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#### Article Title

## **Detention of Children by Public Prosecutors in General Criminal Cases: A Case Study of the Buton District Prosecutor's Office**

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**ABSTRACT**

*This study examines the practice of child detention by the Public Prosecutor in general criminal cases at the Buton District Prosecutor's Office, focusing on its conformity with the principles of ultimum remedium and the best interests of the child as mandated by the Juvenile Criminal Justice System Law (UU SPPA). Although the legal framework emphasizes that detention should only be applied as a last resort, empirical findings indicate a tendency toward overuse: from 47 child cases handled between 2020 and 2025, 41 children were detained while only 6 were not. The majority of cases involved theft, violence, narcotics offences, and sexual crimes. Survey data show that 90% of respondents perceived detention as "effective," reflecting a preference for legal certainty and public order rather than rehabilitation and restorative justice. The study identifies three key factors contributing to this pattern: limited understanding of restorative justice principles, structural constraints such as inadequate child-specific detention facilities and inconsistent inter-agency coordination, and cultural pressures from society and the media that encourage punitive approaches. The findings highlight a significant disparity between normative child protection standards and prosecutorial practices. Strengthening restorative justice, expanding non-custodial measures, improving infrastructure, and enhancing institutional coordination are crucial for aligning detention practices with child protection principles.*

**Keywords:** *Child Detention; Public Prosecutor; Juvenile Justice; Restorative Justice*

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**INTRODUCTION**

Law occupies a central position as the commander and lifeline of state and social life in the Unitary State of the Republic of Indonesia. As a social norm, law is intended to regulate and maintain order in social interaction, and therefore inherently contains commands and prohibitions that demand compliance from every individual. For law to function effectively, it must be understood not only as written norms but also as a system that operates through institutions and law enforcement officers vested with the authority to compel the implementation of those norms (Isnantiana, 2019).

In legal theory, a distinction is made between *lex perfecta* and *lex imperfecta*, namely rules accompanied by sanctions and rules that are not. The presence of sanctions indicates that the implementation of law ultimately depends on the existence of an authority empowered to enforce it (Noerdin, 2025). In traditional societies, such authority rested with customary leaders, whereas in modern states it is exercised by state organs such as the police, the public prosecutor's office, and the courts. Thus, discussions on legal effectiveness cannot be separated from how law enforcement agencies exercise their authority (Usman, 2014).

Criminal law enforcement concerns not only the formulation of statutory provisions but also how law enforcement officials respond to and anticipate various forms of crime emerging in society. Law is often positioned as an instrument of social engineering, expected to guide societal change toward greater order, justice, and civility. In this context, coercive measures—including detention—constitute an important yet potentially problematic instrument (Weenas, 2024).

Detention is one form of coercive action that may be carried out by investigators, public prosecutors, and judges within the criminal justice process (Motulo, 2020). Detention is intended to ensure the smooth progress of investigation, prosecution, and

trial, particularly to prevent suspects or defendants from fleeing, destroying or altering evidence, or repeating the offense (Maringka & Kindangen, 2023). Article 1 point 21 of the Criminal Procedure Code (KUHAP) defines detention as the placement of a suspect or defendant in a designated facility by an investigator, public prosecutor, or judge pursuant to statutory procedures (Anzhari & Muhibbin, 2024).

At the prosecution stage, the authority to order detention lies with the public prosecutor. Article 14(c) KUHAP authorizes prosecutors to impose detention, extend detention, order further detention, or modify the status of detainees after the case is transferred by investigators (Firmansyah, 2020). This authority is further reinforced by Article 20(2) KUHAP, which provides that for the purpose of prosecution, prosecutors may order detention or further detention. Article 21(1) KUHAP additionally requires sufficient preliminary evidence along with concerns that the suspect or defendant may flee, destroy evidence, or reoffend as legal grounds for detention (Marbun & Rosalina, 2022).

Theoretically, the prosecutorial authority to detain serves a strategic function to ensure the effectiveness of prosecution and to protect the interests of victims and society. However, this authority also carries the potential for abuse of power (Dewanti et al., 2025). Abuse may occur due to insufficient understanding of the normative limits of detention authority, pressures from external parties, or subjective perceptions regarding the suspect or the case handled. In such situations, detention risks shifting from a law enforcement instrument to a form of human rights violation.

Issues in the application of prosecutorial detention can be grouped into subjective and objective problems. Subjective problems relate to the attitudes and behavior of prosecutors, such as insufficient objectivity in assessing preliminary evidence, inaccurate interpretation of statutory threats of punishment, or failure to consider factors that may cause suspects to flee or reoffend. Objective problems relate to factors outside the prosecutor, such as limited facilities, public pressure, or intervention from parties demanding immediate detention. Both types of problems may result in violations of suspects' or defendants' rights (Siregar & Koto, 2019).

