



Implementation of Guidance for Narcotics Offenders at Class II a Binjai Correctional Institution Under Law No. 22 of 2022

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Abstract

This study aims to evaluate the implementation of coaching for narcotics abuse perpetrators in Class II A Binjai Correctional Institution (Lapas) based on Law No. 22 of 2022 concerning Corrections. The background of this research is the high level of drug abuse in Indonesia and the need for effective coaching strategies in correctional facilities. The research question focuses on how the implementation of coaching in Class II a Binjai Correctional Facility is by the provisions of the law and its impact on the behavior of prisoners. This research uses a qualitative method with a case study approach. Data were collected through in-depth interviews, observation, and document analysis. The results show that the implementation of coaching at Class II A Binjai Correctional Facility includes medical and social rehabilitation programs, but faces obstacles such as the lack of trained human resources and adequate facilities. The conclusion of this study confirms that although there are significant coaching efforts, improvements are still needed in terms of officer training and the provision of infrastructure to achieve more optimal results. The author argues that more effective implementation of Law No. 22 of 2022 could improve the rehabilitation and reintegration of drug abusers into society.

Keywords: Coaching, narcotics, correctional institutions, rehabilitation

Introduction

Narcotics are often identified as something negative, and harmful, and should be avoided, but have many benefits in the medical world (Makaro, 2015) ^[18]. In Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, part weighing letter (c), it is stated that narcotics are medicines and health services and the development of science, but can also cause dependence which is very detrimental if misused or used without strict control and supervision (Atmasasmita, 2017) ^[5]. Narcotics, when used appropriately in dosage and use, such as for treatment or scientific research, can provide benefits for human interests. However, if used more than the correct dose, it can cause health problems in users, and can even be fatal to death (Suyatna, 2018) ^[29].

Law No. 35/2009 on Narcotics regulates criminal provisions, stating that narcotics abuse as well as illicit trafficking and distribution are included in the category of crimes, especially international crimes (Sunarso, 2012) ^[26]. This international crime shows an increase in the quantity and quality of transnational crime organizations, which cross national boundaries and show regional and international cooperation (Sasangka, 2013) ^[22]. The World Ministerial Conference in Naples in November 1994 discussed organized transnational crime (Akbari *et al.*, 2017; Rahmat *et al.*, 2021) ^[2, 20]. The Indonesian government has ratified the 1971 Convention of Psychotropic Substances based on Law No. 8 of 1996, which provides legal consequences that Indonesia is obliged to overcome and eradicate drug abuse crimes (Sunarso, 2014) ^[27].

Law No. 35/2009 on Narcotics explicitly regulates criminal sanctions including the death penalty. The death penalty is a radical attempt to eliminate individuals who are considered incorrigible, thus eliminating the obligation to keep them in prison. Through a humanitarian philosophical approach, the death penalty is considered appropriate to be imposed on

narcotics abusers, especially against networks and dealers, because their actions are very destructive, which in turn can destroy the younger generation of a nation (Abubakar *et al.*, 2022) ^[1]. Narcotics crime is a special crime, where the judge is allowed to impose two main punishments at once, usually corporal punishment and fine (Frinaldi, 2012) ^[11]. Corporal punishment can be in the form of death penalty, life imprisonment, or imprisonment, with the aim that the punishment incriminates the perpetrator so that crime can be tackled in society, considering that narcotics crimes are very dangerous to the interests of the nation and state (Kiaking, 2017) ^[16].

Criminal sanctions imposed by judges against perpetrators of crimes are still considered not to provide fear and are influenced by norms outside legal norms, which are obstacles to consistent law enforcement (Sunarso, 2014) ^[27]. In addition, the great authority of judges in deciding cases often results in the disparity of decisions in similar cases, characterized by sharp substantial differences between the decisions of District Court judges with or between High Court judges and Supreme Court judges, even though they all refer to the same regulations (Sutiyoso, 2010) ^[28]. Criminal law enforcement in Indonesia also has unique, multidimensional, and destructive characteristics, as seen in the handling of drug crime cases, where many deviations from the rules of criminal law occur (Ediwarman, 2014) ^[8].

