
JUVENILE SENTENCING POLICY IN CASES OF UNAUTHORIZED POSSESSION OF SHARP WEAPONS: A STUDY OF NORTH JAKARTA DISTRICT COURT JUDGMENT 2024–2025

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ABSTRACT

This research is motivated by the complexity of handling cases of unauthorized possession of sharp weapons by juveniles in conflict with the law. The normative conflict between the repressive Emergency Law No. 12 of 1951 and the restorative Juvenile Criminal Justice System Law has led to inconsistencies in court judgment and legal uncertainty. This study aims to analyze the current sentencing policy in addressing such criminal acts. The method used is normative juridical with a statutory approach and case approach (analysis of North Jakarta District Court judgment 2024–2025), as well as qualitative analysis of primary, secondary, and tertiary legal materials. The results show disparities in case rulings and weak standard guidelines for imposing sanctions: some juveniles were sentenced to social institution rehabilitation or vocational training, while others were simply returned to their parents. This disparity creates legal uncertainty for juveniles as offenders, since similar cases are treated differently without clear criteria. In conclusion, the current sentencing policy has not consistently applied the principles of restorative justice and ultimum remedium, thus harmonization of legislation and clear guidelines are needed to ensure legal protection for children.

Keywords: *Juveniles in Conflict with the Law. Restorative Justice. Disharmony of Legislation. Juvenile Sentencing System.*

1. Introduction

The rising number of cases involving the unlawful possession of sharp weapons by children in conflict with the law has become a serious issue within the juvenile criminal justice system (SPPA) in Indonesia.² The juvenile criminal justice system adopts a restorative justice paradigm to emphasize the rehabilitation and social reintegration of children. However, in the context of

¹ **Submission:** 6 June 2025 | **Review-1:** 25 June 2026 | **Review-2:** 25 June 2026 | **Copyediting:** 2 Juli 2026 | **Production:** 2 Juli 2026

² Ratri Novita Erdianti, Sholahuddin Al-Fatih Ratri Novita Erdianti, and Sholahuddin Al-Fatih, "Fostering as an Alternative Sanction for Juveniles in the Perspective of Child Protection in Indonesia," *Journal of Indonesian Legal Studies* 4, no. 1 (May 6, 2019): 119–28, <https://doi.org/10.15294/JILS.V4I01.29315>.

criminal offenses involving the unlawful possession of sharp weapons by children, the application of Emergency Law No. 12 of 1951, which carries severe penalties of up to 10 years' imprisonment, often conflicts with the spirit of Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), which prioritizes the principle of *ultimum remedium*. Emergency Law No. 12 of 1951 was enacted as a security control instrument following the proclamation of independence, focusing on deterrence without considering the characteristics of the offender,³ including when the offender is a child still in the stage of psychological development. Conversely, the UU SPPA mandates the use of diversion and rehabilitation efforts first before sentencing a child to imprisonment. The difference in spirit and philosophical orientation between these two regulations subsequently created a significant normative conflict, as the rationale for punishing a child's unauthorized possession of a weapon under one framework is retributive, while the other prioritizes a restorative approach and the protection of children's rights.

Supreme Court data reveals a high number of cases involving children prosecuted under Emergency Law No. 12 of 1951.⁴ According to a search of the Supreme Court's Judgment Directory, there were 43 cases involving children in conflict with the law adjudicated by the North Jakarta District Court from 2024 to 2025. Of this total, 22 cases or more than 50 percent, involved the unauthorized possession of sharp weapons, which were prosecuted under Emergency Law No. 12 of 1951. The high proportion of cases involving the possession of sharp weapons among juvenile cases indicates a serious issue that requires attention, particularly since the criminal provisions in that Emergency Law still adhere to a retributive paradigm with severe prison sentences as penalties. An analysis of North Jakarta District Court rulings found that only approximately 54.5 percent of cases involving

³ A. Ardianda Patria and Azhar, "Penerapan Undang-Undang Darurat No. 12 Tahun 1951 Terhadap Pelaku Pembawa Senjata Tajam," *Jurnal Hukum Program Studi Ilmu Hukum Program PascaSarjana Universitas Sriwijaya* 1, no. 2 (2003): hlm 29.

⁴ Mahkamah Agung Republik Indonesia, "Data Perkara Di Pengadilan Negeri Pada Tahun 2022-2024," n.d., [https://badilum.mahkamahagung.go.id/attachments/article/4857/Infografis Anak Berhadapan Dengan Hukum.pdf](https://badilum.mahkamahagung.go.id/attachments/article/4857/Infografis%20Anak%20Berhadapan%20Dengan%20Hukum.pdf).

minors' possession of sharp weapons were resolved through a restorative approach, imposing sanctions such as placement in social welfare institutions, vocational training, or return to parental custody, while the remainder were processed using a retributive approach. This study will focus solely on 12 rulings by the North Jakarta District Court that prioritized a restorative justice approach in resolving the cases by imposing corrective measures as stipulated in Article 82 of the Child Criminal Justice System Act. These twelve rulings demonstrate variations in the forms of sanctions imposed, including return to parents, rehabilitation at Social Welfare Institutions or Social Rehabilitation Centers, and vocational training. It is this variation in the imposition of measures for cases with similar characteristics that is the focus of this study, to understand whether there are clear criteria and standards in the application of restorative justice toward child offenders of the crime of unauthorized possession of sharp weapons.

