



The Diversion Program Implementation Under the Juvenile Justice System Act in Indonesia: What Works, What Does Not?

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Abstract

The Juvenile Justice System Act of Indonesia No 11 year 2012 that has been implemented in 2014 has brought some changes in how the criminal justice institutions in Indonesia managed the juvenile cases, including the correctional system. One of the most prominent things exhibited in this Act is the diversion program for juvenile offender as it would help to minimize the number of juvenile imprisonment and prevent them away from the juvenile court process. However, for the first five years of the implementation of this Act, there had no evaluation on how this diversion program had been carried out. This study aims to portray the effectiveness of the diversion programs based on the perceptions of 101 probation and parole officers in Indonesia who are involved in this study. The study result will help the practitioners and also the related stakeholders to improve the implementation of the diversion program.

Keywords: *Juvenile, justice system, diversion*

Abstrak

Undang-undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak yang telah diimplementasikan pada tahun 2014 telah membawa sejumlah perubahan terkait bagaimana lembaga penegakan hukum di Indonesia menangani tindak pidana di bawah umur, termasuk sistem pemasyarakatan. Salah satu kebijakan yang paling menonjol yang diatur dalam undang-undang ini adalah program diversifikasi bagi pelaku remaja, yang dapat membantu mengurangi jumlah pemenjaraan anak di bawah umur dan mencegah mereka menjalani proses sidang pengadilan remaja. Namun, selama lima tahun pertama implementasi kebijakan ini tidak pernah ada evaluasi mengenai pelaksanaan program diversifikasi. Penelitian ini bertujuan untuk memaparkan efektivitas program diversifikasi berdasarkan persepsi 101 orang Pembimbing Kemasyarakatan di Indonesia yang dilibatkan dalam penelitian ini. Hasil penelitian ini akan membantu para praktisi dan pemangku kepentingan (stakeholder) lain untuk memperbaiki implementasi program diversifikasi.

Kata kunci: *Anak yang Berhadapan dengan Hukum, Sistem Peradilan Pidana Anak, Diversi*



Introduction

The juvenile justice system in Indonesia was developed after the enactment of the Juvenile Court Act in 1997. Prior to this year, there were no separation of juvenile and adult criminal justice system. The proceedings of the juvenile crimes were only based on the Criminal Code and the Supreme Court Circulars and Orders. Although the court proceedings were required closed to the public (based on the Supreme Court Circulars Number 3 of 1959) and were led by special judges who had the skills and knowledge about juveniles (based on the Supreme Court No. 48 of 1971), the juvenile offenders were treated the same as the adult offenders. Even more, there was no uniform criminal age of responsibility that was crucial in determining whether the offender was a juvenile or an adult. Consequently, the absence of the minimum age of criminal responsibility (MACR) provision had resulted in harsh punishments for the juveniles even though they only committed petty crimes, such as theft or vandalism. Furthermore, the juveniles had no access to get justice by having an attorney or legal assistance to stand by them before the judge, making it was harder for the juveniles to get more appropriate and fair sentences.

After the enactment of the Juvenile Court Act (JCA) No.3 of 1997, there were two notable improvements in the Indonesia criminal justice system. The JCA introduced the MACR that set the lowest threshold of 8 years old for allowing the court to process the juvenile's criminal case and the maximum age was 18 years old. Furthermore, the judges had three options of punishment or orders imposed to the juveniles, sending the juveniles back to their family, referring them to the social welfare institutions or incarcerating them in the jails or prisons. However, the juveniles were remaining to spend their sentences with the adult inmates and they had to encounter violence or abuse that harmed their safety and wellbeing. According to the criminal statistics released by the Police Department of the Republic of Indonesia in 2002 there were more than 4000 Indonesian juveniles convicted for theft and in 2003 the number increased to more than 11,344 juveniles and 86% of them were incarcerated in adult prisons (Mardite, 2005).

The shifting towards a more youth-friendly juvenile justice system in Indonesia started since the enactment of the Juvenile Justice System Act of 2012 (JJSA) in 2014. There were two fundamental perspectives that encouraged the establishment of the JJSA. The first perspective emerged from the religious philosophy which believed that children as a part of society is a 'gift from God' whom the state has a responsibility to take care of. Therefore, the reform of the juvenile justice system aimed to develop a more appropriate treatment to the children in conflict with the law. The preamble of the JJSA asserts the government's commitment to maintain the juvenile's dignity by providing them special protection, especially legal protection in the justice system. The second perspective was the human rights approach that attempted to fulfill the best interest of the juveniles. This perspective is stated in the JJSA included treating the juveniles humanely to meet their needs based on their age; separating them from adult offenders; providing effective legal assistance; prohibiting inhuman and degrading sentencing, imprisoning as the last resort for the juveniles, and ensuring the education and health services.

The JJSA replaced the Juvenile Court Act (1997) that was conceived to be incompatible with current legal requirements in the Indonesian society and was not comprehensive to provide specific protection to juveniles involved in the criminal justice system. Moreover, the government was encouraged to fulfill the juvenile rights in conforming the Convention on Rights of the Child Human Rights, by creating a non-discriminating juvenile justice system that concerns more on the best interests of the child, child's growth development and respect for the participation of the child. Other international law instruments, such as United Nations Declaration on The Basic Principles on the Use of Restorative Justice Program in Criminal Matters, Vienna Declaration on Crime and Justice (article 26-27) and the United Nations Standard Minimum Rules for the Administration of Juvenile Jus-

tice (The Beijing Rules) also influenced the founders to pass this act.

