

## **Diversions in Juvenile Cases from the Perspective of Legal Utility (A Case Study of the PPA Unit of Ternate Police Resort)**

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### **Abstract**

*This study is grounded in the growing concern over the negative impacts of conventional criminal justice mechanisms on children, particularly the persistence of stigmatization, psychological harm, and barriers to social reintegration. In many cases, punitive approaches fail to accommodate the developmental characteristics and rights of children, thereby necessitating alternative mechanisms that prioritize protection and rehabilitation. This study employs an empirical legal approach to examine the implementation of Diversion for Children in Conflict with the Law (CCL) from the perspective of legal utility through a case study at the PPA Unit of Ternate Police. Data were collected through interviews with children, parents, and investigators, along with a literature review of laws and official documents. The study finds that Diversion at the investigation stage is not merely an optional procedure but an imperative mandate grounded in the protection of the child's dignity and rights. The process shifts the penal paradigm from retributive to restorative, eliminating criminal stigma, psychological trauma, and school dropout while enhancing reconciliation with victims and providing a second chance for the child. Investigators act as peace facilitators, involving Bapas and social workers in the Diversion deliberation. From the perspective of Jeremy Bentham's Utilitarianism, Diversion is effective as it balances the minimization of suffering and maximization of happiness for children, parents, victims, and the state, including efficient case management. Thus, Diversion is not merely a formal cessation of investigation but an effective social instrument to protect the younger generation from the destructive impact of the conventional criminal justice system.*

**Keywords:** *Diversion; Children in Conflict with the Law; Utilitarianism; Restorative Justice.*

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## **INTRODUCTION**

Children are the nation's future generation and possess the right to grow and develop optimally, as well as to receive protection from all forms of violence and discrimination, as mandated by various international and national legal instruments, including the Convention on the Rights of the Child and Law Number 35 of 2014 concerning the Amendment to Law Number 23 of 2002 on Child Protection. Children are citizens who must be protected because they represent the future of the nation and will eventually assume leadership roles in Indonesia. In addition to receiving formal education, children are also entitled to moral education so that they may grow into individuals who are beneficial to the nation and the state. In accordance with the Convention on the Rights of the Child, which was ratified by the Government of Indonesia through Presidential Decree Number 36 of 1990, and further reflected in Law Number 4 of 1979 on Child Welfare, Law Number 23 of 2002 on Child Protection, and Law Number 11 of 2012 on the Juvenile Criminal Justice System, several general principles of child protection are emphasized, namely non-discrimination, the best interests of the child, the right to survival and development, and respect for the views of the child (Silalahi, 2022).

Therefore, children, as a vital human resource and the nation's successors, deserve special attention from parents, society, and the government. This attention is intended to foster children in order to develop resilient and high-quality human resources. The best interests of the child must serve as the primary guideline for those responsible for a child's education and guidance.

However, in reality, many children are compelled to confront the criminal justice system, whether as offenders (children in conflict with the law), victims, or witnesses. The handling of juvenile cases requires a sensitive approach that differs from the treatment of adult cases, given the unique psychological characteristics and developmental stages of children. Historically, the criminal justice system has been dominated by retributive approaches emphasizing punishment and rehabilitative approaches focusing on correctional institutions.

Conventional criminal justice systems place strong emphasis on punishment and rigid formal procedures. In such systems, the state often assumes the role of the victim, resulting in the victim's interests being marginalized. Victims do not occupy a central position in the judicial process, and the losses they suffer both material and immaterial are frequently inadequately addressed. Consequently, upon closer examination, both retributive and rehabilitative approaches are often considered insufficient to address the complex realities faced by children in conflict with the law (Rosadi & Fitri, 2024).

The juvenile sentencing system, which encompasses statutory regulations concerning criminal sanctions and punishment, focuses on the formulative (legislative) policy aspect. This study analyzes three key aspects: the type of sanction formulation (*strafsoort*), the duration of sanctions (*strafmaat*), and the mode of punishment implementation (*strafmodus*). The findings indicate that the formulation of criminal sanctions (*strafsoort*) is singular in nature.

In criminal procedural law, two legal interests must be safeguarded. First is the interest of society, which demands that every individual who violates criminal law provisions receive punishment commensurate with their culpability in order to maintain public security. Second is the interest of the accused, who is entitled to fair treatment, ensuring that no innocent person is punished and that, if a person is indeed guilty, the punishment imposed is neither excessive nor disproportionate to the offense committed.

The imposition of punishment is not solely intended as retribution but also as a means to influence human behavior to conform to legal norms. The primary objective is guidance and protection, particularly in cases involving juvenile offenders. Such protection is directed at juveniles who commit criminal acts as well as those who engage in prohibited conduct, with the aim of enabling them to recognize their mistakes and become responsible members of society.

Justice as traditionally applied within Indonesia's criminal justice system has largely taken the form of retributive justice. This retributive approach can generate long-lasting negative stigma for children, thereby hindering their social reintegration in the future. Stigmatization is a process by which children are labeled with negative attributes or characteristics by society, resulting in differential perception and treatment. In practice, children labeled as "criminals" or "former inmates" are often socially excluded. Their peers may distance themselves, and the children may become targets of ridicule or bullying. Moreover, upon returning to school, teachers and staff may harbor prejudices against children who have had contact with the law, making it difficult for them to obtain academic support; in extreme cases, they may even be expelled, jeopardizing their educational future. These impacts demonstrate the extensive consequences experienced by such children.

