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Effectiveness of Implementing Diversion For Children Who Are Committed To Narcotics Crimes Based on Law Number 11 of 2012 Concerning The Child Criminal Justice System (*Study at the Kediri City District Attorney's Office*)

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Abstract: This study aims to assess the effectiveness of diversion for children involved in drug crimes under Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in Kediri City, focusing on identifying gaps between applicable legal norms and their implementation. The method used is empirical legal research with a socio-legal approach, combining normative analysis and field findings. Primary data were obtained from statistics on juvenile drug cases at the Kediri City District Attorney's Office and the Kediri City Police Narcotics Unit for the period 2016–2025, as well as interviews with law enforcement officials. Secondary data include laws and regulations and various relevant legal literature. The research findings indicate that the diversion mechanism is only applied to a small proportion of cases, while the majority of drug cases involving children are still resolved through trial. Empirically, this situation indicates that diversion has not yet optimally played a primary role in handling these cases. Several influencing factors include the perception of authorities regarding drug offenses as serious crimes, the absence of specific technical guidelines regarding the implementation of diversion in drug cases, and ineffective inter-agency coordination. This research is expected to provide academic contributions in the form of an empirical evaluation of the effectiveness of diversion as well as practical recommendations for strengthening child protection in the juvenile criminal justice system.

Keywords: Diversion; Child Protection; Drug Offenses; Juvenile Criminal Justice System

INTRODUCTION

Children as the nation's next generation have the right to special protection, especially when they face legal issues. In narcotics cases, the involvement of children is an increasingly concerning issue, considering that they are often exploited by narcotics networks as vulnerable

parties, either as users, intermediaries, or traffickers.¹ Data from the National Narcotics Agency (BNN) shows that of the 87 million child population in Indonesia, as many as 5.9 million of them have become drug addicts, and around 1.6 million children are used as couriers or dealers.² In Kediri City, the Narcotics Unit of the Kediri City Police uncovered 76 drug cases throughout 2025 involving 125 suspects, with significant child involvement, especially in the distribution of koplo pills and crystal methamphetamine.³ This reality creates a serious legal dilemma. On the one hand, the state is obliged to protect the best interests of children as mandated by the constitution and international conventions. On the other hand, law enforcement against narcotics crimes demands firmness considering the destructive impact of narcotics on the younger generation. The fundamental question that arises is how the legal system can provide optimal protection to children involved in drug crimes without sacrificing their best interests and future.

The state bears the constitutional responsibility to provide protection to children in conflict with the law, as stated in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This norm guarantees the right of every child to live, grow and develop, and to receive protection from violence and discrimination. This provision is the legal basis for the formation of various national legal instruments that regulate child protection.⁴

In addition, the procedures for handling children in conflict with the law are specifically regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This law prioritizes the diversion mechanism, which in Article 1 number 7 is formulated as the transfer of the settlement of children's cases from the formal criminal justice process to a mechanism outside the court. This provision is emphasized in Article 5 paragraph (1), which places the Restorative Justice approach as the main principle that must be prioritized in the implementation of the juvenile criminal justice system.

The implementation of diversion is an imperative obligation for law enforcement officers at every stage of the process, from investigation, prosecution, to examination in the district court, as stated in Article 7 paragraph (1) of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. However, this obligation does not apply indefinitely. Article 7 paragraph (2) stipulates cumulative requirements, namely that the crime committed must be punishable by imprisonment of less than seven years and must not constitute a repeat of the crime (*residive*). This provision serves as a normative parameter in determining whether a child's case can be resolved through a diversion mechanism.⁵ The explanation of Article 5 paragraph (1) emphasizes that restorative justice is defined as a method of resolving criminal cases involving the perpetrator, victim, families of both parties, and other related parties to deliberate in seeking a just solution. The orientation of this approach is directed at restoring the situation to its original state, prioritizing the improvement of relationships and reconciliation, not merely the imposition of retaliatory sanctions.⁶

Third, the Central Government, Regional Governments, and various other state institutions have a constitutional responsibility to provide special protection to children in

¹ Handika Ridho Utomo dan Anis Widyawati, "Implementasi Diversi pada Tindak Pidana Narkotika Anak Guna Mewujudkan Keadilan Restoratif (Studi Kasus Kota Salatiga)," *IPMHI LAW JOURNAL* 5, no. 1 (2025): 117–43.

² Komis Simanjuntak, Suriani, dan Dany Try Utama Hutabarat Rinda Alpadira, "Peran Jaksa Dalam Pelaksanaan Diversi Terhadap Pidana Anak," *Jurnal Ius Constituendum* 7, no. 2 (2022): 351–64.

³ Muhamad Romdoni, "KONSEKUENSI LEGAL KEGAGALAN UPAYA DIVERSI TERHADAP ANAK YANG BERHADAPAN DENGAN HUKUM DALAM TINDAK PIDANA NARKOTIKA Muhamad," *al-Jinayah: Jurnal Hukum Pidana Islam* 8, no. 2 (2022).

⁴ Simanjuntak, Suriani, dan Alpadira, "Peran Jaksa Dalam Pelaksanaan Diversi Terhadap Pidana Anak."