The normative conflict that has arisen cannot be viewed as a mere technical issue; rather, it reflects a fundamental clash of paradigms within Indonesia's criminal justice system. Emergency Law No. 12 of 1951 was enacted during a period when the nation was facing security threats, so it is understandable that its provisions are repressive in nature and prioritize social control through strict punishment. However, continuing to rigidly apply this emergency law to children in the 21st century, without adapting it to developments in law and human rights, is inconsistent with Indonesia's commitment as a State Party to the Convention on the Rights of the Child. The principle of the best interests of the child,⁵ which serves as the foundation of the Child Protection Act in UU SPPA, should be the primary consideration at every stage of handling cases involving children, including in determining whether a child carrying a sharp weapon without authorization should be processed through formal judicial mechanisms or resolved through a more

⁵ Mashuril Anwar and M. Ridho Wijaya, "Fungsionalisasi Dan Implikasi Asas Kepentingan Terbaik Bagi Anak Yang Berkonflik Dengan Hukum: Studi Putusan Pengadilan Tinggi Tanjung Karang," *Undang: Jurnal Hukum* 2, no. 2 (2019): hlm 268, <https://doi.org/https://doi.org/10.22437/ujh.2.2.265-292>.

humane restorative approach. Unfortunately, the high level of criminal penalties in the Emergency Law often serves as a formal barrier for law enforcement officials to pursue diversion,⁶ as Article 7 of the Child Criminal Justice System Law stipulates that diversion must be pursued only for criminal offenses punishable by imprisonment of less than 7 years.

The issue becomes even more complex when judicial practice reveals striking disparities in sentencing for cases with similar characteristics. Between 2024 and 2025, the North Jakarta District Court issued at least 12 rulings that prioritized a restorative approach for cases involving minors in possession of sharp weapons. Of these 12 rulings, three types of measures were imposed: return to parents, placement in a Social Welfare Institution or Social Rehabilitation Center, and vocational training. However, a deeper analysis reveals that there are no clear and measurable criteria regarding when a child should be returned to their parents and when they should be placed in a rehabilitation facility. In some cases, the judge's decision even differed from the recommendations provided by the Probation Office, without adequate explanation regarding the basis for such considerations. This situation indicates that judicial discretion, while essential for achieving substantive justice, has operated without standardized guidelines, thereby potentially leading to procedural injustice and undermining the principle of equality before the law.

The objectives of the state are essentially set forth in the preamble to the 1945 Constitution, namely to protect the entire Indonesian nation and to promote the general welfare.⁷ Kusnanto Anggoro, in a seminar at the 8th National Comparative Law Conference in Denpasar, Bali, noted that efforts are needed to realize the state's objectives, namely by delegating authority to specific institutions that will act as the primary agents to protect national

⁶ Tekun Ibadata, "Penegakan Hukum Terhadap Anak Yang Membawa Atau Menyimpan Senjata Tajam Di Wilayah Hukum Polresta Yogyakarta," *Lex Librum : Jurnal Ilmu Hukum* 11, no. 2 (2025): hlm 158, <https://doi.org/https://doi.org/10.46839/ljih.v11i2.493>.

⁷ Barda Nawawi Arief, *Tujuan Dan Pedoman Pidanaan (Perspektif Pembaharuan & Perbandingan Hukum Pidana)*, 3rd ed. (Semarang: Pustaka Magister, 2011).

security, whether that security is framed within the context of state security or public order.⁸ To achieve the aforementioned objective, the Indonesian state has implemented criminal policy.⁹ Barda Nawawi Arief, in his book, defines criminal policy broadly as the effort to enforce legal instruments through official bodies authorized to uphold the central norms of society.¹⁰ This definition is crucial for understanding how the state, through law enforcement agencies, should respond to the phenomenon of criminal acts involving the possession of sharp weapons by children, a response that must not be solely focused on punishment but must also prioritize child protection norms as central norms.

Given the complexity of the issues outlined above, this study aims to analyze the normative inconsistencies between Emergency Law No. 12 of 1951 and Law No. 11 of 2012 on the Juvenile Criminal Justice System in the context of juvenile sentencing, to examine the patterns of application of the juvenile sentencing system in the judgments of the North Jakarta District Court from 2024 to 2025 that prioritize a restorative justice approach, as well as assessing the consistency of the application of the principles of restorative justice and the principle of *ultimum remedium* in the practice of juvenile criminal justice in Indonesia.

Previous research addressing similar issues has generally highlighted challenges in implementing restorative justice within the SPPA, including confusion among law enforcement officials regarding the application of restorative justice in certain cases. One of the key issues raised in previous research is the technical difficulties faced by the police in implementing Indonesian National Police Regulation No. 8 of 2021 on the Handling of

⁸ Kusnanto Anggoro, "Keamanan, Pertahanan Negara, Dan Ketertiban Umum," in *Departemen Kehakiman Dan HAM RI* (Bali, 2003).