The JJSA introduced four central reforms in the Indonesia criminal justice system. First, the change of criminal age responsibility for the juveniles. The JJSA raised the juvenile's minimum age of criminal responsibility to 12 years old. It is four years higher compared to the minimum age stipulated in the Juvenile Court Act, whereas the maximum age, 18 years old, remains the same. However, the juvenile who has been getting married is considered to be subject to criminal liability regardless their minor age. On the other hand, the juveniles age below 21 years old, who committed a crime before they turn to 18, are still eligible to be processed in the juvenile court. More importantly, the JJSA also stipulates another minimum age for delinquency adjudication. The juveniles younger than 14 years old and accused of minor crimes are protected from being custodied while waiting for their trial process. They are guaranteed to stay with their family or surrogates until the prosecutors are ready to present the case against them.

Secondly, the Act formulated a new concept of juvenile detention and correctional facilities that mandates the separation of juvenile and adult inmates. This effort aims to protect the juvenile inmates from physical, psychological and sexual abuse perils resulting from their interactions with the adult inmates. The overcrowding issue that has been the main problem in Indonesia correctional system also would increase the risks of the juveniles to encounter the prison violence and abuse at the hands of the adult inmates. Furthermore, the notion of prison as a school of crime also could more plausible impact the juveniles considering their senior criminals in the facilities had more crime histories. And another reason that is not less important was that the treatment and rehabilitation programs in adult correctional facilities were not customized to the needs of the juvenile population. They had to spend months and years without getting adequate education and vocational programs. Therefore, the JJSA enforcement to establish juvenile detention and correctional facilities in every province is perceived as a one of crucial steps in juvenile justice reform.

Thirdly, the juvenile court that respect and ensure the fulfillment of the juvenile's rights. The new characteristics of current juvenile courts embrace less formal settings that we can see in several things, such as establishing juvenile-friendly courtrooms, providing waiting and mediation rooms for diversion, and the judges wear no judicial robe in the court to create more friendly atmosphere. Furthermore, the juvenile court proceedings are closed to the public so that the juvenile's confidentiality will be protected and to prevent the negative societal response of youth delinquent. During the process, the juvenile must be accompanied by a parent, guardian or foster parents, legal counsel and the probation and parole officer. Being involved in the juvenile court might cause traumatic experiences for the juvenile as they may feel intimidated under emotional and psychological pressures (Buffington, Dierkhising, and Marsh, 2010). Therefore, those decriminalize approach in performing juvenile court procedures has been taken to ensure the safety and security of the juveniles.

Finally, the use of a restorative justice approach to solving the juvenile's case. This non-penal approach bestows opportunities to the victim and also a community to get involved in repairing the harm and the loss they suffer from the crimes. The diversion program was generated as one of the restorative justice models that helps the juvenile to process the criminal case using an alternative way and concurrently involve the victims and the community in the restoration process. Besides the probation and parole officers that have the central role in the diversion program, the article 8 and 9 in the JJSA also empower law enforcement agencies in collaboration with the juvenile justice system in performing the diversion program (Directorate General of Corrections under the Ministry of Law and Human Rights, Supreme Court, Prosecutor Office, Police Department, and Directorate General of Social Rehabilitation under Ministry of Social Welfare).

Methods

The research site for this study was the Indonesia Directorate General of Corrections (DGC) located in Jakarta. The data used in this research are primary data that were collected in three phases. The first phase was collecting the demographic and recidivism data of all the juveniles in Indonesia by accessing the official database system of DGC. As the recidivism rate is one of the effectiveness measures of the diversion program, it is important to examine the juvenile recidivism rate in Indonesia. The permit to get this data access was obtained by sending an official letter to the Director General of DGC under the acknowledgment of study coordinator and the IRB administrator. The recidivism measure in this study included the juvenile's reincarceration, or parole or diversion agreement violation. The juvenile's reincarceration defined as their return to the juvenile correctional facilities after three years of release from the correctional facilities. The juvenile with the diversion program is considered a recidivist if he/she violate the diversion agreement or reoffends. Whereas the incarcerated juvenile recidivism will be measured by the time they violate the parole, reoffend or reincarcerated. DGC has no standard length of time to measure recidivism rate. Therefore, the principal investigator employed the US state and federal time frame to calculate the juvenile recidivism rate. Data were cross-checked by the juvenile's birth date and the correctional facilities location to prevent bias.

This study aims to answer four research questions: 1). What do the PPOs think about the effectiveness of the diversion program in Indonesia, and to what extent do they believe it works successfully? 2). How do they see the facilitator's role in affecting the process of reaching the diversion agreement? 3). What are the obstacles and barriers to performing the diversion program? and 4). How do the recidivism rates between juveniles who are referred to diversion programs and the incarcerated juveniles differ?

