The Implementation of Diversion by the Investigator of Bandung Police Department Towards Narcotics Cases Conducted by Children

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ABSTRACT

Diversion is the transfer of the settlement of child cases from criminal justice process to process outside of criminal justice process. The requirement for a child to be made a diversion effort is a criminal threat against the child is not more than 7 (seven) years and not the repetition of criminal offense. Drug Division of Bandung City Police Department in the period of investigation 2015 - 2017 has handled 7 (seven) narcotics cases done by the child. The success rate of diversion in the BCPD is more than 50%, although not a few factors can hamper the enforcement of diversion itself. This study aims to find out how the process of diversion conducted by BCPD Drug Division and whatever obstacles they face. It can be argued that the application of diversion is not easy but does not make the process of applying diversion of children stalled. In addition to the necessary reforms in the aspect of legislative establishment, it is also necessary to develop the infrastructure and capacity building of the law enforcement in the implementation of the diversion process, so that the implementation of diversion system can be done optimally. Thus, Indonesia as a just state of law can provide complete protection and justice for children from the conventional criminal justice systems

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A. Introduction

Child is a part of the younger generation as one of the resources who can establish the will of the nation. Child has a strategic role and has features and special properties that needs protection and coaching to guarantee his/her physical and mental development. The realisation of the protection and the coaching for the child needs support from readiness of the institution as well the law system must be steady and adequate. Therefore, the regulation of juvenile court needs to be done specifically.¹

Cases that involved children as the criminal offender are different phenomena than adults criminal offender. Child as criminal offender who was sentenced to prison, needs to get special treatment in his jail period. One of the cases which is often done by child is drugs abuse. Drugs abuse in this globalization era is growing rapidly. This has an impact on the teenagers. The producers of narcotics often used children to run the business. Therefore, parental supervision is needed so that the child could avoid the danger of narcotics.

Diversion is one of the alternatives that are by the purpose of protecting the child's interest. The most common diversion description can be found in the Article 1 number 7 Indonesia regulation number 11 of 2012 about child criminal justice system. In that regulation, the description of diversion is the transfer settlement of criminal cases done by a child from the criminal justice system to the process outside the criminal justice system. This transfer can be done with various consideration from the court to develop the child which is entrusted to the parents, social institutions or government.

There are different opinions about the most effective stages to make a diversion attempt. When viewed from description of diversion, that is to transfer settlement of criminal cases done by child from criminal justice system to the process outside the criminal justice system, so the child avoids from bad effect of the system. Then, the investigation level diversion should be done from the beginning. Because if it is already in persecution level or court examination, the level of diversion is not effective, the child has already entered criminal justice system.² The investigator has an obligation to implement the diversion in seven days after the investigation has started. The diversion is done around 30 days after each party agree to execute the diversion. On an agreed diversion, the investigator must deliver diversion report along with the agreement to the state court's chief judge to be made into a decree. If failed in reaching agreement, the investigator must proceed the investigation and must gift the case to the prosecutor and attach it to diversion report and social research.

¹ Mohammad Taufik Makarao, dkk, *Hukum Perlindungan Anak dan Penghapusan Kekerasan dalam Rumah Tangga*, Jakarta: Rineka Cipta, (2013), p. 1

² Article Number 7 point (1) Law No. 11 on 2012 of Juvenile Justice System

Diversion is done by the investigator along with the offender, his/her parents or guardians, social counselor and may also involved the public figure. Diversion agreement is executed by the investigator based on the recommendation from a social counselor, and it can be in the form of retribution, medical and psychosocial rehabilitation, relinquishment to parents/guardians, participation in education and training at social welfare department for three months at most, social service for three months at most.³

Agreement results are to be included within the diversion agreement. The agreement result must be delivered to state court within 3 days to be made into a decree by the court. After receiving the decree, the investigator must publish a decree to stop the investigation or the prosecutor must publish a decree to stop the prosecution.⁴

On the field of practice, the application of diversion is not as easy as it is contained in the regulation of the juvenile justice system. Several problems in the context of regulation, law enforcement, or lacking facility can create obstacles in the diversion application. These problems are experienced by the Bandung City Police Department narcotics division in the effort to apply diversion to children who committed crimes involving narcotics. Every year starting in 2015, narcotics case that is processed by the BCPD Narcotics Division kept increasing. Furthermore, there were several cases whose suspects were the underage children. In light of this, the Narcotics Division often attempt diversion for charges on narcotics case committed by children. Since the juvenile justice system law was fully implemented in 2014, 5 out of 7 matters of narcotics crime committed by children have been attempted with diversion. Several limitations can be obstacles to the application of diversion for criminals who are still underage. Based on that reality, it is interesting to answer the question of how to apply diversion upon narcotics crime committed by the underage children that is being investigated by the BCPD Narcotics Division? And how is the BCPD Narcotics Division's effort so that the application of diversion can be optimized?

