by bringing together the perpetrator and the victim by applying the principles of restorative justice to reach an agreement to resolve the case fairly. This research from Fitria includes the development of criminal cases of theft committed by children that can be resolved through a diversion process where both parties have reached an agreement that the victim does not demand that the case be continued to the legal process and forgives the perpetrator and promises not to repeat his actions. Then this research also stated that there were obstacles faced by Lumajang Resort Police investigators in implementing diversion, namely the lack of awareness of the parties in the case, especially the perpetrator and victim, because

they were afraid to face the police, so it was difficult to present the parties, especially the perpetrator and victim [2].

Then, Ahmad's research was about criminal acts of violence/brawls committed by groups of young people in Cirebon City, where the followers/participants in the brawls had their cases resolved by returning them to their families and involving several competent institutions for ABH assistance and guidance [3].

In Hassan and Minggu's research on long-term recovery from juvenile criminal behavior in the form of education and vocational training as a form of preparation for employment opportunities when they return to society. It aims to explore the benefits of vocational education and training towards increasing career opportunities and reducing the risk of recurrence of criminal behavior among teenagers in two youth rehabilitation institutions in Peninsular Malaysia. The results of this research identified three main benefits of vocational skills education for young people, namely motivation to undergo rehabilitation in an institution, meaning, goals and hopes in life, as well as post-release preparation and planning. This data was obtained from interviews conducted with 16 teenagers consisting of eight boys and eight girls aged between 15 and 17 years. This research has implications for improving vocational education policies and programs in correctional institutions, thereby empowering youth rights in the juvenile justice system [4].

Then, in research conducted in Australia in 2021, there are many reasons the Commission recommends raising the age of criminal responsibility, because many children involved in the criminal justice system come from disadvantaged backgrounds and have complex needs that are better addressed outside the criminal justice system. Another finding in this research was that increasing the age would help reduce the level of over-representation of Aboriginal and Torres Strait Islander children in custody. Data obtained by the Productivity Commission shows that Aboriginal and Torres Strait Islander youth are detained at a rate 23 times that of non-Indigenous youth. This research shows that the brain development of 10-year-old children has not yet developed the level of maturity necessary for full criminal responsibility. Children under the age of 12 do not have the capacity to fully engage in the criminal justice system. This research shows that the younger a child is when they encounter the justice system, the more likely they are to re-offend. This is what will bring Australia in line with its obligations under the Convention on the Rights of the Child, in particular Article 40, which requires the establishment of a minimum age of criminal responsibility [5].

2. Methods

The research method used is descriptive analysis with data collection obtained from ABH register data at BAPAS Class I Palembang, then interviews with Probation Officers who provide assistance to children in conflict with the law under the age of 12 at BAPAS Class I Palembang, as well as in-depth interviews with Children in conflict with the law under the age of 12 and their families. The results of the data collection are then identified and analyzed and the results are presented in descriptive form so that they can then provide an overview of the existing problems. This research also uses other secondary data originating from scientific articles related to handling children in conflict with the law, as well as statutory regulations relevant to the author's research.

3. Results and Discussion

3.1. The Role Of Probation Officer at Correctional Center

In Article 1 Paragraph (1) of the SPPA Law, it contains the entire process for resolving cases of children in conflict with the law, starting from the investigation stage to the guidance stage after serving the sentence. At each stage of the process of handling children's cases, there is a role for the Probation Officer who provides assistance to children who are in conflict with the law and, through the Community Research, recommendations made can be used as material for consideration to determine the best decision for the child and an important point in determining the legality aspect of a decision and treatment of children in conflict with the law. This is clarified by regulations which explain that the role of Probation Officers has started to be carried out since the pre-adjudication process, which is contained in Article 9 Paragraph (1) of the SPPA Law, which states that: "Investigators, Public Prosecutors and Judges in carrying out Diversion must consider: Category of action criminal; Child Age; Correctional Research Results from Bapas; and Family and community environmental support." Therefore, the position of the Probation Officer who has been present since the pre-adjudication stage has become clearer and has been very decisive in diversion efforts at the investigation stage. Apart from that, Article 27 Paragraph (1) explains that "In carrying out investigations into children's cases, investigators are obliged to ask for consideration or advice from the Probation Officer after a criminal act has been reported or complained about." This is what makes Probation Officers in providing assistance to Children who are in conflict with the law, playing a very important role in determining the basis for the best decisions for the Children who are being handled by Investigators based on the results of Community

Research that has been made by the Probation Officer. Probation Officers also provide assistance to children in conflict with the law as a representative facilitator in mediation deliberations between the two conflicting parties.

