

Law Enforcement of Narcotics Crimes Against Children in The Drug Investigation Directorate of The Bali Regional Police Force

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ARTICLE INFO

Keywords: Law Enforcement, Narcotics, Child Offenders

Received : 7 July

Revised : 15 July

Accepted: 22 August

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ABSTRACT

Children are a new generation of young people growing up in a nation, the child is a legal subject who has not reached the age of 18 (eighteen). Article 1 paragraph (15) of Law Number 35 of 2009 concerning Narcotics states that narcotics abuse is a person who uses narcotics without the right or against the law. If the perpetrator of the narcotics crime is a child, then in material law of course the child as the perpetrator of the narcotics crime can be charged following Article 112 of Law Number 35 of 2009, because the intended substance in the article is that it reads every person, which means that all people, both adults and children, can be subject to the article. narcotics abuse is qualified as a crime without a victim, which means that the victim of the crime is the perpetrator himself, so in the event of narcotics abuse, the victim (crime) is the child who abuses narcotics in addition to his qualifications as a perpetrator is a victim. So the investigators of the Bali Police Ditresnarkoba in enforcing the law on narcotics crimes against child perpetrators, attempted to do so through a diversion approach

INTRODUCTION

The provisions of Article 1 Paragraph 3 of the 1945 Constitution clearly state that the State of Indonesia is a state of law which of course everything is determined based on applicable laws both in written and unwritten law, with the above basis then all Indonesian citizens without any exceptions, must obey the law. Regardless of whether it is adults or children, small people, businessmen, or high-ranking officials must abide by the law. All actions taken in our country must be based on the applicable law. In other words, if there is a violation or legal dispute, it is resolved by law.

Law enforcement in the criminal act of narcotics crimes in Indonesia is in the spotlight by the public and the media because the crime is growing day by day, especially drug users are partly carried out by children, so law enforcement officials are demanding that the resolution of legal problems becomes the main goal, namely in terms of legal certainty, justice and benefit can be achieved, Provisions of Article 1 paragraph (15) of Law Number 35 of 2009 concerning Narcotics, Narcotics abuse is a person who uses narcotics without rights or against the law. As is known, narcotics itself is a drug that is needed in terms of medical or health, thus the availability of narcotics needs to be guaranteed. However, what is currently problematic is the abuse of these drugs.

The best policy carried out by the government in terms of child protection as a consequence of the provisions of Article 28 B paragraph (2) of the 1945 Constitution, which has been promulgated in Law Number 11 of 2012 concerning the Child Criminal Justice System (hereinafter SPPA Law) and Law Number 35 of 2014 concerning Child Protection. In this case, children need to be protected from the negative impact of rapid development, globalization in the field of communication and information, advances in science and technology, as well as changes in the style and way of life of some parents who have brought fundamental social changes in people's lives which greatly affect the values and behavior of children. Behavioral deviations or unlawful acts committed by children are caused by factors outside the child.

Initially, delinquency involving children is considered a normal thing, but it will increasingly become an unusual thing because it has violated the existing rules or in other words deviated from the culture in society itself. According to the provisions of Article 1 paragraph (15) of Law Number 35 of 2009 concerning Narcotics, narcotics abuse is a person who uses narcotics without rights or against the law. As is known, narcotics itself is a drug that is needed in terms of medical or health, thus the availability of narcotics needs to be guaranteed. However, what is currently problematic is the abuse of these drugs.

With the existence of narcotics which are then misused, it is none other than to damage a nation or damage the next generation of a nation. Provisions related to the dangers of narcotics can be seen in the explanation of Law Number 35 of 2009 concerning Narcotics in the general section of the first paragraph, namely: Narcotics are substances or drugs that are very useful and necessary for the treatment of certain diseases. However, if misused or used not by treatment standards, it can cause very detrimental consequences for individuals or society, especially the younger generation. This will be more detrimental if accompanied

by the abuse and illicit trafficking of narcotics which can cause greater harm to the life and cultural values of the nation which will ultimately weaken national resilience.

