

## Handling of Traffic Accident Cases For Children

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### Abstract

*The aims of this study are as follows: To find out and analyze the handling of traffic accident cases for child offenders. To find out and analyze factors that can hinder the process handling cases of traffic accidents for child offenders and their solutions. The method used by the researcher is normative legal approach and The specifications in this study are descriptive analytical. The sources and types of secondary data are obtained from library studies. Based on the results of the study that Handling of Traffic Accident Cases for Child Perpetrators is carried out by diversion by presenting children and their parents/guardians, village heads, community leaders. The Diversion Deliberation is led by the Investigator as a facilitator. The investigator presented a brief description of the case file of the accident case carried out by the child to be known by all parties present at the Diversion meeting. Furthermore, the Community Counselor conveys the results of the Community Research on the condition of the child's family and social background to be taken into account with the Diversion participants in making decisions. Factors that can hinder the process handling cases of traffic accidents for child offenders, namely: Internal factors in the form of public understanding of the transfer, thoughts between victims and parties in conflict with the law to reach an agreement. External factors are different understandings in dealing with children in conflict with the law among law enforcement officers. The solution is: The internal effort is to conduct socialization about diversion among the community, an effort to unite the thoughts between victims and children who are in conflict with the law to reach an agreement. The external effort is to build intensive communication with other law enforcement officers.*

*Keywords : Handling, Traffic Accidents, Child Perpetrators*

### 1. Introduction

Road Traffic and Transportation has a strategic role in supporting national development and integration as part of efforts to promote public welfare as mandated by the 1945 Constitution of the Republic of Indonesia. As part of the national transportation system, Traffic and Road Transportation must develop its potential and its role is to realize security, welfare, orderly traffic and road transportation in the context of supporting economic development.<sup>1</sup>

The importance of the role and existence of road traffic, so it is not excessive if the government regulates road traffic and transportation in a separate law. Judging from the philosophical and sociological perspective, Law no. 22 of 2009 concerning Road Traffic and Transportation is ideal, but in practice in the field, there are still many things that are not as expected, for example, the high number of traffic violations and the high number of traffic accidents on the highway.

A child who causes a traffic accident which is classified as a traffic accident, minor, moderate or severe, namely an accident that results in the victim's death or

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<sup>1</sup>General Explanation of Law no. 22 of 2009 concerning Road Traffic and Transportation

serious injury is still legally responsible for his actions. However, specifically for child perpetrators as mentioned above, the settlement will be carried out by Law no. 11 of 2012 concerning the Juvenile Criminal Justice System. In Law No. 11 of 2012 concerning the juvenile criminal justice system, a settlement mechanism has been provided for perpetrators of child crimes.

The Indonesian nation as a state of law has a judicial system and law enforcement chess. In the judicial component which is quite urgent is the Police. This is because the police are an inseparable part of one another, because they are part of an integrated system.<sup>2</sup>As a criminal justice system, the police in playing their role require attachment and linkage with other components of the criminal justice system.

Law No. 8 of 1981 concerning the Criminal Procedure Code has regulated in more detail the position, role and duties of the state police of the Republic of Indonesia in relation to the criminal process as investigators and investigators as well as carrying out coordination and supervision of certain civil servant investigators who are given special authority by law.

The police as an integral part of the function of state government, it turns out that this function has a very broad measure, not just a repressive aspect in relation to the criminal law enforcement process, but also includes a preventive aspect in the form of tasks carried out which are so attached to the main functions of state administration starting from from guidance and regulation to police actions that are administrative in nature and not court competence.

The decline in the image of the National Police in the eyes of the public is an important issue which until now continues to imprison the Police in carrying out their duties and authorities as guardians of security and public order, carrying out law enforcement, and providing guidance, protection and creating security, order and smooth traffic in serving the community.<sup>3</sup>

Traffic violations, sometimes only endanger the violator, for example not wearing a helmet when riding a motorcycle on the highway, but sometimes also endangering the lives of others, for example violating traffic signs, causing traffic accidents. Cases of traffic accidents seem unavoidable, because from year to year continues to increase. Not being disciplined in driving also shows that there is no good ethics, even though the trigger for accidents is the collapse of ethics in driving.<sup>4</sup>

Traffic violations are often committed not only by adult motorcyclists, but also by motorcyclists who incidentally are still children. Children as perpetrators of traffic accidents have become contributors to traffic accidents in the last 2 (two) years in Indonesia (according to data from the Korlantas Polri), this is a subject that is always discussed and discussed both in electronic media, through print media and discussed through forums. -a forum that is national, transnational in which the ends lead to the

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<sup>2</sup>Chairuddin Ismail, 2000, *Police, Democracy VS Anarchy*, Citra, Jakarta, p. 15.