Since this study more emphasized on the survey research in examining the PPO perceptions on the effectiveness of the diversion program, there was only one hypothesis to be tested. The principal investigator hypothesized that the group of juveniles who were completed the diversion program would have a lower recidivism rate.

The second phase of this study was the face-to-face interview that involved ten respondents (the head of probation and parole officers). According to Maruyama and Ryan (2014), the face-to-face interview helps the researcher to gain high-quality data because the respondent's participation rates could reach 80%. Moreover, this data collection method enables the researcher to build a rapport and better communication with the respondents that lead to more accurate and richer information. This interview can also function to enrich the response from the online survey. In this study, the interview benefited the researcher in comparing the perspectives from the PPOs as the front liner of the diversion program implementation and the interviewees-the head of probation and parole offices as the stakeholders. The interviewees were asked to answer fifteen questions that explored their opinions and perceptions about the implementation of the diversion program in Indonesia. Because they were the high-rank officials in probation and parole field, some of the questions were asking the policies and recommendations for the improvement of the diversion programs.

The third phase was collecting the main data related to the PPO perceptions on diversion program effectiveness by using an online survey that created and launched by using the Rutgers Qualtrics. IRB approval was obtained before survey distribution and data collection. The online survey was anonymous and voluntary, and the responses collected were managed confidentially. The initial process was sending the message that contained the survey link via WhatsApp Group (WAG). The members of the WAG were all the head of probation and parole offices in Indonesia connected to the high-rank officials in DGC. The using of WhatsApp to distribute the survey link was perceived as more efficient and effective because of two reasons. The first reason related to the condition where

not every PPO has their email address. The online survey was set as a proven ballot box stuffing-survey where the respondent was only allowed to take the survey once from one device. Therefore, by using WhatsApp, the PPO who did not have any email address could still participate in the online survey by using their cellular phone. Another reason was related to the time saving for collecting the PPO's responses. By distributing the survey at the same time through WAG, the respondents could complete the survey immediately, and the responses could be collected in a short time. Moreover, the survey link distribution was only limited in the probation and parole officer circles which helped to prevent invalid responses.

The survey questionnaire consisted of 25 questions which were divided into four sections. The first section was the demographic questions that asked the respondent's age, gender, education and the length of the PPO's year of service. The second section was the questions related to diversion mediation process and the PPO's perception about the mediation facilitator. The third section asked the PPOs about their perceptions on how and to what extent the effectiveness of the diversion program by using the Likert scale (strongly agree, agree, neutral, disagree and strongly disagree). Finally, the last section covers the question that aimed to examine how the PPOs supervise the juvenile in carrying out the diversion agreement and what were the barriers they had in implementing the diversion program.

Sample

The projected sample size of this study was 111 participants, where 101 PPOs involved as the survey respondents and 10 head of probation and parole offices participated in the face-to-face interview. This study selected the research subjects by using the purposive sample based on three criteria: (1). The respondents on this research were limited to subjects age > 18 years. (2). The respondent was an active probation and parole officer (retired probation and parole officer did not engage in this research), and (3). The probation and parole officer must have experience in carrying out the diversion program.

Findings and Discussion

There were 101 respondents in the survey analysis. The total number of probation and parole officers was 1095 at the time of the study was conducted. The mean age of the respondents was 36.77 years (SD= 7.94). The population of male respondents doubled the female respondent numbers (33.7%). The younger age of the respondent (22-29) was parallel with the year of service length because the entry-level PPO starts their career as a government officer after they completed their undergraduate programs degree in law, psychology or criminology major. This education background was supported by the data where 76.2% of the respondents had their bachelor's degree. Table 1 shows the demographic details.

Fifty-nine respondents (58.4%) have attended the training for diversion implementation that is conducted by Human Resources Development Board of Ministry of Law and Human Rights in Indonesia every quarter in a year. The integrated training does not only involve the probation and the parole officers but also the other law enforcement agencies that are mandated by the JJSA to implement the diversion program, such as the police officers, prosecutors, social workers and judges. This training aims to create a shared and similar understanding of the diversion program among the law enforcement officers, to gain the uniform perspective on the importance of restorative justice concept and the protection of juveniles from harsh punishment as well as to build a good work coordination among them in implementing the diversion program. Therefore, the diversion training is crucial in equipping the probation and parole officers as the front liners of the successful diversion implementation.

Table 1
Respondent Demographics, n=101

	Frequency, n (%)
Gender	
Male	67 (66.3)
Female	34 (33.7)
Age, years	
<25	4 (3.96)
25-29	22 (21.78)
30-39	46 (45.54)
40-49	21 (20.79)
50-56	8 (7.93)
Job Tenure	
≤ 1 year	23 (22.8)
1 year	6 (5.9)
2 years	9 (8.9)
3 years	13 (12.9)
≥ 3 years	50 (49.5)
Education	
Secondary High School	5 (5)
Associate Degree	3 (3)
Bachelor's degree	77 (76.2)
Master's degree	12 (11.9)
Other	4 (4)

Although there were 42 (41.6%) probation and parole officers that have not had the chance to attend the diversion training, all of the respondents (100%) understand about the requirements of the diversion program that are stipulated in the JJSA. Moreover, since the training is not necessarily a requirement for the PPOs to perform the diversion program, the untrained PPOs are allowed to carry out the juvenile cases. When they were asked about the number of diversions programs they had in a year prior to this study, there were 60.4% PPOs that worked with 1-5 juveniles, 19.8% work with 6-10 juveniles, 5.9% worked with 11-15 juveniles and 13.9% worked with more than 15 juveniles in the diversion programs. These data show that the caseload of the diversion program is low.