LITERATURE REVIEW

Children in a young generation or a new generation of a nation, where the child is a legal subject who has not yet reached 18 (eighteen) years of age are not immune from a criminal offense. Based on this, it can be said, that a child always can commit a criminal act or criminal offense. If it is related to narcotics, then it is certain that children in everyone's mind will lead to the abuse or use of narcotics they do. According to a report from the Center for Research, Data, Information of the National Narcotics Agency (Puslitdatin BNN) in the period 2021 to 2023, data on drug users fell to 1.73% or around 3.3 million people. The number decreased by 0.22%, meaning that more than 300,000 of the nation's children survived drugs, although the data shows that the tendency of narcotics users has decreased, it is still worrying for parents to supervise their children, because if the users go down, but the narcotics dealers are increasingly rampant, they still have to be aware, especially in the jurisdiction of Bali.

Increasingly, the development of narcotics abuse is increasing and the government has issued regulations governing the handling of children who are perpetrators of narcotics abuse, namely Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, while children who are perpetrators of criminal acts or crimes are regulated in Law of the Republic of Indonesia Number 11 of 2012 concerning the Child Criminal Justice System, while children as victims are regulated in Law of the Republic of Indonesia Number 35 of 2014 concerning amendments to Law of the Republic of Indonesia Number 23 of 2002 concerning Child Protection. The existing formal justice system ultimately places children in prisoner status, of course, there will be considerable consequences related to child development. The process of punishment given to children through the formal criminal justice system by putting children in prison has not succeeded in making children deter and become better individuals to support their growth and development process. Imprisonment often makes children more professional in committing crimes.

Narcotics are drugs that can eliminate especially pain and pain originating from the viresal area or tools of the chest cavity and abdominal cavity, can also cause a long stupor or stupor effect in a state of consciousness and cause addiction or addiction. Meanwhile, in the provisions of Law Number 35 of 2009 concerning Narcotics. Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which cause a decrease or change in consciousness, loss of taste, reduction to eliminate pain, and dependence.

Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice system, provides a strong legal basis to distinguish the treatment of children in conflict with the law. Law enforcement officials, especially in the Bali Regional Police, should pay special attention to children as perpetrators of drug abuse crimes in processing and deciding on decisions to be

taken to regulate and restore the future of children as responsible citizens in society.

Based on the above background, the author formulates the problem, among others, law enforcement of narcotics crimes against children in the Directorate of Narcotics Investigation of the Bali Regional Police and obstacles faced by investigators of the Directorate of Narcotics Investigation of the Bali Regional Police in enforcing narcotics crimes against children.

METHODOLOGY

Based on the focus of the research, the type of research in this writing is to use normative writing methods supported by research in the form of interview results. The normative research method is based on library legal research or legal research based on primary legal materials that examine document studies using laws and regulations, as well as secondary legal materials based on court decisions, legal theories from experts, and opinions of these scholars while supporting research through interviews based on the implementation of normative legal provisions in action on each specific legal event that occurs in society.

RESULTS AND DISCUSSION

Law Enforcement of Narcotics Crimes against Children in the Directorate of Narcotics Investigation of the Bali Regional Police

Narcotics crime is a special crime outside the Criminal Code. This statement is expressly stated in Article 25 of Government Regulation Number 24 of 1960 which came into force on June 9, 1960, concerning the investigation, prosecution, and examination of criminal acts. Special criminal law is a criminal law stipulated for special groups of people, including military criminal law (special groups of people) and fiscal criminal law (special acts) and economic criminal law. The regulation or legal basis for legal issues regarding narcotics crimes in Indonesia is Law Number 35 of 2009 concerning Narcotics. Types of Narcotics Crimes regulated in Law Number 35 of 2009 concerning Narcotics.

Based on the results of an interview with Ipda Putu Gede Oka Prastha as Head of Unit 1 Subdit 3 of the Directorate of Drug Detection of the Bali Regional Police on April 23, 2024, said that narcotics abuse is a crime and offense that threatens the safety, both physical and mental of the user and also the surrounding community socially, so with a theoretical approach, the cause of narcotics abuse is a material offense, while the act to prosecute the perpetrator's responsibility is a formal offense.