⁹ Agung Hartawan, "Tafsir Hukum Klausul Tanpa Hak Dalam Pasal 2 Undang-Undang Darurat No. 12 Tahun 1951 Tentang Mengubah 'Ordonnantie Tijdelijke Bijzondere Strafbepalingen' (Stbl. 1948 Nomor 17) Dan Undang-Undang Republik Indonesia Dahulu Nomor 8 Tahun 1948," *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 3, no. 1 (January 31, 2020): 42–60, <https://doi.org/10.33474/YUR.V3I1.4861>.

¹⁰ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana* (Jakarta: Kencana, 2017).

Criminal Offenses Based on Restorative Justice in cases involving the possession of sharp weapons. This regulation requires dialogue and reconciliation between the perpetrator and the victim as essential elements of restorative justice,¹¹ whereas in practice, the criminal offense of unauthorized possession of sharp weapons is often a crime without a direct victim. It is this condition that subsequently creates administrative difficulties in meeting the formal requirements of restorative justice. Although previous studies have made significant contributions to identifying barriers to the implementation of restorative justice from normative and administrative perspectives, these studies have not deeply linked these technical issues to the more fundamental normative conflict between Emergency Law No. 12 of 1951 and Law No. 11 of 2012. Furthermore, previous research has not specifically analyzed the impact of this normative conflict on the consistency of sentencing in court decisions.

The novelty of this research lies in its simultaneous analysis of the normative conflict between repressive security regulations and restorative child protection regulations, which have typically been examined separately in various legal studies. By employing an approach based on a study of recent rulings from the North Jakarta District Court from 2024 to 2025, this study is able to present a factual picture of concrete disparities in the practice of sentencing children for cases of unauthorized possession of sharp weapons. This study asserts that the primary issue in handling such cases does not lie solely in normative aspects but also in the inconsistency of the criminal justice system's application, which directly impacts legal uncertainty for children. Thus, this study not only contributes to normative research on the harmonization of legislation but also offers a critical analysis of existing judicial practices.

¹¹ Muhammad Riyamizar Riartono and Fuad Nur, "Analisis Penerapan Restorative Justice Terhadap Tindak Pidana Tanpa Korban Membawa Senjata Tajam Oleh Pelaku Anak Di Kota Kendari," *Jurnal Ilmu Sosial Dan Humaniora* 1, no. 3 (July 17, 2025): hlm 680-690, <https://doi.org/10.63822/3HERR679>.

Based on these conditions, this study raises the main research question: how does the current penal system policy in handling criminal cases of unauthorized possession of sharp weapons committed by children in conflict with the law conflict with the law? The aim is to analyze the normative inconsistency between Emergency Law No. 12 of 1951 and Law No. 11 of 2012, to examine patterns of the application of the juvenile penal system in the judgments of the North Jakarta District Court from 2024 to 2025, and to assess the consistency of the application of the principles of restorative justice and the principle of ultimum remedium in the practice of juvenile criminal justice in Indonesia.

2. Research Method

This study employs a normative legal research method,¹² which is a scientific research procedure aimed at discovering the truth based on the scientific logic of law from a normative perspective. The scientific logic in this study is based on an analysis of applicable laws and regulations, legal principles, and legal doctrines relevant to the issues under examination. The approaches used in this study are the statutory approach¹³ and the case approach. The statutory approach involves cataloging and examining legal provisions related to the criminal offense of possession of sharp weapons and the juvenile criminal justice system, such as Emergency Law No. 12 of 1951, Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 1 of 2023 on the Criminal Code, Supreme Court Regulation No. 4 of 2014 on Guidelines for the Implementation of Diversion, and Supreme Court Regulation No. 1 of 2024 on Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. Meanwhile, the case approach was conducted by analyzing the judgments of the North Jakarta District Court from 2024 to 2025 that were the subject of the study, particularly those related to cases of unlawful possession of sharp weapons by children in conflict with the law.

¹² Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

¹³ Haryono, *Hukum, Teori Dan Metode Penelitian Normati* (Malang: Bayumedia, 2005).

The data sources for this study consist entirely of secondary data, comprising primary legal materials, secondary legal materials, and tertiary legal materials.¹⁴ Primary legal materials include legislation with binding force, namely the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 1946 on the Criminal Code, Emergency Law No. 12 of 1951, Law No. 11 of 2012 on the Juvenile Criminal Justice System, Law No. 1 of 2023 on the Criminal Code, as well as related implementing regulations such as Supreme Court Regulation No. 4 of 2014 and Supreme Court Regulation No. 1 of 2024. In addition, the judgments of the North Jakarta District Court from 2024 to 2025, which are the subject of this study, are also included in the category of primary legal materials. Secondary legal materials were obtained from various scientific literature such as legal books, scientific journals, previous research results, papers, and articles relevant to the subject of the study. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other sources such as websites and newspapers that can support and provide guidance on primary and secondary legal materials.

