








LEX JOURNAL: KAJIAN HUKUM DAN KEADILAN

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**DIVERSION FOR CHILDREN IN CONFLICT WITH THE LAW IN LAW
NUMBER 11 OF 2012 CONCERNING THE JUVENILE CRIMINAL JUSTICE
SYSTEM**

(Study at Central Lombok Police Station)

Hasbuandi Firman Sakti

Faculty of Law, Social and Political Science, University of Mataram

Email: hasbuandi21@gmail.com

Rodliyah

Faculty of Law, Social and Political Science, University of Mataram

Email: rodliyah_fhunram@unram.ac.id

Laely Wulandari

Faculty of Law, Social and Political Science, University of Mataram

Email: laelywulandari01@gmail.com

ABSTRACT

This study examines the implementation of diversion for children in conflict with the law, as regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) in the Central Lombok Police jurisdiction. Diversion is aimed at resolving cases involving minors outside the formal judicial system, thus protecting children from the negative impacts of the criminal justice process. The research uses an empirical legal approach, combining primary and secondary legal materials through field and literature studies. The results indicate that although diversion has been successfully implemented in some cases, its success rate remains low, primarily due to the lack of agreement between victims and perpetrators, insufficient community understanding of restorative justice, and limited resources for mediation. The Central Lombok Police have made efforts to adhere to the legal provisions by involving various stakeholders, such as social workers, community advisors, and family members, in the diversion process. However, challenges such as weak coordination between sectors and public reluctance towards non-penal measures hinder the full success of diversion. The study concludes that while legal protections under the SPPA law are generally observed, enhancing diversion efforts requires increased community education, better cross-sector cooperation, and a

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commitment to child-focused legal frameworks to ensure that children are treated fairly and humanely, in alignment with restorative justice principles.

Keywords: Diversion, Child Protection, Juvenile Criminal Justice System, Restorative Justice, Central Lombok Police

1. INTRODUCTION

The history of the birth of Law No. 23/2002 on Child Protection stems from the government's seriousness in ratifying the 1990 Convention on the Rights of the Child (KHA). The draft law on the protection of children's rights has been proposed since 1998. However, the political conditions in the country at that time were not stable, so the child protection bill was discussed by the government and the DPR in the middle of 2001, and on October 22, 2002, the child protection bill was passed into Law Number 23 of 2002 concerning Child Protection.

According to the Child Protection Law, what is meant by a child is someone who is 18 (eighteen) years old, including children who are still in the womb. Children are the future generation that must be protected by the state. The protection of children must be realized in order to maintain decent survival. In several cases involving children, both as perpetrators and victims, they still pay attention to the protection of the child. This can be seen in Article 28 B Paragraph (2) of the Constitution of the Republic of Indonesia, namely: "Every child has the right to survival, growth and development and the right to protection from violence and discrimination."

Children in conflict with the law are children in conflict with the law, children who are victims of the law, and children as witnesses to criminal acts. Article 1, Paragraph (2) of Law No. 11/2012 on the Juvenile Criminal Justice System. Article 1, paragraph 3 of the SPPA law states that children in conflict with the law are "children aged 12 (twelve) years but not yet 18 (eighteen) years who are suspected of committing a criminal offense".

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Before the SPPA law, if a child committed a criminal offense, the child would be sentenced to imprisonment. Departing from this, the SPPA Law regulates that children who commit criminal offenses can be sanctioned with Measures and Criminal (Article 69 SPPA). The position of children as perpetrators of criminal acts must receive special protection and attention; cases involving children as perpetrators bring their phenomena because children are unstable individuals. As happened in Central Lombok Regency, the number of cases involving children as perpetrators of criminal acts is still an important concern for local law enforcement officials, especially the Police Institution in resolving children's cases and protecting children's rights to obtain justice and the best interests of children, because after all children are part of the younger generation and successors to the ideals of the nation.