B. Research Method

This research is done by applying the juridical normative approach method, and the specification of this research is an analytical description, by researching secondary data which contains the primary law, secondary law, also field research in the form of an interview by involving the third party. The collected data then will be analyzed in the juridical qualitative method.

³ Article Number 10 Law No. 11 on 2012 of Juvenile Justice System

⁴ Article Number 12 Law No. 11 on 2012 of Juvenile Justice System

C. Analysis

1. The Application of the Diversion Towards the Narcotics Crime Committed by the Underage Children Who Is Being Investigated by The BCPD Narcotics Division

The definition of narcotics based on the Article 1 number 1 in the regulation number 35/2009 about narcotics (hereafter called narcotics law), narcotics are substances or drugs which is originate from plants or non-plants, whether synthetic of semi-synthetic, capable of affecting the loss or change of consciousness, loss of sense, relieving pain, and can also cause dependency that is categorized as attached to this regulation. On one hand, narcotics are useful drugs for medication or health services and the development of science but on the other hand, it might cause harmful dependency when being misused. In an attempt to prevent misuse and to provide narcotics solely for health services, one of the effort done by the government is by legally regulating the distribution, import, export, cultivating, controlled usage of narcotics, and a strict supervising.⁵

Narcotic crimes are regulated on chapter 15 article 111 to 148 of the narcotics law which constitute as a special regulation, although it is not mentioned strictly in the law narcotics law that the criminal acts regulated within is an act of felony, it is irrefutable that all criminal acts in this regulation is an act of felony. The reason for it is that narcotics are only allowed for medication and the importance of science, therefore, any act outside those two are considered felony considering the immense harmful effect towards human life it can cause by illegally using narcotics.⁶

Legal use of narcotics is limited only for medicinal or scientific reasons. The minister of health may license scientific institution and/or educational institution to purchase or cultivate, possessing to own or to supply or to have control over papaver, coca, and mariyuana.⁷ Misuse of narcotics in this era of globalization is developing, and this development is accompanied by more advanced mindset and science. Therefore, the distribution of narcotics affects teenagers and children. A child who broke the law or did a criminal act is heavily influenced by several outside factors.

The discussion of the issue of the children who are facing a conflict with the law is considered a very contradictive way to be applied to the children, seeing that the action of a child has certain motivation and characteristics which differs clearly from the adults. Children's rights committee strictly

⁵ Siswanto, *Politik Hukum dalam Undang-Undang Narkotika (UU No. 35 Tahun 2009)*, Jakarta: Rineka Cipta, (2012), p. 1

⁶ Supramono, G, *Hukum Narkotika Indonesia*. Djambatan, Jakarta, (2001), p. 53

⁷ Soedjono Dirjosisworo. *Hukum Narkotika di Indonesia*. Bandung: Citra Aditya Bakti, (1990), p.18

state that, *In all actions concerning children, whether undertaken by public or private social welfare institution, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.* Based on the views above, it is expected that there is a new specific way to handle children doing acts of crime that is more beneficial for their growth both physically and spiritually by noticing their psychological factors to achieve their well-being.

To protect children from the influence of the formal process of the criminal justice system, law and humanitarian experts come up on making a formal rule to release a child who broke the law or did an act of crime from the criminal justice proceeding by giving an alternative that is considered better for the child. Based on that rationale, the concept of diversion was born.⁸

Diversion is implemented because it is considered by the philosophy of the criminal justice system of children to protect and rehabilitate child offenders of crime.⁹ Besides that, diversion is also made as an effort to prevent a child actor from becoming an adult criminal. This child prevention efforts that bring law enforcement officers to take discretionary authority or in the United States is often referred to as the deinstitutionalization of the formal criminal justice system.