Data collection was conducted through library research¹⁵ by identifying, cataloging, and reviewing all relevant legal materials. All collected materials were then qualitatively analyzed using a qualitative descriptive analysis method. This analysis began by identifying inconsistencies between Emergency Law No. 12 of 1951 and the Juvenile Criminal Justice System Law, followed by an analysis of patterns in the application of the sentencing system within the judgments of the North Jakarta District Court, which served as the subject of this study. Content analysis was employed to systematically, logically, and thoroughly classify and interpret the legal materials. These findings underscore the urgent need for a penal system policy that aligns with the principles of restorative justice and the doctrine of *ultimum remedium*, and

¹⁴ Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Jakarta: Kencana Prenada Media Group, 2005).

¹⁵ Mestika Zed, *Metode Penelitian Kepustakaan* (Jakarta: Yayasan Pustaka Obor Indonesia, 2014), <https://www.scribd.com/document/526191239/METODE-PENELITIAN-KEPUSTAKAAN>.

that ensures legal certainty and optimal protection for children in conflict with the law.

3. Results and Discussion

3.1. Inconsistencies between Emergency Law No. 12 of 1951 and the SPPA Law

The normative conflict between these two regulations stems from fundamental differences in their objectives and the spirit in which they were enacted. Emergency Law No. 12 of 1951 was drafted during a period of civil emergency following the proclamation of independence, with the primary aim of maintaining national security through a harsh retributive approach. Its main focus was on preventing the circulation of weapons among the civilian population to preserve national stability. Article 2(1) of this law explicitly stipulates a prison sentence of up to 10 years for anyone who possesses, carries, or owns a sharp weapon without a permit. This provision is absolute, offering no exceptions or consideration of the perpetrator's background, motivation, or psychological and social conditions including when the perpetrator is a child. This Emergency Law remains trapped in a colonial mindset that emphasizes repressive state control. The absence of a positive definition of sharp weapons in this law, which relies solely on negative definitions in the form of exceptions poses challenges to legal certainty and grants broad discretion to law enforcement officials.¹⁶

In contrast, Law about Juvenile Criminal Justice System adopts a very different paradigm, namely restorative and rehabilitative justice, prioritizing the best interests of the child.¹⁷ The Juvenile Criminal Justice System Law affirms the principle of *ultimum remedium*, which makes

¹⁶ Willa Wahyuni, "Mengenai Restorative Justice," *Tim Hukum Online*, June 20, 2022, <https://www.hukumonline.com/berita/a/mengenai-restorative-justice-lt62b063989c193/?page=all>.

¹⁷ Ansori, "Criminal Justice System of Children in The Law Number 11 of 2012 (Restorative Justice)," *Rechtsidee* 1, no. 1 (2014): 1–130, <https://doi.org/https://doi.org/10.21070/jihr.v1i1.95>.

imprisonment the last resort in sentencing children.¹⁸ Article 5 of this law mandates the use of diversion as a mechanism for resolving cases involving children outside the formal judicial process. The principle of restorative justice in the Child Criminal Justice System Act focuses on restoring relationships between the offender, the victim, and the community, as well as instilling a sense of responsibility in the child, rather than emphasizing retribution. Diversion, as a key instrument of restorative justice, aims to avoid stigmatization, prevent the deprivation of the child's liberty, and encourage community participation in the case resolution process.

The differences in purpose and spirit between these two regulations give rise to a fundamental normative conflict, in which the repressive and retributive Emergency Law No. 12 of 1951 stands in direct opposition to the progressive and restorative Juvenile Criminal Justice System Law. This disharmony is clearly evident in the practice of case resolution in the field, where law enforcement officials are often faced with the dilemma of choosing between proceeding with formal criminal proceedings under the Emergency Act or applying diversion mechanisms under the Child Criminal Justice System Act.¹⁹ The high criminal penalties in the Emergency Law structurally push officials to pursue the formal criminal justice pathway, even though the child may ultimately only be subject to corrective measures. This limits the discretion of officials to apply a non-formal approach from the outset, even though Article 7 of the Child Criminal Justice System Act mandates diversion for criminal offenses carrying a penalty of less than 7 years.

¹⁸ Beby Suryani Fithri, "Asas Ultimum Remedium Terhadap Anak Tang Berkonflik Dengan Hukum Dalam Rangka Perlindungan Anak," *Jurnal Mercatoria* 10, no. 1 (2017): hlm 74-88, <https://doi.org/https://doi.org/10.31289/mercatoria.v10i1.733>.

¹⁹ Adi Hardiyanto Wicaksono and Pujiyono Pujiyono, "Kebijakan Pelaksanaan Diversi Sebagai Perlindungan Bagi Anak Yang Berkonflik Dengan Hukum Pada Tingkat Penuntutan Di Kejaksaan Negeri Kudus," *LAW REFORM* 11, no. 1 (March 31, 2015): hlm 12-42, <https://doi.org/10.14710/LR.V11I1.15752>.

