

ABSTRAK

Anak merupakan penerus bangsa yang harus dilindungi demi kelangsungan hidup bangsa dan negara di masa yang akan datang. Namun seiring dengan perkembangan zaman permasalahan anak di Indonesia semakin kompleks dan mengkhawatirkan. Menurut Undang-Undang No. 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak, proses peradilan terhadap anak pelaku tindak pidana harus merupakan upaya hukum terakhir (*Ultimum remedium*), dimaksudkan sebelum masuk proses peradilan, para penegak hukum, dan masyarakat wajib mengupayakan proses penyelesaian di luar jalur pengadilan, yakni melalui proses Diversi berdasarkan pendaekatan restorative (*Restorative Justice*).

Kepolisian sebagai penegak hukum sekaligus penyidik pidana yang dilakukan anak. Kepolisian selaku penyidik harus melihat fakta dalam keadaan tertentu bisa menggunakan diskresi kepolisian yaitu lebih menekankan pertimbangan moral daripada pertimbangan hukum, artinya penyidik bisa melihat terlebih dahulu tindak pidana tersebut apakah merupakan pengulangan tindak pidana (residiv) dan jga dengan mempertimbangkan dari jenis tindak pidana yang dilakukan anak, namun hendaknya segala tindakan yang diambil terhadap anak harus mendahulukan kepentingan terbaik bagi anak dan bukan karena alasan-alasan tertentu yang dapat merampas kemerdekaan atas hidup anak itu sendiri. Berdasarkan data yang diperoleh dalam penelitian bahwa faktor-faktor penghambat tercapainya kesepakatan dalam pelaksanaan diversi yang terjadi di lingkungan hukum Kepolisian Resort Kota Pontianak adalah karena pihak tersangka tidak memenuhi permintaan korban karena dianggap pihak korban meminta suatu persyaratan yang berat untuk dilakukan oleh tersangka adalah terbukti, juga karna anak pelaku sudah melakukan kejahatan lebih dari satu kali, ataupun kerugian yang dialami korban cukup berat.

Kata Kunci : Diversi, Sistem Peradilan Pidana Anak, Kenakalan Remaja

ABSTRACT

Children are the successors of the nation who must be protected for the sake of the life of the nation and state in the future. But along with the times, the problems of children in Indonesia are increasingly complex and worrying. According to Law number 11 of 2012 concerning the Juvenile Criminal Justice System, the judicial process against children who commit crimes must be the last legal remedy (*Ultimvate remedium*), before entering the judicial process, law enforcers and the community are required to complete the process outside the court, namely through the Diversion process based on restorative approach.

Police as law enforcers as well as criminal investigators committed by children. The police as investigators must look at the facts in certain circumstances, they can use police discretion, which emphasizes moral considerations rather than legal considerations, meaning that investigators can first see whether the crime is a repeat of a crime (*recidive*) and also by considering the type of crime committed by the child. However, all actions taken against children should prioritize the best interests of the child and not for certain reasons that can deprive the child of independence over the life of the child himself. Based on the data obtained in the study that the inhibiting factors for reaching an agreement in the implementation of diversion that occurred within the legal environment of the Pontianak City Police Resort was because the suspect did not fulfill the victim's request because it was considered that the victim asked for a heavy requirement to be carried out by the suspect. because the perpetrator's child has committed a crime more than once, or the loss suffered by the victim is quite heavy.

Keywords : Diversion, Juvenile Criminal Justice System, Juvenile Delinquency