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Phone: +62281-635624 Fax: +62281- 636653
E-mail: volksgeist@uinsaizu.ac.id
Website: <http://ejournal.uinsaizu.ac.id/index.php/volksgeist>

Recomposing the Handover and Return to Parents in the Juvenile Justice System in Indonesia: Dilemma between Best Interest of the Juvenile and Legal Shadow

Article	Abstract
<p>Author Setya Wahyudi¹*, Rani Hendriana¹, Dwiki Oktoberian¹, Bhanu Prakash Nunna².</p> <p>¹ Faculty of Law, Universitas Jenderal Soedirman, Indonesia ² School of Law, RV University, India</p> <p>Corresponding Author: * Setya Wahyudi, <i>Email:</i> setya.wahyudi@unsoed.ac.id</p> <p>Data: Received: Feb 07, 2025; Accepted: Jun 28, 2025 Published: Jun 30, 2025</p> <p>DOI: 10.24090/volksgeist.v8i1.13130</p>	<p>The Indonesian Juvenile Justice System, established by Law No. 11 of 2012, focused on restorative justice and diversion strategies. However, two distinct aspects—handover and return to parents—do not possess sufficient supervisory measures, which raises doubts about their effectiveness in reducing recidivism and serving justice for victims. This article analyzes the legal framework and practical application of these elements using both normative and empirical methods, including interviews conducted with probation officers at the Purwokerto Correctional Center. The results indicate that although both approaches strive to safeguard the psychological health of child offenders, they lack enforceable responsibilities for parents or active community oversight. This results in a notable legal gap at the implementation level. The study suggests a redesign that combines the oversight of probation officers with community involvement to ensure observable behavioral improvements and accountability. This model aims to harmonize the principles of restorative justice with societal demands for fair justice and consideration for victims. The novelty of this article lies in providing a comprehensive institutional framework for post-diversion supervision, which has been mostly overlooked in earlier research.</p> <p>Keywords: <i>Diversion; juvenile justice system; measure; returning to parents.</i></p>

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INTRODUCTION

The Juvenile Justice System Law No. 11/2012. Enacted over ten years ago, established a reformed criminal justice system, which decisively distinguished between adult and juvenile offenders. One of the peculiarities of the justice system of Indonesia is the embrace of the idea of non-custodial measures as the primary reaction to crime. In the Juvenile Justice System Law of 2012 with its new paradigm concept of restorative justice adoption, diversion program is stipulated as a program that can prevent the disposition of imprisonment and criminal justice system. Also, with regard to children, punishment is limited (the death penalty and life imprisonment not being

allowed under the 1989 Convention on the Rights of the Child, if under 18 years). This distinction in criminal responses between children and adults is one of the minimum standards of decency that mark a civilized society.¹ Prison not only deters, but it also traumatizes, reduces self-esteem, stigmatizes, discriminates, and even multiply the violence and turns it to become worse, and will turn into juvenile recidivism.² The recognition of the issue of juvenile justice shows that Indonesia is a country that has an awareness of quality child development.

The interpretation of children in the criminal justice system is the terminology “Children in Conflict with the Law.” “The Child Law says they are age-eligible as of 12 and until they have not yet reached 18. Article 4.1. Beijing Rules (1985) states *“In jurisdictions which prescribe a minimum age reflecting the principles of the age of criminal responsibility for a juvenile, the starting point should not be set too low, having regard to emotional, mental and intellectual maturity.”* The Indonesian Juvenile Justice System Law also draws heavily from the Beijing Rules,³ the assumption of which activity as a logic is audible in the Preamble of the Act, but makes explicit reference to only one international instrument - the Convention on the Rights of the Child (1989). The Beijing Rules prioritize humane treatment of juvenile offenders versus adults and their rehabilitation for successful reintegration into society.⁴ This age group suggest that Indonesian children in conflict with the law are adolescents and that this age group is deemed to be maturely emotional, psychological, and intellectual.

The Law on the Juvenile Justice System refers to international developments like restorative justice, diversion, and non-custodial alternatives, but it also adopts an inductive or bottom-up approach in respect of Indonesian conditions with handover and return to parents. Handover is a form of diversion program agreement under Article 10, and return is a form of action measure sanction under Article 82. The philosophy of sanctions and diversion programs in the juvenile justice system internationally is the use of community-based sentences like probation or supervision to maintaining offending children in the community without being put on trial or after being tried, returned to the community.⁵ Here, re-incorporation into the social community is a critical mechanism of recouping social salience lost as a result of social disintegrative forces. This not only heals relationships but also enhances personal well-being and supports parents to change and create a setting conducive to the welfare of children engaged the youth justice system.⁶ The concept of handover and return to parents in Indonesia is not intended to adopt this model, but to deliver directly the offending child to the parents.

¹ Laura Pozuelo Pérez, “Pena de Muerte y Cadena Perpetua Para Menores Infractores: La Necesidad de Combatir La Crueldad Con Los Estándares de Decencia,” *Revista de La Facultad de Derecho y Ciencias Políticas* 54, no. 140 (2024): 1, <https://doi.org/10.18566/rfdcp.v54n140.a05>.

² Egitya Firdausyah, “Analisis Penyebab Pelarian Anak Didik Pemasyarakatan Di Lembaga Pembinaan Khusus Anak Kelas I Kutoarjo,” *SUPREMASI : Jurnal Hukum* 4, no. 1 (October 2021): 38, <https://doi.org/10.36441/supremasi.v4i1.384>.

³ Vivi Nurqalbi, “Analysis of Diversion Arrangements in the Beijing Rules and the Juvenile Criminal Justice System in Indonesia,” *European Journal of Law and Political Science*, 2023, 54, <https://doi.org/10.24018/ejpolitics.2023.2.1.53>.

⁴ Judy Cashmore, “Juvenile Justice: Australian Court Responses Situated in the International Context,” 2013, 197, https://doi.org/10.1007/978-94-007-5928-2_12.

⁵ Kevin T. Wolff, Michael T. Baglivio, and Jonathan Intravia, “Dynamic Risk Trajectories, Community Context, and Juvenile Recidivism,” *Journal of Criminal Justice*, 2023, 1, <https://doi.org/10.1016/j.jcrimjus.2023.102070>.

⁶ Indriati Amarini et al., “Social Reintegration after the Implementation of Restorative Justice in the Indonesian Criminal Code,” *Jurnal Media Hukum* 31, no. 1 (May 2024): 115, <https://doi.org/10.18196/jmh.v31i1.20655>.