Diversion must strive in every step of investigation from the police department until the court proceeding with the purpose of preventing any misuse of diversion because of certain factors, such as the offender's parents' position, their wealth, or any connection to the law enforcement. Diversion on every step of the process is stated in regulation number 11/2012 about children criminal justice system.

The regulation Number 11/2012 about Children Criminal Justice System has set about the diversion that works so that children facing the law are not stigmatized due to the judicial process that must be lived. This is consistent with The United Nation Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules).

The definition of diversion is the granting of the authority to law enforcement officials to take measures of discretion in dealing with or resolving the issue of child offenders by not taking formal process, among others, stopping or continuing or relinquishing from criminal proceedings or

⁸ Sri Rahayu, "Diversi Sebagai Alternatif Penyelesaian Perkara Tindak Pidana yang Dilakukan Anak Dalam Perspektif Sistem Peradilan Pidana Anak", *Jurnal Ilmu Hukum Fakultas Hukum Universitas Jambi*, (2015)

⁹ Jack E. Bynum and William E. Thompson, *Juvenile delinquency a Sociological Approach*, Boston: Allyn and Bacon, (2002), p. 430

returning or delivering to the community and forms other social service activities.¹⁰

According to Levine, the concept of diversion started with the establishment of child justice system in the 19th century with the purpose of releasing children from the justice system for adults so that children will not be treated the same as adults.¹¹ The main principle of diversion is persuasive acts or non-penal approach and giving a chance to someone to fix their mistakes. Officers in carrying out diversion show the importance of abiding the law and regulations. Officers carry out diversion with a persuasive approach and avoid arrest that utilizes violence and coercion.

The reason for the diversion is done to give the offender a chance to rehabilitate themselves to be a better person through a non-formal mean by involving social resource. Diversion attempts to provide justice to juvenile cases that already done as an act of crime that is already processed by the law enforcement. These two acts of justice are elaborated through research on the condition and situation to gain penalty or appropriate treatment.¹² Article 6 of regulation 11/2012 about juvenile justice system determines the purposes of diversion are:

- a) Achieve conciliation between the victim and the child offender
- b) Concluding the matter of children outside of court
- c) To avoid taking children of their freedom
- d) Encourage society to participate, and to in still a sense of responsibility to the child

In manifesting the purpose of diversion, good law enforcement is needed. Law enforcement is an effort to manifest legal ideas and concepts that are expected by the people to become a reality. Law enforcement is a process that involves many matters.¹³ Joseph Goldstein differentiates criminal law enforcement into three parts:¹⁴

- 1) Total Enforcement, the scope of criminal law enforcement as formulated by the substantive law of crime. Criminal law enforcement is no possible because law enforcement is limited strictly by the criminal law of procedure which includes rules of detainment, arrest, search, confiscation, and preliminary examination. Besides that, it is

¹⁰ R. Wiyono, *Sistem Peradilan Pidana Anak di Indonesia*, Jakarta: Sinar Grafika, (2016), p. 47

¹¹ Edward K. Morris dan Curtis J. Braukmann *Behavioral Approaches to Crime and Delinquency: A Handbook of Application, Research, and Concepts*, New York: Plenum Press, (1987), p. 252.

¹² Walker, *Training The System The Control of Discretion in Criminal Justice 1950-1990*, New York: Oxford University Press, (1993), pp. 1-2.

¹³ Shanty Dellyana, *Konsep Penegakan Hukum*, Yogyakarta: Liberty, (1988), p 37

¹⁴ *Ibid.*, p 39.

possible substantive criminal law itself giving limitations. For instance, an offense required to complain first as a persecuting requirement. This limited scope is called the area of no enforcement.

- 2) Full Enforcement, after total enforcement has been limited by the area of no enforcement, law enforcement is expected to act fully.
- 3) Actual Enforcement, according to Joseph Goldstein, Full Enforcement is, *not a realistic expectation*, because of limitations in the form of limited time, personnel, tools of investigation, funds, etc. which in a whole requires discretion and the rest is considered actual enforcement.