<sup>3</sup>Riyanto, Umar Ma'ruf and Sri Kusriyah, 2020, *Implementation Of Police Role In Countermeasures Of Traffic Criminal Acts Of Traffic Violations In Efforts To Establish Police Images As Community Guidelines*, in *Jurnal Daulat Hukum* Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 267 <http://jurnal.unissula.ac.id/index.php/RH/article/view/9385/4154>

<sup>4</sup>Toto Suprpto, 2011, *Concerns about Traffic Ethics*, Suara Merdeka, Semarang,

guarantee of protection for the child and the responsibility of the child himself, taking into account the applicable positive law and aspects of the interests of the child as the perpetrator of a traffic accident on the road.<sup>5</sup>

Traffic policy in Indonesia is regulated in Law Number 22 of 2009 concerning Road Traffic and Transportation, where the regulation is made to ensure security, order and welfare in society which needs to be determined regarding prohibited and required actions. Meanwhile, the violation of these provisions is punishable by criminal sanctions. The frequent occurrence of traffic violations, both intentional and unintentional, may be due to the fact that the sanctions imposed on traffic violations are too light, so it is not surprising that there are more and more traffic violations. The legal consequence of a traffic accident is the existence of criminal sanctions for the maker or the cause of the incident.<sup>6</sup>

There are some new developments that have not been accommodated by traffic regulations. For example, the various alarms that should be more. Although some rules have been accommodated through Regional Regulations (Perda). Many provisions were left behind due to the development of society, apart from many customary laws, they became unenforceable. For example, the need to survive at night for motorized or motorized vehicles hardly applies to goods and tricycles. Repression against them is almost never carried out, or if it does, it causes an uncomfortable reaction for the officers themselves.<sup>7</sup>

The purpose of this study is to find out and analyze the handling of traffic accident cases for child offenders. To find out and analyze factors that can hinder the process handling cases of traffic accidents for child offenders and their solutions.

## 2. Research methods

The method used by the researcher is normative legal approach and the specifications in this study are descriptive analytical. The sources and types of secondary data are obtained from library studies.

## 3. Research Results and Discussion

### 3.1. Handling Traffic Accident Cases for Child Perpetrators

Traffic in Indonesia is regulated in laws and regulations, namely Law Number 22 of 2009 concerning Road Traffic and Transportation, where these regulations are made to ensure security, order and welfare in society which need to be determined

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<sup>5</sup>Axel Andrea Andasia, 2015, Liability for Traffic Accidents Perpetrated by Minors Judging from Law no. 23 of 2002, *Lex Crimen Journal*, Vol. IV/No. 3/ May/2015,

<sup>6</sup>Nofitasari, S. 2016, The Criminal System in Providing Protection for Children as Criminals. Fairness and Justice: *Scientific Journal of Legal Studies*, Vol.14, (No.2), pp.183–218. <https://doi.org/10.32528/faj.v14i2>. 1968

<sup>7</sup>Anton Susanto, Ira Alia Maerani and Maryanto, 2020, Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction), in *Jurnal Daulat Hukum* Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 21 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8402/3928>

regarding prohibited and required actions. Meanwhile, the violation of these provisions is punishable by criminal sanctions. The frequent occurrence of traffic violations, both intentional and unintentional, may be due to the fact that the sanctions imposed on the perpetrators of traffic violations are too light, so it is not surprising that more and more traffic violations are occurring.<sup>8</sup>

Traffic accidents often occur in people's lives, even the perpetrators are often underage. This is due to a lack of legal awareness and supervision from parents so that children are allowed to drive a motor vehicle before having a driver's license.<sup>9</sup>

Children in the eyes of parents and families are a great hope and pride in themselves and become the figure of the next generation of this nation, who else if not children as the capital of this nation's generation. In the view of religion, children are gifts to be grateful for as sustenance given by the Creator. And children are an inseparable part of human survival and the survival of a nation and state.<sup>10</sup>

Based on Article 8 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System above, it can be seen that the process of carrying out investigations against child offenders is carried out by diversion using a Restorative Justice approach. In this diversion process, it is obligatory to pay attention to the welfare and responsibilities of the child, avoid negative stigma, maintain decency, and public order.<sup>11</sup> That child and can also be accompanied by a civil claim for the material loss caused.<sup>12</sup>

Mistakes are always related to the perpetrators of the crime. Mistakes can be blamed for making criminal acts, because they can actually do something else. The reproach of human legal subjects for committing criminal acts can only be carried out against those whose mental state is normal. In other words, for the existence of mistakes in the maker's self, conditions are needed, which are normal mental states. Moeljatno said, "only for people whose mental condition is normal, we can hope that they will regulate their behavior according to what is considered good in society"<sup>13</sup>

