

## APPLICATION OF DIVERSION OF BULLYING CRIMES AGAINST CHILDREN WITH DISABILITIES



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**Abstract.** *Children are an inseparable part of the growth of a nation. Law Number 35 of 2014 concerning Child Protection. Objectives of the study: 1. To find out how the diversion of crimes committed by children is applied at the prosecutor's level. 2. To find out the obstacles law enforcement faces against child violence. Bullying occurred on September 19, 2022, in Bojong Village, Susukan District, Cirebon Regency. Three high school teenagers bullied people with disabilities whose news had gone viral on social media. In this case, the perpetrator was a minor, committing acts of violence against a child with disabilities by mocking and kicking the victim. Individual law enforcement that is not strong will result in crimes or criminal acts that result in people committing criminal acts due to ineffective law enforcement. This study uses an empirical juridical method, which is carried out on facts or events related to the problems in this thesis, using qualitative descriptive where the data obtained from both library studies and interviews will be analyzed by explaining and explaining the results of the research object, then describing the results of the research in the form of mapping the problem after the process will conclude. Based on the research, it can be concluded that the procedural implementation of Diversion efforts at the Cirebon District Attorney's Office has been under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. However, it is not optimal in terms of substance. Of the 17 cases that entered the 2022-2023 period, 10 should have been able to be done, but only 5 cases were successfully pursued by the JPU. The inhibiting factors include weaknesses in Law No. 11 of 2012 SPPA and the community's mindset that considers settlement through Diversi detrimental to the victim.*

**Keywords:** *Child Crime, Diversion, Diversion at the Prosecution Level, Law Number 11 of 2012*

### **A. Introduction**

Children are an inseparable part of the growth of a nation. They have an essential role as heirs and future leaders. Like adults, children also have rights and obligations. These children's rights must be guaranteed by the state and society, as stipulated in Law Number 23 of 2003 concerning Child Protection, amended by Law Number 35 of 2014 concerning Amendments to Law 23 of 2003 concerning Child Protection. This aims to ensure that the child's growth and development run smoothly and optimally reaches his or her potential. One of the essential aspects that must be guaranteed is the right of children not to be targeted by illegal arrest or detention without a clear basis.

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However, the quick count is not spared from controversy. One of the main criticisms. Considering the case of bullying or bullying familiar to the ears of the people of Indonesia. Bullying can

occur in various places, ranging from school environments to homes, playgrounds, and other places. Cases of bullying often occur, especially in the school environment.

The results of the author's interview with Anwar Hendra Ardiansyah, S.H., M.H, as a junior prosecutor at the Cirebon Regency District Attorney's Office, data from September 2022 to March 2023 showed that 17 cases entered the prosecutor's office and 5 cases were resolved by diversion and 12 cases continued to trial.

Bullying also occurred on September 19, 2022, which occurred in the Cirebon area in Bojong Kulon village, Susukan District, Cirebon Regency; there were three high school teenagers bullying people with disabilities whose news had gone viral on social media; in this case, a minor perpetrator committed an act of violence against a child with disabilities by mocking and kicking the victim. The author is interested in discussing this case because the perpetrator is a minor who was involved in the act of bullying.

Bullying, also known as bullying, is a form of contemporary oppression that often occurs in the surrounding environment, where victims are prevented from moving and continue to be framed as if what the bullies say is real—several types of bullying, including verbal, written, and physical forms. Bullying, in any form or context, is prohibited. Bullying comes from the term BULL, which refers to bulls. The tendency of bulls to rush randomly is what makes bullying behavior known as bullying, and it is also considered the root of violence. According to research by the National Character School Development Consortium in 2014, bullying occurs in almost every school in Indonesia. Bullying often consists of verbal and psychological or mental abuse.

Individual law enforcement that is not strong will result in crimes or criminal acts that will result in people committing criminal acts due to ineffective law enforcement. The phenomenon of bullying or bullying often occurs in the context of the school environment and the environment where children play. In both settings, the victim and the perpetrator are other children. Schools should be a safe environment for children to get information and education, interact with peers, and learn to socialize. However, unfortunately, some children experience fear due to bullying or bullying at school, which makes the school itself a scary place for them.<sup>3</sup>

Children are one of the subjects of law in this country and must submit to and obey the applicable legal norms. However, it is essential to recognize that children have unique needs that require special attention and protection, and legal protection for children is undoubtedly different from that for adults. This is because of mental and physical development differences between immature children and adults. Because children are responsible for their actions, they need to be allowed to grow and develop optimally physically, mentally, and socially. Furthermore, to realize children's maturity, it is necessary to protect their morals and provide guarantees for fulfilling their rights. The significance of legal protection for children is closely related to their future. Children will experience significant physical and intellectual development, and at some point, they will become the next generation, just like the previous generation.

