

LEGAL PROTECTION FOR CHILDREN WHO COMMIT MOTORCYCLE THEFT DURING THE INVESTIGATION PROCESS

Gunawan Widjaja

Senior Lecturer, Faculty of Law, 17 August 1945 University, Jakarta

widjaja_gunawan@yahoo.com

Dimas Tripraditiya

Undergraduate Student, Faculty of Law, Universitas 17 Agustus 1945 Jakarta

dimastripraditiya@gmail.com

Abstract

Children are part of the younger generation, a human resource that represents the potential and future of the nation's aspirations. The recent social reality in society is the issue of behavioural deviations among children, and more than that, there are children who commit unlawful acts, particularly motorbike theft. The issues discussed are: 1) What form of legal protection is available for children who and 2) What obstacles do the police face in implementing legal protection for children who commit motorbike theft? Based on the author's observations on the chosen topic, it is concluded that legal protection for children who commit the crime of motorcycle theft in the investigation process emphasises special handling that considers the psychological condition and maturity of the child. The investigation process must ensure that the rights of children are protected, including the right to be heard, assisted by parents or guardians, and protected from violence or torture. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA) regulates the procedures for handling children who commit crimes, including in the investigation process.

Keywords: Legal protection, children, motorcycle theft.

Introduction

Children are part of the younger generation, a human resource that represents the potential and future of the nation's aspirations. They have a strategic role and possess special characteristics and traits, requiring guidance and protection in order to ensure their balanced physical, mental, and social growth and development, as well as protection from anything that could endanger them and the nation in the future (Gultom M, 2008).

The social reality that has recently occurred in society is the issue of behavioural deviations among children, and more than that, there are children who commit unlawful acts, regardless of their social and economic status. Social life, which is greatly influenced by these various factors, presents us with the problem of dealing with children who are suspected of committing criminal acts, known as "children in conflict with the law" (Nagib, C. 2014).

Criminal acts committed by children give rise to the term "juvenile delinquency" or more commonly known as *delinquent* children. *Juvenile delinquency* actually has various terms, some call it juvenile delinquency or often referred to as child crime (Novira Maya, 2025).

A current example is the case of motor vehicle theft committed by children. The investigation of motor vehicle theft committed by children is carried out by the local police in accordance with Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA). Considering that children are included in the adolescent age group, which is an age group that is still unstable in dealing with the problems they have to overcome (Bustomi, M.I. 2020).

Police investigators are certain officials or civil servants who are given special authority by law to conduct investigations as stipulated in Article 1 point 1 of Law Number 8 of 1981 concerning Criminal Procedure Law or known as KUHAP (detikcom team, 2020).

The enactment of the SPPA Law on 3 July 2012 provides for differentiated treatment and protection of the rights and obligations of children, particularly children who are suspects in criminal proceedings, covering the entire criminal procedure, from police investigations and inquiries to the execution of criminal penalties. Article 7 of the SPPA Law stipulates: (1) At the level of investigation, prosecution, and examination of children's cases in district courts, diversion must be attempted. (2) Diversion as referred to in paragraph (1) shall be implemented in cases of criminal offences that: a) are punishable by imprisonment of less than 7 (seven) years; and b) are not repeat offences.

Thus, in general, we can review the investigation process for criminal acts committed by children as regulated in the SPPA Law; Investigation, Arrest, Detention, Investigation Process that must be kept confidential, Investigation Process for children aged 12 to 18 years, and Case Filing (Herlina A, et al., 2004).

The investigation in handling the child's case must be conducted in a family-like atmosphere. What is meant by "in a family-like atmosphere" is, among other things, that when examining the suspect, the investigator does not wear official attire and approaches the suspect effectively and sympathetically. Effective can be interpreted as meaning that the examination does not take a long time, uses language that is easy to understand, and encourages the defendant to provide clear information (Lubis, M.F. 2019).

Therefore, legal protection for children who commit motorcycle theft is very necessary because children, as vulnerable parties who are not yet fully psychologically mature, need special protection when dealing with the law. This protection is important to ensure that children are not abused or treated unfairly in the judicial process (Herlina A, et al., 2004).

What caught the author's attention in the preparation of this paper was the form of legal protection for children who commit motorcycle theft and the obstacles faced by the police in implementing legal protection for children who commit motorcycle theft. Based on the above background description, the author has chosen the title of the article **LEGAL PROTECTION FOR CHILDREN WHO COMMIT MOTORCYCLE THEFT DURING THE INVESTIGATION PROCESS**, with the following discussion points: 1) What form of legal protection is provided to children who commit motorcycle theft during the investigation process? 2) What obstacles do the police face in implementing legal protection for children who commit motorcycle theft?