⁵ Jessica Audrey dan Ade Adhari, "Optimalisasi Penerapan Diversi dalam Penanganan Anak sebagai Kurir Narkotika ; Revisi Regulasi dan Dukungan Sosial," *Legalite: Jurnal Perundang Undangan dan Hukum Pidana Islam* 10, no. 1 (2025): 17–34.

⁶ Putri Tamara Nurul Amardhotillah dan Beniharmoni Harefa, "Pemberian Restitusi Sebagai Pelaksanaan Diversi Pada Perkara Pidana Anak," *Jurnal Ius Constituendum* 8, no. 1 (2023): 34–49.

conflict with the law. This obligation is emphasized in Article 59 paragraph (1) of Law Number 35 of 2014 concerning Child Protection (an amendment to Law Number 23 of 2002), which serves as a comprehensive legal framework to guarantee the fulfillment and protection of children's rights.

Fourth, in the context of narcotics crimes, Law Number 35 of 2009 concerning Narcotics does contain provisions for strict and severe sanctions. However, this regulation still allows for a recovery-oriented approach. This is reflected in Article 54, which requires drug addicts and victims of abuse, including children, to undergo medical and social rehabilitation as a priority in their treatment.

The legal issue underlying this research lies in the discrepancy between the normative construction governing the obligation of diversion and the empirical reality of its application to children involved in narcotics crimes. The focus of this study is directed at the extent to which legal provisions regarding diversion are actually implemented in the practice of handling juvenile cases in this context. The Juvenile Criminal Justice System Law places diversion as the primary instrument that must be pursued in the juvenile justice process, with an orientation to prevent children from negative labeling, prevent the negative impacts of imprisonment, and prioritize the principle of the best interests of the child as a top priority. However, at the implementation level, especially at the Kediri City District Attorney's Office, diversion efforts for children caught in narcotics cases are still relatively low. Between 2016 and 2025, out of a total of 20 recorded cases, empirical data shows that although the diversion mechanism is normatively possible for narcotics crimes with a sentence of less than seven years, in reality, most cases continue through the formal justice process. A total of 17 cases involving children in Kediri City were ultimately resolved through litigation and resulted in criminal convictions.⁷ This indicates the existence of structural and cultural barriers in implementing diversion for narcotics cases involving children.

The problem is further complicated by the dual status of children involved in narcotics: both perpetrators of criminal acts and victims of narcotics syndicates that exploit their innocence and mental immaturity. This ambivalent position requires a legal approach that is not solely punitive but also protective and rehabilitative.⁸ In practice, law enforcement patterns still tend to treat children involved in narcotics crimes with a repressive paradigm, similar to the treatment of adult perpetrators, ignoring the principles of the child's best interests and restorative justice.⁹ In addition, there is a lack of clarity in the technical guidelines for implementing diversion specifically for narcotics cases, which leads to inconsistent handling in various regions.¹⁰ In its implementation, law enforcement officers are often in a dilemma: on the one hand, there is a normative obligation under the SPPA Law to strive for diversion, while on the other hand, there is social pressure and a stigma attached to narcotics crimes as extraordinary crimes that are deemed to need to be handled firmly and repressively.

The problems in implementing diversion for children in narcotics cases indicate a gap between normative structures in legal theory and the actual practice of law enforcement. First, when analyzed through the framework of the Legal Protection Theory proposed by Philipus M. Hadjon, legal protection essentially consists of two forms, namely preventive protection

⁷ Susiyanto et al., "HAK ASASI MANUSIA DAN PEMENUHAN PENDAMPINGAN HUKUM (Advokasi Hukum Korban Penyalahgunaan Narkoba di Kota Bengkulu)," *JURNAL HAM* 12, no. 3 (2021): 2–11.

⁸ Rahmat Khevin Aditia Prayudha, "PERLINDUNGAN HUKUM TERHADAP ANAK PELAKU PENYALAHGUNAAN NARKOTIKA DI WILAYAH HUKUM POLRESTA KOTA PEKANBARU," *Jurnal Hukum Indonesia* 4, no. 4 (2025): 113–20.

⁹ Ade Irawan, Alwan Hadiyanto, dan Ciptono Ciptono, "Kebijakan Kriminal Anak dalam Kasus Narkotika : Perspektif Restorative Justice Child Criminal Policy in Drug Cases : Restorative Justice Perspective," *Jurnal USM Law* 8, no. 2 (2025): 923–37.

¹⁰ Novi Novitasari dan Nur Rochaeti, "Proses Penegakan Hukum Terhadap Tindak Pidana Penyalahgunaan Narkotika Yang Dilakukan Oleh Anak," *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (2021): 96–108.

and repressive protection.¹¹ Legal protection in the preventive dimension aims to prevent the emergence of disputes from the initial stage, namely by providing the public with the opportunity to express objections, responses, or views before a government decision is definitively determined and becomes binding.¹² In the realm of juvenile justice, the diversion mechanism can be understood as a preventive legal protection instrument because it aims to prevent children from being involved in the formal criminal justice process which risks causing long-term psychological, social, and stigmatizing consequences. However, the low level of diversion implementation indicates that this preventive function has not been running optimally. The developing practice actually emphasizes a repressive approach through the imposition of criminal penalties as the primary response to children's actions.