Children in conflict with the law are frequently perceived negatively by society through labels such as "delinquent" or "criminal." When children are persistently viewed and referred to in this manner, their self-identity may shift from "a child who made a mistake" to "a criminal." Once negative labels are internalized, children may begin to behave in accordance with those labels. If they believe that everyone already considers them bad, they may feel there is no value in behaving well. This can encourage more serious criminal behavior or association with groups bearing similar labels. Labeled children may also lose self-esteem and self-confidence, feeling worthless and pessimistic about their future, which can lead to depression, anxiety, and other mental health issues. Meanwhile, rehabilitative approaches may sometimes be insufficient in addressing victims' needs for recovery and restitution.

Both retributive and rehabilitative approaches have long-term consequences, indicating that conventional criminal justice systems focused primarily on punishment are often ineffective in handling juvenile cases. Rather than fostering improvement, such systems may permanently damage children's futures through stigmatization and labeling. Therefore, children must receive legal protection as a means of safeguarding their freedoms and fundamental rights. This protection also encompasses interests related to child welfare. The protection of children in conflict with the law (CICL) is a shared responsibility of law enforcement authorities, encompassing not only child offenders but also child victims and witnesses. The concept of child protection has a broad scope, extending beyond the protection of a child's physical and mental integrity to include all rights and interests necessary to ensure proper spiritual, physical, and social development, so that Indonesian children may grow into capable adults who are willing and able to contribute to the achievement and maintenance of national development goals.

Children are a trust bestowed by God Almighty and inherently possess dignity and worth as whole human beings. Child offenders do not solely originate from broken homes or street environments; they may also come from families with high social status or well-established backgrounds. The rights of children must be upheld unconditionally, without requiring the child to demand them.

Within the criminal justice system, punishment is neither the ultimate goal nor the sole means of achieving penal objectives. Various approaches may be pursued, whether through criminal law or through methods outside the criminal justice or judicial process. Generally, criminal law functions to regulate and organize social life in order to create and maintain public order. This is essential, as correctional institutions are not a definitive solution to juvenile issues and may, in fact, pose risks of violating children's rights. Juvenile cases brought before the courts should be limited to the most serious offenses, such as homicide, and even then, the principle of the best interests of the child must remain paramount, with punishment serving as a last resort (*ultimum remedium*) while fully respecting children's rights. Other juvenile cases may be resolved through non-formal mechanisms based on standardized guidelines (Afriyanto et al., 2024).

As a response to the limitations of conventional approaches, diversion offers a more holistic framework that focuses on the child as the offender, promotes constructive accountability, and emphasizes reintegration. According to Article 1 point 7 of Law Number 11 of 2012, diversion is defined as the transfer of the settlement of juvenile cases from the criminal justice process to procedures outside the criminal justice system. The philosophy of diversion within the Juvenile Criminal Justice System (*Sistem Peradilan Pidana Anak / SPPA*) explicitly abandons the retributive, punishment-oriented paradigm in favor of an approach that prioritizes alternative mechanisms for resolving juvenile cases. The primary objective is to prevent and remove children from formal judicial processes in order to avoid stigmatization or labeling, thereby enabling children to return to their social environment in a normal and healthy manner.

Philosophically, the Law on the Juvenile Criminal Justice System has departed from the outdated paradigm embodied in Law Number 3 of 1997 on Juvenile Courts, which was oriented toward retributive punishment theory, and has shifted toward an approach that prioritizes the diversion of juvenile case resolution from the criminal justice process to mechanisms outside the criminal justice system. The SPPA Law provides special protection for children based on principles of protection, justice, non-discrimination, the best interests of the child, respect for the child's views, the right to survival and development, guidance and supervision, proportionality, deprivation of liberty and punishment as measures of last resort, and the avoidance of retaliation.

This context illustrates that the SPPA aims to safeguard the dignity and worth of children and affirms their right to special protection, particularly legal protection within the justice system. Substantively, the law regulates a wide range of children's rights, including the right to life, the right to a name, the right to education, the right to basic healthcare, the right to practice one's

religion, and the rights to express oneself, think, play, create, rest, socialize, and obtain social security. These provisions clearly demonstrate the State's strong commitment to recognizing and protecting children's rights. Such rights must be upheld by all parties; however, in practice, law enforcement often encounters obstacles and challenges arising from both internal and external factors (Mukdin & Heryanti, 2020).

It is important to note that the primary objective of juvenile criminal law is to restore the child's psychological condition that may have been disturbed as a result of the criminal act committed. Accordingly, the purpose of punishment is not merely to penalize the child who is found guilty, but also to provide guidance and raise awareness in children who have committed mistakes or deviant behavior. This is particularly crucial given that children's rights cannot be disregarded and must be protected. Therefore, the imposition of criminal sanctions is not the sole means of addressing children who have committed criminal offenses.