Table 2
Factors the PPOs Considered in Referring the Diversion Program for A Juvenile Offender

	Crime Type	Crime History	Other	Motives	Education	Economic Back-ground	Gender	Police recommendation	Parent's request	Location
Strongly Agree	51.0%	50.5%	39.7%	34.7%	22.4%	22.4%	9.3%	6.3%	6.3%	6.2%
Agree	43.9%	44.3%	17.8%	50.0%	46.9%	40.8%	10.3%	22.9%	18.8%	16.5%
Neutral	3.1%	3.1%	37.0%	10.2%	17.3%	17.3%	36.1%	35.4%	31.3%	28.9%
Disagree	2.0%	2.1%	5.5%	5.1%	12.2%	18.4%	29.9%	30.2%	30.2%	30.9%
Strongly Disagree	0.0%	0.0%	0.0%	0.0%	1.0%	1.0%	14.4%	5.2%	13.5%	17.5%

Regarding the factors that influence the PPOs in referring the juvenile to the diversion program, there were five factors that have a higher proportional presentation based on the PPO's perceptions (Table 2). Crime type and crime history are the main facets the PPOs considered in referring the diversion program, 94.9% and 94.8% respectively. Crime motives (84.7%) following as the third factor that affects the diversion reference and the juvenile's education level (69.3%) and economic background (62.2%) ranked as the fourth and the fifth top factor considered by the PPOs in referring the diversion program. In table 3, the result shows the PPOs perceptions on how important the role of every actor in affecting the effectiveness of the diversion program. All of the PPOs had the same perception that their role in diversion program is prominent (100%). The other actors also have imperative function in the diversion program with slight difference of percentages. However, this table depicts an interesting finding because there were still some respondents thought the police officer is not important in the mediation-diversion process although in the police-level diversion process, the police officer does play the role as the mediation facilitator. The responses for other actor that should be involved in the diversion mediation included local government, psychologist, witness, juvenile's peers and religious figure.

Table 3
PPO's perception on each actor's role in promoting the effectiveness of the diversion program

	PPO	Victim	Juvenile's family	Victim's familytives	Juvenile	Judge	Police officer	Prosecutor	Social Worker	Public figuretion	Teacher/school	Child protection institution
Strongly Agree	65.6%	59.6%	56.7%	54.9%	50.0%	48.9%	47.8%	44.4%	42.2%	41.1%	38.2%	32.2%
Agree	34.4%	38.2%	38.9%	39.6%	48.9%	46.7%	45.6%	51.1%	46.7%	48.9%	47.2%	53.3%
Neutral	0.0%	1.1%	3.3%	5.5%	1.1%	4.4%	4.4%	4.4%	7.8%	8.9%	13.5%	14.4%
Strongly Disagree	0.0%	1.1%	1.1%	0.0%	0.0%	0.0%	2.2%	0.0%	3.3%	1.1%	1.1%	0.0%

Every level of diversion mediation has a different facilitator (police officer, prosecutor, and judge) whereas the PPOs take a role as the facilitator assistant in each level. When the respondents were asked about how they perception of the qualified facilitator in affecting the mediation diversion process, 58.2% strongly agree, 38.5% agree, 2.2% neutral and 1.1% disagree. The further question related to the facilitators asked about how the PPOs see their performance in encouraging the mutual problem solving in obtaining the diversion agreement. Among the respondents, 18.7% replied strongly agree, 58.2% agree, 15.4% neutral, and 7.7% disagree. The data are represented in Table 4.

Table 4
Responses to Questions about Diversion Mediation Facilitator

Question: Qualified facilitators affect the success of the mediation process	Frequency, n (%)
Strongly Agree	53 (58.2)
Agree	35 (38.5)
Neutral	2 (2.2)
Disagree	1 (1.1)
Strongly Disagree	0
Question: The facilitator in every phase of diversion mediation has been capable in encouraging mutual problem-solving	
Strongly Agree	17 (18.7)
Agree	53 (58.2)
Neutral	14 (15.4)
Disagree	7 (7.7)
Strongly Disagree	0

Table 5 represents the responses of three key questions that will be beneficial in evaluating the role of the PPOs and the barriers they encounter in implementing the diversion program as well as the recommended programs based on the PPO's perception. The first question asked about the most important role of PPOs in the diversion program. There were 41.6% of PPOs perceived that they have the most important role in accompanying the juvenile during the diversion mediation, 32.7% believed that their main role is supervising the diversion agreement implementation, 21.8% answered making the social inquiry report and only 3.9% mentioned mentoring the juvenile. The second question tried to identify what other diversion programs recommended by the PPOs. There were various answers: 76.9% replied risk and need assessment, 72.5 % chose family counseling program, 59.3% recommend the faith-based diversion program, 50.6% suggested the substance use education and counseling, 47.3% promoted the mental health treatment program, 46.2% believed that the initial screening and assessment for determining the juvenile's mental health condition are crucial, 42.9% opted for anger management program and 6.6% gave their own opinion that included the social service, life skills and vocational training program.