The principles of best interests of the child underpins the juvenile justice system in Indonesia and the way juvenile delinquency is responded to. Law No. 11 of 2012 reiterated the child's right to life and development, the principle of the best interest of the child and guarantee the minimum sanction and setting another concept for dealing with children in conflict with the law. However, the existing systems of "handover" and "return to parents" do not have clear regulation on this aspect from the perspective of post-diversion or treatment-based supervision and have legal closure in terms of authentic rehabilitation. This lack of scrutiny can threaten the trust of the community, as when its members are confronted with grave juvenile offenses, such as children raping and murdering children (in Palembang, South Sumatra),⁷ children burning children (in Padang, West Sumatra),⁸ and children setting fire to schools (in Temanggung, Central Java).⁹ Although some research—like Rodríguez-Pellejero et al.'s study in Spain—was that not all children experience intense distress associated with giving testimony in a court of law;¹⁰ although the results are mixed, they underscore the need to strike a balance between protecting children from harm versus doing justice. In the Indonesian setting, this means that while children's rights are important, we must also consider the community's and victims' interpretation, in efforts to implement a more balanced and restorative justice within juvenile justice system.¹¹

A number of Indonesian studies have sought to investigate the different problems concerning handover and reuniting children with their parents. First, Fitriati and Gunawan explain that the treatment of child drug abuse is applicable to the diversion of handover to parents, when there are no three conditions (recidivism, evidence of formal violations and willingness of parents to provide deterrent).¹² Second, Rochaeti and Muthia maintain that efforts to steer children away from the criminal justice system must maximize the community's position, stating the fact that the need rests with the community to engage in deliberations and reach agreement to avoid resorting to criminal justice mechanisms.¹³ Third, Nur et al. compared Indonesia, the Netherlands and Serbia when it comes to the kind of criminal sanctions and action sanctions; return to parents is also used in Serbia to keep child offenders safe for their education and development.¹⁴ None of these studies have written specifically on the shortcomings of the current system of handover and return to parents—including the lack of structured monitoring or accountability mechanisms that can respond to community apprehensions and skepticism. That is the key contribution of this article: not only to

⁷ BBC News Indonesia, "Empat Anak Pelaku Pemerkosaan Dan Pembunuhan Siswi SMP Di Palembang Divonis Bersalah – 'Pelaku Terpapar Konten Pornografi,'" 2024.

⁸ detik, "Tragis! Siswi SD Di Sumbar Tewas Diduga Dibakar Teman," 2024.

⁹ Kompas, "Siswa SMP Yang Bakar Sekolah Di Temanggung Disebut Caper, Kepsek: Dia Minta Perhatian," 2023.

¹⁰ Jose M. Rodríguez-Pellejero, Itahisa Mulero-Henríquez, and Zaira Santana Amador, "Real-Time Stress Monitoring in a Child-Friendly Court: A Repeated Measures Field Study," *Humanities and Social Sciences Communications* 11, no. 1 (2024): 1, <https://doi.org/10.1057/s41599-024-03410-w>.

¹¹ Abdul Rahman, Zainal Amin Ayub, and Ratnawati Ratnawati, "Legal Framework for Protecting Children from Commercial Sexual Exploitation," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 8, no. 1 (April 22, 2025): 87–110, <https://doi.org/10.24090/VOLKSGEIST.V8I1.13156>.

¹² Fitriati Fitriati and Mohamat Gunawan, "Efektivitas Penyelesaian Penyalahgunaan Narkotika Yang Dilakukan Anak Secara Diversi Terhadap Pengulangan Tindak Pidana (Studi Pada Tahap Penyidikan Oleh Satresnarkoba Polresta Padang)," *UNES Journal of Swara Justisia* 7, no. 1 (April 2023): 61, <https://doi.org/10.31933/ujsj.v7i1.309>.

¹³ Nur Rochaeti and Nurul Muthia, "Socio-Legal Study of Community Participation in Restorative Justice of Children in Conflict with the Law in Indonesia," *International Journal of Criminology and Sociology* 10 (February 2021): 298, <https://doi.org/10.6000/1929-4409.2021.10.35>.

¹⁴ Rafika Nur et al., "Model of Punishment: Juvenile Justice Systems," *Jambura Law Review* 3, no. Special issue (2021): 49, <https://doi.org/10.33756/jlr.v3i0.8313>.

recognizing these regulatory gaps, but also to suggesting a formulation of these two mechanisms based on developments in Indonesian practice and features of reformatory justice more generally.

The objectives of this article are to explain concept and formulation of return to parents and surrender back to parents on the juvenile justice system, and then to analyze the application works of both, to make the future improvement of return to parents and surrender back to parents implementation formulation. For the wider international academic, this article provides one of the first accounts from a jurisdiction where a juvenile justice law was such a nascent development: a development less than a decade old which exhibits both the possibilities and the challenges of infusing restorative justice into workings on the ground. It underscores the dangers of “blind” handovers to parents without sufficient community-based monitoring, a lesson that can be universalized to jurisdiction facing similar challenges with the rehabilitation versus victim and community interests dichotomy.

RESEARCH METHODS

The main purpose of this article is to suggest a re-conception of handover to the parents as diversion and return to the parents as an outcome for juvenile criminal justice in Indonesia. The new proposed design is developed through a rigorous review of existing design of both. This is a piece of normative legal research using both statutory and conceptual methods. The data used are not primary, they are regulations, articles, and scholarly references. For the sake of giving a rich context behind those figures, the paper will also include an interview to a school authorized to recommend handover and measure through return to parents, which is the Purwokerto Correctional Center. Consistent with the views of Peter Mahmud Marzuki, interviews in this research are only as a complement to enrich the secondary analysis rather than primary empirical data. Between January 2020 and June 2024, the Purwokerto Correctional Center had the recommendation of diversion of 50%. Open-ended interviews were also held with two Community Counselors, i.e. Informant A (Junior Community Counselor) in December 2024 and Informant B (Senior Community Counselor) in May 2024. Informant A is typical of a sub-officer, who has close interaction with child offenders, and Informant B is typical of a role model from Informant A by performing a mentoring role to other junior counselors. The data were then analyzed by means of content analysis and so as it can come out with valid conclusions and also to find the appropriate and effective model design for diversion program for handover and measure returning to parents with juvenile justice in Indonesia.

ANALYSIS AND DISCUSSION

Conceptualization and Construction of Handover to Parents and Return to Parents in the Juvenile Justice System

The leadership knows that the development of children is central to the sustainability of the nation and is therefore quite right to have state control of our children's lives from early years. To some extent, the government's role and responsibility in the nurturing, development, and education of children from the beginning of life, has been incorporated in different national and international policies.¹⁵ This function persists at different levels of childhood education and other realms to make

¹⁵ E. Sarinastitin, “Pendidikan Holistik Integratif Dan Terpadu Untuk Pembentukan Karakter Anak Usia Dini,” *Early Childhood Education Journal of Indonesia* 2, no. 1 (December 2018): 12.

certain that the state is there when it comes to delivering knowledge, character formation, and caring for children. The state even intrudes to save children from their family environment, not to save the family environment itself.¹⁶

When delinquency occurs as a result of more serious transgressions of the child's behavior patterns, this is finally interpreted as one more deviation of child's behavior, which deviates from community norms, legal norms and government programs, which is where the government gets involved once more, able to tell that children are different from adults, they who cannot be treated the same way, and so they start the juvenile justice system through Law Number 11 of 2012. The juvenile justice system is a law enforcement system, which includes juvenile investigation sub-system, juvenile prosecution sub-system, juvenile judge examination sub-system and the implementation of juvenile criminal law sanction sub-system according to juvenile material criminal law and formal juvenile criminal law as well as law on determination and implementation of juvenile criminal law sanctions.¹⁷ The juvenile enforcement system is to emphasize child protection and welfare.¹⁸ It is not usual for the government to take children away from their parents other adaptive processes to the juvenile justice system, but the reciprocal is occurring, returning children to their parents as a mode of punishment or an option of disposition of criminal cases.