Diversion within the Indonesian juvenile justice system aims to safeguard the psychological development of children involved in legal problems. By removing children from formal judicial proceedings, diversion seeks to prevent stigmatization and other adverse consequences that may negatively affect their mental and social development. Diversion constitutes a mechanism for resolving cases involving children who are alleged to have directly engaged in certain criminal acts by shifting the formal legal process toward a more peaceful and restorative form of resolution. As such, diversion provides an alternative dispute resolution approach that prioritizes the best interests of the child (Dewi & Taufik, 2022).

Within the juvenile criminal justice system, diversion must be considered and applied in cases involving children. As previously discussed, the regulation of diversion has been explicitly stipulated in the Law on the Juvenile Criminal Justice System. On the other hand, children in conflict with the law, although positioned as offenders, may also be regarded as victims who are entitled to recovery and social reintegration, rather than retributive treatment. Furthermore, the handling of juvenile criminal cases through diversion can be implemented optimally only when all supporting elements of diversion are adequately available within judicial institutions. Authorized law enforcement officials are also expected to possess strong commitment and sufficient capacity to handle cases involving children in accordance with the principle of the best interests of the child. In this way, diversion can truly be carried out to serve the child's best interests (Fardian & Santoso, 2020).

Diversion provides children with the opportunity to take responsibility for their actions through rehabilitation rather than punishment, thereby supporting positive mental and social development and preventing stigmatization. This approach aligns with the principle of "the best interests of the child," which underpins juvenile justice systems. Empirical studies support this argument. Research by Fulham et al., (2025) shows that restorative justice practices, including diversion, can reduce reoffending rates and improve victim satisfaction. Likewise Jonas et al., (2022) found that victim-offender mediation enhances offender accountability and supports emotional recovery for victims. Furthermore Waweru & Muhindi, (2025) emphasizes that non-custodial approaches are more effective in encouraging desistance among juveniles by avoiding stigmatization and strengthening pro-social identity.

Nevertheless, the implementation of diversion as mandated by the Juvenile Criminal Justice System Law, particularly at the investigation stage conducted by the police, often encounters challenges and empirical gaps. In practice, diversion risks being reduced to mere procedural formality, where it is implemented only to fulfill legal obligations rather than to achieve substantive reconciliation and optimal protection for children. This concern is highlighted by Hakim & Amedi, (2023) who notes that institutional pressures can shift diversion toward administrative compliance rather than meaningful restorative outcome.

Consequently, it is necessary to examine how diversion for children in conflict with the law is actually applied at the police investigation stage. Previous studies have tended to focus

primarily on procedural compliance, while relatively few have examined the extent to which diversion generates legal utility at the investigation stage. Therefore, if diversion succeeds only procedurally but fails to produce substantive benefits, it cannot function effectively as an instrument of protection.

## RESEARCH METHODS

This study employs an empirical legal research method to examine the implementation of juvenile diversion from the perspective of legal utility through a case study at the Child and Women Protection Unit (Unit PPA) of the Ternate Police Department. The selection of this approach refers to Kurniawan et al., (2025) who explains that empirical legal research analyzes law in action within society. In line with Sugiyono, (2020), this method emphasizes the use of primary data obtained directly from the field. Primary data were collected through interviews with children in conflict with the law, their parents, and investigators, while secondary data were obtained from literature and legal documents. Data were collected through interviews and documentation, then analyzed qualitatively, as stated by Sugiyono, to interpret data systematically and produce comprehensive conclusions.

## RESULTS AND DISCUSSION

### Results

#### **Regulation of Diversion in Juvenile Cases at the Investigation Stage**

##### **Philosophical Basis for Child Protection**

In the considerations of the Child Criminal Justice System Law, it is stated that to uphold the dignity and worth of the child, they are entitled to special protection, particularly legal protection within the justice system. As a State Party to the Convention on the Rights of the Child, Indonesia has the obligation to provide special protection for children in conflict with the law. The considerations establish the principle of legal protection, while the general provisions adopt a deliberative approach as the basis for a welfare-oriented framework. Through this approach, children in conflict with the law are, as much as possible, shielded from punitive processes in the criminal justice system, and all actions taken by the state regarding their offenses prioritize the best interests of the child (Parindo et al., 2024).

Philosophically, the Child Criminal Justice System Law (UU SPPA) seeks to guarantee that even when children face the law, their dignity is upheld. Children are viewed as the nation's future and should not be "ruined" by a single criminal act. As previously discussed, children have distinct characteristics that differ from adults, so the justice system cannot treat them in the same manner. Therefore, one of the objectives of the UU SPPA is to provide special protection so that legal processes do not hinder the physical, mental, and social growth and development of children, including preventing stigma or labeling.

##### **Juridical Basis for Diversion Regulation in Juvenile Cases at the Investigation Stage**

Normatively, the authority and duty of investigators to implement Diversion are no longer discretionary but have become an imperative mandate under Indonesian positive law. The main juridical basis for implementing Diversion at the investigation stage is Law No. 11 of 2012 concerning the Child Criminal Justice System (UU SPPA). Within this law, Article 5 paragraph (3) explicitly mandates that Diversion must be undertaken at every stage of examination, starting from the earliest stage, namely the investigation.

According to Law No. 2 of 2002 concerning the Police, Article 18 outlines the police's duties and authority, including consulting community advisors after a criminal offense is

reported. Investigators are required to consider inputs from educational experts, psychologists, psychiatrists, religious leaders, professional social workers, or welfare officers within a maximum of 3 × 24 hours. This follows the rational choice concept through a single authority, namely “Discretionary Power,” accommodated in Article 16 paragraph 1 letter 1 and paragraph 2, and Article 18 paragraph 1 of Law No. 2 of 2002.