Table 5
Responses to Key Questions

Question: What do you think the most important role of PPOs in the diversion program?	Frequency, n (%)
Accompanying in Diversion Mediation	42 (41.6)
Supervising the diversion agreement implementation	33 (32.7)
Making the social inquiry report	22 (21.8)
Mentoring the juvenile	4 (3.9)
Question: What other diversion programs should be available for the juveniles? *	Frequency, n (%)
Risk and need assessment for assessing the juvenile's criminogenic and protective factors	70 (76.9)
Family counseling	66 (72.5)
Faith-based diversion program	54 (59.3)
Substance use education and counseling	46 (50.6)
Mental health treatment (e.g. for aggressive behavior disorder)	43 (47.3)
Initial screening and assessment for determining the juvenile's mental health condition	42 (46.2)
Anger management program	39 (42.9)
Other	6 (6.6)
Question: What barriers do you think hinder the diversion program process? *	Frequency, n (%)
Low availability of diversion programs services	66 (72.5)
Lack of social welfare institutions in local area	63 (69.2)
Lack of knowledge for the law enforcement officers about the diversion program	47 (51.6)
Lack of facilities to support the diversion program	42 (46.1)
Victim's parents/family do not want to participate in the mediation process	39 (42.9)
The police officer does not call/involve the PPO for the diversion program	38 (41.8)
The facilitator is not qualified and untrained to lead the mediation process	37 (40.7)
Unintegrated juvenile justice system	35 (38.5)
The probation and parole officers are not able to reach the juvenile in remote area	31 (34.1)
Lack of cooperation and commitment of the juvenile in the mediation	30 (33.0)
The judge does not sign the mediation-agreement or delay to sign it	23 (25.3)
Limited human resources to handle the juvenile case	21 (23.1)
Lack of guidelines and SOPs in diversion program for the PPO	20 (22.0)
Offender's parents/family do not want to participate in the mediation process	16 (17.6)
Other	2 (2.2)

*Respondent was allowed to choose more than one answer

The last question in this section attempted to examine the barriers that the PPOs encountered in implementing the diversion program in various aspects: 72.5% believed low availability of the diversion program services, 69.2% thought about the lack of social welfare institutions in local area to accommodate the juvenile, 51.6% agreed that poor knowledge of the law enforcement officers about the diversion program and the JJSA was a barrier, 46.1% considered the lack of facilities to support the diversion program, 42.9% found that the obstacle came from the victim's parents/family that did not want to engage in the mediation process, 41.8% chose the uncooperative police officers, 40.7% referred to the unqualified facilitator, 38.5% believed the unintegrated juvenile justice system hampered the diversion program, 34.1% agreed that the juvenile's house location in remote area, 33% thought about the lack of cooperation and commitment of the juvenile in the mediation process, 25.3% saw the judge delay in signing the diversion agreement hampered the PPOs work, 23.1% addressed the limited number of PPOs as the problem, 22% perceived that lack of guidelines and SOPs hindered the diversion program effectiveness, 17.6% thought about the juvenile's parents/family that restrain to be involved in the mediation process, and lastly 2.2% thought about the absence of restoring the broken relationship attempts in the mediation process and the low quality of social inquiry report.

Table 6 depicts the responses to questions related to the PPO's perceptions on the effectiveness of the diversion program in several aspects. As can be seen in the table, most of the PPOs (more than 50%) believed that diversion program has been effective in preventing reoffending, protecting the juvenile from the negative impact of incarceration, establishing better relationship between juvenile and victim, providing the opportunity for victims to be active in making the best solution, and reducing the overall cost of incarceration because the juvenile does not need to be imprisoned. In general, the PPOs indicated that the implementation of the diversion program has been successful in reaching the goals as mandated in the article 6 of JJSA¹. Furthermore, the inception of diversion program in Indonesia is seen as a prove that the government concern on the rights of the juvenile that they are entitled as a child under the JJSA and Convention on The Rights of the Child, as one of the interviewees explained his thought about the diversion program. "The first time I heard about diversion program, I thought that government had an advance thinking on how to improve the criminal justice system in our country. I have been working as the PPO for more than 15 years, and I highly support this program as this is a positive way in protecting the juveniles from the imprisonment while at the same time, we still can encourage them to take responsibility and to be accountable of what they have done". (Interviewee 2)