The idea of returning to parents is, moreover, mediated in a global context has already, first through the Beijing Rules, then through the Indonesian Convention on the Rights of the Child, given an outline to the treatment of children in conflict with the law. The Beijing Rules and the CRC both reaffirm that children must be treated differently than adults and that deprivation of a child's liberty must be a measure of last resort. This framework also ensures the right of children to be with their parents and that they should not be separated from them unless necessary.¹⁹ This idea cannot be separated from the progress of the diversion strategy. Roger Smith sees the philosophy of police and persecution diversion as one of "child-first" where the value of diversion as a way to bring about child well-being is foregrounded in the approach taken by the Swansea Bureau in Wales, UK. The "child-first" emphasis of the Swansea model involves attention to re-engaging parents in their child's behavior, hearing the child's voice and disentangling the victim's needs from the child's response or reactions.²⁰ The primary assumption of the diversion model is that they are action-oriented and opportunities can be created for offenders to change.²¹

¹⁶ Michelle Donnelly, "The Relationship between Compliance and Compulsion, and Dynamics of Diversion, in Child Welfare Decision-Making," *International Journal of Law, Policy and the Family* 37, no. 1 (January 2023): 1-2, <https://doi.org/10.1093/lawfam/ebac035>.

¹⁷ Daud Rismana et al., "The Legal Effectiveness of Juvenile Diversion: A Study of the Indonesian Juvenile Justice System," *Khazanah Hukum* 7, no. 2 (June 21, 2025): 190-205, <https://doi.org/10.15575/KH.V7I2.44162>.

¹⁸ Adimas Maharaja Syahadat, Rini Fathonah, and Dona Raisa Monica, "Implementasi Diversi Terhadap Anak Sebagai Pelaku Tindak Pidana Penganiayaan," *Aktivisme: Jurnal Ilmu Pendidikan, Politik Dan Sosial Indonesia* 1, no. 4 (October 2024): 122, <https://doi.org/10.62383/aktivisme.v1i4.561>. University of Lampung. The data obtained were analyzed qualitatively. The results of this study are: (1

¹⁹ Itok Dwi Kurniawan, "The Implementation of Restorative Justice for Children Who Commit Crimes from the Perspective of National Law and the Qanun Jināyat," *Studi Multidisipliner Jurnal Kajian Keislaman* 11, no. 2 (December 2024): 207-208, <https://doi.org/10.24952/multidisipliner.v11i2.13360>.

²⁰ Roger Smith, "Diversion, Rights and Social Justice," *Youth Justice* 21, no. 1 (April 2021): 23, <https://doi.org/10.1177/1473225420902845>.

²¹ Rommy Yusuf Hiola, Aliyas Aliyas, and Suardi Rais, "Optimization of Social Report as a Consideration of Diversion in The Child Criminal System," *Jurnal Hukum Volkgeist* 6, no. 1 (December 2021): 98, <https://doi.org/10.35326/volkgeist.v6i1.1613>.

There is a good reason to be skeptical about this idea since the criminal actions of a child are often evidence of parental failure. How can the child return to parents who have failed? Nevertheless, from a criminal law perspective it is contended that the fact of criminalizing children potentially have a negative impact on the mental development in the long run.²² The government is well aware that the treatment of juveniles should never be solely based on single mechanism for consideration, and that the issue of returning the child with his/her family must be part of a larger concept aimed at the best interests and the well-being of the child.

The notion of returning a child to their parents as a penalty or as a punishment measure in Indonesian juvenile justice applied on three grounds: (1) for children aged less than 12 years, (2) as an agreement under diversion, and (3) as sanctions or measure. First, concerning children under 12 years of age, Article 21(1)(a) of the Juvenile Justice System Act and Article 67 of Government Regulation No. 65 of 2015 on Guidelines for Implementation of Diversion and Handling of Children under 12 Years clearly provide that:

“If a child who is younger than 12 years old commits or is involved with criminal incident, investigators, probation officers and professional social workers may take one of the following actions:”²³

1. restore the child to their parents/guardians; or
2. inscribe the child in educational, rehabilitation and guidance programs in the government establishments or social welfare institutions, central or local, for a period not exceeding six (6) months.”

Returning of children is also a part of the resocialization implementation on children with social difficulties as stated in the Ministerial Regulation of the Social Affairs No. 26 of 2018 concerning Social Rehabilitation and Social Reintegration for Child in Conflict with the Law. This regulation contains a number of provisions:

1. Article 16, the purpose of social rehabilitation is to develop in the child the capacity for adequate social control in a supportive environment;
2. Article 17, the social rehabilitation can be done in different circumstances, such as the child’s family;
3. Article 18, the social rehabilitation should be carried out in seven steps: initial interview, assessment, planning, intervention, resocialization, termination, and follow-up instruction; and
4. Article 32, the resocialization is paramount before social reintegration to assure full acceptance by the child’s family and society.

This puts forward that only two choices exist for minor aged under 12 and that the decision to select one or the other belongs solely to police, probation officers, as well as professional social workers. This was done without regard to the interests of the victim. These are provisions which give way to the emotional needs of the child offenders when considering that young children are

²² La Gursi, “Juridical Analysis of The Application of Diversion in Child Crime Cases to Realize Restorative Justice at The Court Level,” *Jurnal Hukum Volkgeist* 6, no. 1 (December 2021): 21, <https://doi.org/10.35326/volkgeist.v6i1.1462>.

²³ Nurini Aprilianda, Ansori Ansori, and Febrianika Maharani, “Excusing Child Offenders: A Victim Justice Perspective,” *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (September 2024): 434, <https://doi.org/10.22219/ljih.v32i2.33937>.

still strongly attached to their parents and are dependent on them. Consequently, one cannot simply discard the return children to their parents as a viable choice, for the simple reason that children are dependent on others for their care, and not least on their own parents.

When asked what the standard would be for returning a child to their parents, participant A said:²⁴

“There are no standardized indicators of normalcy with respect to when a child should be reunified with their parents. But the most important factor in the decision is the state of the parents or guardian, especially in terms of their ability to guide, mentor and supervise the child.”

Secondly, ordering the child back to their parents can also be part of a diversion agreement. Counseling shall be granted to 12–18 year-old children who are guilty of a crime which is punishable by a period of imprisonment not exceeding seven (7) years and who are not repeated offenders. These provisions are established by Article 7 of the Juvenile Justice System Law.²⁵ Supreme Court Regulation (PERMA) No. 4 of 2014 concerning the Guidelines for the Implementation of Diversion in the Juvenile Justice System widens the scope of subsentence of seven years in prison. It permits diversion where the child has been charged countervailing, duplicative, conjunctive, or conditional offenses.²⁶

The Juvenile Justice System Law aims at safeguarding the best interest of the child in the arena of criminal justice. This legal provision is the operative principle of resolving juvenile cases with restorative justice, which means through diversion at different level,²⁷ which may be at inquiry, prosecuting, and adjudicating level.²⁸ This process aims for a joint resolution,²⁹ repairs the relationships with the offender³⁰ and promotes reconciliation, making the forgiveness of the victim indispensable.³¹ Restitution to their parents through returning the child is a very important part of restorative justice and diversion.³² The main distinction from the first setting is that in diversion the needs of the victim are better represented in that the victim participates in the diversion process and agreement.

²⁴ Based on an interview with Informant A, at the Bapas Purwokerto, conducted on December 24, 2024.

²⁵ Ririn Nurfaathirany Heri, “Diversion Toward Juvenile Crime In South Sulawesi,” *Yuridika* 37, no. 1 (March 2022): 193, <https://doi.org/10.20473/ydk.v37i1.29149>.