Second, the concept of Restorative Justice (*Restorative Justice*), which is the philosophical basis of the SPPA Law, emphasizes that the resolution of criminal cases ideally involves the perpetrator, victim, and elements of society in a participatory manner to formulate solutions oriented towards restitution of losses and improvement of social relations. In this approach, the imposition of punishment is not the main goal, but rather a last resort, because the main focus lies on reconciliation and restoration of conditions affected by the crime.¹³ Howard Zehr, as a leading figure in restorative justice, stated that crime is a violation of human relationships, so the resolution must focus on restoring those relationships.¹⁴ In the context of child perpetrators of drug crimes, restorative justice requires an approach that views children as victims of the drug distribution system, who require guidance and rehabilitation, not punishment. However, in practice, the retributive approach (revenge) still dominates the handling of cases of child perpetrators of drug crimes, which is contrary to the spirit of restorative justice.

Third, the Theory of the Best Interest of the Child (*The Best Interest of the Child*) as a fundamental principle in child protection law emphasizes that every policy and action concerning children must prioritize the interests of children as the primary consideration. This principle has been integrated into Law Number 11 of 2012 concerning the Juvenile Criminal Justice System as a legal consequence of Indonesia's commitment after ratifying the Convention on the Rights of the Child. In the context of children in conflict with the law, the realization of this principle is manifested through protective measures that ensure children avoid social stigma, the effects of prisonization, and psychological disorders that could potentially arise from the formal criminal justice process. Diversion is a concrete mechanism to realize the best interests of children. However, the low diversion rate in narcotics cases indicates that the implementation of the principle of the best interests of children is still weak, where legal considerations are dominated by a punitive paradigm towards narcotics crimes.

Fourth, there is a clash between the child protection paradigm and the war on narcotics paradigm (*war on drugs*). Approach *war on drugs* which tends to be repressive and *zero tolerance* Laws on drug crimes often ignore the special status of children as perpetrators who require protection.¹⁵ This creates a contradiction in the legal system, where the SPPA Law

¹¹ Fitriati dan Mohamat Gunawan, "EFEKTIVITAS PENYELESAIAN PENYALAHGUNAAN NARKOTIKA YANG DILAKUKAN ANAK SECARA DIVERSI TERHADAP PENGULANGAN TINDAK PIDANA (Studi Pada Tahap Penyidikan Oleh Satresnarkoba Polresta Padang)," *UNES Journal of Swara Justisia* 7, no. 1 (2023): 52–65.

¹² Heriyanto, Ronny Winarno, dan Wiwin Ariesta, "PENYELESAIAN TINDAK PIDANA PENYALAHGUNAAN NARKOTIKA MELALUI RESTORATIVE JUSTICE DI TINGKAT KEJAKSAAN," *YURIJAYA: Jurnal Ilmiah Hukum* 7, no. 1 (2025): 1–17.

¹³ Sainrama Pikasani Archimada, "Penegakan Hukum Terhadap Penyalahgunaan Narkotika Oleh Anak Di Kabupaten Sleman" 3, no. 1 (2021): 493–504.

¹⁴ Fitriati dan Gunawan, "EFEKTIVITAS PENYELESAIAN PENYALAHGUNAAN NARKOTIKA YANG DILAKUKAN ANAK SECARA DIVERSI TERHADAP PENGULANGAN TINDAK PIDANA (Studi Pada Tahap Penyidikan Oleh Satresnarkoba Polresta Padang)."

¹⁵ Irawan, Hadiyanto, dan Ciptono, "Kebijakan Kriminal Anak dalam Kasus Narkotika : Perspektif Restorative Justice Child Criminal Policy in Drug Cases : Restorative Justice Perspective."

requires a rehabilitative and restorative approach, while the Narcotics Law and its law enforcement practices tend to be punitive and repressive.

Several previous studies have examined the issue of diversion and legal protection for children in conflict with the law. The research by Rico Nur Cahyo et al., entitled "Criminal Law Policy on Diversion for Recidivist Children to Achieve Restorative Justice" discusses the concept of diversion in general in the juvenile criminal justice system, but has not specifically analyzed its application in narcotics cases and empirical obstacles at the prosecutor's level.¹⁶ Research by Setya Wahyudi (2011) on "Implementation of Diversion Ideas in Reforming the Juvenile Criminal Justice System in Indonesia" examines the theoretical aspects of diversion but has not yet explored the implementation gap in specific criminal categories such as narcotics.¹⁷ Anita Apriani's (2024) research entitled "Legal Protection for Children in Conflict with the Law Based on the Principle of Equality Before the Law" discusses legal protection in general but does not specifically analyze the effectiveness of diversion in narcotics cases and the inhibiting factors at the implementation level.¹⁸ Similarly, Nashriana's (2014) research on "Criminal Legal Protection for Children in Indonesia" focuses more on the normative aspects of child protection without analyzing the gap between norms and practices, especially in handling child perpetrators of narcotics crimes.¹⁹