Detention is fundamentally a restriction of personal liberty and must therefore be applied as a last resort (*ultimum remedium*) and carried out carefully, proportionally, and in accordance with the principles of due process of law and the presumption of innocence. Violations of these principles not only harm suspects materially and immaterially but also erode public trust in the integrity of the criminal justice system.

The issue becomes far more complex when the subject of detention is a child in conflict with the law (Krisna, 2018). Under various national and international legal instruments, children are recognized as individuals undergoing physical, mental, and social development who require special protection. The juvenile justice system emphasizes the best interests of the child, restorative justice, and prioritizing non-custodial measures. Therefore, detention of a child must be considered with extraordinary caution, both in terms of legal basis and potential impacts on the child's future.

In reality, criminal acts committed by children are often influenced by social, educational, economic, or familial factors. Children who commit offenses may themselves be victims of unfavorable structural conditions. Thus, child detention

should not be viewed merely as a deterrent but should be placed within a rehabilitative framework emphasizing recovery and social reintegration.

In local contexts, the prosecutorial detention of children has triggered debate in several regions. In Buton Regency, for example, a theft case involving children aged 12–15 occurred at a retail shop. One child, referred to as AF, was deemed the main instigator and was proposed for detention by the prosecutor. This decision generated public and familial debate, particularly regarding the psychological and social impacts of detention on the child.

On one hand, some argue that detention is necessary to uphold legal authority and provide a deterrent effect. On the other hand, many believe that detention may harm the child's future, cause stigmatization, and hinder their education and character development. This illustrates the tension between retributive and rehabilitative approaches in juvenile justice.

These circumstances demonstrate that prosecutorial detention of children requires stricter, more transparent, and accountable standards. Prosecutors must carefully assess the fulfillment of formal and material requirements while remaining sensitive to child protection principles and restorative justice. Coordination with child protection agencies, social workers, psychologists, and juvenile correctional institutions is essential to ensure that children's rights remain protected throughout the legal process.

To prevent abuse of detention authority, several measures are necessary, including increasing prosecutors' capacity and understanding of criminal procedure and child protection law, enforcing prosecutorial discipline and ethics, and strengthening both internal and external oversight through institutions such as the Prosecutorial Commission. Enhanced oversight mechanisms are expected to ensure that detention is imposed only when it complies fully with KUHAP and child protection principles.

Based on this analysis, there is an urgent need to examine thoroughly the implementation of prosecutorial detention in general criminal cases committed by children, particularly within the Buton District Prosecutor's Office. This research is expected to provide empirical and juridical insights into the considerations, procedures, and implications of child detention by prosecutors, ultimately contributing to policy reform and the development of more humane law enforcement practices aligned with the best interests of the child.

## METHOD

This study employs an empirical legal research type, namely research that examines how law operates in reality through the behavior of law enforcement officers and the community. This approach was chosen because the focus of the study lies in the practice of prosecutorial authority to detain in general criminal cases committed by children, which requires direct observation of socio-legal phenomena in the field. The research was conducted within the jurisdiction of the Buton District Prosecutor's Office, as this institution handles various general criminal cases involving children, making it relevant for obtaining empirical data on detention practices, legal considerations, and the accompanying social dynamics.

The data used consist of primary and secondary data. Primary data were obtained through interviews and questionnaires distributed to informants selected using purposive sampling, namely individuals considered knowledgeable, competent, or directly involved in the detention process of children—such as offenders, victims, police officers, prosecutors, and community leaders—amounting to a total of 20 respondents. Secondary data were used to strengthen the analysis and include statutory regulations, legal literature, institutional documents, and various scholarly sources relevant to detention authority within the criminal justice system, particularly concerning children in conflict with the law. Data collection was carried out through in-depth interviews and documentation of institutional archives, case files, and official documents from the Buton District Prosecutor's Office.

The data obtained were then analyzed using theoretical and legal conceptual frameworks relevant to answering the research questions. As this study is empirical in nature, the analytical method used is a combination of simple quantitative analysis and qualitative descriptive analysis. Quantitative analysis was applied to process questionnaire data, while descriptive analysis was used to interpret field findings, contextualize respondents' perspectives, and relate them to positive law provisions. Accordingly, the results of this study are expected to provide a comprehensive overview of the implementation of prosecutorial detention authority in general criminal cases committed by children.

## RESULT AND DISCUSSION

### A. Implementation of Detention by Public Prosecutors in Cases Involving Children

The detention of children within the criminal justice system is a highly sensitive measure because it directly affects human rights, particularly the rights of the child as guaranteed by both national law and international instruments. In the Indonesian context, protection of children in conflict with the law is affirmed in Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), the Convention on the Rights of the Child ratified by Presidential Decree No. 36 of 1990, and Law No. 39 of 1999 on Human Rights. Article 3(c) of the UU SPPA stipulates that the juvenile criminal justice system aims to ensure that children can live, grow, and develop optimally in accordance with human dignity and to obtain protection from violence and discrimination. Consequently, detention of children must be positioned as a last resort (*ultimum remedium*) and must be in line with the principle of restorative justice (Ferdiansya & Suherman, 2024).