The concept of value and utility is also embedded in Law No. 11 of 2012, guiding investigations toward Diversion as an alternative resolution in accordance with the child’s best interest. This is further supported by Law No. 35 of 2014, amending Law No. 23 of 2002 on Child Protection, in Articles 59(2)(b) and 64(a, b, g). Efficiency is achieved when both formal and material implementation connects the concepts of value, utility, and rational choice aligned with the goals of the juvenile justice system (Budiastuti & Samadi, 2021).

### **Government Regulation No. 65 of 2015 on Guidelines for Implementing Diversion and Handling Children Under 12 Years Old**

Although Law No. 11 of 2012 establishes a strong philosophical foundation for changing the juvenile sentencing paradigm, laws are often general and abstract, potentially causing confusion for field officers. Government Regulation No. 65 of 2015 was enacted not merely as an administrative complement but as an imperative mandate derived directly from Article 107 of the UU SPPA. This article explicitly orders the creation of implementing rules to ensure that the concept of Diversion is not only theoretically sound but also practically enforceable and consistent across Indonesia (Pinem et al., 2025).

Substantively, this regulation serves as a binding guideline for the entire juvenile justice subsystem, including the Police, Prosecutors, and Courts. Without it, the discretionary authority of law enforcement to divert cases could become inconsistent and lack standardization. The regulation provides legal certainty by establishing strict procedures for Diversion, from determining mandatory participants in deliberations, setting time limits, to issuing court decrees that legalize the outcomes of the peaceful resolution. Thus, every Diversion step taken by investigators or prosecutors is legally protected and insulated from abuse of authority (Reza & Siregar, 2023).

Furthermore, the juridical basis addresses a crucial legal gap regarding children under 12 years old. Since the UU SPPA raises the age of criminal responsibility to 12, children below this age are legally considered *doli incapax* (incapable of criminal responsibility). The regulation provides clear legal corridors for investigators and community mentors to make administrative not criminal decisions for this age group. Options are strictly limited, including returning the child to their parents or enrolling them in educational, rehabilitation, or guidance programs in government institutions or LPKS. This reflects the state’s role shifting from “punisher” to “mentor” for children who are mentally immature to face the law.

In the framework of Government Regulation No. 65 of 2015, the handling of children under the age of 12 who commit criminal acts is governed by a legal regime separate from ordinary Diversion. Investigators are not preparing case files for court; rather, they are carrying out a rehabilitative function. The following outlines the crucial articles that regulate the role of investigators in handling children under 12 years old:

#### **a. Initiator of Cross-Sectoral Coordination (Articles 65 & 66)**

The first step outlined in this regulation positions the investigator as the “command holder” who must not act alone. According to Article 65, when an investigator receives a report regarding a child under 12 suspected of committing a criminal act, the investigator is required to immediately coordinate with the Community Guidance Officer (Bapas), professional social workers, and other social welfare personnel. Article 66 grants exclusive authority to the investigator to make decisions; however, these decisions must not be based solely on police intuition, but must be founded on professional considerations from the relevant parties. Here, the investigator functions as a nexus between legal processes and social science expertise.

**b. Examination Mechanism and Request for Social Investigation Report (Litmas) (Article 68)**

Procedurally, the investigator's active role is detailed in Article 68. This article mandates that the investigator request a Social Investigation Report (Litmas) from Bapas no later than 1 × 24 hours after the child begins to be handled. This administrative role is crucial, as any delay in requesting Litmas can adversely affect the child's fate. Once the Litmas is received (which must be completed by Bapas within seven days), the investigator acts as a facilitator for the coordination meeting. The investigator must invite Bapas, the reporter/victim, parents/guardians, and social workers to discuss the child's circumstances. In this forum, the investigator does not act as an interrogator but as an objective mediator to formulate the best recommendations.

**c. Executor of Decision-Making (Article 67)**

The pinnacle of the investigator's role for children under 12 is outlined in Article 67. Based on the consensus reached in the coordination meeting, the investigator has the legal authority to determine one of two absolute options: return the child to their parents/guardians or enroll them in educational, guidance, and mentoring programs at government institutions or social welfare institutions (LPKS). If the second option is chosen (placement in LPKS), the investigator must ensure that the rehabilitation period does not exceed six months. This article emphasizes that the investigator functions as a "judge" at the initial stage, determining the form of guidance without requiring a court verdict.

**d. Guarantee of Legal Certainty (Article 69)**

After a decision is made, the investigator's duties are not complete. Article 69 mandates that the investigator notify the child, their parents, and the reporter in writing. Furthermore, the investigator must document the decision in the official report and issue a letter of termination of investigation. In this context, the investigator ensures that the child will no longer be pursued by the criminal process in the future for the same case. These administrative actions provide legal assurance that the matter has been finalized through a non-judicial mechanism.