This study demonstrates several distinctions compared to previous studies. First, this study specifically examines the effectiveness of diversion implementation in narcotics cases involving children, a field that has not received much comprehensive analysis. Previous studies generally discuss diversion in a more general context without differentiating it based on the type of crime, even though narcotics crimes have their own characteristics that have implications for the patterns and dynamics of diversion implementation. Second, this study identifies and empirically analyzes the factors that hinder the implementation of diversion at the prosecution stage, with a specific focus on the Kediri City District Attorney's Office. This aspect has not been widely explored in previous research. The emphasis on the prosecutor's office is significant given that this institution holds a strategic position in the prosecution process, where diversion efforts are normatively required before a case proceeds to trial. Third, this study provides a critical analysis of the paradigm clash between child protection approaches (*child protection approach*) with a war on drugs approach (*war on drugs approach*) that influence the low implementation of diversion. This paradigm clash analysis provides a new perspective in understanding the gap between norms and practice. Fourth, this study formulates concrete and measurable recommendations to improve the effectiveness of diversion in child drug cases based on empirical findings, including proposals for the development of specific technical guidelines and strengthening the capacity of law enforcement officers.

This study confirms that both constitutionally and according to the applicable legal framework, the state is obliged to provide special protection to children in conflict with the law through diversion instruments. However, in practice, this mechanism has not been implemented optimally, especially in handling cases related to narcotics crimes.²⁰ This study is important for identifying legal obstacles and formulating legal solutions. This study also shows data showing an increase in child involvement in narcotics crimes, but the diversion

¹⁶ Rico Nur Cahyo et al., "Kebijakan Hukum Pidana Tentang Diversi Terhadap Anak Pelaku Recidive Guna Mencapai Restorative Justice" 3 (2021): 203–16.

¹⁷ Setya Wahyudi, *Implementasi Ide Diversi dalam Pembaharuan Sistem Peradilan Pidana Anak di Indonesia* (Yogyakarta: Genta Publishing, 2011).

¹⁸ Anita Apriani, Alpi Sahari, dan Surya Perdana, "Perlindungan Hukum Terhadap Anak Yang Berhadapan Dengan Hukum Didasarkan Atas Asas Equality Before The Law," *IURIS STUDIA: Jurnal Kajian Hukum* 5, no. 2 (2024): 519–32.

¹⁹ Nashriana, *Perlindungan Hukum Pidana bagi Anak di Indonesia* (Jakarta: Rajawali Pers, 2014).

²⁰ Anggara Setiawan dan Djoko Sumaryanto, "Perlindungan terhadap anak yang berhadapan dengan hukum," *DEKRIT: Jurnal Magister Ilmu Hukum* 12, no. 1 (2022): 41–61.

mechanism as a protection instrument has not been functioning optimally.²¹ This research is needed to uncover the reality of implementation and formulate improvement strategies based on empirical evidence.

Based on the background description, the issue formulated in this study is the level of effectiveness of diversion implementation for children in narcotics crime cases based on the provisions of the SPPA Law at the Kediri City District Attorney's Office. This study is intended to analyze and evaluate the extent to which the diversion mechanism is actually implemented in accordance with the applicable normative framework. In addition, this study also aims to identify factors that hinder its implementation and formulate constructive recommendations for improvement. Theoretically, this study is expected to provide a conceptual contribution to the development of criminal law, particularly in the realm of child protection and the juvenile criminal justice system, as well as expand the study of legal effectiveness in the context of diversion implementation. Practically, the results of this study are expected to be a consideration for law enforcement officials, especially the prosecutor's office, in optimizing the implementation of diversion in narcotics cases involving children, as well as serve as a basis for formulating policies and improving regulations and technical guidelines that are more applicable.

METHOD

This research is classified as legal research with an empirical approach (*socio-legal research*) which aims to measure the effectiveness of diversion implementation for children in narcotics crime cases. The choice of an empirical approach is based on the study's focus on effectiveness, thus methodologically requiring testing through factual data and statistical findings obtained from field practice. The object of analysis is not only limited to the norms contained in the relevant laws and regulations, but also to the reality of their implementation. Thus, this study examines the possibility of a disparity between *das sollen*, namely the normative conditions as regulated by law, and *das sein*, namely the actual practice in law enforcement, particularly in the context of implementing diversion for child narcotics perpetrators.

In order to achieve the research objectives, two types of approaches are used, namely the legislative approach (*statute approach*) and case approach (*case approach*). The legislative approach is carried out through a systematic review of various regulations related to the problem under study, especially Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2009 concerning Narcotics, and Law Number 35 of 2014 concerning Child Protection. Through this approach, the structure of norms, consistency of regulations, and their relevance in the context of implementing diversion for children are analyzed. Through this approach, the level of consistency, harmonization, and interrelationships between legal norms are analyzed, including how these provisions are applied in law enforcement practice. The case approach is carried out by reviewing cases of children in narcotics crimes handled by the Kediri City District Attorney's Office, in order to map the implementation pattern of diversion and identify factors that influence its success and obstacles in practice.

