HANDLING OF TRAFFIC ACCIDENTS WITH OFFENDERS OF CHILDREN THROUGH DIVERSION

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ABSTRACT
Handling of traffic accidents with child offenders is carried out based on the applicable laws and regulations and Law Number 11 of 2012 concerning the Criminal Justice System for Children, which in the process of investigation must be diversified, as is the case in Kendal Police Station, which during the investigation process must be diversified. Factors that cause traffic accidents with child offenders resulting in other deaths in the Kendal District Police jurisdiction are human factors which include motorists (children), children's parents, victims and vehicle factors. As for the obstacles that arise in handling traffic accidents with child offenders resulting in other deaths in the jurisdiction of the Kendal Police Station is the limitations in the application of diversion regulated in the SPPA Law, which is limited to crimes with less than 7 criminal threats years, in which the solution to overcome this is through the actions of the National Police discretion and obstacles from law enforcement officials, namely the application of the diversion of traffic accident cases that meet the elements of Article 311 paragraph (5) of the LLAJ Law.

INTRODUCTION
Traffic accident is an event that is unexpected road and unintentional involving vehicles with or without road users resulting in human casualties or property losses. One of the main causes of road traffic accidents (traffic accident) is the human factor. Traffic accidents that occur not infrequently involving children as perpetrators. This is as reported by CNN Indonesia stating that traffic accidents involving minors reached 197 throughout 2018. The majority of these accidents involve children aged 11-17 years with other modes of two-wheel motor vehicles. The amount is increased from the period in 2017 which recorded 157 events by a majority of 11-17-year-old rider. Data from the 2018 period laka then with riders who are 11-17 years of age there are eight people died.

In Kendal regency, Central Java, the number of accidents in 2017 with the deaths of 16 people. According to Police Chief Kendal, students most vulnerable to accidents and traffic violations. Adolescent psychological condition and not cakapnya drive makes are often involved in accidents. Kendal district police recorded crash rates of teenagers and students reach 30-40 percent. Traffic accidents resulting in fatalities included in the offenses referred to in Article 310 paragraph (4) and Article 311 paragraph (5) of Law Number 22 Year 2009 regarding Traffic and Road Transportation. Article 310 paragraph (4) regulates the traffic accident due to negligence resulting in lead others died with the provisions shall be punished by a maximum imprisonment of 6 (six) years and / or a fine of Rp12,000,000.00. Whereas in Article 311 paragraph (5) of Law No. 22 of 2009 regulating the traffic accident caused by someone intentionally driving a motor vehicle in a manner or circumstances that endanger the lives or goods lead others died, shall be punished with imprisonment of twelve (12) years or a maximum fine of Rp 24,000,000.00. In addition, under Article 359 of the Criminal Code which states that whoever due to negligence causes the death of another person shall be punishable by imprisonment of five years or a maximum imprisonment of one year.

Handling the crime of traffic accident with the child actors in Kendal Police carried out in accordance with legal procedures. But the difference is the prosecution process using the juvenile justice system. This is because the article that regulates traffic violations are not there anyone who entered the category of age for legal proceedings. Thus, if minors who become perpetrators laka then, the system of investigation and pradilan it different, using a system pradilan child as stipulated in Law No. 11 Year 2012 on Child Criminal Justice System.

Implementation of diversion should meet the requirements as set out in Article 7 (2) of Law No. 11 of 2012 on the Criminal Justice System Child which states that diversi implemented in the case of a criminal offense committed is punishable by imprisonment under the 7 (seven) years; and not a repetition of criminal acts. Based on the above conditions, then the crime of traffic accident with the child actors who cause deaths that meet the elements of Article 311 paragraph (5) of Law Number 22 Year 2009 regarding Traffic and Road Transportation cannot be versioned.

In practice, so far at Kendal Police in handling the crime of traffic accidents involving children as perpetrators always made efforts versioned, despite the fact that the offense is already fulfilled the Article 311 paragraph (5) UULLAJ. This is a deviation from the provisions of Article 7 (2) which determines the requirements imposed UUSPPA diversion is when a penalty of less than 7 years.

**RESEARCH METHODS**

The method used in this research is empirical juridical approach, the research is based on the science of normative law (legislation), but instead examine the system of norms but rather to observe the reactions and interactions that occur when a system of norms that work in the community.