**Regulation of the Chief of the Indonesian National Police No. 6 of 2019 on Criminal Investigation Management**

Within the police legal framework, Chief of Police Regulation No. 6 of 2019 on Criminal Investigation Management functions as the administrative "backbone," ensuring that every step of the investigation is measured, transparent, and accountable. While the UU SPPA and PP No. 65 of 2015 serve as the substantive legal basis for Diversion, Perpol No. 6 of 2019 governs the administration and management to prevent the investigator's discretionary authority in Diversion from becoming uncontrolled.

Overall, Perpol No. 6 of 2019 does not regulate how to conduct Diversion that is the domain of PP No. 65 of 2015 but governs how to manage the Diversion process so that it is administratively orderly and institutionally legitimate. This regulation frames the investigator's role to avoid partial or fragmented work, positioning them as officials operating within an integrated system: from applying special law (Article 15), reviewing decisions through case deliberations (Article 24), to issuing legitimate investigation termination documents (Article 30). Consequently, the resulting Diversion not only satisfies justice but also meets the professional standards of police investigation management.

**Procedures for Implementing Diversion at the PPA Unit of Ternate Police**

In handling cases involving children in conflict with the law, the Women and Children Protection Unit (Unit PPA) of the police plays a central role as the first point of contact. This process differs from adult investigations. Juvenile investigators are required to pursue Diversion, which involves redirecting case resolution from the criminal justice process to an alternative process outside the formal court system. The procedural stages are as follows.

Verification Stage: Examining Formal Requirements. When a police report is filed involving a minor (aged 12–18), PPA investigators do not immediately conduct detention or the

standard pro-justitia examination. The first crucial step is to determine whether the case qualifies for Diversion. Investigators must verify two absolute conditions according to the law: first, Criminal Threat: the offense must be punishable by a prison sentence of less than seven years. If the penalty exceeds seven years, Diversion is not mandatory because the offense is considered serious. Second, Child's History (Recidivism): the child must not be a repeat offender, meaning it must be the child's first offense. If both conditions are met, PPA investigators are legally obligated to pursue Diversion. Here, "legally obligated" means the investigators carry a duty to facilitate reconciliation, not merely exercise a discretionary choice.

**Preparation Stage: Involving Community Guidance (Bapas).** Once the requirements are met, the investigators do not work alone. In the juvenile justice system, investigators must immediately coordinate with the Community Guidance Center (Bapas). Investigators request a Social Research Report (Litmas) from the Bapas officer. This report is highly vital as it contains the child's background, family conditions, and recommended sanctions most appropriate for the child. This aligns with the principle that case handling must consider the results of social research.

**Implementation Stage: Diversion Deliberation.** This stage constitutes the core of the Diversion process. PPA investigators act as facilitators who bring all parties together in a deliberative forum. This forum emphasizes rehabilitation rather than retribution. The parties required to participate in the deliberation include the child in conflict with the law and their parent/guardian, the victim and their parent/guardian, the Bapas officer, and professional social workers. During the deliberation, all parties sit together to seek a solution, aiming for a win-win outcome. The goal is to achieve reconciliation, resolve the case outside the court, and instill a sense of responsibility in the child (Dahlan et al., 2025).

**Agreement Stage: Determining the Outcome of Diversion.** If the deliberation proceeds smoothly and the victim is willing to forgive (reconciliation), a Diversion Agreement is established. The form of the agreement may vary depending on the discussion outcome: it may involve reconciliation through financial compensation or mutual forgiveness; returning the child to the parent/guardian while requiring the child to engage in beneficial social activities; participation in community service with constructive social activities; or enrollment in education or training programs at an educational institution or LPKS for a maximum of three months. It is important to note that the child's opinion (as the suspect) must also be heard and considered in determining the Diversion agreement.

**Final Stage: Determination and Termination of Investigation.** If a Diversion agreement is reached, the investigator will forward the minutes of the agreement to the local District Court to obtain an official determination. Once the determination is issued, the police investigation is officially terminated. The child is freed from suspect status and formal criminal records, thus avoiding stigmatization or being labeled a "criminal." However, if Diversion fails for example, if the victim refuses reconciliation or no agreement can be reached the investigator is obliged to continue the legal process and submit the case file to the Prosecutor's Office for formal judicial proceedings.

According to the author's analysis, the regulation of Diversion in cases involving children in conflict with the law, when examined through the lens of Jeremy Bentham's Utilitarian Theory of Law, demonstrates a fundamental shift in the purpose of law from mere retribution to the pursuit of the greatest happiness for the greatest number. Bentham emphasizes that law is considered effective when it minimizes suffering (pain) and maximizes happiness (pleasure) (Gabiella & Yuniawaty, 2025). The provisions in the Juvenile Justice System Law (UU SPPA) are seen to fulfill this principle by reducing unnecessary "suffering," namely the stigmatization or negative labeling often present in conventional retributive justice systems. By diverting children from formal criminal proceedings, the state prevents mental and social harm that could

destroy the child's future, which, from a utilitarian perspective, represents the prevention of long-term suffering for future generations (Fernanda et al., 2025).