The impact of this normative conflict is evident in case data from the North Jakarta District Court. An analysis of rulings from 2024 to 2025 revealed variations in the imposition of sanctions for cases involving minors in possession of sharp weapons, resulting in a range of measures such as return to parents, rehabilitation at social welfare institutions such as the Social Welfare Agency or the Social Rehabilitation Center for Children Requiring Special Protection, and vocational training. This inconsistency is evident, for example, in Judgment No. 29/Pid.Sus-Anak/2025/PN Jkt.Utr, which imposed a six-month rehabilitation program at a Social Welfare Institution on a seventeen-year-old child with no prior record of offenses, who had admitted guilt, and was even recommended by the Probation Office to be returned to their parents. This judgment contrasts with the North Jakarta District Court's Judgment No. 47/Pid.Sus-Anak/2025/PN Jkt.Utr, which returned the child to their parents based on similar considerations. This inconsistency in practice stems from a lack of alignment in legal norms, where judges lack clear operational guidelines to prioritize restorative approaches, resulting in the judge's personal discretion or the Probation Office's recommendations often becoming the determining factors. The absence of objective and transparent standards in these legal considerations makes justice for the child seem to depend on the subjectivity of the judicial panel, rather than on the nature of the child's actions.

Based on the framework outlined by Gustav Radbruch, which places justice as the primary priority above legal certainty and utility,²⁰ the absence of objective standards in these rulings indicates the failure of the judicial system to realize the most fundamental legal ideal. When justice for children is heavily dependent on the subjectivity of the panel of judges, the value of justice as the highest legal objective has been

²⁰ Abdul Aziz Nasihuddin Et Al., *Teori Hukum Pancasila*, 1st Ed. (CV. Elvaretta Buana, 2024), [https://jdih.unsoed.ac.id/app/common/dokumen/BUKU TEORI HUKUM PANCASILA.Pdf](https://jdih.unsoed.ac.id/app/common/dokumen/BUKU%20TEORI%20HUKUM%20PANCASILA.Pdf).

sacrificed for the sake of illusory procedural legal certainty, because children with similar cases are treated differently without a clear and transparent basis, thereby failing to achieve the goal of comprehensive child protection.²¹

This normative inconsistency in existing legal policies has a direct impact on the optimization of legal protection for children. Unequal treatment in cases with similar qualifications creates legal uncertainty for children and their families, where children cannot predict whether they will be returned to their families or must undergo rehabilitation in an institution for months, even though the legal facts are similar. According to Jan Michiel Otto, legal certainty is not merely the formal clarity of rules, but also the ability of citizens to navigate and understand the state's legal system.²² This means that children and their families must be able to reasonably predict the judicial process and determine the type of sanctions that will be imposed, so that they can plan for their recovery effectively. This obscures the parameters of the best interests of the child as mandated by Article 3 of the Convention on the Rights of the Child and the Law on the Juvenile Criminal Justice System, because without standard criteria and transparency, the assessment of the best interests of the child can devolve into arbitrary discretion. Furthermore, research conducted by Sofyan and Gunardi also demonstrates that children placed in different LPKS facilities may receive programs that vary significantly in quality and intensity.²³

²¹ Nila Audina Indratiwi and Totok Minto Leksono, "Tinjauan Yuridis Terhadap Hak Dan Perlindungan Hukum Bagi Anak Pelaku Tindak Pidana Dalam Proses," *Dinamika Hukum & Masyarakat* 5, no. 1 (June 6, 2023), <https://doi.org/10.30737/dhm.v5i1.3865>.

²² Ananda, "Teori Kepastian Hukum Menurut Para Ahli," n.d., <https://www.gramedia.com/literasi/teori-kepastian-hukum/>.

²³ Irwan Sofyan and Kurniawati Gunardi, "Implementasi Pendidikan Formal Bagi Anak Yang Berkonflik Dengan Hukum Di Lembaga Pembinaan Khusus Anak Kelas II Bandung," *Jurnal Socius: Journal of Sociology Research and Education* 7, no. 1 (June 12, 2020): 23, <https://doi.org/10.24036/SCS.V7I1.173>.

Furthermore, the lengthy and rigid judicial process also threatens children's right to education. The average duration of legal proceedings from arrest to verdict is 29 days, which is a significant period in the school academic calendar.²⁴ Children who are detained and forced to undergo formal criminal proceedings are almost certain to have to drop out of school temporarily or even permanently due to the stigma²⁵ from both the school and their peers. Judgment No. 48/Pid.Sus-Anak/2025/PN Jkt.Utr, in which the perpetrator's mother stated that her child's education was interrupted due to this case, highlights the failure of the judicial system to fulfill its constitutional mandate regarding children's right to education.

3.2. The Juvenile Justice System in Handling Cases of Unlawful Possession of Sharp Weapons

An analysis of 12 judgments at North Jakarta District Court reveals a clear pattern: An analysis of 12 judgments at North Jakarta District Court reveals another fact, namely that although the juvenile criminal justice system normatively upholds the principles of restorative justice and the principle of ultimum remedium, in practice there are alarming inconsistencies in the imposition of measures against children in conflict with the law. The sanctions imposed vary and can be grouped into three categories: return to parents, rehabilitation in social institutions, and vocational training. However, this variation does not necessarily reflect an ideal policy; rather, it serves as a primary indicator of the absence of standardized criteria governing the selection of sanctions. Consequently, judicial discretion which should function as an instrument of substantive justice, risks devolving into arbitrary power that harms the child. The

²⁴ Mahatma Mustika Purwa Wijaya, "Pemenuhan Hak Pendidikan Anak Yang Berkonflik Dengan Hukum (ABH) (Studi Kasus Lpka Ii Yogyakarta)" (Universitas Islam Indonesia Yogyakarta, 2024).

