

The Correctional Research of Correctional Center (Bapas) in Juvenile Justice System

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Abstract: The philosophy of juvenile justice that promotes the best interests of the child give concept of diversion with a restorative justice approach. Diversion for children must be appropriate and correct in accordance with the objectives and rules of the law. Correctional research is a component that plays a role in realizing restorative justice. The problem is how Correctional Center in juvenile justice system? The obstacles to make correctional research which the interest of the child. The research method is normative legal research that is supported by interviews with components of juvenile criminal justice system and correctional centers, and qualitative analysis. The results of correctional research of correctional center important in the Juvenile Justice System in Indonesia. All of the the componen juvenile justice system need the Correctional reseacht of correctional Centre to decision diversion in Juvenile Justice System. The obstacles Correctional Centre is short time, the breadth correctional center working area, the number of correctional center personnel is minimal, lack of public understanding of the importance of correctional reseacht, there are still law enforcement officials in the Juvenile Justice System who are less in favor of children so corectional reseacht are not notice.

1 INTRODUCTION

Litmas (correctional research) is a social research made by Correctional Center (Bapas). The statute will describe the condition of children in conflict with the law. When the child has been designated as a criminal suspect, then at that stage the investigator will contact the Correctional Center party to request the correctional research be carried out. Since the request, Correctional Center will conduct research on child-related conditions. Correctional Center in conducting research will ask children according to the research components that already exist in the correctional research form. Correctional Center sometimes becomes the facilitator in the settlement process by presenting the parties related to the restorative justice process. The problem of this research was: how does correctional research position in the Juvenile Justice System and what are the obstacles of Correctional Center to makes correctional research which describes the best interest of the child.

2 RESEARCH METHODOLOGY

The Reaearch method is Normative legal research with library study data collection that is supported by field studies. Data sources consist of primary data, secondary data and tertiary data. Interviews are component of the juvenile justice system in this case the police, prosecutors and judges and correctional center.

3 RESULT AND DISCUSSION

3.1 Correctional Research in the Juvenile Justice System

Correctional Center (BAPAS) is a institution for carrying out community guidance. In Law No. 12 of 1995. The definition of Correctional Center is referred to article 1 number 4, namely the Correctional Center, here in after referred to as BAPAS, is an institution for implementing community service clients. In Correctional Center,

community clients who are referred as clients must follow an orderly balance program carried out by Correctional Center. This is in accordance with Article 39 of Law No. 12 of 1995 concerning Community. ('Undang-Undang No.12 Tahun 1995 tentang Masyarakat', 1995)

Article 6 Law No. 12 of 1995 concerning Correction, stated that the formation of correctional prisoners was carried out in Correction Institution and the guidance of prisoners was carried out by Correctional Center.

The Correctional Center, through its social assistance role, plays an important role in the children in conflict with the law judicial process in accordance with applicable laws and regulations. This article will describe the implementation of the role of Community Facilitator in carrying out the Correctional Center function in handling children in conflict with the law. (Di *et al.*, 2017)

Children are an inseparable part of human survival, of a nation and state. In the Indonesian Constitution, children have a strategic role that expressly states that the state guarantees the right of every child to survival, growth, development and to protection from violence and discrimination. The child is not a miniature adult, so with the characteristics and characteristics of a typical child needs to be determined differentiation of treatment. This is intended to better protect and protect children so they can meet their future. (Meilanny Budiarti S dan Rudi S. Darwis, 2016) As suggested by Clemens Bartollas, there are many factors behind the personal background of children who are at high risk of being delinquency actors, namely age factors (younger children will be at higher risk), psychological variables (disputing, unruly, feeling undervalued), school performance (problem in school with behaviour, truant), home adjustment (lack of interaction with parents and siblings, lack of discipline and supervision, running away), alcohol and drug users, neighbouring environment, and the influence of peer strength. (clemens Bartollas, 1985)

The results of the study show that Correctional Counselor cannot provide full assistance as appropriate to child in conflict with the law who undergo the judicial process. This is partly caused by the limited number of Correctional Counselor owned by Correctional Center so that a Correctional Counselor must cares several child in conflict with the law who are often located far apart with limited time they have. Nevertheless, the Correctional Center function in process handling child in conflict with the law can be carried out according to the stages set. Correctional Center can function as an institution that

handles child in conflict with the law differently with adults according to legislation.

Community research must be conducted by correctional centers within three days and a community, research report must contain the following information: (Kementerian Hukum dan Ham RI, 2015)

- a. Child identity: child identity and relation between the child and his or her parents, religious piety and child's behaviors at school, informaton from teacher, friend and child.
- b. Parents Identity : parent identity parent or guardian, marital status, social reaction to family, home conditions, lighting, neighborhood conditions, relation with community.
- c. Biography and Child development: psychosocial growth, Educational background, Behavior history, obedience to religion, attitude in education, violation of law, use of cigarettes, drug, alcohol, information from parent or guardian, teacher, community.
- d. Condition of child clients
- e. Parents Condition: social condition, history of criminal acts, party response (child, parents, victim, community)

All information to analyze Correctional Center using relevant theories such as child social development theory, adolescent psychological development theory, criminological theory, etc. Recommendation and analysis to law enforcement apparatus for diversion process at all level.