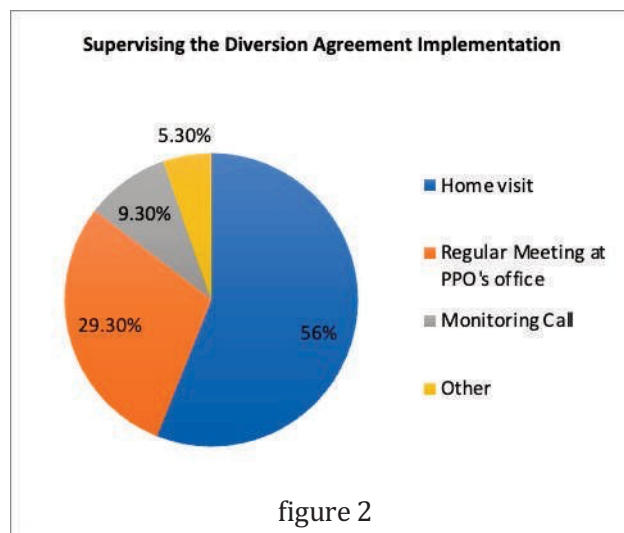
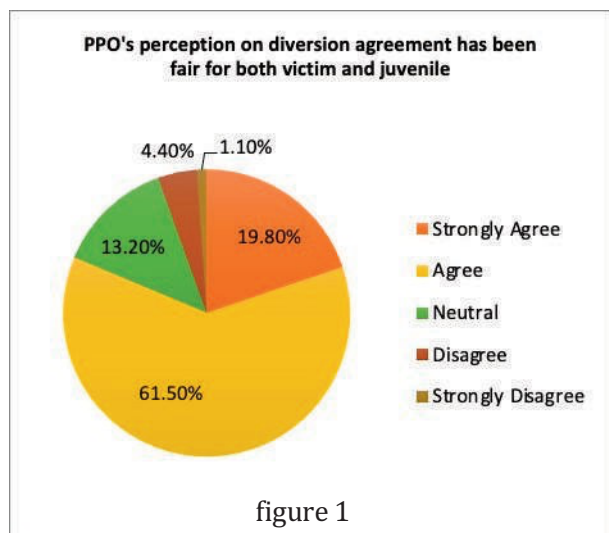
Table 6
Responses to Questions about the Effectiveness of the diversion program

Question: I believe that diversion program effective in preventing reoffending	Frequency, n (%)
Strongly Agree	18 (19.8)
Agree	42 (46.2)
Neutral	17 (18.7)
Disagree	14 (15.4)
Strongly Disagree	0
Question: I believe that the diversion program is effective in protecting juveniles from the adversities of imprisonment	Frequency, n (%)
Strongly Agree	49 (53.8)
Agree	39 (42.9)
Neutral	2 (2.2)
Disagree	1 (1.1)
Strongly Disagree	0

¹ Article 6 of the JJSA stated five goals of the diversion program: restoring peace between the victim and juvenile, redirecting the juvenile from formal court processing; protecting the juvenile from deprivation of liberty; encouraging community to participate in the diversion program; and instilling a sense of responsibility to the juvenile.

Question: I believe that diversion program is effective in preventing the future revenge	Frequency, n (%)
Strongly Agree	27 (29.7)
Agree	52 (57.1)
Neutral	9 (9.9)
Disagree	3 (3.3)
Strongly Disagree	0
Question: I believe that the diversion program as a restorative justice process is effective in providing opportunities for victims to participate in finding the best solution for all affected parties	Frequency, n (%)
Strongly Agree	37 (40.7)
Agree	48 (52.7)
Neutral	3 (3.3)
Disagree	3 (3.3)
Strongly Disagree	0
Question: I believe that diversion program is more efficient in reducing the overall costs of incarceration	Frequency, n (%)
Strongly Agree	47 (51.6)
Agree	41 (45.1)
Neutral	1 (1.1)
Disagree	2 (2.2)
Strongly Disagree	0
Question: Overall, I believe that diversion program has been effective	Frequency, n (%)
Strongly Agree	38 (41.8)
Agree	24 (26.4)
Neutral	15 (16.5)
Disagree	10 (11.1)
Strongly Disagree	4 (4.4)

Finally, figure 1 shows the PPO's perception on how they think the diversion agreement fairness for the juvenile and victim. From the 101 respondents, 19.8% strongly agree, 61.5% agree, 13.2% neutral, 4.4% disagree and 1.1% strongly disagree. The further question related to the diversion agreement asked whether the PPOs supervised the juvenile in implementing the diversion agreement. 82.4% of the PPOs answered that they supervised the diversion agreement implementation and 17.6% of them never conducted it (figure 3).



Among the PPOs who carried out the supervision, 56% did the home visit, 29.3% held regular meetings in the probation and parole office, 9.3% made the monitoring call and 5.3% supervised the juvenile through communicating with local head of neighborhood units or religious figures who live in the same neighborhood with the juvenile (figure 2). When they were asked about the frequency of the supervising, 60% replied they did the supervision 1-4 times a month, 17.3% conducted it every two months, 8% had it every quarter year, and 2.7% supervised in every semester. Table 8 represents the data.