Then the Probation Officer also supervises and supervises children who are in conflict with the law from the adjudication to post-adjudication stages. This aims to realize restorative justice, which aims to restore the original situation and minimize the bad stigma that has developed in society due to criminal acts committed by children. Probation Officers also continue to carry out regular supervision in collaboration with important elements in society, especially involving parents and other families, with the hope of building and restoring a positive image of the child so that in the future the child can become a better person and not repeat other criminal acts.

3.2. Handling of Children in Conflict with the Law Under the Age of 12 According to the Juvenile Criminal Justice System at BAPAS Class I Palembang

Based on a letter requesting assistance at the initial stage from the Palembang City Police Investigator, Number: B/31/X/2021, dated 27 October 2021, regarding a request for litmas a.n. 35 of 2014. At the time of the incident, the child was only 08 years-01 months old or still in grade 2 of elementary school. MAD was born to two parents who were still complete, but lived with economic limitations, because MAD's parents worked as fried food sellers at the morning market and left home from 03.00 WIB in the morning until returning home in the afternoon at 12.00 WIB. MAD has a younger brother aged 07 years 02 months who was also involved in this crime. The chronology of the incident according to the police report and also direct interviews with MAD and his biological mother who accompanied him, stated that the incident began when small children gathered to play under the stilt house of their friend's residence, where they were playing and if one of them lost, they would open his underwear and flicked his genitals using his fingers. Then there was a small child with the initials AQ who was 8 years old who took part in the game and was also given a penalty for losing the game. However, when they returned home, AQ's parents, who were the victims, felt that they did not accept what happened to the victim, because there was a torn wound on the victim's genitals which was immediately proven by the results of the victim's post-mortem. The victim's family felt unacceptable and reported this problem to the police.

The investigators receive the victim's report and immediately coordinate with Probation Officers and Professional Social Workers to make joint decisions regarding children in conflict with the law, where the perpetrator's child is under 12 years old. Restorative justice needs to be upheld not only in the best interests of the victim, but also in the best interests of the perpetrator's children. Therefore, Probation Officers make Community Research Reports on children in conflict with the law or children of perpetrators, while Social Workers make Social Reports on child victims. After that, a mediation meeting was held between the families of children suspected of committing criminal acts and the families of children who were victims of criminal acts to find the best solution to the problems that befell them. However, the meeting did not produce results, because the victim was dissatisfied with the treatment of the perpetrator's child's family towards the victim's family. The victim's family feels that their child's future has been destroyed, thus closing the word of peace for the family of the perpetrator's child. And the family of the perpetrator's child also felt resigned because the financial demands requested by the victim's family were also unable to be met. Therefore, a joint decision was taken in this matter to include children in conflict with the law in education, coaching and mentoring programs at Social Welfare Organizing Institutions (LPKS) for a maximum of 6 months. As mandated in Article 5 Paragraph (1) of the SPPA Law, "The Juvenile Criminal Justice System must prioritize a Restorative Justice approach", and also Government Regulation no. 65 of 2015 in Article 67 has regulated that for children who are not yet 12 years old who commit or are suspected of committing a criminal act, investigators, Probation Officers and professional social workers make a decision to hand them back to their parents/guardians or include them in educational and coaching programs, and guidance in government agencies or Social Welfare Implementation Institutions (LPKS) for a maximum of 6 months.

The implementation of Restorative Justice for Children who are in conflict with the law is seen from the potential of the child himself, whose daily life is a person who is cheerful, lively, spoiled, and still depends on his parents in every way. So far, the child has never caused any problems, either inside the house or outside the house/play environment. Viewed from a psychological and medical perspective, children aged 08 years 01 months are still considered children and do not really understand what they see and hear, so they are likely to immediately imitate things that may be something that is commonly done among their peers. Therefore, children still have to be accompanied and given an understanding by their parents about what they can or cannot do. Then it is also supported by the influence of environmental factors, where weak control and

supervision from the surrounding environment over children who spend more time playing can influence children's behavior and habits.