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<sup>8</sup>Muhammad Dani Hamzah, 2018, Law Enforcement in Criminal Cases of Traffic Accidents That Cause Loss of People's Lives, in *Jurnal Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula <http://jurnal.unissula.ac.id/index.php/RH/article/view/2563/1920>

<sup>9</sup>Preliyanto Puji Utomo, Umar Ma'ruf, and Bambang Tri Bawono, 2020, Application Of Act No. 22 Of 2009 As A Traffic Accidents Countermeasures Management In The Blora Police Law Area, in *Jurnal Daulat Hukum* Volume 3 (2), Published Master Of Law, Faculty of Law Unissula, <http://jurnal.unissula.ac.id/index.php/RH/article/view/9373/4140>

<sup>10</sup>I Dewa Putu Gede Anom Danujaya, 2018, Formulation of the Model of the Child Criminal System in Indonesia, in the *Journal of Daulat Hukum* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2624/5117>

<sup>11</sup>Rendy Surya Aditama, Umar Ma'ruf, Munsharif Abdul Chalim, 2018, Criminal Law Policy Against Children as Psychotropic Crime Actors in the Magelang Resort Police, in the *Daulat Hukum Journal* Volume 1 (1), Published Master Of Law, Faculty of Law Unissula, p. 120, <http://jurnal.unissula.ac.id/index.php/RH/article/view/2625/1974>

<sup>12</sup>Hamzah, Muhammad D. 2018, Law Enforcement in Traffic Accident Crime Cases That Caused the Loss of People's Lives. *Journal of Sovereign Law*, Vol.1, (No.1), pp.43–52. <http://dx.doi.org/10.30659/jdh.v1i1.2563>

<sup>13</sup>Moeljatno, 1987, *Principles of Criminal Law*, Bina Aksara, Jakarta, page 160

Therefore, only people whose mental condition is normal meet the requirements to be assessed, whether they can be reproached for a crime they have committed.

The perpetrators of traffic accidents are not only adults, children can be perpetrators of traffic accidents. In cases with child perpetrators, the provisions stipulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (hereinafter referred to as the SPPA Law) apply, so that there is specificity in handling cases. Article 1 point 3 of the SPPA Law stipulates: "Children in Conflict with the Law are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a crime". The article provides an age limit for the responsibility of the child, which means that the child cannot be held criminally responsible before the age of 12 (twelve) years.

The implementation of the reconciliation of traffic crimes that were resolved at the police level was carried out on the grounds that the settlement was carried out in a familial manner and the injured party only suffered minor injuries, so that the perpetrators of Case Handling Through Alternative Dispute Resolution (ADR). In the mediation process, the police act as a mediator between the perpetrator and the victim/victim's family member. The mediator of the crime asked for a peaceful settlement. Therefore, the police only facilitated both parties.<sup>14</sup>It is the police who facilitate the litigants on the grounds that the parties quickly resolve the disputes that occur. In addition, the police saw that before the peace letter was written, the compensation fee given by the perpetrator to the victim was equal to the price of the loss suffered by the victim.

Handling of Traffic Accident Cases for Child Perpetrators is carried out by diversion by presenting children and their parents/guardians, village heads, community leaders. The Diversion Deliberation is led by the Investigator as a facilitator. The investigator presented a brief description of the case file of the accident case carried out by the child for the knowledge of all parties present at the Diversion meeting. Furthermore, the Community Counselor conveys the results of the Community Research on the condition of the child's family and social background to be taken into consideration with the Diversion participants in making decisions. After that, just listen to the wishes of the parents of the perpetrator and the parents/family of the victim. Then produce an agreement in the form of a parent/guardian willing to provide compensation to the victim in the form of compensation money agreed upon by both parties, children are given guidance at the Child Welfare Institution (LKSA) to receive guidance or returned to their parents to be fostered and supervised intensively and supervised and trained by local community leaders. This is done to restore the child's condition after the accident.

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<sup>14</sup>Al Mahdi, Mohd. Din, Saifuddin Bantasyam. 2013, "Peace in Traffic Accident Crimes." Journal of Postgraduate Legal Studies at Syiah Kuala University. Volume 2, No. 1, p. 48

### **3.2. Factors that can hinder the process handling cases of traffic accidents for child offenders and their solutions**

Accidents are events (events) that cause harm to people.<sup>15</sup> Accidents are usually considered as (unsuspected) events so that a traffic accident can be interpreted as an unexpected and unintentional event on the road involving a vehicle with or without other road users resulting in human casualties and or property loss.<sup>16</sup> A traffic accident is a rare and random event that is multi-factor in nature, which is generally preceded by a situation where one or more drivers are considered to have failed to control the road environment (traffic & its environment).

Traffic accidents involving children create new problems in law enforcement to determine sanctions for liability by the child. This is a subject that is always discussed and discussed both in electronic media, through print media and discussed through forums that are national, transnational in which the ends lead to guarantees of protection for children and the accountability of children themselves, taking into account the positive laws that apply to children. applies and aspects of the interests of the child as the perpetrator of a traffic accident on the road.