The author's analysis of Diversion regulation at the investigation stage, based on a thorough review of the philosophical foundations of child protection, finds that the implementation of Diversion is not merely a procedural technique for redirecting cases. It is an ideological manifestation aimed at "humanizing" a legal process that has traditionally been rigid. Conventional criminal justice systems often fail to understand the vulnerable position of children, who are essentially victims of psychological immaturity and their social environment. Therefore, Diversion provisions in the UU SPPA serve as a fundamental correction, shifting the paradigm from retributive justice to restorative justice, with the primary goal of breaking the cycle of stigmatization that can "destroy" a child's future. The author observes that the protection of the child's dignity and rights in the preamble of the law is not mere rhetoric but a supreme norm that positions the child as a subject to be nurtured, not an object to be punished (Nasef et al., 2025).

From a juridical perspective, the author finds that the authority of investigators to implement Diversion has shifted from the realm of discretionary power to an imperative mandate. The UU SPPA explicitly requires the pursuit of Diversion at the investigation stage for offenses with a penalty of less than seven years and for non-recidivist children, with a very strict timeframe of seven days from the start of the investigation. Furthermore, Government Regulation No. 65 of 2015 strengthens the role of investigators as rehabilitative facilitators, particularly for children under twelve years old (*doli incapax*). For this age group, investigators no longer act as repressive law enforcers but as coordination nodes between legal and social sciences, involving Bapas and social workers in making administrative decisions such as returning the child to their parents or providing guidance in LPKS without a court verdict.

At the technical and managerial implementation level, the author assesses that Police Regulation (Perpol) No. 6 of 2019 on the Management of Criminal Investigations serves a vital function as the administrative "backbone" ensuring accountability in investigator discretion. Without this managerial regulation, investigators' broad authority to terminate cases could become uncontrolled. This Perpol frames Diversion through quality control mechanisms such as Case Review (*Gelar Perkara*), requiring investigators to prove that the reconciliation agreement meets both formal and substantive requirements (Putra & Yasa, 2024). The author argues that the integration of the UU SPPA, Government Regulation No. 65 of 2015, and Perpol No. 6 of 2019 forms a mutually reinforcing system: the UU SPPA provides philosophical guidance, the Government Regulation provides technical implementation instructions, and the Perpol ensures administrative compliance up to the issuance of an SP3 (investigation termination order) to guarantee legal certainty (Putri & Taufik, 2024).

Based on practice at the PPA Unit of Ternate Police, the author observes that the Diversion procedure has been carried out systematically, beginning with the verification of absolute conditions (criminal threat and recidivist status) and involving Bapas to obtain the *Litmas* (Kasim et al., 2023). This process positions deliberation as the heart of case resolution, with investigators facilitating dialogue between victim and offender to achieve a win-win solution. Essentially, the entire arrangement from philosophy to technical procedure is designed with a single ultimate purpose: to ensure that children exit the criminal justice system as quickly as possible without carrying a criminal label, thus safeguarding their developmental rights in accordance with constitutional mandates.

### **The Effectiveness of Diversion Implementation from the Perspective of Jeremy Bentham's Theory of Legal Utility at the Investigation Stage**

Assessing the effectiveness of law enforcement, particularly in juvenile cases, cannot be measured solely by whether formal procedures have been fulfilled or whether case files have been completed administratively. More importantly, effectiveness must be evaluated based on the substantive impact experienced by the parties involved. Therefore, to examine the extent of

Diversion's success at the PPA Unit of Ternate Police, the author employs Jeremy Bentham's Theory of Utility as an analytical framework. In Bentham's thinking, the ultimate goal of law is to achieve the greatest happiness for the greatest number of people.

In the context of this study, the parameter of effectiveness is not measured by the number of children punished, but through Bentham's moral calculus, weighing the "benefits/pleasure" against the "suffering/pain." Diversion at the investigation stage can only be considered effective if it minimizes suffering such as prison trauma and the stigma of being labeled "evil" while simultaneously maximizing happiness, including the restoration of victims' rights and the safeguarding of the child's future. Accordingly, the discussion below will trace empirical evidence from interviews to determine whether Diversion at Ternate Police has genuinely served as an instrument that delivers real benefits or if it has merely functioned as a formal procedural requirement.

### Analysis of the Benefits for Children in Conflict with the Law

#### Field Findings (Results of Interviews with Investigators, Parents, and Children in Conflict with the Law)

Based on data collection and interviews conducted at the PPA Unit of Ternate Police, it was found that Diversion truly functions as a "mental safeguard" for children. The legal process, which is usually intimidating, rigid, and stressful, is transformed into a more humane and dialogical process. Children do not have to experience the trauma of being detained with adult offenders or being separated from their parents. This finding was confirmed through an in-depth interview with the PPA Unit Investigator of Ternate Police, BRIGPOL TOMI, on November 5, 2025, at 10:59 WIT, in the PPA Unit Office of Ternate Police. He stated:

"Experience in handling Diversion cases in the PPA Unit has mostly involved cases dominated by physical violence against children (peer-to-peer), followed by sexual abuse or child rape, and theft committed by children. However, the cases most frequently resolved through Diversion efforts are physical violence against children or adults and theft. The PPA Unit of Ternate Police receives annual reports as follows: in 2020, 16 children were involved in criminal acts across 12 cases (one case involved more than one child); in 2021, 12 children were handled from 10 reports; in 2022, 12 children from 11 reports; in 2023, 15 children from 12 reports; in 2024, 13 children from 8 reports; and in 2025, 5 children from 5 reports. In total, 58 reports of children in conflict with the law or as offenders were received during this period, but only a few cases that met the mandatory Diversion criteria were resolved through Diversion efforts."