This study utilizes primary data obtained directly from law enforcement institutions, namely the Kediri City District Attorney and the Kediri City Police Narcotics Unit. The primary data is in the form of official statistical data regarding narcotics crime cases involving children over a ten-year period, namely from 2016 to 2025. In addition to quantitative data, this study is also supplemented by the results of structured interviews with public prosecutors who handle child cases, particularly regarding legal and sociological considerations in seeking

²¹ Irwan, "Problematika Penerapan Diversi Terhadap Anak Pelaku Tindak Pidana Narkotika," *Lex Renaissance* 5, no. 3 (2020): 525–38.

diversion or continuing cases to the trial stage. The primary legal materials used include the 1945 Constitution of the Republic of Indonesia, Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2009 concerning Narcotics, Law Number 35 of 2014 concerning Child Protection, as well as various relevant government regulations and implementing regulations, including court decisions related to the object of study. Meanwhile, secondary legal materials consist of literature discussing juvenile criminal law, national and international legal articles and journals, previous research findings, and the views of legal experts relevant to the research topic. As a complement, tertiary legal materials such as legal dictionaries, legal encyclopedias, and journal article indexes were also used to support the reference search process and strengthen conceptual understanding within the research analysis framework.

The data collection technique in this research was carried out through statistical data studies (*Statistic Analysis*) and structured interviews. These activities include collecting data on the number of narcotics cases involving children, the number of cases resolved through diversion, and the number of cases that proceed to trial, and structured interviews were conducted with prosecutors to obtain explanations regarding the practice of implementing diversion and the obstacles faced, tracing court decisions and data on the handling of cases of children who commit narcotics crimes at the Kediri City District Attorney's Office, as well as documenting statistical data related to the involvement of children in narcotics crimes.

The data processing and analysis in this study were conducted qualitatively, combining several analytical techniques: descriptive, prescriptive, interpretive, and evaluative, aligned with the characteristics of empirical legal research. The descriptive approach was used to systematically and coherently present empirical findings related to the implementation of diversion for children involved in narcotics crimes at the Kediri City District Attorney's Office. This description includes the number of cases handled, the settlement patterns adopted, and trends in diversion implementation over a specific period from year to year.

The prescriptive analysis aims to assess the effectiveness of diversion implementation based on empirical data obtained, while simultaneously formulating relevant recommendations for improving legal protection for children. Interpretive analysis is conducted by interpreting legal provisions governing diversion and child protection, particularly those contained in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This interpretation is then correlated with empirical data obtained in the field to assess the suitability between normative constructions and their implementation practices. An evaluative approach is applied to assess the extent of the discrepancy between normative provisions requiring diversion and the reality of its implementation in narcotics cases involving children at the Kediri City District Attorney's Office. The technique for drawing conclusions is deductive, starting from a general premise in the form of legal norms governing diversion, then deriving it into specific premises in the form of facts and practices of diversion implementation based on empirical data in narcotics crime cases involving children at the institution.

RESULTS AND DISCUSSION

Data on Child Narcotics Cases in Kediri City and Their Implications for the Effectiveness of Diversion

The effectiveness of diversion for juvenile drug offenders can only be objectively measured based on empirical data demonstrating how juvenile cases are resolved year after year. In this context, statistical data on juvenile drug cases in Kediri City serves as a primary indicator for assessing whether diversion is truly implemented as the primary mechanism mandated by Law Number 11 of 2012 on the Juvenile Justice System (SPPA).

Tabel 1. Data on Child Narcotics Cases in Kediri City 2016-2025²²

	Number of Child Narcotics Cases	Different	Trial Process
2016	2	1	1
2017	3	1	2
2018	4	1	3
2019	3	0	3
2020	2	0	2
2021	1	0	1
2022	1	0	1
2023	1	0	1
2024	1	0	1
2025	1	0	1
Total	20	3	17

Based on primary data collected from the Kediri City District Attorney's Office and the Kediri City Police Narcotics Unit, there were 20 drug crimes involving children between 2016 and 2025. Of these, only three, or approximately 15%, were resolved through diversion, while the remaining 17 cases, or 85%, continued through court proceedings.

These findings indicate that the use of diversion mechanisms for children in narcotics cases in Kediri City has not become a dominant pattern, and its application is relatively limited. This condition contrasts with the provisions of Article 7 paragraph (1) of the Juvenile Justice and Child Protection Law, which imperatively requires diversion efforts at every stage of the juvenile justice process, as long as the criminal threat does not exceed seven years and does not constitute recidivism. The dominance of settlement through formal litigation channels shows a gap between the normative construction (*that should*) with the implementation reality (*that be*). In other words, the legal obligations explicitly formulated in legislation have not been fully actualized in the practice of handling child cases.

Analyzing annual trends, diversion was only implemented in the initial period, from 2016 to 2018. From 2019 to 2025, not a single juvenile drug case was resolved through diversion. This pattern indicates that the diversion mechanism has not been strengthened in its implementation, but has instead stagnated and declined. This situation reinforces the conclusion that diversion has not been internalized as a legal culture in handling juvenile drug cases at the prosecution level.



Figure 1. Trends in Child Narcotics Cases in Kota Kediri (2016-2025)

²² Data Diperoleh dari Kejaksaan Negeri Kota Kediri dan Satresnarkoba Polres Kediri Kota.

The low number of juvenile drug cases does not automatically justify ignoring the implementation of diversion. In fact, in cases with a limited number of cases, the opportunity for diversion implementation should be greater because the deliberation, supervision, and rehabilitation processes can be carried out more optimally.²³ However, empirical data shows that the limited number of cases is not directly proportional to the increase in the implementation of diversion.