The UU SPPA strictly limits the scope of detention of children. Article 32(2) provides that detention may only be carried out if a child is suspected of committing a criminal offence punishable by imprisonment of seven years or more and is considered dangerous to themselves, others, or the surrounding environment. This provision is intended to prevent detention from becoming a routine instrument and to restrict it to cases that truly meet the formal and material requirements (Mulyadi, 2023). However, the findings of this research at the Buton District Prosecutor's Office show that the practice of detaining children remains rather repressive and does not yet fully reflect the principle of child protection.

## 1. Statistical Overview of Child Detention at the Buton District Prosecutor's Office

The empirical picture of the implementation of detention by public prosecutors against children in conflict with the law at the Buton District Prosecutor's Office can be seen in the following table:

Table 1. Case Data of Children in Conflict with the Law (ABH) 2020–2025

No.	Name of Child in Conflict with the Law	Article Charged	Detention Status	Year	Remarks
1	SARJUN alias ARJUN bin LA ISI, et al.	Article 170(2)(1) Criminal Code	Not detained	2020	Sent ence executed
2	REZA GUNAWAN bin ASIS KAIMUDIN	Article 363(1)(3) and (5) Criminal Code	Detained	2020	Sent ence executed
3	DARTO bin SANUSI	Article 363(1)(3) Criminal Code	Detained	2020	Sent ence executed
4	NUZUL bin USMAN DAALE	Article 351(2) Criminal Code	Not detained	2020	Fugitive (DPO)
5	GILANG ARDANA alias GILANG bin AMSIDIK, et al.	Article 363(1)(3) and (4) Criminal Code	Detained	2020	Sent ence executed
6	UNTUNG FATAM bin AWALUDIN	Article 81(1) jo. Article 76D Child Protection Law	Detained	2020	Sent ence executed
7	SALIM KARISMA alias SALIM bin LA SANUSI, et al.	Article 81(3) jo. Article 76D Child Protection Law	Detained	2020	Sent ence executed
8	MUHAMMAD ABJAN KHALIK bin MUSIDIN, et al.	Article 2(1) Emergency Law No. 12 of 1951	Detained	2020	Sent ence executed
9	DIMAS PRASETYO bin DARSIN SUSANTO	Article 2(1) Emergency Law No. 12 of 1951	Detained	2020	Sent ence executed
10	MUHAMAD ADAM SUKARIA alias ADAM bin LA SUKARIA	Article 81(2) Child Protection Law	Detained	2020	Sent ence executed
11	MAS'UD bin UDIN	Article 82(1) jo. Article 76E Child Protection Law	Detained	2020	Sent ence executed
12	NADIL alias NALDIN alias DARTO bin SANUSI	Article 363(1)(5) Criminal Code	Detained	2021	Sent ence executed
13	IKSAN bin LA ODE YUSUF EFENDI	Article 363(1)(3) Criminal Code	Detained	2021	Sent ence executed
14	MUHAMAD IQBAL MAENUDIN alias IQBAL bin MAENUDIN	Article 81(2) Child Protection Law	Detained	2021	Sent ence executed
15	LA DOLI alias DOLI bin LA SIDI	Article 81(2) Child Protection Law	Detained	2021	Sent ence executed
16	NADIL alias NALDIN alias DARTO bin SANUSI	Article 363(1)(5) Criminal Code	Detained	2022	Sent ence