Based on direct information from Aiptu Pipin Setyaningrum, S.IK, Kanit PPA (Protection of Women and Children) Central Lombok Police that "So far, the reports received by the PPA Unit in the Central Lombok Police Jurisdiction are quite a lot, while the implementation of diversion of these cases has a 50% chance of success and failure, this is due to the parties from the victim who still do not find injustice in the diversion process itself".

When viewed from this information, it can be seen that the implementation of diversion as an effort to protect the welfare and development of children in conflict with the law, namely to avoid children from punishment or sanctions/punishment with a judicial transfer process outside the court, basically the implementation of diversion has not been fully achieved, even though the implementation of diversion is a transfer of the settlement of children's cases from the criminal justice process to a process outside the criminal justice system to achieve peace and recovery between victims and child perpetrators and avoid child perpetrators from deprivation of independence (prison). Thus, the authors are interested in discussing more deeply how the stages of diversion

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and legal protection of children in conflict with the law work in the Central Lombok Police District.

2. RESEARCH METHODS

This research is empirical legal research, namely, research that analyzes data conducted by going directly to the field and conducting interviews. Using a legal sociology approach that analyzes how the law works in society and why people obey and disobey the law. The types and sources of data in this study include primary legal materials and secondary legal materials. Techniques for reviewing and collecting both legal materials using literature studies and field studies.

3. DISCUSSION

Implementation of the Stages of Diversion Stipulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System at the Central Lombok Police Station

The position of children as perpetrators of criminal acts must receive special protection and attention, cases involving children as perpetrators can bring their phenomena because children are unstable individuals, however children are part of the younger generation and successors to the nation's ideals In the preamble to Law Number 11 of 2012 concerning the Juvenile Criminal Justice System that children are part of the younger generation as one of the human resources who are the potential and successors of the nation's ideals, who have special characteristics that require guidance and protection.

The Indonesian National Police (Polri) is a national law enforcement agency and state police in Indonesia. Law Number 2 of 2002 concerning the Indonesian National Police states that the main task of the Indonesian National Police is to maintain public

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security and order, enforce the law, and provide protection, protection and services to the community. As part of the implementing institution of the Indonesian National Police (Polri). Central Lombok Police is one of the implementers of the Indonesian National Police (Polri) under the West Nusa Tenggara Regional Police (Polda) which is located at Jalan Basuki Rahmat No. 5 Praya, West Nusa Tenggara has the main task of maintaining security, order, law enforcement, protection, protection and service to the community. Central Lombok Police Station is a Police Station located in Central Lombok Regency, which is one of the regencies on the island of Lombok, West Nusa Tenggara, Indonesia. It is a city district that has an area of 1,095.03 km² with a population of 1,129,778 people.

So far, there have been quite a lot of reports received by the PPA Unit in the Central Lombok Police Legal Area, while the implementation of diversion of these cases has a 50% chance of success and failure. The high number of child criminal cases that have entered in the period 2020 to the last year 2024 reports that have entered the Criminal Investigation Unit have a fairly high number, this is an important concern for the police to prevent and overcome a form of community behavior, especially children involved in order in the local community through preemptive, preventive and repressive methods. This is an important concern for local law enforcement officials, especially the Police Institution in resolving children's cases and protecting children's rights to obtain justice and the best interests of children.

The following data is attached from the number of cases of incoming reports regarding juvenile crime in the Central Lombok Police Criminal Investigation Department.

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Table 1. Data on Police Reports/Child Cases in the Criminal Investigation Section of Central Lombok Police from 2020 to 2024.

NO	YEAR	NUMBER OF CASES
1.	2020	3
2.	2021	5
3.	2022	2
4	2023	6
5	2024	4
TOTAL		20

Source: The results of the author's interview with IPTU LUKLUK MAQNUN. S. Tr, S.I.K., MH. Head of the Criminal Investigation Unit of Central Lombok Police.