²⁵ Lailatul Mufidah and Uswatul Khasanah, "Implikasi Diversi Dalam Membentuk Tanggungjawab Anak Menuju Keadilan Restoratif," *Jurnal Legislatif*, 2019, hlm 24-37, <https://doi.org/10.20956/JL.V2I2.10217>.

following is a summary of the Types of Measures in 12 Judgment s of the North Jakarta District Court (2024–2025).

Table 1. Summary of Types of Rulings in 12 Judgment s of the North Jakarta District Court (2024–2025)

Type of Action	Total of Judgments	Judgment Number	Duration/ Description
Return to Parents/Guardians	3	No. 36/Pid.Sus-Anak/2025/PN Jkt.Utr	With the additional condition of mandatory reporting for 1 year
		No. 48/Pid.Sus-Anak/2025/PN Jkt.Utr	Returned to parents
		No. 47/Pid.Sus-Anak/2025/PN Jkt.Utr	Returned to parents
Rehabilitation at a Social Institution	8	No. 18/Pid.Sus-Anak/2024/PN Jkt.Utr	5 months at BRSAMPK "Handayani"
LPKS/BRSAMPK/LPKA		No. 25/Pid.Sus-Anak/2025/PN Jkt.Utr	6 months at BRSAMPK "Handayani"
		No. 24/Pid.Sus-Anak/2025/PN Jkt.Utr	3 months at the Class II LPKA in East Jakarta
		No. 29/Pid.Sus-Anak/2025/PN Jkt.Utr	6 months at the Handayani Juvenile Correctional Center
		No. 30/Pid.Sus-Anak/2025/PN Jkt.Utr	4 months at the Handayani BRSAMPK
		No. 31/Pid.Sus-	4 months at the Handayani Juvenile

		Anak/2025/ PN Jkt.Utr	Correctional Facility
		No. 6/Pid.Sus- Anak/2025/ PN Jkt.Utr	4 months at the Sentra Handayani Juvenile Correctional Facility
		No. 22/Pid.Sus- Anak/2025/ PN Jkt.Utr	5 months at Handayani Juvenile Correctional Facility
Vocational Training	1	No. 4/Pid.Sus- Anak/2025/ PN Jkt.Utr	3 months at the Handayani Center
Total		12	

Source: Directory of Supreme Court Judgments

Based on the data in the table above, it is evident that placement in a social institution is the most dominant option, accounting for 8 out of 12 rulings. This phenomenon warrants critical scrutiny as it indicates a tendency among judges to opt for institutional interventions, which, in essence, remain a form of deprivation of the child's liberty,²⁶ even though they are framed as "measures" considered more humane than imprisonment. Article 3(1) of Supreme Court Regulation No. 1 of 2024 explicitly states that one of the objectives of restorative justice is to prevent the deprivation of a child's liberty. However, practice shows that placing children in Social Welfare Institutions, Social Rehabilitation Centers for Children Requiring Special Protection, or Special Juvenile Correctional Institutions still restricts the children's physical and psychological freedom.

The return to parents, which was ordered in only 3 rulings, reflects the judges' low confidence in the family's capacity as the primary agent of recovery. This is problematic because Article 2 of the Child Criminal Justice System Act specifically emphasizes the best interests of the child

²⁶ Ririn Nurfaathirany Heri et al., "Perampasan Kemerdekaan Dan Pembatasan Kebebasan Dalam Hukum," *Seminar Nasional LP2M UNM* 0, no. 0 (December 1, 2023), <https://doi.org/10.25041/FIATJUSTISIA.V7NO1.362>.

and the child's survival and development, which should prioritize efforts to ensure the child's continued development and access to education.²⁷ According to research conducted by Dimas Aljamili Haq, the success of a child's rehabilitation is significantly influenced by the family's emotional support, which encompasses five aspects: (1) empathy, (2) care, (3) attention, (4) positive reinforcement, and (5) motivational encouragement.²⁸ Even more ironically, out of the 3 rulings ordering the child's return to the parents, only 1 ruling included a requirement for supervision by a Probation Officer, while the other 2 rulings lacked clear monitoring mechanisms. This situation is further exacerbated by the provisions of Article 58 of Law No. 22 of 2022 on Correctional Services, which states that the duties of a Probation Officer end once the client has completed their sentence as determined by the court's judgment.

Consequently, once the child is returned to their parents, there is no longer any formal mechanism requiring ongoing support and supervision, thereby rendering the court's judgment ineffective in ensuring the child genuinely undergoes a rehabilitation process. This indicates that court orders for return to parents often amount to a "wash-of-hands" approach by the court, without any guarantee that the child will actually receive adequate guidance within their family environment. The fact that vocational training was mentioned in only one court judgment also suggests that a rehabilitative approach focused on productivity and empowerment has not yet become the primary orientation for judges in imposing measures.

Factors considered in the rulings, such as the absence of a criminal record, the child's cooperative attitude, and their status as a student, should serve as strong grounds for returning the child to their parents under strict supervision. Yet, these same factors were used to justify placing the child in

²⁷ Tim Hukumonline, "Perlindungan HAM Dalam Pasal 28A Sampai 28J UUD 1945," Hukumonline, n.d., <https://www.hukumonline.com/berita/a/pasal-28a-sampai-28j-uud-1945-lt642a9cb7df172/?page=2>.