Research done on the BCPD Narcotics Division found that several cases involving narcotics are high. More than 700 cases are processed in 2 years from 2015-2017. Details of the number of cases per year are as follows:¹⁵

Number of Narcotics Cases Processed by BCPD Narcotics Division

NO	YEARS	NUMBER OF CASES NARCOTICS ABUSE DONE BY ADULTS	NUBER OF CASES NARCOTICS ABUSE DONE BY CHILDS
1	2015	235	2
2	2016	243	3
3	2017	277	2

Based on the table above, it can be concluded that every year starting from 2015, narcotics case that is processed by the BCPD Narcotics Division keep increasing. Furthermore, there were several cases whose suspects were the underage children. In light of this, the Narcotics Division often attempt diversion for charges on narcotics case committed by children. Since the juvenile justice system law was fully implemented in 2014, 5 out of 7 matters of narcotics crime committed by children have been attempted with diversion. In 2015, 2 of the same cases were attempted with diversion. In the first case, the child was known to carry 0.32 gram of mariyuana (suspects with initial D.A.D age 17), and for the second case urine test was positive for methampethamin (suspect with initial W.M age 16). Both of them were indicted with Article 127 Point 1 of Narcotics Law. Based on a discussion involving children and their parents/guardians, social counselor and social worker, the diversion was implemented for both children, and they were rehabilitated for one week.

In 2016, BCPD Narcotics Division attempted diversion for three narcotics cases committed by children. The first case was committed by suspect Y.T age 17, who was known to deliver and own mariyuana and riklona tablets. The suspect was indicted with Article 111 Point 1 Jo. Article

¹⁵ This data were acquired from BCPD Narcotics Division Administration

127 Point 1 of Narcotics Law and Article 62 of Psychotropic Law. The second case was committed by suspect J.M.M age 14 who was known for the possession of 4 mariyuana seeds. The suspect was indicted with Article 127 Point 1 of Narcotics Law. The third case was committed by suspect R.M age 17 who was known to deliver, sell, and possess 580 destro pills. Suspect was indicted with Article 108 Jo. Article 198 Regulation Number 36/2009 about healthcare. Based on the discussion involving the children and their parents/guardians, social counselor, and social worker, all three were implemented with diversion with 2 of them rehabilitated (Y.T and J.M.M), and the third returned to their parents (suspect R.M)

In 2017, the Narcotics Division processed two narcotics cases committed by children. The first case was committed by suspect A.R.F age 17 was known for possessing/owning 0.24 gram of methampethamin and 4.68 gram of gorilla leaves (synthetic mariyuana). The suspect was indicted with Article 111 Point 1 Jo. Article 127 Point 1 of Narcotics Law. The second case was committed by suspect N.A age 17 known to deliver, sell, and possess 6000 pills of hexymer and 4000 pills of riklona. Suspect N.A was indicted with Article 53 Point 1 of the Penal Code Jo. Article 196 Jo. Article 198 Healthcare Law. Both cases failed to attempt diversion caused by investigator considering both suspects were involved in black narcotics market and indicted with jail for more than seven years. Based on the explanation of Article 9 Point 1 Letter a Juvenile Justice System Law, it is stated that diversion is not meant for felonies such as murder, rape, drug dealing, and terrorism.

In a diversion, the result of the process is a diversion decree based on the diversion agreement.¹⁶ The result of diversion discussion is not a verdict or sanction, instead of an agreement which would be included in the diversion agreement. A diversion agreement is an agreement that is private, based on Article 1320 Civil Code that states an agreement is one of the elements for the legitimacy of a deal.¹⁷ With a diversion agreement achieved and not violating the law of the authority belongs to the investigator (if the diversion agreement is achieved during the investigation). The content of a diversion decree includes the child's identity, diversion discussion report, Law Articles indicted upon the child, and the result of the diversion discussion.

The implementation of diversion agreement done during the investigation does not involve prosecutor, although in Article 13 Criminal Law of Procedure and Article 30 Point 1 Letter b of Regulation number

¹⁶ Article number 12 point (1) Regulation Law Number 11 of 2012 About Juvenile Justice System

¹⁷ R.Subekti dan Tjitrosudibio, *Kitab Undang-Undang Hukum Perdata*, Jakarta: Pradnya Paramita, (2008), Article 1320

16/2004 about Indonesian Republic's Attorney. The attorney office is authorized to act on court decree. This is because, in the juvenile justice system law, the mechanism used is restorative justice and diversion; therefore, the diversion process is not a formal justice system, which is why separation is required between diversion processes with the concept that already existed in the Criminal Law of Procedure.¹⁸ Court decree itself functions as a legal basis for the agreement to be executed. The attorney has no role in the execution of diversion because of the nature of the agreement that is regulated in the Juvenile Justice System, also because of the civil nature of the agreement itself.¹⁹

Essentially, the law enforcement embodies values or precepts that contain justice and truth; law enforcement is not only the duty of conventional law enforcers but also the duty of everyone. However, about public law, the government is responsible. This is evident in the implementation of the diversion process undertaken by BCPD. In trying to implement the diversion, the police have embraced all elements of society. So that a successful child on diversion process can re-run its function in the life of society. This is by one of the purposes of the diversion itself that is to restore the function of the child in the life of society.