Based on the data in Table 1, it shows that every year, children's cases are reported to the Central Lombok Police Criminal Investigation Unit. Based on data from the Head of Criminal Investigation Unit of Central Lombok Police, Luqluq Maqnun concluded that: "every year the police report on children's cases experiences a stable number from previous years, this needs to be a concern for law enforcement officials, especially the police in the Central Lombok Police Criminal Investigation Unit to increase preventive efforts against children to avoid children from criminal offenders".

Children involved in criminal activity or breaking the law are treated differently from the law enforcement process for adolescents or adults in general. Official procedures have been developed by legal and humanitarian experts to protect minors from the negative impact of the formal justice system.

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The method or application of diversion is an attempt to protect children who break the law or are involved in criminal cases. The main objective of diversion is to reduce the adverse effects that sometimes arise due to the involvement of young people in the legal system. Restorative justice, known as juvenile justice, places commitment and future interests on the child. The objectives of the implementation of diversion for children include: 1. To prevent children from being detained; 2. To avoid labeling children as criminals, 3. To prevent the repetition of criminal acts committed by children, so that children are responsible for their actions; 4. To make necessary interventions for victims and children without having to go through formal processes, and to protect children from the influence and negative implications of the judicial process.

Efforts to protect children are a major goal of the implementation of diversion, where diversion simply means the process of transferring justice outside the special court for children. To find out the achievements of law enforcement based on the principles of justice towards the implementation of diversion at the Central Lombok Police are as follows:

Table 2. Data on the achievement of diversion at the Central Lombok Police Station

Completion	Number of Cases					Ket
	2020	2021	2022	2023	2024	
Court	3	4	2	5	3	More cases are settled by court decision
Diversion	-	-	-	1	1	

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Joint Decision	-	1	-	-	-	
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Source: Author interview with AIPTU Pipin Setyaningrum, S.H., PPA Unit of Central Lombok Police.

Based on these facts, it can be seen that more cases are completed through the prosecution stage of the court trial than cases resolved through diversion efforts at Central Lombok Police. Among the overall children's cases that have successfully taken diversion efforts at the Central Lombok Police are the crimes of persecution and theft. This is as stated by Brigadier Baiq Gadis Sanya Novitan: "So far in the implementation of the police, who have succeeded in taking diversion efforts, namely, criminal acts of persecution and petty theft".

Based on Table 2. It can be seen that of the 20 cases of child reports that entered the Central Lombok Police Criminal Investigation Unit, there were 2 cases of children who succeeded in achieving diversion efforts. The table shows that the implementation of diversion still has a low chance of success. Based on information from Kanit PPA (Protection of Women and Children), Aiptu Pipin Setyaningrum S.H. added that: "The low chance of success for efforts to implement diversion is due to the victim as a party who feels harmed by the actions of the perpetrator, feels that justice is not fulfilled for him before the criminal act is sanctioned or punished against the perpetrator".

Law No. 11/2012 on the Juvenile Criminal Justice System provides a special criminal justice method for children in conflict with the law, which states that at the level of investigation, prosecution, and examination of children's cases in the district court, diversion must be sought. The next stage is if both the victim and the perpetrator agree to diversion, then the investigator, community counselor, and social worker begin the