This phenomenon cannot be separated from the character of narcotics crimes which in law enforcement practice are still perceived as serious crimes (*serious crime*) which must be handled repressively.²⁴ Based on data from the National Narcotics Agency (BNN) in 2023, the prevalence of drug abuse among students reached 1.73% or the equivalent of 2.3 million people, indicating that narcotics is still one of the most dominant crimes handled by law enforcement officers in Indonesia, including those involving children as perpetrators or intermediaries.²⁵ The Criminal Investigation Unit of the Indonesian National Police revealed that the involvement of children in narcotics distribution networks still occurs and is a serious concern because children are often used as couriers by adult perpetrators.²⁶

At the local level, the Kediri City Police Narcotics Unit also reports a high number of narcotics cases being uncovered annually, with dozens of cases and hundreds of adult suspects being handled. In this context, the involvement of children is often positioned as part of repressive drug eradication efforts, so that the restorative approach that should be prioritized in the juvenile criminal justice system is marginalized.²⁷

Viewed from the perspective of victimology and child protection law, children involved in narcotics cases often occupy the position of victim-offender, that is, they are in two positions at once as perpetrators and as injured parties. In many cases, the involvement of children is inseparable from external factors such as persuasion, economic pressures, or exploitative practices by narcotics networks involving adult perpetrators.²⁸ Thus, handling through formal criminal and trial mechanisms risks causing increasingly detrimental consequences for the psychological and social development of children. This approach is also not in line with the principle *the best interest of the child*, which requires that every policy and action towards children be directed towards protecting and fulfilling their best interests.²⁹

Referring to Soerjono Soekanto's theory of legal effectiveness, the effectiveness of a legal norm can be measured by the extent to which the norm is actually implemented in practice.³⁰ Empirical data on child narcotics cases in Kediri City shows that although the diversion norm has been expressly regulated in the SPPA Law, its implementation is still very limited. The dominance of case resolution through the trial process indicates that the legal structure and legal culture of law enforcement officers are still stronger than the legal substance that prioritizes restorative justice.

Relevance of Diversion for Children Who Perpetrate Narcotics Crimes

Narcotics crimes involving children have specific characteristics that distinguish them from other crimes. According to the official release of the Kediri City Police Narcotics Unit

²³ Irwan, "Problematika Penerapan Diversi Terhadap Anak Pelaku Tindak Pidana Narkotika."

²⁴ Susiyanto et al., "HAK ASASI MANUSIA DAN PEMENUHAN PENDAMPINGAN HUKUM (Advokasi Hukum Korban Penyalahgunaan Narkotika di Kota Bengkulu)."

²⁵ Irawan, Hadiyanto, dan Ciptono, "Kebijakan Kriminal Anak dalam Kasus Narkotika : Perspektif Restorative Justice Child Criminal Policy in Drug Cases : Restorative Justice Perspective."

²⁶ Archimada, "Penegakan Hukum Terhadap Penyalahgunaan Narkotika Oleh Anak Di Kabupaten Sleman."

²⁷ Irwan, "Problematika Penerapan Diversi Terhadap Anak Pelaku Tindak Pidana Narkotika."

²⁸ Audrey dan Adhari, "Optimalisasi Penerapan Diversi dalam Penanganan Anak sebagai Kurir Narkotika ; Revisi Regulasi dan Dukungan Sosial."

²⁹ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum, Rajawali Pers, Jakarta* (Jakarta: Rajawali Pers, 2008).

³⁰ Utomo dan Widyawati, "Implementasi Diversi pada Tindak Pidana Narkotika Anak Guna Mewujudkan Keadilan Restoratif (Studi Kasus Kota Salatiga)."

throughout 2025, there were 76 narcotics cases successfully solved and 125 suspects arrested in the Kediri City area, with evidence in the form of crystal methamphetamine, double L pills, and marijuana.³¹ This data shows that drug distribution and abuse remain the main focus of law enforcement officers in this area.

Although the involvement of children in general publication data still requires specific confirmation based on agency archives. In general, the number of cases and suspects provides an empirical picture of the large burden of narcotics cases in the juvenile and adult criminal justice system in Kediri City in 2025. This empirical fact shows that children involved rarely play a role as the main actors in the narcotics distribution network, but rather more often become victims of exploitation by narcotics syndicates that take advantage of the mental immaturity and psychological condition of children.³²

From a victimology perspective, children who commit narcotics crimes can be positioned as *victim-offender*, namely, individuals who are simultaneously victims and perpetrators. Many children are initially introduced to narcotics through persuasion or free gifts from adult dealers, then gradually become exploited as couriers with the promise of free narcotics or cash. This situation places children in a highly vulnerable position, requiring protection and a rehabilitative approach, not solely a repressive one.

The legal basis for an approach that emphasizes rehabilitation can be found in Article 54 of the Narcotics Law, which states that individuals who are dependent on or become victims of drug abuse are required to undergo medical and social rehabilitation. This provision substantially aligns with the spirit of the Juvenile Criminal Justice System Law (UU SPPA), which prioritizes the development and rehabilitation process for children, rather than solely focusing on the imposition of criminal sanctions.

