

The Role of Investigators in Implementing Restorative Justice for the Crime of Beatings in Ujungberung, Bandung City

Firiana Sidikah Rachman

Langlangbuana University

Article Info

Received : 06 August 2023

Publish : 03 November 2023

Keywords

Crime of Beating

Investigator

Restorative Justice

Bandung City

Info Artikel

Article history:

Diterima : 06 Agustus 2023

Terbit : 03 November 2023

Abstract

The criminal act of beatings still occurs every year in the jurisdiction of the Ujungberung police sector. The perpetrators of the crime of beatings were not only committed by adults, but also by children. So that children who are in conflict with the law do not continue to the criminal justice process, they require serious handling from investigators. Therefore, the urgency of research regarding the role of investigators in implementing Restorative Justice for criminal acts of beatings in the jurisdiction of the Ujungberung police sector is urgently needed. The aim of this research is to find out the role of obstacle mechanisms and investigators' efforts in implementing Restorative Justice for the crime of beatings. This research method uses descriptive analysis. The data sources used are primary data sources, namely data obtained directly from the Criminal Investigation Department of the Ujungberung police sector and secondary data sources obtained through books, police legal regulations, documents and internet media related to research. The results of the research are that investigators have a very important role in handling cases of criminal acts, especially those committed by children, by using another alternative, namely Restorative Justice, in resolving the problem of criminal acts of children so that the case is not forwarded to the criminal justice process.

Abstrak

Tindak pidana pengeroyokan tiap tahunnya masih terjadi di wilayah hukum kepolisian sektor Ujungberung. Pelaku tindak pidana pengeroyokan tidak hanya dilakukan oleh orang dewasa, namun dilakukan juga oleh anak. Agar tidak berlanjut ke proses peradilan pidana permasalahan anak yang berkonflik dengan hukum membutuhkan suatu penanganan yang serius dari penyidik. Oleh karena itu urgensi penelitian mengenai peran penyidik dalam penerapan *Restorative Justice* tindak pidana pengeroyokan di wilayah hukum kepolisian sektor Ujungberung sangat dibutuhkan. Tujuan penelitian ini yaitu untuk mengetahui bagaimana peran mekanisme kendala dan upaya penyidik dalam penerapan *Restorative Justice* tindak pidana pengeroyokan. Metode penelitian ini menggunakan deskriptif analisis. Sumber data yang digunakan ialah sumber data berjenis primer yaitu data yang diperoleh secara langsung dari Reskrim kepolisian sektor Ujungberung dan sumber data sekunder yang diperoleh melalui buku-buku, aturan-aturan hukum kepolisian, dokumen dan media internet yang berhubungan dengan penelitian. Hasil penelitian ialah penyidik memiliki peran yang sangat penting dalam menangani kasus tindak pidana khususnya yang dilakukan oleh anak, dengan menggunakan alternatif lain yaitu *Restorative Justice* dalam menyelesaikan masalah tindak pidana anak agar kasus tersebut tidak diteruskan ke proses peradilan pidana.

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Corresponding Author

Fitriana Sidikah Rachman

Langlangbuana University

Email: fisirach@gmail.com

1. INTRODUCTION

The increase in criminal activity does not only occur in adults, but criminal activity also occurs in children, in fact many of the perpetrators of criminal acts are now children. The large number of cases of violence perpetrated by children and adolescence is a time of rapid growth and development both physically, psychologically and intellectually. Nowadays, children's curiosity or sense of curiosity is usually very high, they like challenges and obstacles and are reckless in carrying out actions that they think they can be responsible for without first considering the causes and consequences. (Pratidina et al., 2020). Apart from that, it's deep Soekanto (2012) The emotional

condition of children is very strong when facing perpetrators of criminal cases directly, especially those from lower economic groups, coupled with low knowledge of the law, which gives rise to a high frequency of violent crimes committed by children.

The problem of children in conflict with the law must require serious handling, internationally and nationally, not only is the number of crimes increasing but also the quality of the crimes. Even though this is in order Harahap (2018) Efforts to prevent and control juvenile delinquency are needed through the implementation of the juvenile criminal justice system. The aim of implementing a juvenile criminal justice system is not merely to impose criminal sanctions on children who commit criminal acts, but rather as a means of realizing children's welfare and observing the principle of proportionality. (Arief & Ambarsari, 2018). The reform of juvenile criminal law in criminal policy using penal means in Indonesia is realized in the aim of administering the juvenile criminal justice system in accordance with the restorative justice approach contained in Law No. 11 of 2012. This has also been strengthened by Suryanto (2018) guide the rules regarding the age of children according to WHO in Law No. 35 of 2014, amendments to Law No. 23 of 2002 concerning child protection. 0-17 Years.