Based on data obtained from the Directorate of Drug Detection of Bali Regional Police, the number of cases of drug abuse crimes against children, which were handled from the period of 2022 to 2023, as follows:

Table 1. Age Data

NO	AGE GROUP	2022	2023
1	<15	1	0
2	16-19	46	38
3	20-24	164	171
4	25-29	219	234
5	>30	450	560
AMOUNT		880	1003

Table 2. Education Data

NO	EDUCATION	2022	2023
1	SD	10	3
2	SMP	15	6
3	HIGH SCHOOL	841	981
4	COLLEGE	14	12
AMOUNT		880	1002

Children who still need guidance and direction can be the right target for drug dealers to use as a drug transaction tool. The increasing abuse of narcotics and the involvement of children in the distribution of narcotics must be a special concern for law enforcement officials and also the role of the community is expected to be more active in avoiding the increasing number of children involved in cases as dealers. Law enforcement officials in dealing with children who become perpetrators of criminal acts must pay attention to the applicable legal principles to be able to enforce the law and also continue to provide legal protection to the child. As for if the perpetrator of a drug crime is a child in the sense that the child is a drug user, referring to the certainty in material law, of course, the child as a perpetrator of a drug crime can be charged under Law Number 35 of 2009 article 112 which reads: "Every person who without the right or against the law owns, stores, controls, or provides Narcotics Group I not plants, shall be sentenced to a minimum imprisonment of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp.800,000,000.00 (eight hundred million rupiahs) and a maximum of Rp.8,000,000,000.00 (eight billion rupiah)".

In narcotics crimes, children usually become drug couriers, namely people who deliver drugs to those who order the drugs, which are usually orders from adults. In this case, if we refer to legal certainty, it should be based on Law Number 35 of 2009 that drug couriers can be charged under the provisions of Article 114 which reads: "Every person who without right or against the law offers for sale, sells, buys, receives, becomes an intermediary in the sale, purchase, exchange, or delivery of Class I Narcotics, shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least Rp1,000,000,000.00 (one billion rupiahs) and a maximum of Rp10,000,000,000.00 (ten billion rupiah)".

In this case, the author argues that if referring to legal certainty a child can certainly be charged with the two provisions of the articles above because the addressee in the article is every person, which means that all people, both adults and children, can be subject to the article. The reasons why children who are perpetrators of drug abuse cannot be charged in the article are:

1. A child is a young human being who is not yet legally capable and is certainly easily influenced by his or her surroundings;
2. Law No. 35/2009 on narcotics does not explicitly explain the criminalization of narcotics to children;
3. In the event that a perpetrator of a criminal offense is a child, then of course special handling must be carried out in resolving the case because in legal theory children are said to have no legal capacity.

Philosophically, the imposition of sanctions against children has a goal to be achieved, namely for legal protection which must prioritize the best interests of children, so that child welfare can be achieved. This is an integral part of social welfare, in the sense that the welfare or interests of children are under social interests. Law Number 11 of 2012 concerning the Criminal Justice System for Children has explained that the punishment of children should be the last resort or *ultimum remedium*. This is in the best interests of the child.

Juridically, there is a paradigmatic dilemma relating to the approach taken towards children who abuse drugs. Juridically, children who commit narcotics abuse are qualified as perpetrators of criminal acts, but conceptually, because narcotics abuse is qualified as a crime without a victim, which means that the victim of the crime is the perpetrator himself, then in the event of narcotics abuse the victim (crime) is the perpetrator, thus conceptually children who abuse narcotics in addition to their qualifications as perpetrators are victims.

Drug abuse today is not only dominated by adults, but also by children, it is found that drug users are still at the junior high school and high school levels. This legal problem involves the role of law enforcement officials, especially the police, whose presence in society is very important. Until now, according to Ipda Putu Gede Oka Prastha as Head of Unit 1 Unit 1 Subdit 3 Ditresnarkoba Bali Police, the Directorate of Drug Detection of the Bali Regional Police in preventing criminal acts of narcotics abuse against children continues to carry out investigations, until the submission of cases in court.