Thus, the implementation of diversion with rehabilitation as the outcome is the most relevant and proportional form of solution for children who abuse narcotics, because it is able to answer the needs of children's health recovery while preventing them from stigma and the negative impacts of criminalization. In addition, the direction of judicial policy as reflected in Supreme Court Circular Letter Number 4 of 2010 gives judges the authority to place abusers, victims of abuse, and drug addicts in rehabilitation institutions, so that the resolution of cases does not only end in criminalization, but can be directed towards recovery efforts.³³ This policy should be strengthened by optimizing the diversion mechanism from the investigation and prosecution stages, so that children do not need to undergo a formal judicial process that is long, rigid, and has the potential to cause trauma.³⁴

Implementation of Diversion for Child Narcotics Offenders at the Kediri City District Attorney's Office

Based on a review of data on juvenile case handling at the Kediri City District Attorney's Office, it appears that the level of diversion in narcotics cases remains very limited. In the 2024–2025 period, the majority of cases involving juveniles proceeded to prosecution and trial. However, these cases meet the requirements for diversion, as they carry a sentence of less than seven years and do not constitute a repeat offense.

In practice, the handling of juvenile cases largely follows the conventional criminal justice system. The process begins with a thorough investigation by investigators, followed by

³¹ Oprspitrestakediri, "Polres Kediri Kota Ungkap 76 Kasus Narkoba Periode Januari-Desember 2025, Sita Sabu-Sabu 1 Kilogram," n.d., <https://humas.polri.go.id/news/detail/2204445-polres-kediri-kota-ungkap-76-kasus-narkoba-periode-januari-desember-2025-sita-sabu-sabu-1-kilogram>.

³² Irawan, Hadiyanto, dan Ciptono, "Kebijakan Kriminal Anak dalam Kasus Narkotika : Perspektif Restorative Justice Child Criminal Policy in Drug Cases : Restorative Justice Perspective."

³³ Archimada, "Penegakan Hukum Terhadap Penyalahgunaan Narkotika Oleh Anak Di Kabupaten Sleman."

³⁴ Audrey dan Adhari, "Optimalisasi Penerapan Diversi dalam Penanganan Anak sebagai Kurir Narkotika ; Revisi Regulasi dan Dukungan Sosial."

the transfer of files to the prosecutor's office, followed by prosecution by the prosecutor, trial, and ultimately, the imposition of a sentence, either imprisonment or a conditional sentence with specific developmental provisions. Diversion, which should be the primary entry point in handling juvenile cases, is often neglected or not optimally pursued.

As a representation of data in 2018, we can refer to case No. 21/Pid.Sus-Anak/2018/PN Gpr regarding narcotics crimes by children, where the resolution still leads to a judge's decision (retributive) and not through diversion because the threat of imprisonment is above 7 years. This failure is not always caused by the unwillingness of the child or related parties, but more often triggered by the lack of clear technical guidelines regarding the diversion mechanism in narcotics cases, particularly regarding determining parties who can be positioned as victims in narcotics abuse cases. This condition shows a clear gap between the legal norms stipulated in the SPPA Law as *das sollen* and the reality of implementation in the field as *das sein*. Although normatively diversion is mandatory, in practice this mechanism has not been internalized as a legal culture among law enforcement officers, especially in handling narcotics cases involving children.

Flowchart The following illustrates the process for handling drug crimes involving children in Kediri City. Based on empirical data, although diversion is required for every child's case, in practice, only a small percentage of cases meet the criteria for diversion. The majority of cases proceed directly to trial because they do not meet the diversion requirements stipulated in the law.

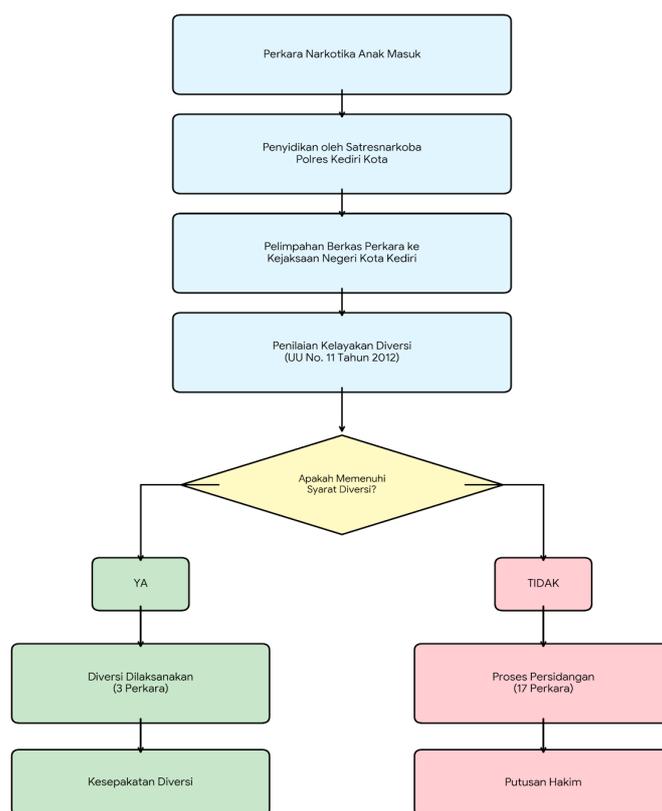


Figure 2. Flowchart of the Handling of Child Narcotics Cases³⁵

Source processed in 2025 from Law No. 11 of 2012 concerning the Juvenile Criminal Justice System

³⁵ Audrey dan Adhari.