The solution to children is indeed very special. This is because the nature of children seen from the age of children does not yet have maturity both physically and mentally so that children cannot distinguish between good and right things and tend to do everything spontaneously without thinking. Special attention is needed, especially for living children<sup>17</sup> in an environment where the environment produces a relationship full of violence and a tendency to ignore or neglect that occurs between the child and the adults around him.

Diversion is the answer to the goal of resolving children's cases fairly. It's just that in implementing diversion, certain requirements are needed. The new diversion can be carried out by looking at the age of the child, the nature of the act whether it is the first time it has been done or it is a form of repetition, applied in minor crimes, the consent of the victim and the agreement of the parties, and the willingness of the community to support the diversion process.

The Juvenile Criminal Justice System Act provides rights for children as victims. Child victims and witnesses have the right to receive rehabilitation, both medical and social, guaranteed their safety physically, mentally and socially and stay informed about the progress of the case. Child protection<sup>18</sup> as a victim can also be in the form of compensation, restitution and compensation.

Communication is a factor that plays an important role as a reference for policy implementers to know what to do, as well as an order from superiors to policy implementers so that communication must be stated clearly, precisely and consistently

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<sup>15</sup>Alvi, Hassan. 2003. Big Indonesian Dictionary. Jakarta: Balai Pustaka.

<sup>16</sup>Article 1 number 24 of Law no. 22 of 2009 concerning Road Traffic and Transportation

<sup>17</sup>Bagong Suyatno, 2010, Child Social Problems, Kencana, Jakarta, p. 5

<sup>18</sup>Rena Yulia, Victimology: 2010, Legal Protection for Victims of Crime, Graha Ilmu, Yogyakarta, p. 178-180.

in implementing policies so that they do not get out of line. to be achieved.<sup>19</sup>The success of communication as a determining factor for policy implementation is determined by how the implementer understands the clarity of the message content conveyed to be forwarded to the implementer, besides that the policy has a significant influence on the complexity of the policy content, the policy context, the character of the environment in which the policy is implemented and the character of the implementer.

Accidents using motorized vehicles on the highway are not without cause, they can occur due to various factors that can occur due to road conditions, weather and even the negligence of the driver of the vehicle itself. According to Austroads,<sup>20</sup>There are several factors that cause traffic accidents, namely as follows:

- Human factors (human factors)
- Vehicle factors (vehicle factors)
- Factors of road conditions and nature

Factors that can hinder the processhandling cases of traffic accidents for child offenders, namely:Internal factors in the form of public understanding of the transfer, thoughts between victims and parties in conflict with the law to reach an agreement. External factors are different understandings in dealing with children in conflict with the law among law enforcement officers. The solution is: The internal effort is to conduct socialization about diversion among the community, an effort to unite the thoughts between victims and children who are in conflict with the law to reach an agreement. The external effort is to build intensive communication with other law enforcement officers.

#### 4. Closing

Based on the description of the discussion above, it can be concluded that: Handling of Traffic Accident Cases for Child Perpetrators is carried out by diversionby presenting children and their parents/guardians, village heads, community leaders. The Diversion Deliberation is led by the Investigator as a facilitator. The investigator presented a brief description of the case file of the accident case carried out by the child to be known by all parties present at the Diversion meeting. Furthermore, the Community Counselor conveys the results of the Community Research on the condition of the child's family and social background to be taken into account with the Diversion participants in making decisions. Factors that can hinder the processhandling cases of traffic accidents for child offenders, namely:Internal factors in the form of public understanding of the transfer, thoughts between victims and parties in conflict with the law to reach an agreement. External factors are different understandings in dealing with children in conflict with the law among law enforcement officers. The solution is: The internal effort is to conduct socialization about diversion among the

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<sup>19</sup> Nugroho R, 2008, Public Policy: Policy Theory-Policy-Process Analysis, Formulation, Implementation, Evaluation, Revision, Risk Management in Public Policy, Policy as The Fith Estate, Policy Method. Elex Media Komputindo, Jakarta:

<sup>20</sup> Austroads. 2002. Road Safety Audit. Sydney: Austroads Publication

community, an effort to unite the thoughts between victims and children who are in conflict with the law to reach an agreement. The external effort is to build intensive communication with other law enforcement officers.

Suggestions from this research are: To parents, parents should be more careful in educating children, if it is not too important, especially on means of transportation, if the child is not fluent and not old enough, do not neglect to remind children to forbid children to ride transportation such as motorbikes or cars. Socialization from law enforcement officers and schools is further enhanced with good delivery too, so that children understand and understand a rule, good driving rules related to traffic sign facilities which are often underestimated for road users in general.

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