Results and Discussion

Forms of Legal Protection for Children Who Commit Motorcycle Theft Crimes During the Investigation Process

Legal protection for children who commit motorcycle theft during the investigation process includes several things, such as diversion efforts, protection from arrest and detention, and the rights of children as defendants. Investigators at the Women and Children's Service Unit (Unit PPA) are required to seek diversion, which is the settlement of cases outside of court, in accordance with Article 7 paragraph 1 of the SPPA Law. In addition, children have the right to protection from arrest, detention, or imprisonment, unless necessary for the purposes of the investigation, and other rights as defendants, such as the right to be accompanied by a parent or guardian (<https://www.google.com/search?client=firefox-b-e&q=1>).

Investigators tasked with investigating children as perpetrators of juvenile crimes are specialised child investigators. Child investigators must meet the requirements of having experience as investigators of criminal offences committed by adults and having an interest in, concern for, dedication to, and understanding of children's issues. Considering that Article 1 of the SPPA states that investigators handling children's cases must be child investigators (Lilik Mulyadi, 2005).

Diversion:

Diversion is an effort to resolve cases outside of court, which is carried out at the investigation, prosecution, and examination stages of juvenile cases in the District Court. The aim is to avoid complicated legal processes and provide opportunities for children to improve themselves and not be exposed to the negative influences of the judicial process.

Protection from Arrest and Detention:

Children who commit crimes should not be immediately arrested or detained, unless there are strong reasons justified by law. Arrest or detention can

only be carried out in very urgent circumstances, and must be done with due regard for the rights of the child as a defendant.

Rights of Children as Defendants:

Children involved in criminal cases have specific rights, such as the right to be accompanied by a parent or guardian during the investigation process, the right to legal assistance, and the right not to be <https://www.goog>.

Guidance and Assistance:

In addition to legal protection, children who commit criminal offences are also entitled to guidance and assistance from social workers (PK) or relevant officials. PKs assist children in the process of rehabilitation and social reintegration, as well as providing psychological and social support.

Specific Protection:

Special regulations regarding the protection of children who commit criminal acts are also stipulated in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). This law regulates various aspects, ranging from the process of arrest, investigation, prosecution, to examination in court, including the rights of children as defendants (<https://www.goog>).

Community Institutions

Article 27 paragraph (1) of the SPPA Law states that in conducting investigations into cases involving children, investigators are required to seek consideration or advice from community guidance officers after a criminal act has been reported or complained about.

The PPA Unit collaborates with several social workers in Surabaya, including the local Population Control, Women's Empowerment and Child Protection Agency (DP5A) and the local Correctional Centre (BAPAS). This also includes assisting investigators in resolving cases of motorcycle theft committed by children.

- 1) Local Population Control, Women's Empowerment and Child Protection Agency (DP5A)

The first institution to collaborate with the police is DP5A, where children who have committed theft receive legal assistance and support. Legal assistance is *equality of arms*, which is the main duty of a legal advisor (<https://www.google.com/search?client=firefox-b-e&q=1>). When investigating cases involving children, investigators are required to seek advice or recommendations from social workers after a crime has been reported or filed.

In essence, the legal process must be *pro-justitia* between the suspect and law enforcement, but every child also has the right to choose their own legal counsel. If the child does not yet have a guardian, the police are ready to find legal counsel for the child perpetrator of theft as soon as possible. The DP5A also provides *shelter* or safe houses for children who have committed theft

(<https://www.google.com/search?client=firefox-b-e&q=1>). This is in line with the principle of protecting the safety of children so that their mental condition is maintained.

2) Correctional Facility (BAPAS)

The role of social guidance officers is important to include, therefore the Police PPA Unit collaborates with the Correctional Centre, in accordance with the provisions of the SPPA Law. The implementation of duties in the police investigation process related to criminal cases of theft committed by children is in accordance with Article 65 of the SPPA Law, namely , which requires the preparation of a social research report for the purposes of diversion, providing assistance, guidance, and supervision of children during the diversion process and the implementation of agreements. BAPAS is also tasked with preparing social investigation reports for the purposes of investigation and determining child care programmes in correctional institutions (LAPAS) and child guidance programmes in special education institutions for children (LPKA) in collaboration with other correctional officers.

Legal protection for children who commit crimes, including theft, is not the same as the treatment of adults. The SPPA regulates a more comprehensive legal process that takes into account the psychological aspects of children. In the investigation process, several forms of legal protection that need to be considered include:

- a) Special Treatment: The investigation process is carried out with a more sensitive approach that does not cause trauma to the child.
- b) Right to be Heard: Children have the right to convey their version of events and provide explanations.
- c) Legal Assistance: Children have the right to legal assistance, whether from their parents, guardians, or appointed lawyers.
- d) Protection from Violence: Investigators must avoid all forms of violence or actions that could psychologically harm the child.
- e) Adequate Facilities: Investigations must be conducted in a safe and conducive environment, taking into account the child's special needs.
- f) Privacy: Children have the right to privacy protection during the investigation process.
- g) Prompt Handling: Children's cases must be resolved quickly and efficiently, avoiding detention or imprisonment unless absolutely necessary (<https://www.google.com/search?client=firefox-b-e&q=1>).