Factors Inhibiting the Effectiveness of Diversion Implementation

The low level of effectiveness of diversion implementation for children in narcotics cases at the Kediri City District Attorney's Office does not stand alone, but is influenced by a number of intertwined and interdependent inhibiting factors. From a legal substance perspective, although the Juvenile Justice and Prosecutor's Office Law explicitly regulates the obligation of diversion, there are no specific and comprehensive technical guidelines regarding its application in narcotics cases. This absence of guidelines has created confusion among law enforcement, particularly in determining who can be categorized as a victim, how the diversion deliberation mechanism is implemented in cases without direct victims, and the most appropriate form of diversion agreement for child drug abusers or couriers.

Ambiguity also arises from the lack of harmony between the SPPA Law and the Narcotics Law. The Narcotics Law tends to prioritize a repressive approach with severe criminal penalties, while the SPPA Law focuses on child protection and rehabilitation. The lack of implementing regulations integrating these two legal regimes encourages law enforcement officials to choose a formal justice approach, which is considered procedurally safer.³⁶

From a legal structural perspective, limited understanding and less than optimal commitment of law enforcement officers to the diversion paradigm are among the main obstacles in its implementation. Diversion is still often viewed as an administrative formality, rather than a substantive approach to resolving juvenile cases. Synergy between law enforcement officers and other supporting institutions has not been effectively established. This condition gives rise to disparate views and differences in practice in implementing the diversion mechanism. The limited number and capacity of Community Guidance Officers and Professional Social Workers also exacerbates this condition, particularly in the preparation of Community Research Reports which serve as an important basis for the diversion process.³⁷

Obstacles also arise from legal culture and public perception. Narcotics are still viewed as an extraordinary crime that must be dealt with harshly and repressively. *war on drugs* Strong pressure among law enforcement officers and the public creates resistance to resolving cases through the diversion mechanism. Pressure from public opinion and the mass media demanding firm action often makes officers reluctant to implement diversion for fear of being seen as being indecisive in enforcing the law.³⁸ In addition, limited facilities and infrastructure also hinder the effective implementation of diversion. The availability of rehabilitation institutions specifically for children is still limited, both in terms of number and facilities. An information system that is not yet integrated also complicates the process of monitoring and evaluating the implementation of diversion, making its effectiveness difficult to measure objectively.

CONCLUSION

Based on the research and analysis conducted, it can be confirmed that the implementation of diversion for children in narcotics crime cases according to the SPPA Law Number 11 of 2012 concerning the Juvenile Criminal Justice System at the Kediri City District Attorney's Office has not shown an adequate level of effectiveness. The main indicator is seen in the low proportion of case resolutions through the diversion mechanism, while the majority of cases continue through the formal judicial process, even though they have normatively met the requirements for diversion.

³⁶ Heriyanto, Winarno, dan Ariesta, "PENYELESAIAN TINDAK PIDANA PENYALAHGUNAAN NARKOTIKA MELALUI RESTORATIVE JUSTICE DI TINGKAT KEJAKSAAN."

³⁷ Fitriati dan Gunawan, "EFEKTIVITAS PENYELESAIAN PENYALAHGUNAAN NARKOTIKA YANG DILAKUKAN ANAK SECARA DIVERSI TERHADAP PENGULANGAN TINDAK PIDANA (Studi Pada Tahap Penyidikan Oleh Satresnarkoba Polresta Padang)."

³⁸ Utomo dan Widyawati, "Implementasi Diversi pada Tindak Pidana Narkotika Anak Guna Mewujudkan Keadilan Restoratif (Studi Kasus Kota Salatiga)."

Factors that hinder the effectiveness of diversion implementation include: (1) legal substance aspects: the absence of specific technical guidelines for diversion in narcotics cases and weak harmonization between the SPPA Law and the Narcotics Law; (2) legal structure aspects: weak understanding and commitment of law enforcement officers to the diversion paradigm, limited capacity of Community Guidance Officers, and suboptimal coordination between institutions; (3) legal culture aspects: the dominance of the punitive and war on drugs paradigms that override the restorative paradigm, public stigma against narcotics crimes, and lack of socialization about diversion; and (4) facilities and infrastructure aspects: limited rehabilitation institutions and information systems that are not yet integrated. The gap between legal norms (*das sollen*) that require diversion and minimal empirical implementation (*das sein*) indicates a systemic failure in realizing optimal legal protection for child perpetrators of narcotics crimes. This condition has an impact on the failure to fulfill the principle of the best interests of the child, the failure to realize restorative justice, and the potential violation of children's rights as guaranteed in the constitution and international legal instruments. To improve the effectiveness of diversion, comprehensive efforts are needed, including improving the legal substance through the development of specific technical guidelines, strengthening the legal structure through training and capacity building for officers, changing the legal culture through outreach and public campaigns, and improving the facilities and infrastructure supporting diversion. Only with a holistic approach that addresses all aspects can the SPPA Law's noble goal of protecting the best interests of children be optimally realized.

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