Specification used in this research is descriptive analytical, that picture is clear, detailed and systematic. The types of data used in this study are primary data and secondary data. Data collection methods used are field studies and literature study (library research). Methods of data analysis using qualitative methods.

**DISCUSSION**

1. **Handling Traffic Accident Crime With The Causes Child Actors Others Died at Kendal Police Jurisdiction**

Traffic accident is an event in the way of unexpected and unintentional involving vehicles with or without other road users which resulted in human casualties and / or loss of property. Traffic accidents can be prevented as mentioned in Article 226 of Law No. 22 Year 2009 regarding Traffic and Road Transportation stating that in order to prevent traffic accidents conducted through:

   a. stakeholder participation  
   b. community development  
   c. law enforcement  
   d. global partnership

Prevention of traffic accidents conducted by phasing pattern includes a program of short-term, medium term and long term. Preparation of traffic accident prevention program carried out by the forum Traffic and Road Transport under the coordination of the Indonesian National Police.

In the event of a traffic accident, the Indonesian National Police officers are required to make the handling of traffic accidents by means of (Article 227 of Law No. 22 of 2009 on Traffic and Transportation):

   a. came to the scene immediately  
   b. help victims  
   c. The first act on the crime scene  
   d. processing a crime scene  
   e. regulate smooth flow of traffic  
   f. securing evidence  
   g. investigate the case.

In the case of criminal traffic accidents are children, then the treatment should pay attention to child protection guidelines dealing with the law as stipulated in Law No. 11 Year 2012 on Child Criminal Justice System.

Article 3 of Law No. 11 of 2012 on the Criminal Justice System Child states that every child in criminal proceedings is entitled:

   a. treated humanely while addressing the needs according to age;  
   b. separated from adults;  
   c. legal aid and other assistance effectively;  
   d. recreational activities;  
   e. freedom from torture, punishment or other cruel, inhuman, and degrading and dignity;  
   f. not sentenced to death or life imprisonment;  
   g. not arrested, detained, or imprisoned, except as a last resort and in the shortest period of time;  
   h. obtain justice in court Children are objective, impartial, and in a session closed to the public;  
   i. Unpublished identity;  
   j. obtain the assistance of parents / Guardians and the person who is trusted by the Son;  
   k. obtaining social advocacy;  
   l. obtaining personal life;  
   m. obtaining accessibility, especially for children with disabilities;  
   n. education;  
   o. pelayananan obtain health; and  
   p. acquire other rights in accordance with the provisions of the legislation.

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Fajar Mukti ND and Achmad Yulianto, Dualism Penenlitian Normative and Empirical Law, Reader subject is, Yogyakarta, 2013, p. 47.
System Children, noted that in the juvenile justice system are required to prioritize restorative justice approach through diversion, which includes:

a. Children criminal investigation and prosecution carried out pursuant to the provisions of the legislation, unless otherwise provided in this Act;
b. Kids proceedings conducted by the courts in the general court; and
c. Coaching, mentoring, supervision and / or assistance during the implementation process and after a criminal or a sentence or action.

Diversion according to the provisions of Article 1 point 7 of Law No. 11 of 2012 on the Criminal Justice System Child settlement is the transfer of children from the criminal justice process to outside the criminal justice process. The purpose of the diversion is carried out as mentioned in Article 6 of Law No. 11 of 2012 on Child Criminal Justice System are:

a. Achieve peace between the victim and the child;
b. Settlement to the case of children outside the court process;
c. Prevent children from deprivation of liberty;
d. Encouraging the public to participate; and
e. Instill a sense of responsibility to children.

To be implemented diversion is necessary to the terms as set out in Article 7 (2) of Law Number 11 Year 2012 on Child Criminal Justice System are:

a. Punishable by imprisonment under the 7 (seven) years; and
b. Not a repetition of criminal acts.

Handling traffic accident by a child resulting in death is through the investigation process as it generally is guided by the Code of Criminal Procedure. However, there are some differences of treatment if the perpetrator is a child, due in the investigation process should be guided by the Law No. 11 Year 2012 on Child Criminal Justice System.