²⁶ Wikan Sinatrio Aji, “The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia,” *Journal of Indonesian Legal Studies* 4, no. 1 (April 2019): 86, <https://doi.org/10.15294/jils.v4i01.23339>.

²⁷ Bernat Panjaitan, Risdalina Risdalina, and Kusno Kusno, “Balance of Monodualistic Principles in Different Efforts at the Level of Investigation on Child Abuse of Narcotics Crime,” *JPPI (Jurnal Penelitian Pendidikan Indonesia)* 9, no. 4 (December 2023): 285, <https://doi.org/10.29210/020232280>.

²⁸ Wikan Sinatrio Aji, “The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia,” *Journal of Indonesian Legal Studies* 4, no. 1 (April 2019): 76, <https://doi.org/10.15294/jils.v4i01.23339>.

²⁹ Amber Massey, “An Eye for an Eye Will Make the Whole World Blind: How Restorative Justice Will Help Florida See Again,” *Nova Law Review*, vol. 43, (January 2018): 79-80 <http://www.floridarestorativejustice.com/about-rj.html>.

³⁰ Kate Bloch, . “Virtual reality: Prospective catalyst for restorative justice”, *American Criminal Law Review* 58, no. 2 (September 2020): 293, <https://doi.org/10.2139/ssrn.3672807>.

³¹ Charlotte V. O. Witvliet et al., “Apology and Restitution: Offender Accountability Responses Influence Victim Empathy and Forgiveness,” *Journal of Psychology and Theology* 48, no. 2 (June 2020): 2, <https://doi.org/10.1177/0091647120915181>.

³² Ruslan Abdul Gani and Retno Kusuma Wardani, “Restorative Justice for Settlement of Minor Maltreatment in the Legal Area of the Merangin Police, Jambi Province,” *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 1 (June 29, 2023): 93–107, <https://doi.org/10.30631/ALRISALAH.V23I1.1333>.

Under Article 11(b) of the Juvenile Justice System Law, return of the child to the parents may serve as a legal mechanism permitting the return on the basis of diversion. It says “*the result of a diversion agreement may include returning the child to the parents’ care.*”³³ This diversion agreement would also require consent of the victim or victim's family, and agreement of the child and their family, unless it is a minor offense, there is no victim or the victim suffered financial harm not exceeding the local provincial minimum wage.³⁴ Investigators can then, under these circumstances, enter into a diversion agreement between them, the offender and/or their family, along with probation officers and community leaders. The resolution may be a return of the child to the care of their parents/guardians as recommended by the probation officers.³⁵ The rule is found in Articles 10(1) and Article 10(2) (c) of the Juvenile Justice System Law.

Returning a child to parents on a diversion agreement, however, allows parents the opportunity for educating and teaching their child, and a chance for the child to reform and not repeat the action. In application, attorneys, prosecutors, judges, the probation officer, and the victim all weigh the ability of parents to educate and influence the child in their care.

Informant A outlined the following in the context of a child being sent back to the parents following a diversion agreement:³⁶

“For example, in diversion at the investigation level, the role of the probation officer is called for under the provision of the Juvenile Justice System Legislation to make social inquiry report in respect of the principle of diversion, to extend help, advice and supervision to the child in course of diverting scheme and also agreement in when to act thereof, and also to report to the court of failure to establish the diversion. The diversion of the child also considers the parents/guardians’ situation, with consideration given to the parents’ or guardians’ capacity for instruction, guidance, and control. Thus, if the diversion ultimately produces an accord to return the child to the parents, the probation officer is concluded in their service of helping, instructing and monitoring the child.”

Third, returning the child to their parents is one of the means. The latter is prescribed by Article 82(1)(a) of the Juvenile Justice System Law. Article 82(1) describes possible measures that can be taken against a child, including: a. returning the child to their parents or legal guardians, b. placing the child in the care of another person, c. measure at a mental institution, d. placement in Social Welfare Institution (LPKS), e. mandatory participation in formal education and/or training organized by the government or private institutions, f. removal of driving license, and g. restitution or reparation for the criminal offense.³⁷ Article 82(3) also states that the public prosecutor may bring proposals regarding such measures in their indictment, but other than if the punishable act carries a prison term of at least seven (7) years, respectively.³⁸

³³ Abdurrahman Alhakim, “Diversion as a Legal Concept That is Equitable for Children in Indonesia,” *Mizan: Jurnal Ilmu Hukum* 11, no. 2 (December 2022): 152, <https://doi.org/10.32503/mizan.v11i2.3102>.

³⁴ Erny Herlin Setyorini et al., “The Effectiveness of Diversion Through Restorative Justice For Handling Children In The East Java Police,” *SASI* 29, no. 1 (March 2023): 71-72, <https://doi.org/10.47268/sasi.v29i1.1190>. a conceptual approach, and a comparison approach, namely Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Results of the Research: The results showed that of the five police and police in the East Java Regional Police area, it showed that not 50% of the handling of children’s cases had been successfully resolved through diversion. The causative factors include the non-achievement of the consent of the victim’s child and his family. Therefore, the condition of consent of the victim’s child and his family in Article 9 paragraph (2

³⁵ Muhammad Edi Suharyanto and Henny Susilowati, “Diversi Dan Restorative Justice,” *Journal of Mandalika Literature*, vol. 5 no. 4, (October 2024): 786, <https://doi.org/10.36312/jml.v5i4.3519>.

³⁶ Based on an interview with Informant A, at the Bapas Purwokerto, conducted on December 9, 2024.

³⁷ Winna Amelia A Senandi, “Implementation of Sanctions on Juvenile Offenders in Criminal Justice System,” *Papua Law Journal* 4, no. 1 (November 2019): 30, <https://doi.org/10.31957/plj.v4i1.1044>.

³⁸ Rizanizarli et al., “The Application of Restorative Justice for Children as Criminal Offenders in the Perspective of

The said acts are twofold that they are done in relation to both and/or either restoring a child to their parents including—The first is that if the child is under 14 (fourteen) years old, the only measure which can be taken is action (as opposed to punishment). Article 69(2) of the Juvenile Justice System Law expresses this idea clearly.³⁹ Secondly, specified by the judge legal circumstances which may require a measure for children aged 14-18 years, i.e. their return to their parents.

As parents, they can plead that they are able to nurture, educate, and exercise control over the child's future development for the good. In light of this, the Community Counselors may recommend in their social inquiry report to the police to exercise an action to return the child to the parents/guardians, under Article 82(1)(a). Such a suggestion is also consistent with the theory of Bentham (namely, that the measure is not retributive but merely aimed at special prevention—pure societal protection and enlightenment).⁴⁰ It is therefore called for that they return point to the nature and character of the child as someone whose actions must be subsumed under an educational end and in the light of which they will learn to judge the result of their conduct, and that the parents should return to the merit of the opportunity granted to them. Such a requirement is pertinent to a punishment philosophy that is not merely based on misery but founded on the conversion of the malefactor's internal reform toward themselves, so as to make a safe guard of the community something incomparably much vaster and more profound. Such aim is also reflected in Article 54 of the 2023 National Criminal Code whose consideration is imposed in that “the impact of criminal punishment on the future life of the perpetrator of the crime must be considered” and reinforced in Article 70 of the same code emphasizing that “a sentence of confinement shall not be given when it is found that the defendant is a child.”

Children face detention and responses (including returning to their families) in only some circumstances. These factors, depending on the “relatively trivial nature of the crime, the child's age, family conditions, the situation at the time of the crime or after the crime,” afford the judge an excuse to withhold punishment or action, focusing on justice and compassion. This formula is provided by Article 70 of the Juvenile Justice System Law.