					executed
17	KETUT RIZKI ARDANA alias RIZKI	Article 362 Criminal Code	Not detained	2022	Fugitive (DPO)
18	PUTRA MAULANA alias PUTRA bin SOFYAN	Article 112(1) Law No. 35 of 2009 on Narcotics	Detained	2022	Sentence executed
19	AKBAR ADHARSONO PUTRA bin DARSONO	Article 2(1) Emergency Law No. 12 of 1951	Detained	2022	Sentence executed
20	FERDIANTO ALDI alias ALDI bin LA HARUMI	Article 81(2) Child Protection Law	Detained	2022	Sentence executed
21	ASWAN alias LA AWA bin AGUS	Article 82(4) jo. Article 76E Child Protection Law	Not detained	2022	Execution
22	ANDIKA bin RUSLI	Article 363(1)(3) Criminal Code	Detained	2023	Sentence executed
23	RAHMAT bin RAMLI, et al.	Article 362 Criminal Code	Not detained	2023	Case file returned
24	YAHYUB bin YUSUF	Article 338 Criminal Code jo. Article 76C Child Protection Law	Detained	2023	Sentence executed
25	RIYAN alias AWANG bin LA NOONO	Article 81(2) Child Protection Law	Detained	2023	Sentence executed
26	RISWAN bin AHMAD	Article 81(2) Child Protection Law	Detained	2023	Sentence executed
27	RIKO alias UMANG bin AHMAT A.	Article 81(2) Child Protection Law jo. Article 64(1) Criminal Code	Detained	2023	Execution
28	CAISAR ARYA YUDHA BAHULU alias ARYA bin HARIASI SALAD	Article 82(1) jo. Article 76E Child Protection Law	Detained	2023	Execution
29	ATNAN PUTRA alias ATNAN bin SURDIN, et al.	Article 81(1) jo. Article 76D Child Protection Law jo. Article 56(1) Criminal Code	Detained	2023	Execution
30	FIDIANA alias LA ADE alias LA AGOE bin LA DEWA	Article 285 Criminal Code	Detained	2023	Execution
31	MAULANA ABDILAH PAPUTUNGAN alias ABDI bin RAHMAT R	Article 82(1) jo. Article 76E Child Protection Law	Detained	2024	Sentence executed
32	OBIN alias OBI bin LA MAA	Article 81(1) jo. Article 76D Child Protection Law	Detained	2024	Sentence executed
33	MUHAMAD AGIL WABULA alias AGIL bin JEFRI WABULA	Article 81(1) jo. Article 76D Child Protection Law	Detained	2024	Sentence executed
34	CAISAR ARYA YUDHA BAHULU alias ARYA bin HARIASI SALAD	Article 82(1) jo. Article 76E Child Protection Law	Detained	2024	Sentence executed
35	YASIN alias ACING bin ZAKARIA	Article 81(1) jo. Article 76D Child Protection Law jo. Article 55(1)(1) Criminal Code	Detained	2024	Sentence executed
36	SATRIA bin HERI, et al.	Article 81(2) jo. Article 76D Child Protection Law jo. Article 55(1)(1) Criminal Code	Detained	2024	Execution
37	NASRUDIN alias OTEL bin ALIMUDIN M.	Article 81(2) jo. Article 76D Child Protection Law jo. Article 55(1)(1) Criminal Code jo. Article 64(1) Criminal Code	Detained	2024	Execution

38	LA RAMUNA DEWA alias RAMUNA bin LA RANGKO	Article 82(1) jo. Article 76E Child Protection Law	Detained	2024	Execution
39	LA NAIDI alias NALDI bin LA ADI	Article 81(2) jo. Article 76D Child Protection Law jo. Article 55(1)(1) Criminal Code jo. Article 64(1) Criminal Code	Detained	2024	Execution
40	EDWIN alias EWIN bin LA DAENA	Article 81(2) jo. Article 76D Child Protection Law jo. Article 55(1)(1) Criminal Code	Detained	2024	Execution
41	ALDI MANSUR alias ALDI bin MANSUR MARA	Article 81(1) jo. Article 76D Child Protection Law jo. Article 55(1)(1) Criminal Code	Detained	2024	Execution
42	BARDAN FERLIWAN BONE alias BARDAN bin UMAR	Article 81(2) jo. Article 76D Child Protection Law	Detained	2024	Execution
43	MUHAMAD FERDI alias FERDI bin ERWIN	Article 81(2) jo. Article 76D Child Protection Law	Detained	2025	Sentence executed
44	MUHAMAD FAHRI R. alias IFAN bin RIDWAN T	Article 82(1) jo. Article 76E Child Protection Law	Detained	2025	Sentence executed
45	HENDRA bin LA SIDI	Article 80(1) jo. Article 76C Child Protection Law	Not detained	2025	Sentence executed
46	ADIT LA SARI alias ADIT bin LA MULI	Article 81(2) jo. Article 76D Child Protection Law	Detained	2025	Sentence executed
47	WIRA DHARMA JAYANDIKA alias WIRA bin I WAYAN SUARDIKA	Article 81(2) jo. Article 76D Child Protection Law jo. Article 55(1)(1) Criminal Code	Detained	2025	On trial

From the 47 child-in-conflict-with-the-law (ABH) cases handled during 2020–2025, only 6 cases involved no detention, while 41 cases resulted in detention, most of which ended in execution of the court's sentence. The dominant types of offences include theft (Articles 362 and 363 Criminal Code), assault (Article 351 Criminal Code), sexual offences and violence against children (Articles 81 and 82 of the Child Protection Law), narcotics offences, and violations of Emergency Law No. 12 of 1951.

Quantitatively, these data indicate that detention remains the primary option for public prosecutors in handling cases involving children. When compared with the principle that detention of children should be a measure of last resort, this pattern suggests a tendency toward “overuse” of detention. In other words, although from an enforcement perspective detention is viewed as important to ensure the smooth conduct of proceedings and execution of judgments, from the standpoint of child protection the pattern is less effective in realizing the aims of the UU SPPA, which emphasizes rehabilitation and social reintegration.