This legal protection aims to ensure that children in conflict with the law do not experience excessive trauma or harm. The SPPA emphasises the handling of children's cases that prioritise restorative justice, which aims to

restore relationships between children, victims and the community (<https://www.google.com/search?client=firefox-b-e&q=1>).

Obstacles Faced by the Police in Implementing Legal Protection for Children Who Commit Motorcycle Theft

The main obstacles faced by the police in protecting children who commit motorcycle theft are limited human resources, facilities and infrastructure, and a lack of public awareness of the importance of legal protection for children. In addition, there are still obstacles in the investigation process, such as short detention periods and a lack of institutions that can provide social welfare services for children (<https://www.google.com/search?client=firefox-b-e&q=1>).

The following is a more detailed explanation:

a. Limited Human Resources and Infrastructure:

1) Lack of specialised child investigators:

There are still not enough investigators specialising in children's cases, especially in rural areas. This results in a heavy workload for existing investigators and can hinder the investigation process.

2) Lack of facilities and infrastructure:

Investigations require adequate facilities and infrastructure, such as special detention rooms for children, transportation, and communication equipment. Limited facilities and infrastructure can hamper the investigation process and case handling (<https://www.google.com/search?client=firefox-b-e&q=1>).

b. Investigation process:

1) Short detention period: The detention of children for investigation purposes can only be carried out for a limited period of time. This can hamper the investigation process if more time is needed to gather evidence and conduct examinations.

2) Not all cases can be diverted: Diversion (case handling without going to court) cannot be done for all cases, especially cases of violent theft. This can force the police to detain children, which can have a negative impact on their development.

c. Lack of social welfare institutions: There is a lack of institutions that can provide social welfare services. Children involved in theft require special assistance and guidance, such as counselling, rehabilitation and training. The lack of institutions that can provide social welfare services can hinder the process of recovery and reintegration of children into society.

d. Lack of Public Awareness: Lack of understanding about legal protection for children: The public often does not understand the legal protection afforded to children, including children who commit crimes. This can lead to the public

demanding harsher penalties for children, which is contrary to the principle of child protection ((<https://www.google.com/search?client=firefox-b-e&q=1>)).

e. Other Obstacles:

- 1) **Unclear identity of the perpetrator:** Perpetrators of theft who do not have an identity card or are unwilling to provide their identity can complicate the investigation process.
- 2) **Lack of witnesses and evidence:** Sometimes there are no witnesses at the scene of the crime or the perpetrator removes evidence, which can complicate the investigation process.
- 3) **Limited information:** Investigators also often face problems in obtaining information, especially if the perpetrator is a child who does not have access to the internet or social media (<https://www.google.com/search?client=firefox-b-e&q=1>).

Efforts that can be made:

- a. Increase the number of specialised child investigators and provide more intensive training.
- b. Improve investigation facilities and infrastructure.
- c. Strengthen cooperation with social welfare institutions and non-governmental organisations (NGOs) that handle child cases.
- d. Conduct public awareness campaigns about legal protection for children.
- e. Utilising information technology to assist in the investigation and handling of cases (<https://www.google.com/search?client=firefox-b-e&q=1>).

Conclusion

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1. Legal protection for children who commit motorcycle theft during the investigation process emphasises special handling that takes into account the child's psychological condition and maturity. The investigation process must ensure that the rights of children are protected, including the right to be heard, to be assisted by parents or guardians, and to be protected from violence or torture. Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA) regulates the procedures for handling children who commit crimes, including during the investigation process.
2. The main obstacles faced by the police in protecting children who commit motorcycle theft are the lack of facilities and personnel to handle cases of children in conflict with the law, as well as the lack of socialisation about the juvenile justice system. In addition, the limited detention time for the

purposes of investigation and the fact that not all cases can be diverted also pose obstacles.

Recommendations:

1. It is hoped that legal protection for children who commit motorcycle theft during the investigation process will provide a safe space for children; provide legal assistance; and ensure that the investigation process does not cause psychological damage to the child. In addition, it is also important to ensure that children are given the right to participate in the legal process and receive rehabilitation and social assistance if necessary.
2. To overcome the obstacles faced by the police in providing legal protection to children who commit motor vehicle theft, the police should: a) Increase the number of specialised investigators for children and provide adequate training; b) Improve facilities and infrastructure, especially detention facilities specifically for children; c) Establish adequate LPKS (Child Protection Centres) to provide rehabilitation and guidance to children who have committed crimes; d) Conduct outreach and engage with the community to raise awareness and encourage their participation in handling motorcycle theft cases; and Coordinate and collaborate synergistically with other law enforcement agencies in handling children in conflict with the law.

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