Probation Officers' duties according to Article 65 of the Juvenile Justice System Law, include: (a) Thorough supervision, guidance and its implementation, drawing up the social inquiry reports of the accused and providing guidance to them during the diversion process, (b) social inquiry reports for the investigation, prosecution, and hearing, (c) programs for treatment of children in temporary protection (LPAS) and rehabilitation institutions, (d) assisting, guiding, and supervising children subject to criminal sanctions or measures, and (e) to assist, guide, and supervise children subject to assimilation, conditional release, pre-release leave and conditional leave. Nevertheless, the Juvenile Justice System Law and Government Regulation No. 65 of 2015 do not stipulate mechanisms for the supervision and measurement of the process after children are sent back to

National Law and Qanun Jināyat,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 2023): 27, <https://doi.org/10.22373/sjhk.v7i1.15633>.

³⁹ Dwi Khairunnisa, “Criminal Juvenile Liabilities Under Indonesian Laws and The 1989 United Nations Convention on The Rights of The Child: An Analysis,” *Kopelma Darussalam, Kec. Syiah Kuala*, vol. 03, (December 2023): 115, <https://doi.org/10.24815/sjil.v3i2.28079>.

⁴⁰ Samuel Parsaoran Tambunan, “Legal Analysis of The Position of Social Research Report on Child Criminal Decisions,” *Nomoi Law Review* 5, no. 2 (November 2024): 347, <https://doi.org/10.30596/nomoi.v5i2.21880>.

their parents.⁴¹ This situation evidences a hole in procedural law on the supervision and follow-up of the reunion of the child with the parents, so that it is certainly noticed that there is an absence of regulation on the idea of the best interest of the child.

It involves the Probation Officers of the Purwokerto Probation Center. Informant A explained:⁴²

“The probability center is responsible for the oversight, lead, and assist until a diversion agreement has been executed. If the youth is diverted and the child is returned to their parents, the Community counselor's supportive and supervisory responsibilities terminate.”

The same would be true if a judge orders an action toward returning a child to their parents. There is no mechanism to oversee what parents are doing in fact to teach, lead, and supervise the child after such an order is made.

Handover and Returning to Parents as Success Factors for Deterring Recidivism in Child Offenders and Victims of Crime.

The Juvenile Justice System Law sets the return of a child to the parents as a diversion agreement of the victim and the convicted, while the handover of a child to the parents is a measure applied by the judge on the ground of Article 82. For diversion programs, it only applies to offenses that are classified as violations, summary offenses, non-victim crimes, or victims' losses are less than the provincial minimum wage, which are offenses with minimal impact. As a measure the handover of a child for a period of up to one year of sentence applies and for all misdemeanor, but not for crimes where a penalty more than seven years deprivation of liberty could be imposed. Moeljatno argued that the nature of regulatory criminal sanctions in Indonesia has three dimensions: *strafsoort* (type of sanction), *stafmaat* (duration of sanction), and *strafmodus* (mode of sanction).⁴³ With the implementation of the returning to the parents as a sanction, the punishment, measure and the higher maximum for a year have been fulfilled (*strafsoort*) and the measure (*stafmaat*), but not the way of punishment (*strafmodus*) that requires further regulations that has to be adopted under Article 82 of the law.

This lack of regulation extends to the return of children to their parents pursuant to a diversion agreement. Articles 15 and 82 of the law provide that the technical provisions shall be established by a Government Regulation. In 2015, Government Regulation No. 65 of 2015 concerning the Implementation of Diversion and Development of Children Aged 12 and Under was issued, which regulates the operational terms of diversion program, such as the return of a child to their parents. The regulation in question, however, is restricted to the process of initiating a return program, and does not detail what should happen once the program has been negotiated. This poses a technical question about how indicators of success in returning a child to their parents are to be defined.

The practice of diversion carried out at the Purwokerto Probation Center from 2020 to December 2024 is summarized in the following table:

⁴¹ Hariyanto Hariyanto, Ahmad Rezy Meidina, and Mabarroh Azizah, “Decentralization and the Fulfilments of Children's Rights: Challenges and Opportunities for Local Government in Indonesia,” *Lex Scientia Law Review* 8, no. 2 (November 30, 2024): 677–706, <https://doi.org/10.15294/LSLR.V8I2.14373>.

⁴² Based on an interview with Informant A, at the Bapas Purwokerto, conducted on December 9, 2024.

⁴³ Moeljatno, *Membangun Hukum Pidana* (Jakarta: Bina Aksara, 1985).

Table 1. *Diversion Recommendations by Purwokerto Probation Center*

Year	Diversion	Proceed to Trial	Amount	%
2020	30	54	84	36%
2021	21	47	68	30%
2022	36	58	94	38%
2023	21	41	62	33%
2024*	15	62	77	20%
Total	123	262	385	32%

Source: Annual Report Purwokerto Probation Center, 2020 - 2024

Table 2. *Type of Diversion Recommendations*

Type	Submitted	Approved	Rejected	%
Reconciliation with or without restitution	7	4	3	57%
Medical and psychosocial rehabilitation	4	3	1	75%
Handover to parents/guardians	60	45	15	74%
Participation in education or training at educational institutions(LPKS)	25	19	6	76%
Community service	27	19	8	70%
Amount	123	90	33	

Source: Annual Report Purwokerto Probation Center, 2020 - 2024

The data in Table 1 show that 32% or 123 out of the 385 criminal cases involving children resolved during investigation through diversion, thereby unburdening the four district courts at Banyumas, Purbalingga, Kebumen, and Banjarnegara. While this is an indication that the recommendations of the Probation Center are accepted by victims and investigators, it also asks a serious question into the actual effect of these diversions on the reformation of the profile of child-offenders and on the public trust. Table 2 adds that release to parents is the most commonly recommended type of diversion, accounting for 48% of all cases. This recommendation was made twice as frequently as the other recommendation, educational or training program, but the success rate was not significantly different. The findings suggest that a mechanism of recourse to parents is an easy and cheap way which seems to be advanced for the sake of convenience both pragmatically and institutionally. But this also raises the danger of failing to focus on other kinds of intervention—for example, community service or structured educational programs—that might give that better chance for real behavioral change as well as more consideration for the victims' perspective. In sum, despite diversion's seemingly widespread use and acceptance, the evidence indicates that the extent to which its practice actually achieves the deeper goals of restorative justice and the proportionate application of accountability in juvenile cases remains unclear.

Bapas describes that Purwokerto conditions relates linearly to the situation of the country. In 2022 also based on the annual report of the Directorate General of Corrections, it was reported that (handing over to the parents) was the most common diversion agreement. The report notes the following:

Table 3. Results of Child Social Inquiry Report 2017 – 2021

Social Inquiry Report	2017	2018	2019	2020	2021
Handover to parents	4102	3028	3378	3349	1911
Sent to a Social Institution	277	259	261	209	235
Return to parents (measure)	432	324	434	411	243
Sent to a Social Institution (based on court decision)	563	676	598	438	1343
Probation	344	328	537	423	111
Imprisonment Sentence	3639	1953	3425	2595	2194
Jumlah	9357	6568	8633	7425	6037

Source: Annual Report of the Directorate General of Corrections, 2022

Every recommendation in community studies of diversion programs is based on certain criteria which provide a road map for making recommendations. These measures are intended to judge the commitment and ability of parents or the community to operate a diversion program. Informant B explained:⁴⁴

“All recommendation determination shall be in accordance with Circular Letter Number PAS6.PK.01.05.02-573 in 2014 on the General Guidelines for Social Inquiry Report. Recommendations for diversion programs are based on the features in the table below.”