Narcotics offenses are regulated by Law Number 35 of 2009 concerning Narcotics with severe criminal penalties while Juvenile Justice is regulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System with all its mechanisms that are different from adults. Article 7 paragraph 1 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System explicitly states that in the handling of children in conflict with the law, investigators, prosecutors, and judges are obliged to seek diversionary measures. In Article 7 paragraph 2 of Law Number 11 of 2012 concerning the Child Criminal Justice System, it is explained that Diversion can be applied if the child offender is threatened with imprisonment under 7 (seven) years and is not a repeat offender, in this case, the judge considers the category of the crime, the age of the child, the results of community research from Bapas and the support of the family and

community environment, this is following Article 9 paragraph (1) of Law Number 11 of 2012 concerning the Child Criminal Justice System.

Obstacles faced by Investigators of the Directorate of Drug Detection of the Bali Regional Police in Enforcing Narcotics Crimes against Children

In the process of handling narcotics crimes with child perpetrators, where narcotics crimes committed by children are generally classified as users and also intermediaries (couriers) and the investigation process by the police is against the perpetrators in general as follows:

1. The perpetrators of narcotics crimes with child perpetrators, where a child is said to have committed a narcotics crime if it has fulfilled the elements of either being caught red-handed or reported, arrested based on an arrest warrant and the basis for arrest following Article 17 and Article 18 of the Criminal Procedure Code, then to accompany the arrest warrant is also accompanied by a search and seizure letter;
2. The arrested suspect was taken to the police station and a police report was made for further investigation;
3. Every time there is an investigation of a child, the police will usually notify Bapas (Correctional Center) to send a Community Supervisor to make a community research report (Litmas) which will be taken into consideration in the court process.
4. The examination of children is conducted in a normal examination room where each investigating officer is required not to wear official clothes and the atmosphere of the investigation is created in such a way as to not disturb the child's mentality. Pressure or violence in the examination to obtain information has never been done because with persuasive measures and also by providing views and promising to help the child. In addition, it is also given to the perpetrator that if the perpetrator is frank, it will speed up the investigation process, usually, this is effective in getting the child to talk and provide information to the investigator.

To overcome narcotics crimes committed by child perpetrators, of course, it is inseparable from the existence of obstacles that cause obstacles to overcoming children as perpetrators of narcotics abuse. The obstacles faced by police investigators in investigating narcotics crimes committed by children, based on the results of an interview with Brigpol Ni Kadek Ana Sugitawati as NCO Unit 1 Subdit 2 of the Directorate of Drug Detection of the Bali Regional Police, on April 23, 2024, among others:

1. In the investigation process, the number of personnel in police investigators is usually insufficient, resulting in not maximizing the investigation process carried out against children;
2. There is still a lack of supporting facilities and facilities for police members in monitoring and preventing drug use and distribution, inadequate equipment, in this case the need for rejuvenation of tools to support the process of law enforcement and eradication of narcotics;
3. The allocation of investigation time that requires investigators to carry out the investigation process quickly. However, the time allocation is relatively short in the investigation process;

4. Lack of coordination between relevant agencies from the police, prosecutors, courts, community supervisors, child rehabilitation centers, parents/guardians and the community. This resulted in the absence of an evaluative report on the investigation process of drug crime cases by children;
5. In the case of investigations with perpetrators who tend to be children, the investigator must condition the procedure of the investigation, because the perpetrator of the crime is a child, of course, it must be done without using elements of violence and coercion, which of course if this is done will affect the child's mentality.

Based on the description above, the author's opinion regarding narcotics crime cases, in this case children as perpetrators of narcotics crimes, namely children are human beings who do not have the ability to struggle in the world of law, in relation to being perpetrators of narcotics crime abuse, of course they must not prioritize a restorative justice approach in resolving the case, thus the element of justice in law will be more visible if the handling of narcotics crime cases, in this case the perpetrator is a child, is resolved by not prioritizing a restorative justice approach, In this case the author relates to a legal postulate put forward by Immanuel Kant which reads "Summum ius summa injuria, summa lex, summa crux" which means "Harsh law can hurt except justice that can help it" in other words, the highest justice will definitely conflict with legal certainty but here is the choice for us which justice will be used and which legal certainty will be used, if in the case related to narcotics crimes committed by children, of course the author argues that he will prefer the principle of justice.