In the process of investigation of criminal traffic accidents involving children as perpetrators, the police are obliged to inform Bapas to provide guidance during the investigation process. Mr. charge of conducting research on children about the situation of children, children's background. This is as dikemukan by Kendal Police Chief Unit Laka which states that in the case of criminal lacquer is then the minors, then we will apply for the appointment of officers suspected Bapas to accompany the child during the examination process. Bapas officer assigned to conduct the research community to uncover and locate data and information on the development and the background of the suspect lives of children of various aspects of sociological, psychological, economic and others. The data is expected to mengungkakan causes of the criminal offenses committed by children. From these results, further Bapas will provide a recommendation to do versioned.5

Based on the recommendation of Bapas, then the investigator will make a schedule to do the deliberation process of diversion. However, not all cases of children carried out a diversion, because the appropriate formal requirements set forth in Article 7 of Law No. 11 of 2012 states that the terms of diversion criminal threat should not be more than 7 years and not a repetition.6 Thus in accordance with provisions of the article, if the child committed the crime of which the criminal threat over 7 years it will automatically direct action prosecuted without diversion.

In the case of criminal offenses committed by children, including lacquer case then, the Kendal Police investigators attempted to commit diversion in accordance with the mandate of Law Child Criminal Justice System. This is as stated by Chief of Unit Laka Kendal Police stated that in terms of the crime of traffic accidents involving children, has always strived versioned, so that cases of child laka then nothing until P21.7

Based on the results of research in Kendal Police data showed that the crime of traffic accident with the child actors that resulted in deaths is as follows:

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5 Interview with Deddy Mulyana, as Chief of Unit Laka Kendal Police, dated August 2, 2019 in Kendal Porlres
6 Interview with Deddy Mulyana, as Chief of Unit Laka Kendal Police, dated August 2, 2019 in Porlres Kendal.
7 Interview with Deddy Mulyana, as Chief of Unit Laka Kendal Police, dated August 2, 2019 in Kendal Porlres
Table 1 traffic accident with child offenders

<table>
<thead>
<tr>
<th>No.</th>
<th>yr</th>
<th>Tot</th>
<th>fulfilled article element</th>
<th>Completion</th>
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<tbody>
<tr>
<td>1</td>
<td>2017</td>
<td>1</td>
<td>Article 311 paragraph (5) of the Act LLAJ</td>
<td>diversion</td>
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<td>2</td>
<td>2018</td>
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<tr>
<td>3</td>
<td>2019</td>
<td>2</td>
<td>Article 311 paragraph (5) of the Act LLAJ</td>
<td>diversion</td>
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<td></td>
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<td></td>
<td>Article 310 paragraph (4) of the Act LLAJ</td>
<td>diversion</td>
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</table>

Source: Police Kendal, 2019

Based on the above table it is known that the overall crime by the perpetrator resulting child died at Kendal Police resolved by diversion.

Implementation of diversion in cases involving child laka then as perpetrators carried out in accordance with the provisions of Article 9 paragraph (1) of Law No. 11 of 2012 on the Criminal Justice System Child which states that investigators, prosecutors, and judges in making the diversion should consider:

a. categories of offenses;
b. age of children;
c. the research community of Bapas; and
d. support family and community environment.

Implementation of diversion facilitated by the investigator to determine the schedule and conduct of diversion and invite the parties concerned. The parties involved in the implementation of diversion among others from the Police Kendal include Kendal Police Chief Unit Laka, Bapas officers, principals, heads of villages, families of the victims, the perpetrator's family, as well as community leaders. In the process there is a diversion mediation agreement between the families of the victims with the perpetrators as outlined in the letter of agreement whose contents that the family has forgiven the offender, traffic accidents to be resolved amicably, and their grief agreements granting compensation from the offender to the victim's family. The result of the diversion agreement letters poured in a diversion agreement and reported for the implementation of the diversion. The next step, reported for the conduct of the diversion. Furthermore, investigators will apply for the establishment of diversion to the court. After the verdict the court ruling issued investigator Termination of Investigation (SP3).  

Briefly, the stages of implementation of diversion in cases involving child laka then Traffic Police in Kendal are seebagai follows:

a. Investigators to bring the two parties (the victim's family, the victim and the child's family (the suspect) and community leaders / religious, legal advisers, Bapas (jurisdiction Local) and social workers), conducted a meeting to sit together to find an agreement that is essentially the best for children and victims;
b. The agreement was poured in Minutes Diversi that contains an agreement in the form of agreement by both parties to amicably settling disputes and granting compensation to the victims;
c. Investigators did his case for Determination Letter Termination of Investigation (SP3);
d. Investigators in less than 3 days must request the determination at the Court Diversion local jurisdictions;
e. After the determination of the court Diversi down Affairs, investigators published SP3.