Table 4. Indicators for Diversion Recommendations

Diversion Program	Indicators for Determining Diversion Programs
Restitution in cases where there are victims	The willingness of the child's parents to provide compensation is deemed sufficient.
Medical and psychosocial rehabilitation	The capability of competent parties to provide medical and/or psychosocial care.
Handovering the child to their parents/guardians	The condition of the parents/guardians is assessed as adequate to provide guidance, mentoring, and supervision for the child.
Participation in education or training at an educational institution	The availability and readiness of educational institutions that meet the child's needs and can help improve their behavior.
Community service	The presence of community activity spaces near the child that are suitable for them to participate in as a form of community service.

Source: Interviewed with Informan B

Some indicators, such as those related to community, are formulated through a messy process and input from many players. As Informant B explained:⁴⁵

“We defer all social inquiry report recommendations based on information gathered through the child's interviews, or information received from the child's parents or guardians, the victims, the community, local government and any other appropriate organization. These data were then coded and compared with the recommendations of the guidelines for social inquiry report. In particular, referring to the proposal to return the child to their parents, they are as follows:

⁴⁴ Based on an interview with Informant B, at the Bapas Purwokerto, conducted on December 9, 2024.

⁴⁵ Based on an interview with Informant B, at the Bapas Purwokerto, conducted on December 9, 2024.

1. The inability of the family to offer suitable guidance and, in some cases, support, deter the child's return to their parents; and
2. This refusal by victims to forgive is the result of ignorance of the significance of the diversion as intended to return things to the way they were. as a result, victims rejected diversion and wanted court action. And victims frequently feel as if diversion has little regard for their interests."

Upon acceptance by all concerned of the suggestions to return the child to their parents, the practical acceptance of fact seems to be the Community Counselor responsibilities terminate, with the result that the Committee would have no ongoing role in determining what guidance and supervision the parents are providing the child. However, according to Article 65 of the Juvenile Justice System Law, the view is inconsistent with the fact that the Community Counselors have the authority to direct the diversionary and treatment measures. Despite provisions in the regulations that Community Counselors, under Articles 23 and 24, should not inform the investigator before giving their official report, a requirement of oversight is embedded in the law itself. The practice at that time of not allowing the Community Counselor to continue beyond the first report highlights the disjuncture between the legislative framework and implementation. This gap threatens to stultify the spirit of restorative justice, which requires not only formal diversion but also long-term behavior modification and community trust-building. As a result, the available evidence and procedural narrative thus reveal the formal nature of handover and return, but they also display a significant shortcoming in the operationalization of the supervision mandate in Article 65.

That a child should be handed over and returned to the in the process of the application of the Juvenile Justice System Law is the product of national wisdom. The advent of the Juvenile Justice System Law was in 2012 wherein it adopted several international instruments including the Beijing Rules (1985), the Convention on the Rights of the Child (1989), the Riyadh Guidelines (1990), and the Tokyo Rules (1990).⁴⁶ Of them, the Beijing Rules were most widely cited since the law advocated restorative justice through diversion approaches,⁴⁷ which although in the preamble, directly referred only to the Convention on the Rights of the Child. Reuniting a child with their parents is classified as 'other relevant orders' under Article 18.1 of The Beijing Rules. But this is not a "community-based correction." This difference indicates that the return of a child to their parents does not fully correspond to the principles of The Beijing Rules.

The fact that the transfer system encourages submission of recommendations for social inquiry reports through transfer to parents suggests that juvenile criminal cases are mostly just delinquents or even trifle criminal reports. The basis of the delinquent's behavior is an ignorance of the characteristics of those adolescent years when the young person is learning to make transition from childhood to adult life, because enough parental attention and information are not given on the rules or values of society.⁴⁸ The similarities between the two are that, once the diversion agreement or sanction is set, no further burdens are placed on the youthful offender and the offender's family.

⁴⁶ Arief Syahrul Alam and Ani Purwati, "Diversi Sebagai Wujud Kebijakan Pemidanaan Dalam Sistem Peradilan Pidana Anak Di Indonesia," *De Jure: Jurnal Hukum Dan Syar'iah* 7, no. 2 (December 2015): 181–90, <https://doi.org/10.18860/j-fsh.v7i2.3524>.

⁴⁷ Muhammad Sidrat, Sabrina Hidayat, and Herman Herman, "Syarat Diversi Pada Anak Yang Berkonflik Dengan Hukum Dalam Konsep Pemidanaan," *Halu Oleo Legal Research* 1, no. 2 (July 2019): 277, <https://doi.org/10.33772/holresch.v1i2.6569>.

⁴⁸ Ratih Mega Puspa Sari and Sivani Ardi Apritania, "The Form of Resolution of Juvenile Delinquency in Indonesia," *Jurnal Hukum* 40, no. 1 (July 2024): 118–28, <https://doi.org/10.26532/jh.v40i1.38600>.

But the distinction is that a reprimand and return are judicial decisions, and a handover involves an agreement between the parties.⁴⁹ The options of handover and return to parents are risky from the onset, as there is high likelihood of the victim's family rejecting because it is difficult to assure them that the juvenile accused will be adequately guided and prevented from re-offending.⁵⁰ However, society generally believes that parents are capable of 'rehabilitating' their own children who commit petty crimes.

The turning over of juvenile lawbreakers to their parents shields them from the social shame and long-running hurt of badgering by the criminal justice system. the mental health of juvenile offenders in correctional care programs is an important challenge in the juvenile justice system. but there is barely a trace of mental health work going on in the system.⁵¹ failure to treat mental health leaves a real problem unidentified: then people who fall through the cracks and wind up with juvenile record have the highest rates of recidivism. This, thus, requires investing in efforts that allow us to divert those four members of juveniles, parents, schools, and the police,⁵² Interagency cooperation will help these programs be more successful.⁵³ Newton et al. (2019) in the Netherlands showed that:⁵⁴

"The cost of reoffending among children and young people (those under 18 at time of conviction upon cohort entry) is £1.5 billion, with the majority of associated costs being incurred by those who commit theft at £532 million. Repeat offending by children who had earlier received a youth rehabilitation order or a first-tier punishment as their index disposal was the primary reason for costs, which stood at £510 million and £468 million, respectively."

However, this type of study has not been carried out in Indonesia. But the 2022 Annual Report of the Directorate General of Corrections says this on recidivism rates in Indonesia.

Table 5. *Percentage of Recidivists from 2018 to 2022*

Year	Release	Recidive	%
2018	136,068	21,224	15.60%
2019	141,662	22,132	15.62%
2020	143,303	23,382	16.32%
2021	120,043	18,467	15.38%
2022	140,843	20,065	14.25%

Source: *Annual Report of the Directorate General of Corrections, 2022*

⁴⁹ Sarwirini Sarwirini and Trian Diarsa, "Implementation of Juvenile Reprimand in Indonesia," *Yuridika* 38, no. 1 (January 2023): 95–108, <https://doi.org/10.20473/ydk.v38i1.33857>.