2. The Attempt Done by The BCPD Narcotics Division to Optimize the Application of the Diversion

The investigator of the BCPD Narcotics Division in attempting the application of diversion as stated in the Juvenile Justice System can be considered successful. Based on the percentage of cases of narcotics misuse by children, there have been 5 out of 7 cases concluded with diversion. However, the attempts of the diversion application do not always run smoothly.²⁰ Sometimes, the investigator is facing the situation that either complicated or impede the process of diversion. Several factors affect the law enforcement as stated by Soerjono Soekanto, which is the law itself, law enforcement, facilities, society, and culture.²¹ In regards to the process of the diversion in the BCPD, the success of the attempts of diversion is affected by several factors as follows:

¹⁸ Interview results with Ms, Eva Achjani Zulfa. Juvenile Justice System law maker team. Done by Muhammad Zulfikar on Thursday 24 of June 2014. Which include journal written by Muhammad Zulfikar dan Hasril Hertanto *Diversi dan Pelaksanaan Kesepakatan Diversi Pada Tahap Penyidikan Berdasarkan Undang – Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana anak*, Fakultas Hukum Universitas Indonesia, 2014

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Jakarta: Raja Grafindo Persada, (2004), p. 42

a. Law

The practice of law, in reality, there are times when legal certainty and justice are contradicted each other, the concept of justice causes this as something that is abstract, while legal certainty is a procedure that has been normatively determined. Because of this very reason that a policy or an act that is not fully legal based on something that can be allowed as long as the policy or act is not against the law. The implementation of law does not only limited to law enforcement but also peace maintenance because implementing the law is a process of harmonizing norms and real behavior pattern with the purpose of achieving peace.²²

One of the examples in the application diversion in the legal area of BCPD Narcotics Division is if the status of the child indicted with narcotics misuse is homeless or a child whose parents whereabouts are unknown. As we already know in the process, diversion for narcotics crime committed by children must go through the discussion involving the child, the parents/guardians, social counselor, and social worker. If we refer to said conditions, then attempt at diversion for children whose parents' whereabouts are unknown cannot be done. This kind of instances will complicate the investigator to process the diversion, whereas diversion processed during the investigation has a time limit of no more than seven days after the investigation started.²³ Concerning this, the police forces to coordinate with the correctional bureau to entrust children with this status to the social welfare department to be educated and counseled about the dangers of drugs until they find the family's whereabouts.²⁴

b. Law Enforcement

The function of law, mentality or the personality of law enforcement officer play an important role if the regulation is good, but the quality of the officers is bad, then there is a problem. Therefore, one of the keys to successful law enforcement is by doing the mentality or personality of law enforcement.

The knowledge and consistency of the investigator for a narcotics case committed by a child are one of the things that can impede an attempt of diversion or its application. The investigator sometimes is being inconsistent in implementing the Articles upon the suspected children. It happens with the implementation of several articles in the cases of R.M and N.A suspect

²² Jimly Asshiddiqie, *Supremasi Hukum dan Penegakan Hukum*, Bekasi: Ciptaraya, (2001), p.37

²³ Article Number 29 point (1) Regulation Law Number 11 of 2012 about Juvenile Justice System

²⁴ Interview result with BCPD Narcotics Division Mr, Bayyu S. Gading on Thursday 11 April 2018

R.M was known to sell and control 580 destroy pills, and suspect N.A was known to sell and control 4000 pills of tramadol and 6000 pills of the hexamer. In both cases, the investigator applied different articles. R.M was indicted with Article 198 of Healthcare Law, whereas N.A was indicted with Article 196 Jo. Article 197 of Healthcare Law.