Implementation of diversion conducted by investigators in handling a traffic accident by a child resulting in death of the victim in accordance with the provisions of Law No. 11 of 2012 on the Criminal Justice System Child. Article 8 of Law No. 11 Year 2012 on the System Perdilan Child Criminal has determined the procedure and manner of diversion is done through consultations involving the child and parent / guardian, victim and / or parent / guardian, the supervising social and Professional Social Worker based restorative justice approach. Deliberation may involve social welfare workers, teachers, and community leaders. The process can diversion into account the interests of victims, child welfare and tanggung responsibility, avoidance of negative stigma, avoidance of retaliation, the harmony of society,

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8 Interview with Deddy Mulyana, as Chief of Unit Laka Kendal Police, dated August 2, 2019 in Porlres Kendal.
9 Interview with Aiptu Paryanto as Kendal Police Investigator, dated August 3, 2019, at Kendal Police.
Furthermore, in Article 9, paragraph (2) of Law No. 11 Year 2012 on Child Criminal Perdilan System determined that the
diversion agreement must obtain consent of the victim and / or family child victims and willingness to children and their
families, except for:

a. The offenses in the form of infringement;
b. Misdemeanor;
c. Victimless criminal offense;
d. Casualty losses value not more than the value of the local provincial minimum wage.

All four of the aforementioned is an alternative, which means that if there is one criteria are met then the Diversion agreement does
not require consent of the victim and / or family. If there is agreement in as disebutkandiatas diversion, then the deal could be
done if the investigator along with actors / her family, community counselors and may also involve community leaders. It is
stipulated in Article 10 of Law No. 11 Year 2012 on the Criminal Justice System Child specifies that the agreement diversion to
resolve crimes such violation, misdemeanor, criminal offenses without victims, or the value of the losses of victims is no more
than the provincial minimum wage locals can be done by the investigator together with actors and / or his family, Supervising
Community, and can involve community leaders. The diversion agreement made by the investigator on the recommendation of
the Community Advisors.

In the case of lacquer then performed at the Traffic Police Kendal diversion, diversion deal has received approval from the
victim's family as well as the willingness of the child and family. This is in accordance with the original provisions of Article 9,
paragraph (2) of Law No. 11 Year 2012 on Child Criminal Perdilan System.

Versioned according to the agreement in both cases laka then at Kendal Police involving children and resulting deaths are
handing back to the parents. This is in accordance with the provisions of Article 11 of Law No. 11 Year 2012 on Child Criminal
Perdilan system can take the form, among others:

a. Peace with or without compensation;
b. Handing it back to the parent / guardian;
c. Participation in education or training or education instituted LPKS a maximum of three months; or
d. Society service

If the diversion process fails, then according to the provisions of Article 13 of Law No. 11 In 2012, juvenile criminal justice
process followed in the case of: a. Diversion process does not produce an agreement, or b. Diversion agreement is not
implemented.

Diversion process should also be conducted surveillance, it is stipulated in Article 14, which states that the supervision over the
process of diversion and implementation of the resulting agreements that are in the direct supervisor responsible officials at each
level of examination. During the diversion process lasted until the diversion agreement implemented, Community Supervisor
shall provide guidance, mentoring, and supervision. In terms of the diversion agreement is not implemented at the time specified,
Supervisor Kemasyarakaan immediately reported to the responsible officials. The responsible officer shall follow up the report
within a period of seven days.

According to Article 29 of Law No. 11 Year 2012 on Child Criminal Perdilan System, the investigator shall seek diversion in no
later than seven days after the investigation began. The diversion process implemented a maximum of thirty days after the
commencement of diversion. In the case of the diversion process to reach an agreement, an investigator with the news events and
their diversion to the chairman of the court of the diversion agreement for the land made the determination. In the case of
diversion fails, the investigator shall continue the investigation and to transfer the case to the public prosecutor by attaching the
minutes of diversion and community research report. It is intended for examination at a later stage to know no action because the
failure of efforts versioned and versioned.