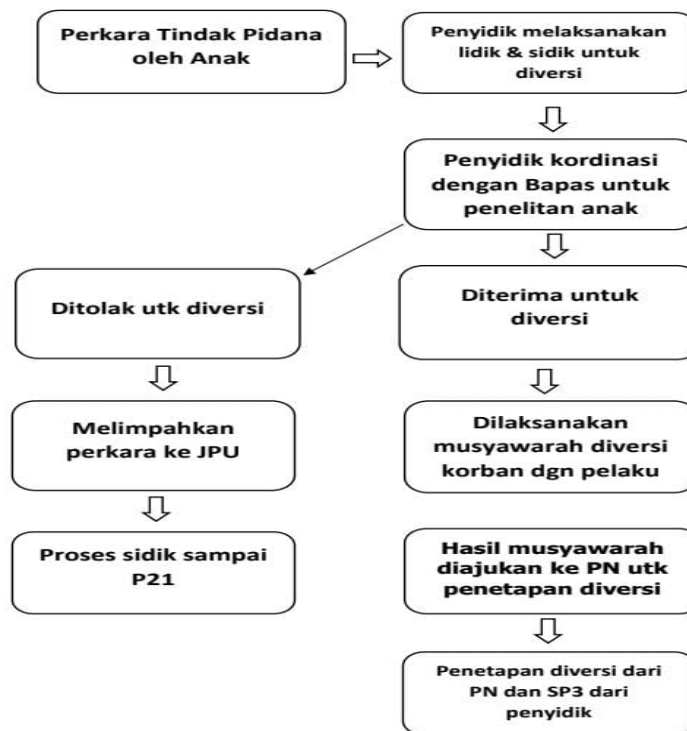
process of case settlement deliberations involving related parties. With an agreement to conduct diversion, the PPA Unit Criminal Investigation (protection of women and children) invites related parties to conduct diversion in resolving the child's case, namely: Correctional Center; Child perpetrators and victims accompanied by parents/guardians; Village/area where the perpetrator or victim lives; and Social Service and P2PA (women's empowerment and child protection) or social workers.

In essence, the implementation of diversion itself can be implemented based on the issue of the age limit of criminal liability (*Criminal Liability / toerekening-vatsbaarheid*). In the Juvenile Court Law, the age limit of criminal liability is determined between the ages of 8 (eight) to 18 (eighteen) years. The range of age limit in the Juvenile Court Law is recognized as an improvement when compared to the existing arrangements in the Criminal Code, which does not regulate the minimum age limit at all. When tracing the provisions of international instruments, the determination of the age limit between 8 to 18 years is in line with what is emphasized in *the Standard Minimum Rule For The Administration of Juvenile Justice (The Beijing Rules)*.

The method of settlement carried out by the PPA Unit of the Central Lombok Police regarding criminal cases committed by children, namely by prioritizing deliberation through diversion. This is based on Article 5 of Law Number 11 of 2012 concerning the Child Criminal Justice System, which states that at the level of investigation, prosecution, and examination of children's cases in the district court, diversion must be sought. Efforts to reach a diversion agreement between the victim and the perpetrator are carried out through a participatory and restorative approach, where both parties are given space to express their opinions, feelings and hopes openly in a mediation forum facilitated by authorities such as investigators, community advisors, and community leaders by upholding the principles of voluntariness, justice, and protection of the rights of victims and perpetrators.

Diversion deliberations involve several parties, namely the police, perpetrators and/or parents/guardians, victims and/or parents/guardians, community advisors, and the community (village officials where the perpetrator and victim live). Diversion at the investigation level is considered successful if there is an agreement between the perpetrator and the victim, such as the promise of the perpetrator not to repeat the act, participate in coaching, and provide compensation. The victim also apologizes and hopes that the case will not proceed to court. This agreement indicates the success of the diversion effort, as illustrated in the flowchart of the diversion process at the PPA Unit of Central Lombok Police.

The following is the flow of the implementation of diversion in the PPA Unit of Central Lombok District Police.



The figure is a flow of mechanisms or stages of implementation of diversion at Central Lombok Police which describes the process of handling children's cases starting from the stage of incoming reports in the police to coaching, of course the aim is to take a restorative mechanism (recovery) for children's cases will lead to success and failure.

The stages of the implementation of diversion at Central Lombok Police. *First*, starting from the investigation stage, the Central Lombok Police (child investigators) collaborate with Bapas (the correctional center). Bapas has an important role in the investigation process, carrying out the duties and functions of community research, guidance, supervision, and assistance in the diversion process.