One of the crimes that is often committed by children in the Ujungberung area is the crime of beatings. This is because the crime of beatings is a shortcut for some children or groups of people to solve their problems without thinking about the consequences of what they do. The frequent occurrence of criminal acts of beatings committed by children, both in the school environment and in the environment where children socialize, makes the police play a very important role in dealing with it and thinking about the steps that must be taken to resolve this problem. (Mukti & Susanti, 2023). In line with the theory of legal objectives, according to Sambas (2010) It is stated that the policy of dealing with the criminal act of beating children functions to protect the interests of every human being, especially children, so that their interests cannot be disturbed. The purpose of law is to serve the will of the state, namely to bring prosperity and happiness to the people. In serving the goals of the state, the law will provide justice and order for its people.

Restorative Justice is an effort to treat children in conflict with the law according to their dignity in accordance with the provisions of Article 40 paragraph (1) of the Convention on the Rights of the Child (KHA) in achieving synergy in the juvenile criminal justice system in accordance with the Convention on the Rights of the Child, taking alternative resolutions of child criminal cases with wisdom in handling or resolving the problem of child offenders by not taking formal action is also called Restorative Justice, namely not continuing the justice process or returning it to society in the form of social services. The application of Restorative Justice can be carried out at all levels of examination with the aim of reducing the negative impact of children's involvement in the justice process (Marshall, 2009). The aim of implementing Restorative Justice is to repair or compensate for the losses suffered by the victim, acknowledge the mistakes made by the perpetrator against the victim and the community, and most importantly, restore them to their original state. Restorative Justice aims to empower victims, perpetrators and the community to resolve a problem. by using awareness as a basis for improving people's lives. Restorative Justice will help a child who has problems with the law to be tried based on the best justice for the child. Restorative Justice is carried out for children in conflict with the law or children who are perpetrators of criminal acts because it is to minimize the things that will happen if the child's case proceeds to the criminal justice system.

The increase in criminalization of criminal acts of beatings together by children started from 2019 when reports came in with 3 cases, in 2020 there were 4 cases of reports coming in and in 2021 itself there was an increase in cases with 6 cases. It can be seen that data on cases of criminal acts of beatings that occurred in the jurisdiction of the Ujungberung Police in the last 3 years starting from 2019 to 2021 is proven to have increased. So it is appropriate for the Government and law enforcement officials to carry out their duties firmly and professionally in handling criminal cases that occur in the jurisdiction of the Ujungberung Police. so that the rights of every child which are guaranteed by the Constitution can run as they should and also so that the number of acts of beatings themselves can be reduced. The high number of criminal cases handled by the

police means that the police policy establishing Restorative Justice, in handling cases involving children as perpetrators of crimes, has not been implemented effectively.

Paying close attention to the description and presentation that has been presented previously, research has identified problems in several parts, including:; 1) What is the role of investigators in implementing Restorative Justice for criminal acts of beatings in the jurisdiction of the Ujungberung police sector in Bandung City; 2) What are the obstacles faced by police investigators in the Ujungberung sector of Bandung City in implementing Restorative Justice for the crime of beatings; and 3) What are the efforts of the Ujungberung police in the city of Bandung to overcome obstacles to implementing Restorative Justice for the crime of beatings.

2. RESEARCH METHOD

The method used in this research is descriptive analysis method or descriptive research. Through the descriptive analysis method, the researcher tries to explain clearly based on the results of the research that has been carried out. According to the statement Sugiyono (2018) Descriptive research is research that attempts to describe a symptom, event, incident that has occurred at the present time. With the descriptive analysis method, researchers try to record all symptoms or events that occur during the implementation of creative methods in the field and then explain them as they are to answer all questions. (Singarimbun & Effendi, 2011). The aim of this descriptive research is to create systematic, factual and accurate descriptions, images or paintings regarding the facts, characteristics and relationships between the phenomena being investigated. In this research, data was collected through field observations and interviews with respondents at Unit 2 of the Ujungberung Police Criminal Investigation Unit.