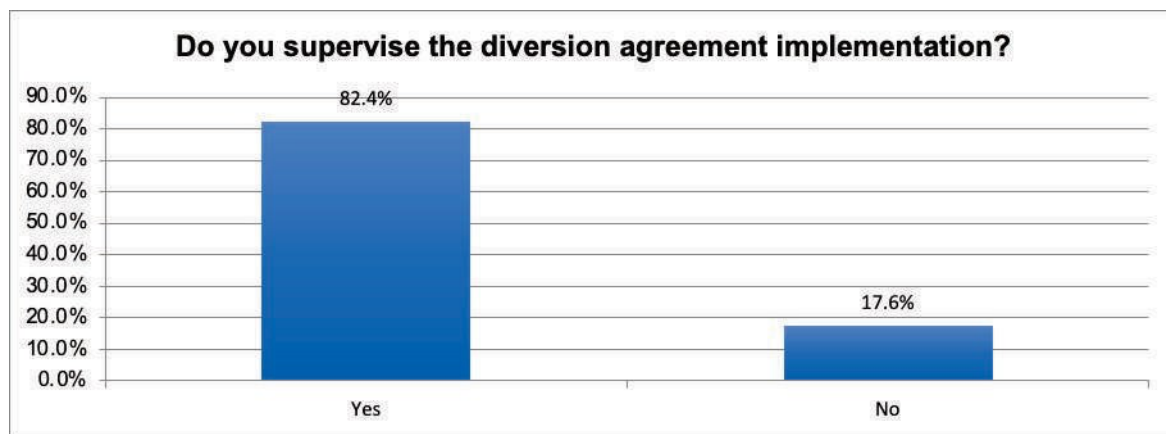


figure 3

Discussion

This study is the first piece of research in Indonesia that was conducted to evaluate the effectiveness of diversion program after the implementation of the JJSA. The summary results show that PPOs perceive the diversion program has been effective in preventing reoffending, protecting juveniles from the adversities of imprisonment, preventing the retaliation from the juvenile or victim, providing opportunities for victims to participate in finding the best solution for all affected parties and reducing the overall costs of incarceration. However, there are several issues that emerged and require the developing of targeted policies and strategies to create better outcomes in diversion program.

The first issue comes from the facilitators role in affecting the process of diversion mediation in each level; police level, prosecutor level and judge level. A facilitator in the diversion mediation plays a crucial role in leading the meeting to gain the diversion agreement. Different with the victim-offender mediations that exist in the US, the mediation diversion in Indonesia does not require the facilitator to have skills or a training certificate. Consequently, there is a possibility that the mediation process failed to reach the agreement not because the juvenile or the victim were not cooperative or appropriate for the mediation, but because of the possibility of an untrained facilitator that was not able to facilitate the interaction between the juvenile and the victim. The issue emerged from this phenomenon is how to improve the facilitator's skills in mediation because juveniles have to be accountable for what they have committed, and victims have many needs to be respected so that justice can be restored in the diversion agreement (Amstutz and Zehr, 1998). Therefore, this study recommends the facilitator to participate in and successfully complete training regimens for building important skills and competency especially because the diversion mediation involves the juvenile that has different characters and needs with adult. Moreover, designing the standard guideline to measure the competency of the facilitator (e.g. Model Standards of Conduct for Mediators) and to ensure the appropriate procedures in conducting the diversion mediation are necessary for promoting the effectiveness of diversion mediation.

Second, this study attempted to identify the obstacles the PPOs dealt with in implementing the diversion program. The research findings were not surprising because almost all the barriers that the

researcher provided in the survey question resulted from the previous field studies in different probation and parole offices. Therefore, the findings were predictable because almost every probation and parole officer complained about the impediments that they had in their work area in the long time. However, the barrier related to the unavailability of diversion program other than mediation was not previously articulated. According to the interview report, the mediation is not ample to accommodate the juvenile with specific crime and background. For example, the juvenile with mental health problem (substance use disorder) would need to get the mental health service and rehabilitation program. The juvenile's parents or family should also get the counseling program because the impact of substance use will affect not only the juvenile but also the family (Lander, Howsare and Byrne, 2013). Here, the more various program that are conform with the juvenile needs have to be designed. For instance, in the US, they have diversion programs that target the juveniles with different type of crime and needs by providing the low-level programs such as warning to more-intensive treatment or therapeutic programming, such as the school-based diversion or intake-probation diversion.

The lack of physical and human resources in implementing the diversion program also has attenuated the PPOs work in the field. Indonesia is a huge archipelagic country with more than 16,000 islands, with 34 provinces and 416 regencies and cities. Yet, the number of probation and parole offices is still very low, only 72 offices with less than 1,100 probation and parole officers. Hence, the probation and parole officers who work in the remote islands are not able to reach the juveniles because of the poor quality of the transportation facilities and the distance. For example, in Kalimantan-island where the geographic of the land are predominantly rivers, many times the PPOs have to spend days in their work travel to reach the juvenile house location. JJSA has mandated the establishment of probation and parole office in every regency and city in Indonesia. Consequently, there are still 344 probation and parole offices need to be built and more human resources to be recruited. However, since the implementation of JJSA in 2014, there were only eight probation and parole offices have been constructed. The establishment of more social welfare institutions under the authority of Ministry of Social Welfare are also crucial in promoting the effectiveness of diversion program, because one of the diversion agreements commands the juvenile to attend the education program or vocational trainings in the local social welfare institutions.