**Table 1.** Results of Diversion Implementation at the PPA Unit of Ternate Police from 2020 to 2025

Year	Total Reports Received	Successfully Diverted	Types of Cases Successfully Diverted	Notes
2020	12	3 cases	Theft (1) Physical violence against children (2)	Cases that could not undergo
2021	10	5 cases	Ordinary theft (3) Physical violence against children (2)	Diversion involved
2022	11	2 cases	Physical violence against children	sexual offenses,
2023	12	2 cases	Physical violence against children	molestation, and child rape.
2024	8	None	Mob attack (adult victim)	

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<b>2025</b>	5	2 cases	Physical violence against children
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Cases that cannot be resolved through Diversion efforts include sexual offenses, molestation, or child rape, as these do not meet the mandatory criteria for Diversion itself. The table above indicates that in 2024, there were no cases successfully diverted, or in other words, the results were nil. This was because the types of offenses committed did not meet the requirements for Diversion. In 2024, only one case met the criteria for Diversion and was attempted, but it failed due to the absence of an agreement. From the data above, it can be concluded that successful Diversion efforts are limited to cases that meet the mandatory Diversion criteria, which are predominantly cases of physical violence against children.

In addition to presenting statistical case data, in the interview, BRIGPOL TOMI also emphasized that the success of Diversion heavily depends on who is present at the negotiation table. He explained that in every Diversion deliberation, investigators never work alone. According to procedure, investigators are required to bring the “four main pillars,” namely the offender (child and parent), the victim (child and/or parent), the Probation Officer (Bapas), and a Professional Social Worker. The presence of Bapas is considered vital because their recommendations guide the direction of the agreement. During the Diversion deliberation, all parties mentioned above are present and directly involved in the discussion.

Regarding the deliberation mechanism, investigators ensure that the atmosphere is familial and supportive, far from a rigid interrogation setting, so that the child feels safe to express their opinions during the discussion. The investigator’s goal in creating a familial atmosphere is to reach a mutual solution (win-win solution), not to assign blame. Once an agreement is reached, investigators do not simply disengage. BRIGPOL TOMI emphasized that there is a monitoring mechanism to ensure that points of the agreement, such as restitution or community service, are genuinely carried out by the child.

BRIGPOL TOMI further explained that handling children through Diversion, compared to formal prosecution, is markedly different because if a child is processed formally and sent to detention, their mental state inevitably declines. The child becomes withdrawn, fearful of interacting with others, and may even feel ashamed to attend school due to being labeled a “prisoner.” However, with Diversion, once a peaceful agreement is reached in the room, the child can immediately go home with relief and embrace their mother. The next day, the child can return to school as if nothing had happened. The psychological burden is lifted, and the child is given the opportunity to improve themselves without carrying lifelong shame.

## **Discussion**

### **Analysis of the Effectiveness of Diversion from the Perspective of Jeremy Bentham’s Utilitarianism**

Based on empirical data gathered through in-depth interviews with three key elements in the juvenile criminal justice system Investigators from the PPA Unit, Parents, and Children in Conflict with the Law the author analyzes that the implementation of Diversion at the Ternate Police Resort has realized the core essence of Jeremy Bentham’s Utilitarian Theory of Law. Bentham postulated that the primary purpose of law is to achieve “the greatest happiness for the greatest number.” In the context of handling juvenile cases, the parameter of “happiness” (pleasure) is measured by the law’s ability to restore conditions, while the parameter of “suffering” (pain) is measured by the law’s capacity to prevent damage to a child’s future caused by stigma and the trauma of imprisonment.

First, from the perspective of the Investigator as a representative of the state, data presented by GRIGPOL TOMI indicate that the Diversion mechanism functions as an efficient safety valve. Although statistics show fluctuations in cases from 2020 to 2025, the successful resolution of cases such as theft and physical violence against children through non-penal

avenues demonstrates that the state gains utility in the form of case-handling efficiency. Investigators are not trapped in rigid case documentation for matters that could be reconciled, allowing the focus of law enforcement to shift toward more serious offenses (such as sexual crimes that cannot be diverted). In Bentham's calculus, this represents a reduction of systemic suffering in the form of case accumulation and overcrowding in correctional facilities.

Second, from the perspective of parents, Diversion provides emotional and social utility. Anxiety regarding the child's future and societal stigma which constitute the greatest form of pain for families is alleviated through this mechanism. Parents do not have to see their child in prison attire or tried as an adult criminal. As revealed in interviews, parents' relief at having their child returned to familial care constitutes tangible pleasure. The law serves not to separate the child from the family, but to reinforce the family's control function itself. This aligns with Bentham's principle that the law should maintain social bonds rather than sever them.

Third, and most fundamentally, is the benefit for the Child in Conflict with the Law as the primary subject. According to the child's own accounts, those successfully diverted avoid deep psychological trauma typically caused by detention. Diversion provides a valuable "second chance," as the child can continue attending school and socializing without being labeled a "former prisoner." Suffering in the form of fear and intimidation in the courtroom is replaced with a humanistic, dialogical process. Here, Bentham's theory operates perfectly: the painful prison sanction is substituted with educational sanctions (such as community service or training at LPKS) that generate pleasure/benefit, ultimately shaping the child into a more productive member of society.