The relatively high reliance on detention also shows that non-custodial alternatives such as diversion, community-based programmes, or supervision by parents and social institutions have not been optimally utilized. This is consistent with the findings of various studies and reports by child protection bodies which note that law-enforcement officials still frequently treat detention as the primary instrument rather than the last resort.



## 2. Respondents' Perceptions of Detention by Public Prosecutors

In addition to case data, this study also gathered respondents' perceptions through questionnaires distributed to 20 individuals consisting of offenders, victims, police officers, prosecutors, and community leaders. The results are summarized in the following table.

Table 2. Implementation of Detention by Public Prosecutors in Cases Involving Children

No.	Response	Frequency	Percentage (%)
1	Effective	18	90
2	Less effective	2	10
3	Ineffective	0	0
<b>Total</b>		<b>20</b>	<b>100</b>

(Source: Questionnaire distribution, 2025)

These data show that 90% of respondents consider the implementation of detention by public prosecutors in cases involving children to be “effective”, while 10% regard it as “less effective”, and none consider it “ineffective”. This finding is noteworthy because, on the one hand, the majority of respondents view detention as an effective means of disciplining children who commit crimes and ensuring that court proceedings run smoothly. On the other hand, when compared with the data in Table 1 and the principles of the UU SPPA, the dominant use of detention reveals an imbalance between the aims of law enforcement and the obligation to protect children.

The divergence between respondents' assessment of effectiveness and the normative standards of child protection indicates that the “effective” parameter used by local communities and officials is more closely associated with order and legal certainty than with the rehabilitation and recovery of the child. This is the core problem: detention is deemed successful because the child is “punished” and the case is “settled”, whereas the success of the juvenile justice system should also be measured by the extent to which the child's rights are protected and real opportunities for self-improvement are preserved.

## 3. Normative Analysis and Practice of Detention

From a doctrinal perspective, A. Moeljatno reminds us that criminal law must not be used to punish arbitrarily, especially against vulnerable groups such as children. In his view, criminal law fundamentally aims to educate and protect society, not merely to retaliate against offenders. In line with this, Barda Nawawi Arief emphasizes that the juvenile criminal law system must be based on the principle of special treatment—that is, treatment that does not equate children with adults in terms of criminal responsibility, procedural examination, and execution of penalties. Accordingly, the implementation of detention by public prosecutors should be subject to the principle of special protection for children and must not be carried out automatically (Munajat, 2023).

The findings of this study at the Buton District Prosecutor's Office indicate that most detained children are aged between 15 and 18, with the most common offences being theft, narcotics, and fights between students. Alternative instruments such as diversion, settlement through deliberation, or placement of children in non-custodial

rehabilitation institutions are still relatively rarely used. This situation is consistent with reports by the Indonesian Child Protection Commission (KPAI), which state that many law-enforcement officers still regard diversion as a secondary option, so that detention remains the dominant practice in handling juvenile criminal cases.

#### 4. Procedure for Detaining Children by Public Prosecutors

##### 4.1 Procedure for Detention of Children

Normatively, the authority of public prosecutors to detain is regulated in Article 21(1) of the Criminal Procedure Code (KUHP). Public prosecutors are authorized to detain if there is sufficient preliminary evidence and strong reasons to fear that the suspect or accused will abscond, destroy or remove evidence, or repeat the offence. In cases involving children, these KUHP provisions must be read together with the UU SPPA so that the procedure may never be separated from the best interests of the child.

- a. **Sufficient Preliminary Evidence.** Public prosecutors must ensure that detention of a child is based on truly strong preliminary evidence, such as witness statements, physical evidence, medical reports, electronic recordings, and a confession obtained lawfully from the child. Ideally, this standard of proof should be stricter than in adult cases, given that detention of children has far greater psychological and social impact.
- b. **Strong Reasons for Concern.** In addition to preliminary evidence, public prosecutors must carefully assess whether there are strong reasons to fear that the child will abscond, destroy evidence, or repeat the offence. This assessment should not rely solely on the severity of the statutory penalty, but must also consider family conditions, social environment, behavioural history, and available parental or guardian supervision. In practice, this aspect often remains subjective and can be influenced by external pressure.

##### 4.2 Subjective and Objective Considerations

- a. **Subjective Considerations.** Subjective considerations relate to the attitudes, perceptions, and values held by public prosecutors when exercising their authority. At the Buton District Prosecutor's Office, for example, there was a theft case committed by a group of children in which one child (AF) was detained because he was considered the "mastermind" of the offence. Although detention was legally possible, parts of the community and AF's family questioned the decision for allegedly neglecting his social and psychological background. This example illustrates how subjective bias on the part of prosecutors can influence detention decisions and potentially disregard the principle of child protection.
- b. **Objective Considerations.** Objective considerations concern factors outside the prosecutor, such as limited supervision facilities, the absence of alternative rehabilitation institutions, and pressure from victims, victims' families, or public opinion. Pressure that "the perpetrator must be detained" often encourages prosecutors to choose detention to quell social unrest, even though normatively detention is not always the most proportionate option. These objective factors demonstrate that institutional design and systemic support largely determine the extent to which child-protection principles can be implemented.