In completing this research, researchers used descriptive methods, meaning that the data collected came from interview scripts, field notes, personal documents, researcher notes or memos and other official documents that supported (Singarimbun & Effendi, 2011). In the research carried out, the researcher matched reality and applicable theory using descriptive methods, here the researcher looked for facts about the role of investigators in implementing Restorative Justice in criminal acts of beatings committed by minors in the jurisdiction of the Ujungberung Police. According to Yusi & Idris (2016) The data sources obtained can be divided into two types of data, namely:

- a. Primary Data Sources are data sources obtained and obtained directly from the Ujungberung Police Criminal Investigation Unit which is the main source in this research.
- b. Secondary Data Sources are data sources obtained through book reviews, police law regulations, documents and internet media related to the problem to be researched. So that you can find facts and theories related to the problem that will be explained.

The method used in this research is a method that is considered to be in accordance with the objectives to be achieved in the research, where this research observes the role of police crime investigators at the Ujungberung police station in Bandung City within the scope of implementing Restorative Justice towards criminal acts of beatings committed by a number of children. children in that jurisdiction. So the method used in this research is a qualitative descriptive method, which provides an accurate, factual and systematic description of the role and function of the police in the Ujungberung jurisdiction of Bandung City in implementing Restorative Justice in criminal acts of beatings by children. Explained by Jonathan (2006) that the method used in this research specifically by researchers can be used to describe observations into a narrative or a picture so as to get results to try to find answers to the problems being faced.

3. DISCUSSION

a. The Role of Investigators in Implementing Restorative Justice

Based on the results of research obtained from the Ujungberung police sector, especially the Criminal Investigation Unit, in the last 3 years, criminal cases of beatings have always existed and have increased from 2019 to 2021. Perpetrators of criminal cases of beatings are not only committed by adults, but are also carried out by child. The handling of cases carried

out by the Ujungberung Police Criminal Investigation by applying Restorative Justice to cases of beatings committed by children as in the table above is the handling of cases carried out over the past 3 years, namely in 2019 there were 3 cases, in 2020 there were 4 cases and in 2021 there will be 6 cases.

The role of investigators in implementing Restorative Justice in criminal acts of beatings committed by children is very important. So the role carried out must be in accordance with the main duties of the police and the main duties of police investigators in implementing Restorative Justice and handling cases of criminal acts of beatings committed by adults and children. (Helena Hestaria et al., 2022). The role of investigators in handling criminal acts of beating children is by carrying out other actions according to the law, namely diversion. Diversion is a transfer of the form of settlement from a resolution in the nature of a formal criminal process to an alternative solution in another form that is considered to be the best according to the interests of the child. In other words, it can be interpreted that diversion means the transfer of cases relating to children who are suspected of having committed violations outside of formal judicial procedures with or without certain conditions.

According to Purwanti (2020) One of the diversion processes is Restorative Justice, all parties involved in a particular crime work together to overcome the problem and create an obligation. To make things better by involving victims, children and the community in finding solutions for repair, reconciliation and reassurance that are not based on revenge. Investigators in carrying out their duties in the field of law enforcement have applied the concept of Restorative Justice by classifying criminal acts committed by perpetrators, namely crimes that are categorized as light crimes and crimes related to child protection. (Yusrizal et al., 2021). Diversion and Restorative Justice are an obligation to be implemented at every level of examination by investigators taking into account the criminal act committed by the child, the child's age at the time of the crime, the results of research on the child from correctional institutions, as well as support from the family and community environment. A Restorative Justice agreement has been reached, so there must be agreement from the victim or victim's family as well as the willingness of the child and family.

The Restorative Justice mechanism can be carried out alternatively, namely in contact with the justice system involving law enforcement officers, namely police investigators, when a case occurs, the police, namely investigators conduct an examination of a criminal incident that has been reported. (Sambas, 2010). During the investigation process, the parties, namely the perpetrator and the victim, were met. If approval is obtained and restoration of the original situation for the victim or perpetrator as well as a deliberative and amicable resolution or Restorative Justice, then the case will be held in the Restorative Justice forum for a joint decision to be made and then SP3 (termination of investigation) will be carried out using the police's discretionary authority, Thus the case stops at the investigation level and does not reach court, the police, namely investigators, conduct an examination of the criminal incident that has been reported. During the investigation process, the parties, namely the perpetrator and the victim, were met.

b. Obstacles for Investigators in Implementing Restorative Justice

In criminal investigations at the police level, out-of-court settlements often raise suspicions about the authority of police investigators in resolving cases. The existence of an agreement between the victim/reporter and the perpetrator/reported party in the police investigation process is often considered an abuse of authority by law enforcers, including investigators. (Ginting & Muazzul, 2019).