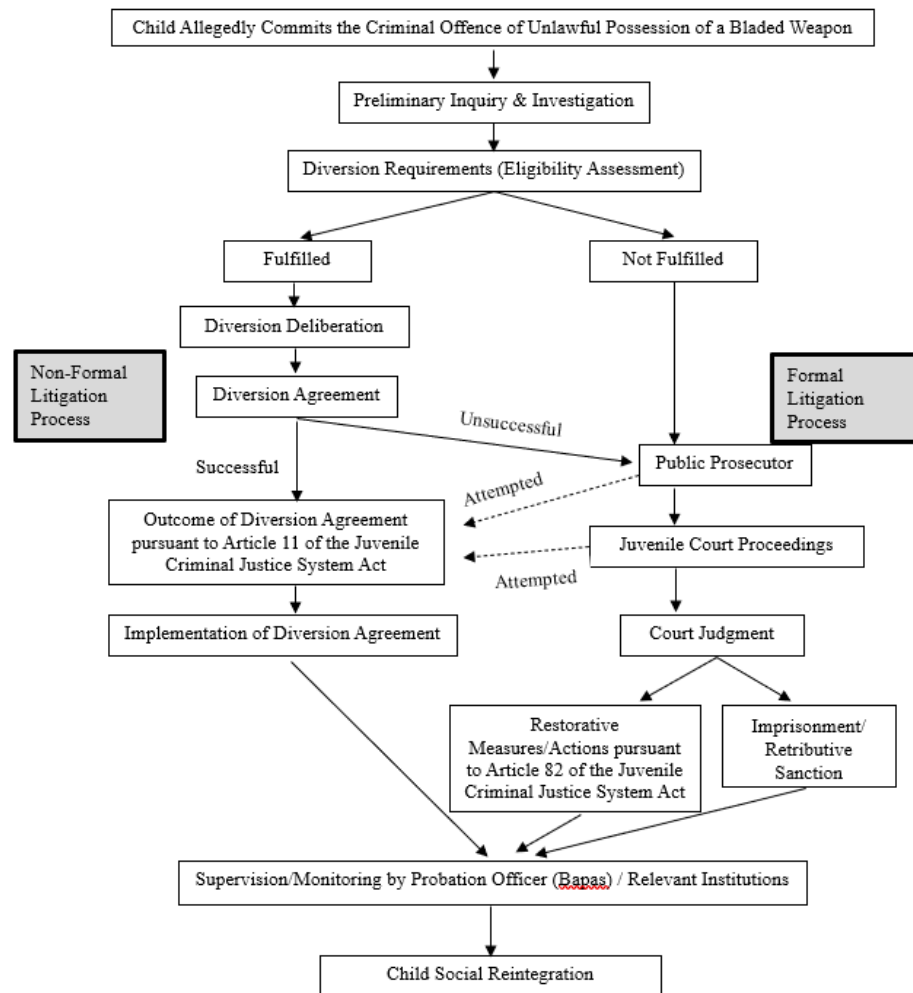
²⁸ Dimas Aljamili Haq, "Dukungan Emosional Keluarga Dalam Proses Rehabilitasi Sosial Anak Berhadapan Hukum Di Sentra Handayani Jakarta" (Universitas Islam Negeri Jakarta, 2023).

a rehabilitation facility in 8 rulings. This indicates a logical inconsistency in the judges' reasoning, where mitigating factors paradoxically lead to harsher sanctions involving deprivation of liberty. Although, placing children in specialized institutions for training/rehabilitation has been proven to have positive effects on them. When a child with no criminal record, who admits to the offense, regrets the act, and is still actively attending school, is still required to undergo institutional rehabilitation for months on end, this practice reveals a fundamental contradiction between the restorative goals sought and the reality that the child is instead separated from their social environment and education.

A more fundamental problem is evident in the discrepancy between the judge's ruling and the recommendations provided in the Social Assessment Report from the Probation Office. The Social Assessment Report, prepared by the Probation Officer, is the result of a comprehensive assessment of the child's social, psychological, and environmental conditions; therefore, it should be the primary consideration in determining the action most aligned with the child's best interests. However, in practice, judges do not always heed these recommendations. The most striking example is Judgment No. 29/Pid.Sus-Anak/2025/PN Jkt.Utr, in which the Probation Office recommended return to the parents, yet the panel of judges instead imposed a six-month rehabilitation sentence at a Social Welfare Institution.

This ruling does not provide an adequate explanation as to why the professional recommendations from the Probation Office were disregarded, thereby raising serious questions about the quality of the legal reasoning employed. Conversely, in judgments No. 36, 47, and 48, which share similar characteristics, the judges followed the Probation Office's recommendation and returned the child to the parents. This inconsistency cannot be academically justified as it reflects the absence of objective standards in judicial decision making.