Overall, the integration of perspectives from all three parties confirms that Diversion at the PPA Unit of the Ternate Police Resort is not merely a procedural formality to fulfill statutory obligations. It is a form of living law oriented toward utility. The balance between minimizing suffering (trauma, stigma, legal costs) and maximizing happiness (victim restoration, the child's future safety, societal peace) has been achieved. Therefore, the implementation of Diversion at the investigation stage can be considered effective, as it successfully delivers the greatest benefit to all parties involved, in accordance with the doctrine of Utilitarianism.

### **Utilitarian Analysis for Children in Conflict with the Law**

The implementation of Diversion carries the most crucial utilitarian implications for Children in Conflict with the Law (CCL). While in the previous sections, effectiveness was measured by procedural success and the balance of interests among the parties, this section focuses exclusively on the tangible impact experienced by the child as a vulnerable legal subject. Based on Utilitarian Theory, the benefit to the child is not measured merely by escaping the grip of the law, but by preserving the child's potential future from permanent damage (irreversible harm).

Diversion provides benefits in the form of prevention of dehumanization and stigmatization. As noted in the background, conventional justice systems often fail to recognize the child's vulnerable position. Prisons for children often do not serve as rehabilitation centers, but rather as "schools of crime." By applying Diversion, the child is spared from intensive interaction with other offenders in correctional facilities. In Bentham's calculus, this reduces the largest source of "suffering," namely moral contamination. A child who undergoes Diversion remains within their natural social environment (family and school), preventing the permanent attachment of the "criminal" label that could destroy the child's self-concept.

Diversion ensures the continuity of developmental and educational rights. Legal utility must align with constitutional mandates that every child has the right to survive, grow, and develop. Field observations indicate that children undergoing formal judicial processes often drop out of school due to shame or detention. Through Diversion, sanctions are replaced with educational measures, such as community service or training in LPKS for a maximum of three months (Taroreh et al., 2025). This creates a dual utility: the child is held accountable for their

actions (deterrent effect) without losing access to education. The child can continue schooling and socializing, which forms the foundation for future happiness (Nofarizal et al., 2024).

Diversion functions as a means of fostering responsibility and reintegration. Unlike imprisonment, which positions the child as a passive object of suffering, Diversion demands the child's active participation. In the deliberation process, the child is guided to apologize directly to the victim and agree on restitution or community service. This process cultivates moral awareness from within the child (internal locus of control). According to Bentham, the true happiness of society is achieved when individuals possess good moral character. Diversion educates the child to understand the consequences of their actions humanely, thereby minimizing the potential for recidivism (Lubis, 2020).

In conclusion, for Children in Conflict with the Law, Diversion represents the highest manifestation of beneficial justice. It is not merely a means to avoid punishment, but a golden bridge that reconnects a child who has gone astray with a brighter future, preserving their dignity and worth as the nation's next generation.

## CONCLUSION

The regulation of diversion for children in conflict with the law at the investigation stage is not merely a procedural option; rather, it has evolved into an imperative mandate grounded in the protection of the dignity and worth of the child. Philosophically, this regulation aims to shift the paradigm of punishment from a retributive (retaliatory) approach to a restorative one, in order to break the cycle of criminal stigmatization attached to children. Juridically, the authority of investigators of the Women and Children Protection Unit (Unit PPA) of the Ternate Police Resort in implementing diversion is strictly bound by Law Number 11 of 2012 on the Juvenile Criminal Justice System, Government Regulation Number 65 of 2015, and Police Regulation Number 6 of 2019.

In practice, investigators no longer act solely as repressive law enforcement officers, but rather transform into facilitators of reconciliation and case managers. The procedures applied at the Ternate Police Resort have been implemented systematically, beginning with the verification of formal requirements (criminal penalties carrying a maximum sentence of under seven years and non-recidivist status), the involvement of the Correctional Center (Bapas) in conducting social inquiry reports (*litmas*), and the conduct of deliberative meetings involving the victim, the offender, and social workers. This demonstrates that diversion at the investigation stage represents the presence of the state in "guiding" rather than "destroying" a child's future through legally grounded and measurable administrative mechanisms.

The effectiveness of the implementation of diversion at the Unit PPA of the Ternate Police Resort, when examined through the analytical lens of Jeremy Bentham's Theory of Utility (Utilitarianism), has proven to be effective, as it is capable of producing the greatest happiness for the greatest number. This effectiveness is measured by the ability of diversion to balance the minimization of suffering (*pain*) and the maximization of happiness (*pleasure*) for children, parents, and the state.

Empirical evidence indicates that diversion successfully eliminates forms of "suffering" such as psychological trauma resulting from detention, disruption of schooling, and negative social labeling (stigma) that can jeopardize a child's future. Conversely, diversion maximizes "happiness" or utility in the form of restored relationships with victims, peace of mind for parents, and a second chance for children to rehabilitate themselves through education or training at Social Welfare Institutions (LPKS). For the state (investigators), utility is achieved through efficiency in case handling and the prevention of overcrowding in correctional facilities. Thus, diversion is not merely a formal termination of investigation, but rather an effective instrument

of social engineering to safeguard the nation's future generation from the destructive impacts of the conventional criminal justice system.

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