Efforts to implement diversion investigator is one solution that can be taken in the handling of a traffic accident with the child
actors in the restorative justice approach. Restorative justice is a process of settlement is done outside the criminal justice system
by involving the victim, the perpetrator, the victim's family and the perpetrator's family, the community and the parties
concerned with a crime that happened to reach an agreement and settlement.

Restorative justice is considered a way of thinking / new paradigm of looking at a crime committed by a child. Restorative
justice is a process of diversion in which all parties involved in a specific criminal acts together to solve problems, create an
obligation to make things better by involving child victims, children, and the community in seeking solutions to repair,
reconciliation, and reassuring that is not based on retaliation.10

Restorative justice a settlement process is done outside the criminal justice system (Criminal Justice System) involving victims,
offenders, their families and the community and the parties concerned with a crime that happened to reach an agreement and
settlement.11Restorative justice is considered a way of thinking / new paradigm of looking at a crime committed by one. Due to

10 Slamet Riadi Police Role in Implementation Diversion Investigators against children in conflict with the Law (Studies in West Lombok Police
11 Slamet Riadi, op.cit. h.127.
the high level of children in conflict with the law which finally led to the criminalization of which it is not in accordance with the objectives of the convention of children's rights is the best interests of the child.

2. Factors Be Cause of Traffic Accidents with Causes Child Actors Others Died at Kendal Police Jurisdiction

The factors that cause traffic accidents with child actors who lead other people died in the jurisdiction of Police Kendal is:

a. The human factor

Humans as road users is as pedestrians and motorists. The interaction between the human factor, vehicle, road and environment is very dependent on human behavior as road users to be the most dominant.12 Human factors here include:

1) Negligence

Child negligence in driving can lead to traffic accidents. Age children are not old enough so that less careful in riding a motorcycle and yet capable of driving a motorcycle and do not understand how to ride a motorcycle. For example, children do not honk, not turning left or right turn signal when going to turn, do not focus on the drive so it can not anticipate sudden occurrences, talking while driving.13

In the case of lacquer and then with No: LP / 12 / I / 2019 / So, dated January 12, 2019 and LP Number: LP / 45 / II / 2019 / Then Kendal dated February 25, 2019 noting that the two children do not honk when he learned that in front of him there are people who want crossing. Based on the statements of suspects and witnesses is also known that the children in such cases over the mengendai vehicle while chatting with a friend who dibonceng behind, so do not focus on the road. This resulted in the child as the rider cannot anticipate in the face of the traffic situation and do not pay attention to the surrounding environment that can change suddenly.

Factors causing traffic accidents Intas minors in Kendal largely because of the rider. Children who are under age do not have a driver's license and driving skills do not have a vehicle, but it's been driving a motor vehicle on the road. At the time of driving a motor vehicle they do not obey the traffic rules and tend to be reckless, causing traffic accidents.14

2) factors knowledge

Another cause of motorists that cause laka then is a lack of knowledge about traffic child or children's knowledge about the characteristics of the vehicle used. Usually children only if I can drive a vehicle without knowing the characteristics of the vehicle so it does not know what to do when something happens on the road.15

3) Factors parents

The parents play a role in the occurrence of traffic accidents of children. Parents allow children to ride a motorcycle while the child is still not old enough to ride a motorcycle.

4) factors victims

The cause of traffic accidents that caused death of the victim is not only influenced by the rider, but is also influenced by the victim. In both the case of a traffic accident by a child resulting in deaths, it is known that the victims are elderly (80 years), when will cross no attention to the situation around and suddenly.16 With advanced age, it is likely the data hold up the victim's body is weak, so that when an accident victim eventually died.

b. factors vehicle

Factors associated with the vehicle roadworthy condition of a motorcycle or a car used for driving, Such as braking systems, tire condition, or a steering system that is not functioning, or even modifications that are not in accordance with the safety rules. The vehicle can be started either from braking and engine problems, tire and oil should also be considered so as not to endanger motorists.