The unintegrated juvenile justice system also hampered the PPOs to refer diversion programs to the juveniles. Some of the interviewees expressed their discontent on how the police officer, prosecutors, and judges in many times showed incomprehension of the juvenile justice system and diversion program principles. In consequence, there was no shared-understanding about how to treat the juvenile in the diversion process. Furthermore, the PPOs position in the diversion program that is only limited on giving the recommendation and act as the facilitator assistant (not as the main actor in the mediation) created gaps in implementing the diversion program. The conditions got worse because there have been no guidelines or SOPs that can be used to determine what steps to take and to ensure the actions are in compliance to the law and regulations. Especially when the PPOs have to encounter the problems when the juvenile or victim's family restrained to participate in the diversion mediation. Therefore, the research findings suggest the DGC to create guidelines, SOPs and standards to help the PPOs and related law enforcement officers to work on diversion program. In addition, more trainings for the diversion program implementation have to be promoted to develop their skills and to generate shared-understanding among them.

Lastly, the main issue is related to the recidivism as one of indicators to evaluate the effectiveness of diversion program. Regarding the recidivism rate, this study was not able to investigate the effect of diversion program on juvenile recidivism rate because of the data limitation in DGC that is unfortunate. The probation and parole offices has never recorded the recidivism status of the juvenile. The assumption that resulted from this data unavailability was the DGC and probation and parole

offices were not concerned about the importance of the juvenile recidivism rate measurement because reducing recidivism rates is not stated as the goal of the diversion program in the JJSA. Therefore, the attempt to compare the recidivism rates between the incarcerated and the diverted juveniles was unlikely to be conducted during the research.

As recidivism rates are conceived as one of the indicators of the diversion program effectiveness, the findings of this study suggest that the DGC as the central institution should instruct all the probation and parole offices to make a report of recidivism of the juvenile who is referred to the diversion. Thus, in the future, the DGC can use the recidivism data to assess the effectiveness of the diversion program in a better method and more personalized-evaluation by looking at the diversion effectiveness on an individual level. However, this study was able to collect the data to measure the incarcerated juvenile recidivism rate which by August 2018 was 5.5%. Furthermore, this study does not provide the comparison of recidivism rate, however, according to the data from DGC, the imprisonment rate has been decreased since the implementation of the diversion program in 2014 as we can see in the figure 4.



figure 4
Juvenile Offenders Population in Indonesia

The diversion program implementation might still have some challenges to be addressed but it also has a potential factor that should be considered. From the interview result, in some provinces in Indonesia, where the village chiefs still play the important role in their society, the probation and parole officers collaborate with them in facilitating the mediation diversion. As the result, the rate of successful diversion mediation in their jurisdiction were a hundred percent. For example, the *pela-gandong*, the indigenous social institution that has been utilizing mediation process based on the social values for the conflict resolution in Ambonese society². The *pela-gandong* tradition, according to one of interviewees, helped the PPOs in Ambon to manage the more-challenging juvenile cases, where the juvenile or the victim parents and the family members were reluctant and uncooperative. The village chief is an honor figure, whom the local people respect and listen to, therefore, by involving the village chief, the juvenile's/victim's parents and family member will be obedient to the village chief. Therefore, this research recommends that the juvenile justice and diversion trainings should involve the village chief (if available in the region where the training will be conducted) to be participating as they are now considered as one of significant actors in gaining the effective diversion program.

² Ambonese is one of hundreds of ethnicities in Indonesia-mixed Austronesian-Papuan origin, who live in Maluku island, eastern part of Indonesia. The Ambonese, also known as South Moluccans.

The local government that concerns on the better juvenile justice system is also a supporting factor that has the potential to promote the more effectiveness diversion program. For instance, the province-level government in one of the regions in Java island, cooperating together with the local probation and parole office in providing various programs that support the diversion program, such as the halfway-house for the juvenile who doesn't have parents, vocational training learning center, and psychology counseling. In this case, the strong relationship and initiatives between the probation and parole office and the local government are important in creating the collaboration work. Therefore, the DGC should encourage all the probation and the parole office heads to establish the intergovernmental cooperation toward positive outcomes in diversion program.

Conclusion

This study was conducted to evaluate the effectiveness of the diversion program in Indonesia and identify the barriers and the needs for improving the program. The PPOs were perceived as the potential respondents considering their whole and important role in carrying out the diversion program since the juvenile arrested until the juvenile completes the agreement diversion. The online survey and interview were selected as the data collection method because the researcher wanted to obtain comprehensive PPO's perceptions on how they see the diversion program. Although the research findings could not examine the impact of diversion program on the juvenile recidivism rate, the result shows that the diversion program in Indonesia has been effective in decreasing the number of juvenile incarceration rate. This study may encourage other researchers to study more about the juvenile justice system and diversion program in Indonesia in the future. Furthermore, the research findings suggest some recommended policies and actions that can be taken to improve the diversion program in Indonesia.

Implication

Although this study shows the effectiveness of the diversion program in Indonesia and reveals the barriers and the recommended diversion program, there are several limitations in this study. The survey was only able to get 10% of the total number of the PPOs. It means that the research findings would be more accurate and reliable if the more numbers of PPOs participated in this study. The link of the online survey was distributed through the WAG that the PPO who was not familiar with technology was unwilling to complete the survey. The limited time to collect the data also caused the survey responses could not be collected in higher number. Moreover, because the online survey was conducted abroad, the researcher had limited ability to encourage the PPOs to take participation in the study. The future research has to consider the organization culture in working with the government institution in Indonesia because of the bureaucracy and the 'seniority' system, there should be a superior-rank official engage in the study that could increase the respondent's participation numbers.

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