Children are also not immune to the influence of changes caused by advances in various fields, such as science, technology, culture, and overall development. These changes impact all aspects of human life, including children. Many young people exhibit behaviors that are generally not expected of young children.

Children who are involved in a social sphere that persists over time tend to be more likely

to engage in illegal behavior, such as bullying, which is a form of unlawful abuse. Based on the above problems, the researcher is interested in studying problems, conducting research, and looking for alternative ways to solve problems. The title of the research is "The Application of Diversion of Bullying Crimes against Children with Disabilities." The objectives of this study are as follows: 1. to find out how the diversion of crimes committed by children is applied at the prosecutor's level. 2. To find out the obstacles faced by law enforcement against child violence.

## **B. Literature**

### **Diversion**

Definition of diversion according to experts: According to Nasir Djamil, Diversion is a mechanism for transferring the settlement of cases of children suspected of committing certain crimes from a formal criminal process to a peaceful settlement between the suspect/defendant/perpetrator of a crime and the victim, which the family and the community facilitate, the Children's Community Advisor, the Police, the Prosecutor, or the Judge. Diversion, which Marlina explains in her book "Juvenile Criminal Justice in Indonesia," is a policy implemented to prevent perpetrators from the formal criminal justice system and provide protection and rehabilitation to perpetrators to prevent children from becoming adult criminals.

According to the Law, the purpose of diversion is stated in Article 6 of Law Number 11 of 2012 concerning the juvenile criminal justice system, which includes the following: 1) Achieving peace between victims and children. 2) Resolving children's cases outside the formal judicial process. 3) Avoiding children from being deprived of independence. 4) Encourage community participation. 5) Instilling a sense of responsibility for children.

The conditions for the implementation of diversion are regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in Article 7 paragraph (2), which states that the conditions for the implementation of Diversion are as follows: 1) Threatened with imprisonment under 8 (eight) years; 2) No1 is a repetition of the criminal act.

### **Bullying**

*According* to Olweus, bullying is a harmful act that is done repeatedly to cause discomfort or suffering, and that is done by another person (one or more people) directly against someone powerless to fight it. Based on this description, it is clear that behavior that includes *bullying* is behavior that is often carried out to hurt and involve weak and strong people.

Suryatmini categorizes bullying behaviors into four categories: 1) *Verbal bullying*, which involves the use of words such as nicknames, reproaches, slander, cruel criticism, insults, threats, intimidation, false accusations, and the like. 2) *Physical bullying*, such as beating, kicking, slapping, strangling, biting, scratching, spitting, damaging, or destroying the victim's weak belongings. Physical acts in *bullying* are more visible and easy to identify, although the incidence of *physical bullying* is not as high as that of other forms of bullying. Teenagers who often engage in *physical bullying* usually have more serious behavioral problems and are at risk of turning to criminal acts. 3) Relational bullying, i.e., H. Systematic weakening of the victim's self-esteem through neglect, exclusion, or avoidance. These behaviors include subtle gestures such as aggressive gaze, stares, moans, mockery, mocking laughter, and mocking body language. Bullying in this relative form is the most challenging

bullying behavior to recognize from the outside. Relational bullying peaks in early adolescence when young people undergo physical, mental, emotional, and sexual changes. This is when young people try to find themselves and blend in with their peers.

### C. Results And Discussion

Quick counts, or quick counts, play an important role in elections by providing an initial overview of the election results before the official count is completed. This method involves collecting data from a randomly selected sample of polling stations (TPS) and calculating the results to estimate the overall election results. Quick counts allow the public and stakeholders to get initial information quickly, helping to reduce uncertainty and speed up the process of verifying results. In addition, quick counts can increase transparency by providing provisional results that can be compared to official counts and facilitating early detection of discrepancies or fraud. However, it is essential to remember that the quick count is not a substitute for official counting but rather a tool to provide a preliminary picture and monitor the integrity of the electoral process. As for the controversy in the application of Quick Count in calculating election results, when there is a difference in the official calculation results with the KPU. The public's response to quick count results that differ from official count results can vary depending on several factors, including the level of trust in survey institutions, people's political literacy, and political context (Filzah & Joko, 2019).

The discrepancy in the results between the quick count and the official count can trigger distrust and dissatisfaction with the electoral process. When the public sees significant differences, they may doubt the election's integrity and suspect any data manipulation. Public trust is an essential aspect of the democratic process. Without it, the legitimacy of the election results can be questioned, which can potentially cause a crisis of trust in electoral institutions (Dwi Putri S A *et al.*, 2020).