In society, the focus is on law enforcement efforts from the police. In practice, law enforcement carried out by the Police has 2 (two) options, namely;

1. Law enforcement as required by law in general, where there are forced efforts made by the police to enforce the law following the procedural law stipulated in Law Number 8 of 1981 concerning the Criminal Procedure Code;
2. Actions that prioritize beliefs that are emphasized on personal morals and legal obligations to provide protection to members of the public. This is known as discretion, while these actions have been regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code and concerning the Indonesian National Police Number 2 of 2002, where the police have been given responsible freedom to carry out this.

The results of an interview with Ipda Putu Gede Oka Prastha on April 24, 2024, explained that in the case of handling criminal cases against child offenders in drug abuse, the factors that cause children to want to try drugs are:

1. The invitation of friends who are already addicted,
2. A less harmonious family background,
3. Social media factors that influence poor socialization,
4. Following the trend to look stylish,
5. Lack of supervision from parents regarding child development,
6. Curiosity about mild drugs such as sleeping pills, and tranquilizers that make the child feel delusional and unconscious.

Crime prevention efforts have been and continue to be carried out by the government in collaboration with law enforcement officials and the community. Various programs and activities have been carried out while continuously looking for the most appropriate and effective way to overcome the problem of preventing and overcoming narcotics crimes committed by child offenders with various policies or efforts to be made. Other efforts in overcoming narcotics abuse, continued according to Ipda Putu Gede Oka Prastha, can be done in three ways, namely pre-emptive efforts, preventive efforts, and repressive efforts. All three are in accordance with the main tasks of the Police, namely:

1. Maintain security and order,
2. Enforce the law, and
3. Provide protection, protection and service to the community.

Reports on narcotics offenses committed by juvenile offenders, the Directorate of Drug Investigation of the Bali Police made efforts, namely:

1. Pre-emptive efforts here are initial efforts made by the Directorate of Drug Detection of the Bali Police to prevent criminal acts. Efforts made in pre-emptive crime prevention are to instill good values or norms so that these norms are internalized in a person, especially children.
2. Preventive efforts are an effort carried out by the Directorate of Drug Detection of the Bali Regional Police systematically, planned and directed to prevent narcotics abuse, prevention is carried out before the occurrence of narcotics crimes committed by children in the form of:
 - a) Socialization to schools,
 - b) Counseling to the community,
 - c) Routine operations,
 - d) Engage in cooperation,
3. Regarding repressive action, the Directorate of Narcotics Investigation of the Bali Regional Police takes action in the form of an investigation, if the child is proven to have committed or abused narcotics, it will proceed to the investigation stage, in addition to making prevention efforts carried out after the occurrence of narcotics crimes committed by child perpetrators.

The results of the police investigation proved that the child consumed narcotics at the time of arrest, so the investigators held a meeting to consider further actions to be taken by the child offender. In addition, to prove the extent to which children fall into the black valley of narcotics abuse, the Directorate of Drug Detection of the Bali Regional Police took the following actions: Investigators carry out investigative actions to seek information related to narcotics abuse among children, by making arrests, where arrests are made to find facts that are related to criminal acts, after 6 (Six) days the child is arrested and continues to the stage of examination through urine tests in the laboratory, then examines the evidence found at the scene of the crime (TKP) to determine the extent to which the child perpetrators use or consume narcotics. So that it becomes a clue to the attitude that will be taken by the investigator, then, if the child is not proven to use or just trying to consume narcotics, then the child will

be sought diversion, and/or there is no evidence, but the laboratory test results are positive, then it is seen from when the child used narcotics. After that the child is returned to the parents if at the time of proof the child is not proven or given a light sentence is entrusted to the special Bapas detention center for children and medical rehabilitation or social rehabilitation is carried out, depending on the proof of the results of laboratory tests and/or assessment examinations, if the child has previously done or is a heavy drug user then law enforcement continues to the investigation. In the case of juvenile cases, the investigators are juvenile, juvenile prosecutors, juvenile judges, juvenile appeal judges, juvenile cassation judges, etc.

Another interview between the author and Brigpol Ni Kadek Ana Sugitawati, dated April 24, 2024, in the Child Examination stage conducted by the Police against juvenile drug offenders, among others, seen from:

1. Child Identity Check (Child Birth Certificate),
2. Contact Bapas and or parents, for assistance.
3. No pressure should be placed on the child to confess to the crime.