Figure 1. Flowchart of the System for the Transfer of Ownership of Unlicensed Sharp Weapons Committed by Minors



The diagram above systematically illustrates the case handling process as it should proceed according to normative provisions. However, it must be noted that in practice, this process actually creates legal uncertainty at critical junctures. For instance, during the assessment of eligibility for diversion, Article 7 of the Child Criminal Justice System Act which mandates diversion for offenses carrying a sentence of less than 7 years, actually serves as a formal barrier to applying a restorative approach in cases involving the possession of sharp weapons, which are punishable by up to 10 years' imprisonment under Emergency Act No. 12 of 1951. As

a result, these children are forced to undergo a lengthy formal litigation process that risks creating negative stigma,²⁹ even though they are ultimately only subject to a disposition. This situation demonstrates that the normative conflict between the two laws has created a systemic gap that harms children. Nevertheless, the formal barriers in Article 7 of the Child Criminal Justice System Act can be overcome through more flexible judicial mechanisms oriented toward the best interests of the child.³⁰

At the sentencing stage, the diagram shows two pathways: restorative measures and retributive imprisonment. However, the research findings indicate that although all children in these 12 sentences were sentenced to restorative measures, the restorative quality of these sentences remains questionable. Placing a child in a correctional facility for months, even though it is called a “measure,” is in essence no different from the deprivation of liberty. This contradicts the true spirit of diversion, which is to divert the child from the formal criminal justice system, not merely to shift the form of punishment from prison to a similar institution. In other words, what is occurring is not a diversion from the system, but rather a diversion within the system that does not alter the essence of the deprivation of liberty.³¹

From the perspective of the principle of Equality Before the Law, which is a cornerstone of the rule of law, the inconsistencies in these 12 rulings demonstrate the failure of the judicial system to ensure equal justice for children. This principle, one of the pillars of the rule of law as described by A.V. Dicey³² does not merely mean that everyone is subject to the same law, but also that cases with similar qualifications must be

²⁹ Aryani Witasari and Muhammad Sholikul Arif, “Implementasi Diversi Guna Mewujudkan Restorative Justice Dalam Sistem Peradilan Pidana Anak” 35, no. 2 (2019).

³⁰ Calvin Pehulisa, “Analisis Pertimbangan Hakim Terhadap Anak Yang Melakukan Tindak Pidana Membawa Senjata Tajam Tanpa Hak (Studi Putusan No. 60/Pid.Sus-Anak/2023/PN Mdn)” (Universitas Medan Area, 2024).

³¹ Fiska Ananda, “Penerapan Diversi Sebagai Upaya Perlindungan Hukum Terhadap Anak Pelaku Tindak Pidana,” *Jurnal Daulat Hukum* 1, no. 1 (March 15, 2018), <https://doi.org/10.30659/JDH.V1I1.2566>.

³² Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution* (Macmillan, 1915), http://files.libertyfund.org/files/1714/0125_Bk.pdf.

treated with equal measure. When two cases with nearly identical facts, such as those between Ruling No. 29 and Rulings No. 36, 47, and 48 result in significantly different rulings, a violation of the fundamental principle of justice has occurred. A child facing the judicial process cannot predict whether they will be reunited with their family soon or instead must undergo institutional care for months, even though the relevant factors in their case are the same as in other cases that received lighter sentences. This uncertainty not only harms the child psychologically but also obscures the parameters of the “best interests of the child,” which should be the primary guiding principle in every decision-making process involving a child.

Based on a critical analysis of the 12 court decisions and the policy flowchart above, it can be concluded that the current application of sentencing policies in juvenile court practice for cases involving the possession of sharp weapons is far from ideal and fraught with problems. The normative conflict between the retributive Emergency Law No. 12 of 1951 and the restorative Juvenile Criminal Justice System Law cannot be resolved by relying solely on judicial discretion, especially when such discretion operates without clear and transparent guidelines. The lack of harmony between these two legal frameworks, compounded by the absence of objective standards in selecting the type of sanction, has created inconsistent judicial practices that potentially violate children’s constitutional rights. Children with similar case characteristics may receive significantly different treatment, solely due to differences in judicial interpretation, rather than substantial differences in the facts of the case. This situation not only leads to injustice but also obscures the purpose of juvenile punishment, which should be oriented toward rehabilitation and social reintegration, rather than toward a range of sentences dependent on the subjectivity of the panel of judges. Thus, this study rejects any justification of current practices and instead highlights the imperative for

fundamental reform of juvenile justice policies to ensure they are genuinely oriented toward the best interests of the child.

4. Conclusion

This study found that the current criminal justice system policies in handling cases of unlawful possession of sharp weapons by children in conflict with the law are still plagued by normative inconsistencies that lead to inconsistencies in judicial practice. The conflict between Emergency Law No. 12 of 1951, which prioritizes a retributive approach with severe criminal penalties, and Law No. 11 of 2012 on the Juvenile Criminal Justice System, which advocates restorative justice, has created a dilemma in legal application, as reflected in the disparity of rulings at the North Jakarta District Court. Children with similar case characteristics such as having no criminal record, admitting guilt, and being students receive differing treatments, ranging from return to parents to placement in social institutions, which, in essence, still deprive them of their freedom. This situation is exacerbated by weak post-ruling oversight mechanisms, particularly regarding the return to parents, thereby failing to ensure the goals of the child's rehabilitation and reintegration.

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