Vehicle is one of the causes of traffic accidents on the road. In the case of traffic accidents with LP Number: LP / 12 / I / 2019 / Then known that the condition of the vehicle klakso not functioning, as well as sei in light does not function properly. This resulted in the rider cannot honk when we see people who were crossing in front of it so that there was a traffic accident.17

13 Interview with AKP Paradise Resort Police, Adj Yudhatama as Kendal, dated August 2, 2019, at Kendal Police.
14 Interview with AKP Paradise Resort Police, Adj Yudhatama as Kendal, dated August 2, 2019, at Kendal Police.
15 Interview with AKP Paradise Resort Police, Adj Yudhatama as Kendal, dated August 2, 2019, at Kendal Police.
16 Interview with AKP Paradise Resort Police, Adj Yudhatama as Kendal, dated August 2, 2019, at Kendal Police.
17 Interview with AKP Paradise Resort Police, Adj Yudhatama as Kendal, dated August 2, 2019, at Kendal Police
To reduce the occurrence of traffic accidents with child actors, Kendal Traffic Police has been put through prevention initiatives with the following activities:

a. Coaching is always carried out regularly in accordance with the action plan Dikmas Resort Police Kendal to schools and community groups.

b. Conduct of police program goes to school to schools in Kendal for the dissemination of traffic safety

c. Working closely with the school to hold the front raziadi schools to recruit children under the age has been driving a motor vehicle.

d. For the prevention of violations that could potentially result in lacquer then, every day carried out a patrol traffic in order to carry out the prosecution of traffic violations in the system of hunting and also carried out activities of repression through raids offense then it stationer continuously dilakukan every day 2x activities by Traffic Police Kendal.

With these activities, the expected traffic accidents can be prevented with child actors.


Based on the results of Kendal Police note that in the handling of the crime of traffic accident with the child actors who lead others died experiencing some constraints, namely:

1) Barriers of law, which limits the application of diversion stipulated in Law SPPA

According to the Resort Police Chief Unit Kendal, bottlenecks in the handling of lacquer necessarily involving children is their limitation in the application of the provisions stipulated in the Act diversion SPPA. Moreover, the maximum limit of penalty offenses which are punishable occurs less than 7 years.19

As we know that the provisions of Article 7 (2) of Law Number 11 Year 2012 on Child Criminal Justice System determines that the diversion carried out in terms of criminal offenses committed:

1) punishable by imprisonment under the 7 (seven) years; and
2) not a repetition of criminal acts

Thus in accordance with provisions of the article, if the child committed the crime of which the criminal threat over 7 years then it cannot do versioned.

In the case of traffic accidents by children which resulted in the death of a person meets the elements sebagiamana stipulate d in Article 310 paragraph (4) of Law No. 22 of 2009, then there is no constraint of law, because the article regulating traffic accidents due to negligence lead others died with the provisions shall be punished by a maximum imprisonment of 6 (six) years and / or a fine of Rp12.000.000.00. 6-year criminal penalty provisions oblige the investigator to make a diversion in the investigation process.

However, if a traffic accident with the child actors that resulted in fatalities meet the elements as stipulated in Article 311 paragraph (5) of the Act LLAJ, investigators continue to take steps concoctuary discretion to decide case by diversi on of the following considerations:

1) There is an agreement between the offender d ith the families of the victims that the case has been completed amicably by consensus together community leaders there.
2) Humanitarian considerations with a view to continued education in order to achieve a better hope.
3) Keeping the child's psychological / actors

The investigator actions above are based on the authority to make discretionary. It is stipulated in Article 16 paragraph (1) letter l Act No. 2 of 2002 tnetang Police stated that in order to conduct tasks in the field of criminal proceedings, the Indonesian National Police is authorized to conduct other actions by law responsible. The provisions are extended by Article 16 (2) of Law No. 2 of 2002 on the Indonesian National Police, which reads: "The police can hold another action according to the law

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18 Interview with FirdausYudhatama AKP, as the Resort Police, Adj Kendal, dated August 2, 2019 at Kendal Police.
19 Interview with Deddy Mulyana, as Chief of Unit Laka Kendal Police, dated August 2, 2019 in Kendal Porlres
20 Interview with Deddy Mulyana, as Chief of Unit Laka Kendal Police, dated August 2, 2019 in Kendal Porlres
responsible for the restriction that such actions do not conflict with applicable law, in accordance with legal obligations / professions requiring an act of the job.