3.3. Alternatives for Handling Children in Conflict with the Law Under the Age of 12 in the Future

The Juvenile Criminal Justice System, which regulates the entire process of resolving cases of children in conflict with the law, is still quite relevant in Indonesia. Even though in its implementation, there are several things that the author found that there are still weaknesses in providing the right recommendation choices for children who are in conflict with the law. For example, because of the rules for handling children in conflict with the law under the age of 12, according to the family of the victim of a child protection crime, it feels unfair if the perpetrator's child is only given a decision in the form of including him or her in an education, coaching and mentoring program at the Social Welfare Organizing Institution (LPKS).) no later than 6 months. For the victim's family, this is not worth the damage to the victim's future and the trauma they may still experience when the victim is an adult. However, on the other hand, for the family of the perpetrator's child, who is 8 years old in grade 2 of elementary school, they are resigned to carrying out the decision given to the child's perpetrator, even though the location where the child is placed at LPKS is far from a big city the so the parents must accompany the child during The activities take place because according to the biological mother, the child is still very dependent on the mother in terms of eating, bathing, cleaning the child's feces when he has finished defecating and urinating, and so on. Therefore, the author tries to provide input as an alternative policy option in handling children in conflict with the law under the age of 12, namely by involving important elements in society both at the sub-district and sub-district levels by adding decision recommendations in the form of integrated guidance and supervision involving community organizations such as Community-Based Integrated Child Protection (PATBM). So, as an alternative option apart from guidance and supervision carried out by Probation Officers, it is also carried out involving PATBM at the sub-district or sub-district level. This recommendation is what the author feels can be provided as an alternative for handling children in conflict with the law under the age of 12 years in the best interests of the child and his family. So it is hoped that the implementation of the decision will be accepted by both parties to the conflict.

4. Conclusion

The conclusion from the discussion regarding the role of Probation Officers in handling children in conflict with the law under the age of 12 years at BAPAS Class I Palembang, is that there needs to be alternative recommendations given actions making joint decisions regarding children in conflict with the law under the age of 12 years who have committed actions suspected of committing criminal act. Probation Officers together with agencies related to decision making for children in conflict with the law under the age of 12, such as investigators and professional social workers, should pay more attention to the results of decisions given to children so that they are in accordance with the best interests of the child and his family. Therefore, the author provides input in this research to add alternative policy options for handling children in conflict with the law under the age of 12, namely by recommending children for guidance and supervision by involving important elements in society, both at the sub-district and sub-district levels, such as community organizations, namely Community-Based Integrated Child Protection (PATBM) and other source systems. So, alternative recommendations other than the guidance and supervision carried out by Probation Officers at BAPAS Class I Palembang, are also carried out involving PATBM at the sub-district or sub-district level. The hope is that with more guidance and supervision of children who are in conflict with the law under the age of 12, it will not only have an impact on children, but can also influence their parents/families in order to modify/change their behavior in, parenting patterns of parents/families and children's play patterns. and his friends to be more focused so that children can be more optimal in their growth and development.

References

- [1] Firdauz IM. Penyelesaian Perkara Anak Sebagai Pelaku Tindak Pidana Melalui Pendekatan Keadilan Restorative Justice. *Jurnal Panorama Hukum*. 2019;4(2):124–34.
- [2] Fitria, R. (2017). Penerapan Diversi Yang Dilakukan Oleh Penyidik Dalam Penanganan Tindak Pidana Yang Dilakukan Oleh Anak. *Dinamika Hukum*, 11.
- [3] Ahmad I. OPTIMALISASI DIVERSI DALAM UPAYA MENEKAN TINDAK PIDANA KEKERASAN KELOMPOK GENERASI MUDA/PELAJAR DI KOTA CIREBON. *Jurnal De Jure Muhammadiyah Cirebon*. 2020;4(1):1–12.
- [4] Hassan N, Minggu MA. PENDIDIKAN DAN LATIHAN VOKASIONAL DI INSTITUSI PEMULIHAN JUVANA: PENINGKATAN PELUANG KERJAYA DAN PENGURANGAN

- RESIDIVISME DALAM KALANGAN PESALAH MUDA. *E-Bangi Journal of Social Science and Humanities*. 2022;19(5): <https://doi.org/10.17576/ebangi.2022.1905.14>.
- [5] Australian Human Rights Commission. *The Minimum Age of Criminal Responsibility. Australia's Third UPR*; 2021.
- [6] Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak (Lembaran Negara Republik Indonesia Tahun 2012 Nomor 153, Tambahan Lembaran Negara Republik Indonesia Nomor 5332)
- [7] Peraturan Pemerintah Nomor 65 Tahun 2015 tentang Pedoman Pelaksanaan Diversi Dan Penanganan Anak Yang Belum Berumur 12 (Dua Belas) Tahun (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 194, Tambahan Lembaran Negara Republik Indonesia Nomor 5732)
- [8] Peraturan Pemerintah Nomor 8 Tahun 2017 tentang Tata Cara Pelaksanaan Koordinasi, Pemantauan, Evaluasi, dan Pelaporan Sistem Peradilan Pidana Anak (Lembaran Negara Republik Indonesia Tahun 2017 Nomor 40, Tambahan Lembaran Negara Republik Indonesia Nomor 6027);
- [9] Peraturan Pemerintah Nomor 9 Tahun 2017 tentang Pedoman Register Perkara Anak dan Anak Korban (Lembaran Negara Republik Indonesia Tahun 2017 Nomor 49, Tambahan Lembaran Negara Republik Indonesia Nomor 6033)