⁵⁰ Kadek Devi Selvian, Ni Putu Rai Yulianti, and Ketut Sudiatmaka, "Implementasi Upaya Diversi Dalam Penyelesaian Tindak Pidana Pencurian Oleh Anak Di Kabupaten Buleleng," *Jurnal Komunitas Yustisia* 1, no. 1 (September 2020): 11, <https://doi.org/10.23887/jatayu.v1i1.28654>.

⁵¹ Michelle L. Willingham, "Successful Outcomes in Juvenile Justice: Overcoming Community Based and Correctional Challenges," *Juvenile and Family Court Journal* 75, no. 1 (March 2024): 21–31, <https://doi.org/10.1111/jfcj.12252>.

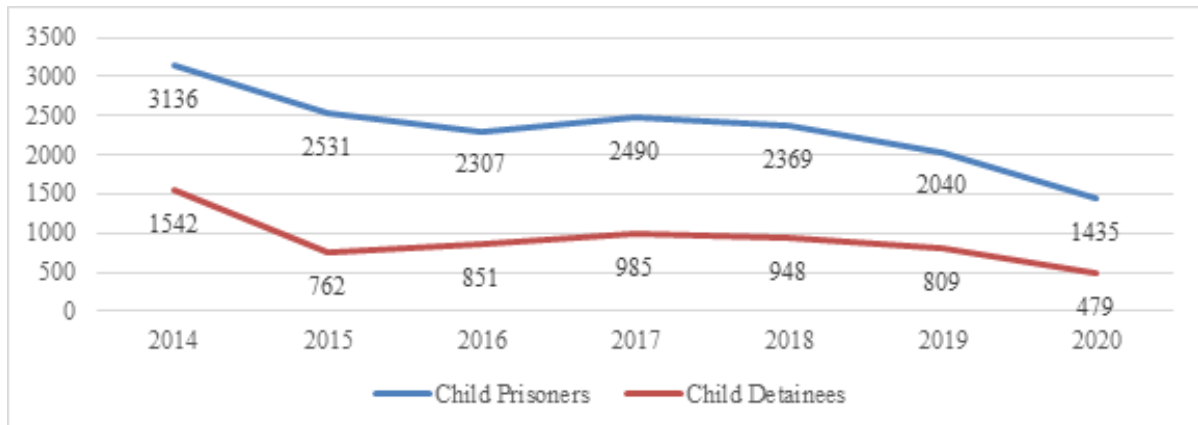
⁵² James G. Barrett et al., "'We're Not Your Traditional Police Department.' A Qualitative Implementation Evaluation of a Juvenile Diversion Program," *Juvenile and Family Court Journal* 73, no. 4 (December 2022): 39–53, <https://doi.org/10.1111/jfcj.12228>.

⁵³ James G. Dickerson, Crystal Collins-Camargo, and Ramie Martin-Galijatovic, "How Collaborative the Collaboration? Assessing Interagency Collaboration within a Juvenile Court Diversion Program," *Juvenile and Family Court Journal* 63, no. 3 (June 2012): 21–35, <https://doi.org/10.1111/j.1755-6988.2012.01078.x>.

⁵⁴ Alexander Newton et al., "Economic and Social Costs of Reoffending Analytical Report," 2019.

The number of child prisoners and child detainees in Indonesia significantly decreased from 2014 to 2020. More specifically, the number of child prisoners has fallen by 54.25% and child detainees by 68.94%. Additional information on this reduction is disclosed in the 2022 Annual Report:

Figure 1: Rate of Decrease in Child Prisoners and Detainees



Source: Annual Report of the Directorate General of Corrections, 2022

The drop in the number of child prisoners and detainees in Indonesia reflects a growing trend to apply diversion, specifically the handover of children to their parents. ““Most of the diversion cases are dismissed by returning children to parents without putting rehabilitation programs or compensation, which is a disadvantage for children from poor families,” Ministry of National Development Planning said.⁵⁵ However, returning children to parents is designed to increase the attention the parents pay to their children’s behavior. According to Carpentier and Proulx (2009), juvenile recidivism is frequently rooted from parental ignorance, which is an important factor of recidivism.⁵⁶ Cauffman et al. (2024) studies 1,216 children in cross-jurisdictional research (Orange County, California; Jefferson Parish, Louisiana; and Philadelphia, Pennsylvania) and found that youths processed informally at their initial arrest are more likely to be categorized as low-offense (55%) rather than: escalating offenses over time (23%), short-term recidivists (15%), and high-persistent offenders (7%).⁵⁷ The Indonesian Criminal Code only defines “recidivist” as someone committing a crime after having been convicted for the same crime, within a certain period. As a result, recidivism must be based on a court finding of repeated offenses, since diversion, by definition, involves cases that do not enter the court system and so precludes them from being counted as recidivism.

The model of handover is accountability-free for monitoring child offenders, making victims and the public doubt its success. It is preemptive punishment; society disapproves, and their disapproval is measured in punishment, meted out before any crime is committed. However, the

⁵⁵ Kementerian Perencanaan Pembangunan, “Peta Jalan: Penguatan Sistem Peradilan Pidana Anak Indonesia 2023-2027,” *Kementerian Perencanaan Pembangunan*, 2023.

⁵⁶ J Carpentier and J Proulx, “Adolescent Sex Offender Recidivism: Risk Factors and Treatment Implications,” *Revue Internationale de Criminologie et de Police Technique et Scientifique* 62, no. 4 (2009): 337–58.

⁵⁷ Elizabeth Cauffman et al., “Trajectories of Offending over 9 Years after Youths’ First Arrest: What Predicts Who Desists and Who Continues to Offend?,” *Journal of Research on Adolescence* 34, no. 4 (2024): 1312–25, <https://doi.org/10.1111/jora.12926>.

process has moved in recent years from punishment to restorative justice, restoring those most directly involved—the victim, the offender, their surrogates, and the community—back to the decision-making table.⁵⁸ Restorative justice aims at doing justice for everyone involved by letting young offenders take responsibility for the victims.⁵⁹ From the vantage point of the victims, forgiving young offenders who have not been held accountable is unfair.⁶⁰ The handover agreements with between offenders, victims, and investigators (with the assistance of community counselors) has been established; however, the handover model itself needs to be examined.

The return model is no different in substance to handovers; both entails returning child offenders to their parents. Sanctions are then established at return and employed as a fallback measure when diversion contracts break down in an investigation, or prosecution. Action sanctions, writes Sholehudin, are based on “the objective of the sanction,” as opposed to criminal sanctions, derived from “why punishment is applied.”⁶¹ To the extent that action sanctions are purported to work, children’s unsupervised returns to parents, however, reduce their relevance, for the potential of parents to re-socialize the child cannot be tested by the surrounding social field. Community participation in the positive development of children contributes to public safety by decreasing juvenile delinquency.⁶² Releasing reoffenders to their parents with no community safe guards available is not conducive to preventing repeat offending.

Behavioral observation of the child offenders, during the process of the handover and subsequent return is aimed at ensuring that child and parents negotiate improvements in behavior. The purpose of diversion programs is to lower the stigma attached to offending, and to halt the escalation of juvenile delinquency. There are many diversion programs for which insufficient evaluation exists, so it is presented as if minor crimes can be deinstitutionalized and decriminalized.⁶³ Diversion program must be monitored. The Jefferson County Youth Diversion Project in Louisville, KY, a collaboration among schools, communities, and courts, for example, was created in 1997 to work toward increased school attendance and family functioning.⁶⁴ Schwalbe et al. (2012) reviewed 28 juvenile diversion programs with over 19,000 participants and found that family-based diversion programs produced recidivism reducing effects when programs used evidence-based practices family group conferencing and victim-offender mediation and had high levels of supervision.⁶⁵ There should be stronger control over equipment handovers and returns, better ways to track them and some evidence of a change in the perpetrator’s behavior toward children known to be victims.