Basically discretion is not an authority but the other actions of the police and should be accounted for in the laws and norms that apply in the midst of society. Discretion that is on duty during the police because the police cracked down, then faced with the two (2) kinds of options whether to process it according to the duties and obligations as criminal law enforcement or disregard of the case in the sense of taking action police discretion. This discretionary actions have meaning not carry out his duty as criminal law enforcement based on grounds which can be accounted for by the law. The reasons could be fostering actors, for the sake of good order or for reasons other laws.21

Police in the context of the investigation to provide a sense of justice often associated constructed as a police action in Act No. 2 of 2002 on the Indonesian National Police in the editorial that "other measures" that ditendensikan to the meaning of "police discretion". The police investigators were given the authority that are personal as mentioned in Article 7 paragraph (1) item j Act No. 1 of 1981 on the Criminal Procedure Code and Article 16 paragraph (1) item 1 and Article 18 of Law No. 2 of 2002 on the Police State Republic of Indonesia which authorizes the police investigators to "be able to take other actions" with certain conditions and it is synonymous with the meaning of police discretion.22

2) The resistance of the investigator (law enforcement agencies)

Specialized in the application of diversion of traffic accident cases filled with elements of Article 311 paragraph (5) of the Act LLAJ depends on policy leadership in making discretion of the police investigators. This will certainly affect whether children against child diversion efforts will be made or not. If the leadership decided to not do versioned, so the judicial process will continue and there will be no discretion.23

Article 18 of the Police Act states that "act on his own judgment based on the consideration of the benefits and risks of such action and truly in the public interest". The efforts to find appropriate legal basis is then interpreted differently by each investigator. Some think that the basic law of the termination of the investigation in the public interest is the absence of sufficient evidence as victims, complainants and witnesses menicabut report and all information that has been given to the investigator, there are also underlying the concept of restorative justice (Restorative Justice) and the alternative settlement disputes outside the court (Alternative dispute Resolution).24 Nevertheless, the practice of application of discretion by law enforcement officials is highly dependent on the subjectivity in question. When law enforcement officers live the values of morals and ethics, then the application of discretion will bear a sense of justice and peace in society. But if on the contrary it will give birth to arbitrariness. For that we need the supervision of the Police Commission by referring to the code of ethics of Police. Solutions to overcome these obstacles is the investigator who handled the case of traffic accidents involving children as perpetrators should really have the interest of the child, so that in the investigation process really pay attention to the interests of the child.

CONCLUSION

Handling the crime of traffic accidents with offenders of children which resulted in other people died in the jurisdiction of Police Kendal in accordance with the provisions of regulations crustaceans, especially Law No. 11 of 2012 on the Criminal Justice System Child, which in the investigation process shall be versioned. The factors that cause traffic accidents with child actors who lead other people died in the jurisdiction of Police Kendal human factors and vehicle factors. The obstacles that arise in the handling of the crime of traffic accident with the child actors who lead other people died in the jurisdiction of Police Kendal is a limitation in the application of diversion stipulated in Law SPPA, the solution to that is to act Police discretion. Besides the implementation of diversion traffic accident case filled with elements of Article 311 paragraph (5) of the Act LLAJ depends on policy leadership in making discretion of the police investigators.

SUGGESTION

Need for renewal of the legislation, especially regarding the diversion requirements, so that in the case of traffic accidents to children who meet the elements of Article 311 paragraph (5) diversion efforts still do it for the future. For the Kendal district police, there should be regular schedule in doing sosialisasi about traffic in junior high school or high school. Parents should not give permission for their children who are under age for driving a motor vehicle for the sake of safety.

REFERENCES


21 Poppy Ayu Novita, Role Diversion Investigators In Implementation And Its Discretion Against Children against the Law, Lex Jurnalica, Volume 12 Number 1, April 2015, h.47.
22 Kabagreskrim Police Role in Handling Criminal Investigator Through Mediation and Diversion, delivered on integrated training judges, prosecutors and police and Asset Recovery Training Training Agency in 2013 in the Attorney General dated 14 March 2013, p. 2
23 Interview with Deddy Mulyana, as Chief of Unit Laka Kendal Police, dated August 2, 2019 in Kendal Porlres


P. Suwardjoko Warpani, 2002, Pengelolaan Lalu Lintas dan Agnkutan Jalan, Bandung : Penerbit ITB


Laws and regulations


Law Number 22 Year 2009 regarding Traffic and Road Transportation.

Act No. 11 of 2012 on the Criminal Justice System Children

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