### 4.3 Impact of Detention on Children

- a. **Psychological Impact.** Detention can cause trauma, fear, low self-esteem, and anxiety disorders in children. Detained children generally lack the emotional maturity to cope with closed environments and strict discipline. Negative experiences in detention facilities can disrupt psychological development and form a poor self-image.
- b. **Social Impact.** From a social perspective, detained children are at risk of dropping out of school, becoming isolated from healthy play and learning environments, and being stigmatized by the community. Labels such as “ex-convict” or “delinquent child” often cling to them after release, hindering social reintegration and increasing the risk of recidivism.
- c. **Material Impact.** Detention also affects the economic condition of the family. The costs of legal assistance, visits to detention facilities, and other needs can become a heavy financial burden, particularly for low-income families. In many cases, parents have to reduce working hours or lose income to accompany the child during the legal process.

### 4.4 Rehabilitative versus Retributive Approaches

- a. **Retributive Approach.** The retributive approach views detention and punishment as means of proportionate retaliation and deterrence. In the context of children, this approach is considered inappropriate because it ignores the distinctive nature of children as individuals who are still developing and highly capable of change. Detention that over-emphasizes retribution risks exacerbating deviant behaviour.
- b. **Rehabilitative Approach.** Conversely, the rehabilitative approach treats the child as a subject to be restored rather than merely punished. It prioritizes education programmes, counselling, moral guidance, skills training, and family and community support. Within the framework of the UU SPPA, diversion, out-of-court settlement, and placement in special child-care institutions are concrete forms of this rehabilitative approach. Its implementation at the Buton District Prosecutor’s Office still needs to be strengthened so that detention truly becomes a last resort while the main orientation remains on the child’s recovery and future.

## B. Factors Constraining Public Prosecutors in Implementing Detention in Criminal Cases Committed by Children

The implementation of detention of children by public prosecutors is a crucial stage in the juvenile criminal justice system. Although it has been normatively regulated in Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), practice in the field still shows various obstacles that hinder the effective exercise of detention powers in line with the principle of child protection. Detention as a form of deprivation of liberty has not only physical consequences, but also psychological and social impacts on the child’s development. Barda Nawawi Arief stresses that the penal system for children should essentially be directed toward guidance and behavioural improvement rather than merely serving as a means of retributive punishment. Thus, detention of children must be placed within a framework of protection, rehabilitation, and the best interests of the child. This study finds that the obstacles faced by public

prosecutors in implementing detention can be grouped into three main factors: the substance of the law, the structure of the law, and the legal culture.

## 1. Factors of Legal Substance

### a. Limited Understanding of the UU SPPA and Restorative Justice by Public Prosecutors

One substantive obstacle is the uneven understanding among public prosecutors of the UU SPPA and the paradigm of restorative justice. Many prosecutors have not received specific training on handling juvenile cases, so the approach used still relies on the pattern of general criminal law. This is in line with Andi Hamzah's view that the quality of law-enforcement officials largely determines the quality of criminal law enforcement, and that juvenile cases require particular sensitivity and a different approach.

Perceptions of respondents on this issue are presented in the following table.

Table 3. Statement on the Limited Understanding of Public Prosecutors of the UU SPPA and Restorative Justice in the Implementation of Detention in Cases Involving Children

No	Answer	Frequency	Percentage (%)
1	Yes	3	15
2	No	17	85
<b>Total</b>		<b>20</b>	<b>100</b>

Source: *Questionnaire distribution, 2025*

These data show that only 15% of respondents consider the limited understanding of public prosecutors regarding the UU SPPA and restorative justice to be an obstacle, while 85% state that it is not. One respondent explained that the Buton District Prosecutor's Office has implemented diversion and restorative justice, resulting in peaceful settlements between the child and the victim; detention is carried out while still referring to the UU SPPA and not as a form of retaliation, but rather to facilitate the execution of the court's decision if diversion fails.

Nevertheless, analytically, the majority "no" does not automatically eliminate the problem of understanding. The limited comprehension held by a portion of prosecutors still has the potential to encourage decisions that prioritize legal certainty and institutional interests over the protection of the child's interests. Mahfud MD emphasizes that law enforcement cannot stop at formal legality but must also consider substantive justice, especially for vulnerable groups such as children. In several cases, detention decisions are still often taken without serious efforts to implement diversion, which reveals traces of a repressive approach.