In line with this Arief & Ambarsari (2018) There were obstacles faced in implementing Restorative Justice in the process of handling criminal cases of beatings committed by children. It was found that investigators understood existing positive law better than understanding the concept of customary law as a law that lives in society. In Hutauruk (2013) In the context of implementing Restorative Justice, investigators should also open themselves to understanding customary law in the jurisdiction of the Ujungberung police sector to provide

a sense of justice to the community. It can be described the obstacles faced by investigators in implementing Restorative Justice for the crime of beatings seen from the aspect of internal and external factors, as follows:

- a. Regarding the expertise of Ujungberung sector police investigators in the fields of legal knowledge, regulatory regulation, criminal justice system and technical and tactical investigative skills are still not optimal. This happens because not all personnel in the criminal investigation function have taken vocational education in technical detective functions and supporting skills, for example the ability to use information technology in disclosing criminal cases of beatings. This includes a lack of overall understanding of the principles of Restorative Justice.
 - b. Regarding the behavior of investigators and the implementation of the investigative code of ethics, they still lack tenacity and often ignore procedures, in carrying out their duties there is a tendency to exceed the limits of authority, lack independence and are influenced by other parties so that they appear to be discriminatory in handling cases of criminal acts of beatings, are less able to keep investigations confidential, often uttering words/sentences or conditions with the aim of getting rewards, often even conspiring with parties involved in criminal cases of beatings.
 - c. There are still negative views among the public regarding investigations and the Police's efforts to achieve legal certainty and justice. In investigating criminal acts of beatings, investigators have not prioritized cases that are of concern to the public, have not provided optimal information on case developments, investigations carried out by investigators still prioritize juridical norms so that the public is less sympathetic.
- c. Bandung Police Criminal Investigation Efforts to Reveal Online Fraud**

The implementation of Restorative Justice should be seen as a form of Polri service to the community. By understanding the concept of service, the implementation of law enforcement does not only mean interpreting the law as a legal action (Ritonga et al., 2019). However, the concept of service in implementing Restorative Justice must be transformed into a service that is oriented towards the interests of the parties to achieve a sense of justice.

To achieve excellent service, investigators must change their mind set and culture set (Sinaga, 2021). The police, especially investigators, no longer use the law for purposes other than legal goals and social goals of the community, but instead are able to interpret the law for the social welfare of the community and public order in the jurisdiction of the Ujungberung police sector. This can be described as follows:

1. Improving the quality of Criminal Investigation Unit personnel who carry out duties in the field of investigation. The efforts made are to increase understanding in the form of knowledge, skills and attitudes regarding the implementation of Restorative Justice for the crime of beatings.
2. Increasing supervision attached to the law enforcement process, especially investigators regarding preventing abuse of authority in implementing Restorative Justice, an effective effort is the publication of rewards and punishments.
3. Realizing community expectations for the creation of a professional, proportional and fair law enforcement process.

4. CONCLUSION

Based on the results of the analysis and discussion presented in the previous section, the conclusions that can be obtained in this research are as follows:

1. The role of investigators in implementing Restorative Justice for criminal acts committed by children, investigators are required to be more sensitive to children's rights, the consequences of actions that will be carried out against children, especially children as perpetrators of criminal acts in the best interests of children, one of which is carrying out diversion using the Restorative Justice process. The mechanism for implementing Restorative Justice is when a case or criminal act occurs, the investigator carries out an examination, makes a police report, then calls

- the victim and witness to the BAP, bringing the perpetrator and victim together. Discuss the problem with deliberation or in a family manner. If there is agreement between both parties, the investigator will conduct a case title and a decision will be made jointly, which will then be carried out by SP3;
2. The obstacles faced by the Ujungberung sector police, especially Criminal Investigation in implementing restorative justice in handling criminal cases of assaults, can be broadly identified, namely, the obstacles which include the first obstacle in the form of the expertise of investigators in the Ujungberung sector police are still not optimal. This happens because not all personnel in the criminal investigation function have attended vocational education for technical detective functions and supporting skills, secondly, related to the code of ethics, they often ignore procedures, are unable to maintain the confidentiality of investigators, and even collaborate/conspire with parties involved in cases of criminal acts of beatings. thirdly, there is still a negative view from the community in handling criminal cases of beatings;
 3. Efforts made include improving the quality of investigators in the Ujungberung police criminal investigation sector, namely by first improving the quality of knowledge, skills and attitudes of criminal investigation unit personnel as well as following the technical detective functions. Second, increase supervision attached to the law enforcement process, especially investigators, regarding preventing abuse of authority. Third, realizing community expectations for the creation of a professional, proportional and fair law enforcement process.

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