The handover and return diversion programs are based on appropriate regulation. First, based on Law No. 22 of 2022 concerning Corrections, the probation officer leads, guides, and supervise

⁵⁸ Oanh Thi Cao and Tuan Van Vu, “Proposing Restorative Justice Models as Alternative Approaches to Addressing Criminal Matters: A Case Study of Judicial Systems in Civil and Common Law Countries,” *Access to Justice in Eastern Europe* 7, no. 4 (November 2024): 1–27, <https://doi.org/10.33327/AJEE-18-7.4-a000108>.

⁵⁹ Aprilianda, Ansori, and Maharani, “Excusing Child Offenders: A Victim Justice Perspective.”

⁶⁰ Aprilianda, Ansori, and Maharani.

⁶¹ M. Sholehuddin, *Sistem Sanksi Dalam Hukum Pidana, Ide Dasar Double Track System Dan Implementasinya*, Raja Grafindo Persada, 2007, 17.

⁶² Jay D. Blitzman, “Gault’s Promise Revisited: The Search For Due Process,” *Juvenile and Family Court Journal* 69, no. 2 (June 2018): 49, <https://doi.org/10.1111/jfcj.12112>.

⁶³ Victoria Simpson Beck et al., “Juvenile Diversion: An Outcome Study of the Hamilton County, Ohio Unofficial Juvenile Community Courts,” *Juvenile and Family Court Journal* 57, no. 2 (April 2006): 1–10, <https://doi.org/10.1111/j.1755-6988.2006.tb00117.x>.

⁶⁴ judge Joan L. Byer and Jeffrey Kuhn, “A Model Response to Truancy Prevention: The Louisville Truancy Court Diversion Project,” *Juvenile and Family Court Journal* 54, no. 1 (January 2003): 59–67, <https://doi.org/10.1111/j.1755-6988.2003.tb00148.x>.

⁶⁵ Craig S. Schwalbe et al., “A Meta-Analysis of Experimental Studies of Diversion Programs for Juvenile Offenders,” *Clinical Psychology Review* 32, no. 1 (February 2012): 26–33, <https://doi.org/10.1016/j.cpr.2011.10.002>.

to enforce the set conditions and programs. The next, it was stated in Ministerial Regulation of the Ministry of Administrative and Bureaucratic Reform No. 22 of 2016 concerning functional positions for probation officers contains job descriptions to help children in providing the implementation of diversion agreement, court ruling, or decision to ensure readiness and readiness of all involved parties. Research shows that one of the supervision challenges stems from the fact that there are not many probation officers, and they have a massive coverage area across several districts.⁶⁶ This suggests that community needs to inform the design of strategies to address resource and geographical constraints on probation offices. This type of participation may involve a diversion decision-making, delivering specific diversion programs and assessing their impact. The role of this community is confirmed by the Juvenile Justice System Law itself, as provided in Article 93 of the law, allowing the general public to aid in child protection issues—including diversion measures, rehabilitation and social reintegration programs, performance monitoring and in spreading knowledge of legal provisions—so that the communal understanding of the responses proffered by the juvenile justice system is enhanced.

The design template combined probation officer oversight and community involvement with handover and return diversion programs. The participation is the involvement of community members where the child in conflict with the law lives, for example, village official, neighborhood leader (*rukun tetangga/rukun warga*), or religious leader. Making a criminal of a victim does no less than destroy the peace and tranquility of an entire neighborhood. Consequently, restorative justice programs should include goals not only for victim reinstitution and offender reformation, but also for reintegrating victims and offenders back into the community. This combination improves the application of restorative justice in Indonesia's juvenile justice. Two of the principles on restorative justice is grounded are participation and restoration. Participation means that the proposition of restorative justice is decided upon in collaboration by the perpetrators, victims and society, while restoration connotes recovery without seeing the perpetrators as enemies of the society.⁶⁷ To this extent, through restorative justice, the criminal justice system will consider the suspects' human rights, victims' interests, and the community's concerns.⁶⁸ For future handover and return programs, probation officers and society will need to monitor their operation to guarantee more than just a reduction in reoffending by juvenile offenders but that the sense of justice and trust in the law is honored and restored for the victim and society.

CONCLUSION

The diversion program, which focuses on returning juvenile offenders to their parents and implementing non-penal sanctions through parental supervision, embodies a restorative approach within the juvenile justice system, rooted in the principle of acting in the best interests of the child.

⁶⁶ Soeardy Soeardy, Ruslan Renggong, and Baso Madiog, "Efektivitas Fungsi Pembimbing Kemasyarakatan Terhadap Pengawasan Klien Anak Kasus Narkotika di Lembaga Penyelenggara Kesejahteraan Sosial," *Indonesian Journal of Legality of Law*, 2021, 33, <https://doi.org/10.35965/ijlf.v3i1.406>; Yosy Yudha Kusuma, "Optimalisasi Peran Pembimbing Kemasyarakatan Terhadap Pengawasan Klien Masyarakat di Balai Masyarakat Kelas I Semarang," *MAGISTRA Law Review* 4, no. 01 (January 2023): 45, <https://doi.org/10.56444/malrev.v4i01.3633>; Adrian Sofyan, "Pengawasan Klien Masyarakat Pada Program Pembebasan Bersyarat Oleh Pembimbing Kemasyarakatan," *Jurnal Health Sains*, 2020, 813, <https://doi.org/10.46799/jsa.v1i7.133>.

⁶⁷ Moch Fauzan Zarkasi, Nur Azisa, and Haeranah Haeranah, "Implications of Renewal System of Criminal Justice Based on the Principles of Restorative Justice on The Role of Probation and Parole Officer," *Khazanah Hukum* 4, no. 1 (March 2022): 29, <https://doi.org/10.15575/kh.v4i1.17354>.

⁶⁸ Haeranah Haeranah and Amriyanto Amriyanto, "Ganti Kerugian dan Rehabilitasi Bentuk Perlindungan Terhadap Korban Tindak Pidana Dan Korban Proses Penegakan Hukum Di Indonesia," *De Jure Jurnal Ilmiah Ilmu Hukum* 2, no. 1 (December 24, 2020): 68, <https://doi.org/10.33387/dejure.v2i1.3035>.

This method is carried out through a mutual agreement between the offender and the victim, with non-custodial sanctions primarily applied to minor offenses, especially for children under 14 years old. Despite its solid normative foundation, the execution of this model encounters considerable challenges, particularly due to the lack of post-diversion monitoring and formal evaluation processes. The absence of supervisory oversight after adjudication and the limited role of probation officers or community stakeholders have diminished the expected rehabilitative results. These deficiencies not only raise concerns about the effectiveness of parental guidance but also elevate the risk of recidivism among juvenile offenders. In response, this article suggests a restructuring of diversion practices by incorporating state representation through probation officers and engaging community participation—such as village officials, neighborhood leaders, or religious figures—into a more comprehensive framework for accountability and behavioral supervision. Although the proposed redesign is primarily informed by insights from probation staff, further validation is necessary by integrating the experiences of parents and community members to create a more holistic and sustainable reintegration process for children facing legal challenges.

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