### b. Limited Understanding of the Principle of Restorative Justice

Beyond general understanding of the UU SPPA, comprehension of restorative justice as the core spirit of the juvenile justice system is also not yet fully strong. Some prosecutors still regard detention as a symbol of firmness in law enforcement without adequately considering the psychological and social impact on the child. In fact, Article 6 of the UU SPPA expressly requires that juvenile cases be resolved by prioritizing restorative justice, namely a settlement that involves the offender, the victim, and the community.

Table 4. Statement that Limited Understanding of the Principle of Restorative Justice in the Implementation of Detention in Cases Involving Children Becomes an Inhibiting Factor

No	Answer	Frequency	Percentage (%)
1	Yes	9	45
2	No	11	55
<b>Total</b>		<b>20</b>	<b>100</b>

Source: Questionnaire distribution, 2025

As many as 45% of respondents state that limited understanding of restorative justice is an inhibiting factor, while 55% say it is not. One respondent who disagreed actually stressed that understanding restorative justice is very important: with adequate comprehension, public prosecutors can handle juvenile cases with a more holistic approach oriented toward the child's best interests. This means that even though some respondents do not yet perceive it as a real obstacle, from a normative standpoint restorative justice should be a key parameter in assessing whether the detention of a child is appropriate.

## 2. Factors of Legal Structure

### a. Limited Availability of Special Child Detention Facilities

At the structural level, the lack of special detention facilities for children is one of the dominant obstacles. Not all regions have adequate Temporary Child Placement Institutions (LPAS) and Special Child Development Institutions (LPKA). As a result, in practice children are still frequently placed in adult detention centres, which clearly contradicts Article 16(1)(d) of the UU SPPA requiring separation between juvenile and adult detainees. Reports from the Indonesian Child Protection Commission (KPAI) indicate that about 42% of detained children are still mixed with adult detainees, thereby increasing the risk of violence and fostering stronger criminal traits.

Table 5. Limited Availability of Special Child Detention Facilities as an Inhibiting Factor in the Implementation of Detention by Public Prosecutors in Cases Involving Children

No	Answer	Frequency	Percentage (%)
1	Yes	15	75
2	No	5	25
<b>Total</b>		<b>20</b>	<b>100</b>

Source: Questionnaire distribution, 2025

A total of 75% of respondents agree that limited special detention facilities for children constitute an obstacle to the ideal implementation of detention, while 25% disagree. The majority emphasize the importance of adequate facilities to ensure child protection and rehabilitation; without such facilities, access to education, counselling, and a supportive developmental environment becomes very restricted. The National Human Rights Commission (Komnas HAM) even considers the detention of children in improper facilities as a form of violation of children's human rights.

### b. Lack of Training and Capacity of Public Prosecutors

Another structural obstacle is the sub-optimal provision of special training on the juvenile criminal justice system for public prosecutors. Handling juvenile cases

requires sensitivity, empathetic communication skills, and an understanding of child psychological development. A report by the Training and Education Centre of the Attorney General's Office of the Republic of Indonesia (2021) notes that only about 36% of public prosecutors have attended specialized training on juvenile cases.

Table 6. Lack of Training and Capacity of Public Prosecutors as an Inhibiting Factor in the Implementation of Detention in Cases Involving Children

No	Answer	Frequency	Percentage (%)
1	Yes	9	45
2	No	11	55
<b>Total</b>		<b>20</b>	<b>100</b>

Source: Questionnaire distribution, 2025

The table shows that 45% of respondents acknowledge the lack of training and human-resource capacity as an inhibiting factor, while 55% disagree. One respondent stated that the Attorney General's Office periodically organizes special training on juvenile cases so that public prosecutors possess the capability to handle under-age offenders. Nevertheless, structurally not all prosecutors have equal opportunities to participate, so disparities in capacity still potentially affect the quality of detention decisions. Topo Santoso reminds us that law enforcement against children must not be carried out by officials who lack child-protection competencies, as this will produce counter-productive legal actions.

### c. Coordination Barriers among Institutions

The implementation of the juvenile criminal justice system demands close coordination among the police, prosecutors, courts, Probation and Parole Offices (BAPAS), and LPKA. However, this study reveals persistent coordination barriers such as differing institutional orientations, delays in transmitting case files, and the absence of an integrated communication platform. Delays in the issuance of social inquiry reports (litmas) by BAPAS, for example, hinder the application of diversion and prolong legal uncertainty for the child.

Table 7. Coordination Barriers among Institutions as an Inhibiting Factor in the Implementation of Detention by Public Prosecutors in Cases Involving Children

No	Answer	Frequency	Percentage (%)
1	Yes	8	40
2	No	12	60
<b>Total</b>		<b>20</b>	<b>100</b>

Source: Questionnaire distribution, 2025

Some 40% of respondents agree that inter-institutional coordination barriers are an inhibiting factor, whereas 60% disagree. One respondent opined that coordination is actually in place but acknowledged ongoing technical problems in practice. Analytically, the 40% figure remains significant because it shows that almost half of the respondents directly experience the effects of insufficient synergy, especially in terms of the speed of information exchange and the determination of alternative legal measures such as diversion.