Correctional Center in carrying out the constraints of the mostly cases in conflict with the law, the number of Correctional Center, distance, duty coverage area and the time in correctional research process is shortly, the attention of the community and the victim and offender's parent. As the result Correctional Center must has a high level of duty and dedication for the good correctional research.

A popular Instrument used to classify juvenile offenders risk, need, and responsitivity factor found in various correctional, residential, and community settings is the youth level of service/case management inventory. While appropriate warnings about the universal aplicability of risk screening instruments and offender classification schemes found in correctional and judicical decision-making are noted. (Kristin Bechtel, Christopher T. Lovenkamp, 2007).

3.2 The Obstacle Correctional Center Making Correctional Research to the Best Interest of the Child

Since adoption of Law No. 11 of 2012 concerning Juvenile Justice System Article 7 paragraph (1) stipulates the existence of obligations to law enforcement officials to carry out diversion to children that conflict with the law starting from the stages of investigation, prosecution and court. Consideration of philosophical diversion to protect and rehabilitate the offender. (Indonesia, 2012) Diversion is the initial way to diverting the settlement of criminal act, which is then carried out by a diversion settlement with a restorative justice approach. Restorative Justice aims to ensure that a child who has committed a crime can be restored so that he or she does not return to being a criminal by determining the decision that is most appropriate for the child through the meeting of all parties involved in the crime. (Marshall, 1998)

This program considers the offender and victims to get the best benefits so that they can reduce the recidivism rate among children who commit crimes and give a sense of responsibility for each party. (Morris, 2001) The diversion process that committed with a restorative justice approach that is regulated by the Law No. 11 of 2012 on Juvenile Justice System is the all parties approach to think together to decide the best punishment with child. Some principles that must be done in implementing restorative justice they are namely: (Sharpe, 1998),

1. Restorative justice contains full participation and consensus
2. Restorative justice seeks a solution to restore and heal damage or loss due to a crime committed by the offender, including efforts to heal or recover victims for the crime that happened to them;
3. Restorative justice provides a sense of complete responsibility for the offender to be responsible for his actions;
4. Restorative justice seeks to reunite the offender as citizens of the community with the people who have been separated due to criminal acts;

Restorative justice gives strength to the community to prevent the recidivism. Crime brings damage to people's lives, but crime can be a lesson for people to open true justice for all people.

The philosophy of the Juvenile Justice System prioritizes protection and rehabilitation of children (emphasized the rehabilitation of youthful offender) as people who still have a number of limitations

compared to adults. The Child need protection from the state and society for their future. (Marlina, 2010)

The five principles of restorative justice should be applied in the efforts to resolve criminal cases that are carried out by giving a sense of responsibility to all parties, including the community itself. In addition, it can also provide educational nuances to victims and offender to respect each other in achieving happiness in life together. (Marlina, 2016) Correctional research that are made in the process of making the effort so that the people involved can provide input related to the crime that occurred and convey the condition of the child to his family and community as well as the development and remorse of the child and family for the criminal acts he committed. Correctional Center in his correctional research process to divert and regarding and any variation in the implementation of the process.

Indonesia does not have a form of Restorative Justice yet, but in its implementation it is left with the facilitator and the conditions of the community and the parties involved. In theory, in some countries the 4 variations of the restorative justice process are Victim offender mediation (VOM), (Marlina, 2012), Family group conferencing, (Umbreit, 1997), Circles, (Morris, 2001), Reparative Board, (Maxwel, 2001)

Definition of Restorative Justice in Law No. 11 of 2012 concerning Restorative Justice is the settlement of criminal cases by involving the offender, victim, family of the offender/victim, and other related parties to joint seek a just solution by emphasizing the restoration of the original state, and not retaliation (Indonesia, 2012) has referred to Family Group Conferencing, but its implementation still requires the participation of all parties and requires special mediators who understand and have special expertise in mediation. Initiating of mediation depends on prosecutors' evaluation of the case and on victims' consent with mediation. The onus to determine if a case is eligible for mediation rests with the prosecutor. (Wasileski, 2015) So that Restorative justice is a process that all of them are good at dealing with resolve together to resolve collectively how to deal with the aftermath of the offence and its implications for the future to Tony F. Marshall achieved (Marshall, 1998) In theory, any intervention within a particular youth justice system must now account for an increasingly globalized complexity within the social worlds of young people while moving towards upholding their human rights. (Moore and Mitchell, 2009).

4 CONCLUSION

Correctional reseacht make by cerrectional center are very important in the juvenile juscite system. All component of the Juvenile justice sytem need correctional reseacht of correctional center to take the act of diversion in the Juvenile justice system starting from the stage ong investigation , prosecution and coutd. The research results show that 80% of law enforcers agree that community research conducted by correctional centers is important for components of sub-system of criminal justice system such as investigators, prosecutors and court. 80% of law enforcers says that community research report prepared by correctional centers becomes the consideration of investigators, prosecutors and courts in diversion process. Therefore the correctional reseacht made by correctional centers must decribe in a comple and systematic condition and existence of childen and the people's view of the crimes that occur, so as to provide protection to victim. Offender and community. The obstance correctional center make corectional reseacht fot the best interest of the child breadth of correctional center working area, the number of correctional center personnel is minimal, lack op publik understanding of the importance of correctional reseacht, there are still law enforcement officials in the Juvenile Justice System who are less in favor of childrent so corectional reseacht are not notice.

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