Juvenile investigators will request assistance in the examination of children and correctional research from the Bapas (correctional center) during the investigation process. Furthermore, juvenile investigators ask the correctional center to conduct community research on juvenile suspects in criminal cases to find accurate data and information.

In this case, as regulated in Article 27 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which states that:

1. In investigating a child's case, the investigator is obliged to ask for consideration or advice from the community counselor after the criminal offense is reported or complained of.
2. In cases deemed necessary, investigators may seek consideration or advice from education experts, psychologists, psychiatrists, religious leaders, professional social workers or social welfare personnel, and other experts;
3. In examining child victims and child witnesses, the investigator shall request a social report from a professional social worker or social welfare personnel after the criminal offense is reported or reported.

Second, as a result of the community research conducted by the correctional center, a recommendation will be obtained for the child investigator in seeking diversion. The correctional center must submit the results of the diversion research within a maximum of 3 x 24 (three times twenty-four hours) after the child investigator's request is received. The diversion process as referred to in paragraph (1) is carried out no later than 30 (thirty) days after the start of the diversion, if the diversion is successful, the juvenile investigator will submit the minutes of the diversion along with the diversion agreement to the head of the district court to decide (article 29 paragraph 3 of the SPPA Law).

If the diversion fails, the juvenile investigator is obliged to continue the investigation and submit the case to the public prosecutor by attaching the minutes of the diversion and the community research report. After the diversion determination from the district court, the investigator sends the diversion determination from the district court to the prosecutor's office and all parties present during the diversion process. Furthermore, the investigator issues an SP3 (investigation termination order). Meanwhile, if diversion is declared a failure at the investigation stage, because the investigator fails to implement diversion by not reaching an amicable agreement between the perpetrator and the victim, then the investigator or police forward the case to the public prosecutor.

In its implementation, Central Lombok Police has attempted to implement the stages of diversion by applicable regulations, involving various related parties such as the Correctional Center (Bapas), legal assistants, social assistants, and parents or guardians of children. However, various obstacles are still found, such as the lack of agreement between the victim and the perpetrator, limited human resources trained in mediation of juvenile cases, a lack of public understanding of the concept of restorative justice, and weak cross-sector coordination.

Therefore, although normatively and administratively the stages of diversion at Central Lombok Police have been carried out, the effectiveness of its implementation still

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requires comprehensive support, both in the form of increasing the capacity of the apparatus, educating the community, and providing child-friendly supporting facilities.

Thus, the success of diversion depends not only on existing legal provisions but also on the commitment of all parties, including law enforcement officials, social institutions, communities, and families. To create a child legal protection system that is fair, humane, and oriented towards the recovery and future of children. Diversion must be understood and implemented not only as a legal obligation, but as a real form of moral and social responsibility in fostering the younger generation so that they do not fall deeper into the circle of crime and lawlessness.

Implementation of Legal Protection for Children in Conflict with the Law Regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System at Central Lombok District Police

Related to legal protection of children in conflict with the law, has the same goal as the efforts of the police as law enforcement officials in the Central Lombok Police jurisdiction in seeking diversion. This can be seen as the author's interview with Kanit PPA (protection of women and children) Central Lombok Police, Aiptu Pipin Setyaningrum. SH: "Every incoming report regarding child criminal acts, as part of the Criminal Investigation Unit in the PPA Unit (protection of women and children), always prioritizes diversion efforts to follow up cases against children in conflict with the law in the Central Lombok Police area".

Child protection by paying attention to children's rights to non-discrimination, fear, and anxiety of children is a statement similar to the Assistant Investigator of the PPA Unit of Central Lombok Police. Based on this information, it is known that the form of legal protection *in concreto* in the implementation of diversion carried out by the police has fulfilled its duties and functions based on the mandate in Law Number 11 of 2012

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concerning the Juvenile Criminal Justice System, the purpose of diversion in the SPPA Law which states that diversion aims to achieve peace between victims and children, resolve children's cases outside the judicial process, prevent children from deprivation of independence, encourage the community to participate and instill a sense of responsibility in children.