#### d. Non-optimal Internal Supervision and Evaluation

From the internal institutional perspective, the lack of optimal supervision and evaluation of detention policies for children also constitutes a structural obstacle. The prosecution service does have a layered oversight mechanism—from immediate superiors, the supervisory division, to the Deputy Attorney General for Supervision (Jamwas). However, existing regulations on supervision remain general and do not specifically provide for periodic evaluation of detention decisions for children and compliance with restorative-justice principles.

Table 8. Non-optimal Internal Supervision and Evaluation as an Inhibiting Factor in the Implementation of Detention by Public Prosecutors in Cases Involving Children

No	Answer	Frequency	Percentage (%)
1	Yes	8	40
2	No	12	60
<b>Total</b>		<b>20</b>	<b>100</b>

Source: *Questionnaire distribution, 2025*

A total of 40% of respondents regard non-optimal internal supervision and evaluation as an inhibiting factor, while 60% say otherwise. One respondent asserted that the prosecution service already has a fairly strict functional-supervision mechanism. Nevertheless, normatively, there is still a need for specific performance indicators related to child protection—for example, the ratio of diversion to detention or audits of child detention cases that end in acquittals—so that internal supervision truly addresses the quality of detention decisions rather than merely administrative aspects.

### 3. Factors of Legal Culture

#### a. Social and Media Pressure

Factors of legal culture relate to the values, perceptions, and social pressures surrounding the law-enforcement process. In juvenile cases that attract public attention, public prosecutors often face pressure from the community and the media to take firm action in the form of detention, even when the conditions for detention may not have been proportionately met. This pattern encourages an orientation toward institutional image-building and “public security” rather than the principle of child protection.

The Institute for Criminal Justice Reform (ICJR) notes a tendency among law-enforcement officers to prioritize public-security considerations over child-protection principles when making detention decisions. Yet Article 37(b) of the Convention on the Rights of the Child stipulates that detention of children may only be used as a measure of last resort and for the shortest appropriate period of time. UNICEF also shows that detained children suffer multidimensional losses—social, psychological, and educational—that can significantly affect their future.

Table 9. Social and Media Pressure as an Inhibiting Factor in the Implementation of Detention by Public Prosecutors in Cases Involving Children

No	Answer	Frequency	Percentage (%)
1	Yes	6	30
2	No	14	70
<b>Total</b>		<b>20</b>	<b>100</b>

Source: Questionnaire distribution, 2025

As many as 30% of respondents acknowledge social and media pressure as a factor that hinders the objectivity of public prosecutors, while 70% do not. One respondent noted that social pressure can disrupt prosecutorial independence and prompt decisions that are not entirely based on legal considerations. Substantively, even though the percentage is not dominant, this factor remains important because it shows that a legal culture demanding “instant toughness” can conflict with principles of caution and child protection.

Overall, these various constraints indicate that the implementation of detention by public prosecutors in juvenile cases is not merely a matter of applying procedural norms, but also reflects the state’s outlook on the protection of its young generation. Renewed understanding, strengthened structures and facilities, improved inter-institutional coordination, and transformation of legal culture are required so that the juvenile criminal justice system truly orients itself toward justice, humanity, and restorative justice—as emphasized by Mahfud MD, that just law enforcement is not only about certainty but also about humanity.

## CONCLUSION AND SUGGESTIONS

The implementation of child detention at the Buton District Prosecutor’s Office is normatively grounded in the Indonesian Criminal Procedure Code (KUHAP) and the Juvenile Criminal Justice System Law (UU SPPA), which position detention as an *ultimum remedium*. However, in practice, an “overuse” of detention remains evident: of 47 juvenile cases handled between 2020 and 2025, only 6 children were not detained, while 41 were detained—particularly in cases of theft, violence, narcotics offences, and sexual crimes. Although 90% of respondents considered detention “effective,” this assessment emphasizes public order and legal certainty rather than child rehabilitation, as mandated by the UU SPPA and the Convention on the Rights of the Child. This gap reflects that detention practices remain largely repressive, while alternatives such as diversion and non-custodial guidance have not been utilized optimally. The constraints influencing detention practices include legal-substance factors (uneven understanding of the UU SPPA and restorative justice), legal-structure factors (limited LPAS/LPKA facilities, uneven training, suboptimal coordination and supervision), and legal-culture factors (public and media pressure). Therefore, strengthening prosecutors’ understanding, improving infrastructure and inter-institutional coordination, and transforming legal culture toward rehabilitative and restorative approaches are essential to ensure that child detention truly aligns with the principles of protection and the best interests of the child.



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