This is very likely to happen if there are indications or a history of irregularities in the previous elections. For example, in countries with an unclean electoral history, the difference in results between the quick and official counts can immediately trigger an adverse reaction. The public, who have experienced irregularities in the past, tends to be more sensitive and alert to potential fraud. They may be quicker to react to election results that are inconsistent with their expectations.

Supporters of candidates who feel disadvantaged by the results of the quick count that differ from the official count may protest, hold demonstrations, or even demand a recount of votes. These demonstrations and protests are often a forum for people to voice their dissatisfaction. In addition, demands for a vote recount could add to the workload and costs for election organizers and prolong political uncertainty.

This dissatisfaction threatens political stability and can undermine public trust in democratic institutions and the electoral process. When the public feels their votes are not counted fairly, they can lose faith in the democratic process and become apathetic or even boycott future elections. This severely threatens democracy because public participation is the foundation of a healthy democratic system.

Suspicion of the election results can trigger various conspiracy theories, further complicating the situation. These theories can spread quickly through social media, exacerbating public distrust. In the digital age, true and false information can spread rapidly, reinforcing the public perception that something is wrong in the electoral process.

In addition, the difference in results between the quick and official counts can also be used

by certain political actors to mobilize support or pressure the authorities. For example, candidates or political parties who feel disadvantaged may use this difference in results as an excuse to claim that the election was rigged, which can mobilize their supporters to demand justice or change.

Political stability is one of the most vulnerable aspects affected by public dissatisfaction with the election results. There can be riots, conflicts, or even violence when this discontent is widespread. This not only endangers national security but can also damage the country's reputation in the eyes of the international community, which in turn can affect diplomatic and economic relations.

Disturbed public trust also impacts the legitimacy of the elected government. If the public feels that the elected government resulted from a fraudulent or non-transparent election, they may not support its policies. This can make the government less effective because it does not have the full support of the people.

To address this issue, transparency and accountability in the electoral process must be improved. Survey institutions and election organizers must work hard to ensure that every stage of the election process is done honestly and fairly. In addition, political education to the public about how the election process works and how to understand the results of quick and official counts is essential to building public trust.

The government and relevant institutions must work together to ensure that elections are free and fair, and perceived as such by the public. This includes providing an effective grievance mechanism for the public to report fraud and ensuring that all reports are investigated seriously. Thus, it is hoped that it can create a more credible election and increase public trust in the democratic process. Survey agencies can take several steps to ensure independence and neutrality in the implementation of quick counts;

1. Methodological transparency. Survey institutions must present a clear and transparent methodology, including selecting polling station samples, data collection techniques, and statistical analysis. In this way, the public and third parties can verify the accuracy and validity of the results obtained. The transparency of this methodology also helps build public trust in the survey institutions and the quick count results they present.
2. Survey agencies may invite independent supervisors from non-governmental organizations, academics, or international institutions to monitor the quick count process. The presence of this independent supervisor ensures that there is no intervention or manipulation in implementing the fast count. Independent supervision also ensures that the quick count process is carried out objectively and according to the set standards.
3. Survey agencies must disclose their funding sources and ensure that funding does not come from parties with a political interest in the election results. By transparently revealing the source of funds, survey institutions can avoid conflicts of interest and maintain the integrity of the quick count results.
4. Survey agencies must ensure that their personnel do not have political affiliations that could affect the quick count results. They must also commit to following a code of conduct that guarantees that each stage of the quick count is carried out honestly, fairly, and professionally.
5. Survey institutions must communicate openly about the process and results of the quick count and provide explanations if there are any discrepancies with the official count results. Clear and transparent communication helps reduce the potential for

- misinformation and strengthen public trust in survey institutions.
6. Survey institutions can increase credibility and public trust in their quick counts. Methodological transparency, independent oversight, transparent funding sources, code of ethics compliance, and effective communication all contribute to the independent and neutral implementation of the quick count. This ensures accurate and reliable results and helps maintain the integrity of the electoral process and strengthen public trust in democracy.

#### **D. Conclusion**

The public's response to the quick count results, which differs from the official results, depends on several factors, such as trust in survey institutions, political literacy, and the political context at the time. Mistrust often arises when fraud prompts protests or demands for a recount. If the public trusts the electoral institutions, they are more likely to receive official results despite being different from quick counts. Education and transparency are essential to manage public response and build trust. Survey institutions must be transparent in methodology, have independent oversight, have clear sources of funds, comply with the code of ethics, and communicate effectively with the public to ensure independent and neutral quick count results.

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