There are similarities in both cases, which is the selling of pharmaceutical products unlicensed and without expertise. If we were to review the fact whether R.M. or N.A. fulfill the element constituted in Article 196 of Healthcare Law

Every person deliberately produces or distributes pharmaceutical supply and Healthcare tools that do not meet the standard and security requirements, function, and quality as stated in Article 98 Point 2 and Point 3 will be charged with jail as long as ten years and fined for Rp 1.000.000,00

Contents of Article 98 Point 2 and Point 3:

Point 2, every person without the expertise and authorization is forbidden from supplying, keeping, processing, promoting, and distributing drugs and substances with similar properties.

Point 3, Provision regarding supplying, keeping, processing, promoting, distributing pharmaceutical supplies and healthcare tools must meet the pharmaceutical services quality standard set by government regulations.

While the contents of Article 198 of Healthcare Law that become the basis for indicting suspect R.M. is

Every person who does not have the expertise and authorization to practice Pharmacy as stated in Article 108 is charged with a fine of Rp 100.000.000,00

Based on both cases, it can be concluded that investigators are inconsistent in applying Articles for indicating the suspects. With the implementation of Article 197 of Health Care Law on suspect N.A, diversion cannot be made because of the sanction contained in the Article is jail for more than seven years, whereas one of the requirements for diversion to be attempted is sanction below seven years. As for suspect R.M who indicted with Article 198 does not apply any sanction. Therefore, the diversion is possible. This inconsistency is concerned to disturb the process of diversion, and the intent and purposes of diversion will not be achieved properly.

c. Facility

With the support of adequate facilities, law enforcement will also be better. Mentioned facilities include human resources, adequate organization, tools, and accommodating funds. If said facilities are fulfilled, the law enforcement will run optimally. The Narcotics Division's office which is specifically for examining children is not yet existed making diversion

impeded by other cases. Also, the Narcotics Division does not have a laboratory for drugs testing, and to do so have to refer to a hospital, which of course requires more time and also impede the process.

d. Society

Law enforcement is a part of society, and its purpose is to achieve peace within society. Every citizen or group at the very least have a sense of legal awareness, issues that arise is the rate of obedience. A degree of obedience towards existing law is one of the elements to existing functional law.

Society can also be an impeding factor in an attempt of diversion at the BCPD Narcotics Division. The diversion discussion for suspect N.A the community leaders refused the diversion of N.A because the suspect is unsettling to society. Therefore the discussion concluded that N.A could not be implemented with diversion, and so the case proceeds to investigation.

Based on previously provided data, it can be argued that the implementation of diversion is not easy but does not make the process of applying diversion of children stalled. In addition to the necessary reforms in the aspect of the legislative establishment, it is also necessary to develop the infrastructure and capacity building of the law enforcement in the implementation of the diversion process so that the implementation of diversion system can be done optimally. Thus, Indonesia as a just state of law can provide complete protection and justice for children from conventional criminal justice systems.²⁵

D. Conclusion

Based on the analysis and study from previous chapters, it can be concluded that:

1. Diversion process within the area of BCPD Narcotics Division has a high success rate. Out of 7 narcotics case committed by children, 5 of them manage to be processed and not delegated to an attorney. This also in line with the Juvenile Justice System that one of the purposes of diversion is to conclude cases of a child outside the justice system. Essentially, the law enforcement embodies values or precepts that contain justice and truth; law enforcement is not only the duty of conventional law enforcers but also the duty of everyone. However, about public law, the government is responsible. This is evident in the implementation of the diversion process undertaken by BCPD. In trying to implement the diversion, the police have embraced all elements of society. So that a successful child on diversion process can re-run its

²⁵ Yutirsa Yunus, "Analisis Konsep restorative Justice Melalui Sistem Diversi dalam Sistem Peradilan Pidana Indonesia", *Jurnal Rechtsvinding*, 2 (2), (2013), p. 244

function in the life of society. This is by one of the purposes of the diversion itself that is to restore the function of the child in the life of society.

2. An investigator in attempting diversion towards children narcotics case occasionally impeded. The impeding factors include the unknown whereabouts of suspects parents, inconsistency from the investigators, inadequate facilities in examining suspects, and society that refuse to process diversion for the suspect. In addition to the necessary reforms in the aspect of the legislative establishment, it is also necessary to develop the infrastructure and capacity building of the law enforcement in the implementation of the diversion process so that the implementation of diversion system can be done optimally. Thus, Indonesia as a just state of law can provide complete protection and justice for children from conventional criminal justice systems.

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