The Central Lombok Police Women and Child Protection Unit (PPA), through the child investigator section, Brigadier Baiq Gadis Sanya Novitan, said that at every stage of the investigation, the main thing is that the police make maximum efforts to seek diversion as a settlement of child cases at the Central Lombok Police.

The diversion effort is a form of legal protection that can be used in this case a child's case, where the child investigator in the PPA Unit of the Central Lombok Police in deliberations with related parties in the local area, namely involving Social Welfare Workers, and/or the community by taking into account the interests of victims, the welfare and responsibility of children and avoiding children from the negative stigma of the surrounding environment.

Regarding the legal protection of children in conflict with the law, it has the same provisions as the efforts taken by the police as law enforcement officials in the Central Lombok Police jurisdiction. This also agrees with what is known as the author's interview with the Assistant Investigator of the PPA Unit of the Central Lombok Police, namely, Brigadier Baiq Gadis Sanya Novitan: the provision of child advocates/lawyers for legal assistance to children has been provided by investigators of the Central Lombok Police PPA Unit and it is an option to choose a lawyer who has been provided or use legal assistance from outside lawyers (alone)".

In addition, the laws and regulations related to implementing diversion at the Central Lombok Police satreskrim, there are several provisions of national laws and regulations that are used as a reference in implementing diversion for children in conflict

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with the law, especially children as perpetrators: 1. Law of the Republic of Indonesia Number 2 of 2002 concerning the Indonesian Police; 2. Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection; 3. Law of the Republic of Indonesia Number 3 of 1997 concerning Juvenile Courts; and 4. TR Kabareskrim Number 1124/XI/2006 concerning Guidelines for the Implementation of Diversion for the Police. Legal protection is something that protects legal subjects through applicable laws and regulations, and enforced implementation with a sanction.

Legal protection is something that protects legal subjects through applicable laws and regulations and enforces its implementation with a sanction. Legal protection can be divided into two types, namely preventive legal protection provided by the government to prevent violations before they occur. This is contained in laws and regulations to prevent a violation and provide signs or limits in carrying out an obligation. Repressive legal protection is the final protection in the form of sanctions such as fines, imprisonment, and additional penalties given if a dispute has occurred or an offense has been committed.

The author concludes that in carrying out the duties of the Central Lombok Police, in following up cases of children in conflict with the law, they must not only carry out the law formally, but also ensure that children in conflict with the law receive fair, humane, and restorative treatment. The Central Lombok Police Criminal Investigation Unit through the PPA (Protection of Women and Children) Unit has so far contributed to the duties and functions of the implementers in bringing order to the life of the nation and state in society, especially for children in conflict with the law, providing maximum services for the fulfillment of protection in the criminal justice process in the Central Lombok Police jurisdiction.

Based on the results of research and field monitoring of the implementers of the Indonesian National Police (Kapolri) institution in the Central Lombok Police

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jurisdiction, the author concludes that the forms of legal protection, namely through preventive legal protection and repressive legal protection, where both forms of protection in the prevention and execution of crimes based on applicable laws and regulations are maximally implemented.

4. CLOSING

Based on observations of the process of handling children in conflict with the law, it can be concluded that the implementation of diversion at the Central Lombok Police Station has generally been by the provisions of the applicable laws and regulations, especially Law Number 11/2012 concerning the Juvenile Criminal Justice System, where the police have attempted to carry out diversion procedures appropriately by involving various related parties and prioritizing the principle of the best interests of the child.

As a form of legal protection for juvenile offenders, the police in the Central Lombok Police jurisdiction have implemented legal protection in abstracto, namely legal protection by implementing the laws and regulations made, namely the Juvenile Criminal Justice System Law, while legal protection in concreto, namely legal protection by realizing the vision and objectives of legal justice by applying the articles contained in the legislation, such as the application of article 7 paragraph (1) which requires diversion of juvenile cases.

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