Furthermore, the results of interviews with Brigpol Ni Kadek Ana Sugitawati, Directorate of Narcotics Investigation of the Bali Regional Police did not mention the complete identity of the perpetrators of narcotics crimes, where the police investigators are obliged to maintain the initials of the perpetrators' names, the types of narcotics used, and what sanctions are imposed, because the identity of the child is confidential which should not be known by the public. Regarding the identity of the child, investigators are required to maintain the confidentiality of the child's identity, namely the identity of the child's name, the child's parents, the child's address and the child's face in the news in print or electronic media. In addition, the most important thing done by police investigators, from the results of the interview Brigpol Ni Kadek Ana Sugitawati said that every criminal act committed by child perpetrators must be attempted diversion. Because diversion is a way for children to avoid trauma (stigmatization) of criminal behavior and so that we all together find the best way for children, children are also not treated like criminals and adults. The examination of children who commit criminal offenses is not treated the same as adults.

Based on the results of interviews with Ipda Putu Gede Oka Prastha, April 27, 2024, it was stated that every case committed by a child offender in a narcotics crime case is still carried out diversion efforts as long as it meets the requirements. Where diversion is carried out based on deliberations involving children and their parents, community advisors, social workers, or legal advisors. Before the start of the diversion, the police first notify the child's parents and ask both parents when the diversion effort will be carried out. Before a child's case is submitted to the prosecution level, the police are legally obliged to seek diversion as long as the child's case meets the conditions for diversion as stated in Article 7 paragraph (1) of Law Number 11/2012 concerning the Juvenile Criminal Justice System.

Legal protection for child perpetrators for the sake of a sense of justice can also be created, according to Article 1 of Law Number 35 of 2014 stipulates that

the implementation of child protection is based on Pancasila and the 1945 Constitution and the principles (basic conventions) of children's rights which include:

1. Non-discrimination;
2. The best interests of the child;
3. The right to life (survival) and development and;
4. Respect for children

Article 1 paragraph (2) of Law Number 35 of 2014 concerning child protection explains that child protection is all activities to ensure and protect children and their rights so that they can live, grow and develop and participate optimally in accordance with the dignity of humanity, and receive protection from violence and discrimination. More and more are becoming victims in legal cases, so to provide protection for children the role of the Government and society is needed. The role of the community can be carried out by individuals, child protection organizations, community social institutions, educational institutions, religious institutions and the mass media.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Based on the discussion that has been described, the following conclusions can be drawn:

1. Law enforcement of narcotics crimes in Law Number 35 of 2009 concerning Narcotics Article 1 paragraph (15) states that narcotics abuse is a person who uses narcotics without rights or against the law. If the perpetrator of a narcotics crime is a child, then in material law of course the child as the perpetrator of a narcotics crime can be charged following Article 112 of Law Number 35 of 2009, because the intended substance in the article is that it reads everyone, which means that all people, both adults and children, can be subject to the article. Investigators of the Bali Police Ditresnarkoba in conducting investigations of child perpetrators of drug abuse, attempted to do so utilizing a diversion approach.
2. The obstacles of Investigators of the Directorate of Narcotics Investigation of the Bali Regional Police in handling narcotics crimes against child offenders include: In the process of investigation and investigation of child perpetrators, it has not been maximized because the perpetrators are children, there is still a lack of supporting facilities and facilities for investigators in monitoring and preventing the use and distribution of drugs, the allocation of investigation time which requires investigators to carry out the investigation process quickly, the lack of coordination between related agencies both from the Police, the Child Rehabilitation Center, Parents and the community which results in the absence of evaluative reports on the investigation process of narcotics crime cases by children.

Recommendations

Based on the description above, the suggestions that the author can convey are as follows:

1. The need for awareness from everyone, both adults and children, not to try to use drugs, because it will have a very bad impact on the health and mentality of its users. In terms of its relationship with children as perpetrators of narcotics crimes, especially as users of narcotics, it takes a big role from parents to always supervise their children and provide education that narcotics are dangerous and prohibited items.
2. The police as law enforcement officers must be more aggressive in eradicating narcotics so that the graph of narcotics circulation can decrease and even better can be completely eradicated. If the perpetrator of narcotics is a child, of course, restorative justice must be prioritized with the Diversion system.

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