Community participation obligations are required to participate together with the government in preventing narcotics abuse, such as reporting to law enforcement if they are aware of narcotics abuse (Soekanto, 1990) ^[24]. Although community participation is needed to uncover drug crime cases, the reality is that people are often reluctant to report due to personal security concerns and lack of guarantees for the reporter. In 2015, there were 1,184 drug crime cases in North Sumatra, with 126 cases involving women (10.64%). In 2016, the number of cases increased to 2,996 with 162 cases involving women (8.11%). 2017 recorded 2,143 cases,

with 110 cases involving women (5.13%). Meanwhile, in 2018, there were 1,604 drug crime cases in North Sumatra, with 94 cases involving women (6.22%).

Based on the data above, more and more drug trafficking crimes occur, both by men and women, but women are more often involved in drug trafficking. This research highlights several factors that encourage women to commit drug crimes, even though they are physically and emotionally different from men, such as being more gentle and sensitive. Gender differences are one of the factors that influence a person's behavior in committing a crime (Hamzah & Sumangelipu, 2014) ^[13]. Criminal statistics show that crimes can be committed by both men and women, including juvenile delinquency (Faisal & Faisal, 2017) ^[10].

Narcotics crime cases are generally committed by syndicates that are neatly organized and secretive (Widodo, 2013) ^[30]. Police officers must be consistent and swift in handling every drug case, ensuring that if they meet the requirements, the case is processed to completion. The use and abuse of narcotics involve the community as distributors or users, with addicts required to undergo medical and social rehabilitation. Medical rehabilitation is carried out in hospitals designated by the Minister, while certain rehabilitation institutions may do so after obtaining Ministerial approval (Article 56 of Law No. 35/2009 on Narcotics).

The correctional system is regulated in Law No. 12 Year 1995 and updated with Law No. 22 Year 2022 on Corrections. According to Law No. 12 of 1995, the correctional system is an order that regulates the development of prisoners based on Pancasila, implemented in an integrated manner between the coach, the coached, and the community to improve the quality of prisoners so that they realize their mistakes, improve themselves, and not repeat criminal acts, so that they can be accepted back by society and play an active role in development (Rahmat *et al.*, 2021) ^[20]. Law No. 22 of 2022 emphasizes the method of implementing the correctional function in an integrated manner. Correctional Institutions (Lapas) play an important role in improving the character of prisoners, not only as a place to serve punishment but also to form a better person so that they can be accepted back into society. However, corrections in Indonesian prisons face various problems, such as a lack of officers, inadequate infrastructure, and prison capacity that is not proportional to the number of prisoners (Ariyanto, 2019) ^[4].

The purpose of fostering prisoners through correctional institutions is not only to improve and improve morals and mentality but also to improve the expertise and skills of prisoners who are in correctional institutions. The correctional guidance system is implemented based on the applicable principles. Correctional Institutions as one of the containers for inmate development, in essence, must be able to play a role in whole human development as a place to educate convicted humans to become quality human beings. For this reason, correctional institutions must be able to function as educational institutions and development institutions.

To provide novelty value related to this research, the following researchers present several previous studies that have similar themes to this research:

Hidayat (2021) found that the implementation of coaching for narcotics prisoners at the Yogyakarta Class IIA Correctional Facility, although running, faces obstacles such

as the lack of trained human resources and adequate facilities, and requires policy evaluation for the effectiveness of coaching relevant to Law No. 22 of 2022 (Hidayat, 2021). Setiawan (2020) ^[23] showed that a rehabilitation program based on cognitive and behavioral therapy at the Class IIA Jakarta Narcotics Prison was effective in reducing relapse, but the lack of post-rehabilitation support was a major obstacle (Setiawan, 2020) ^[23]. Sari (2022) ^[21] found that community-based coaching and active community participation in Class IIA Palembang prison are important for rehabilitation and social reintegration, supporting the comprehensive approach in Law No. 22 of 2022 (Sari, 2022) ^[21].

The purpose of this research is to deeply analyze the implementation of coaching for drug abuse offenders at the Class II A Binjai Correctional Institution. This research also aims to identify and evaluate various efforts and obstacles faced in the process of coaching prisoners in the institution. Thus, it is hoped that this research can provide a comprehensive insight into the effectiveness of the coaching program implemented as well as the obstacles that need to be overcome to improve the quality of rehabilitation and social reintegration of drug abusers at Class II A Binjai Correctional Institution.

Methods

This research is directed towards normative or doctrinal juridical legal research, known as library research or document studies because it uses secondary data (Burhan, 2010) ^[6]. This research focuses on legal principles, legal systematics, legal synchronization, legal history, and legal comparisons (Ediwarman, 2016) ^[9]. The aim is not only to describe the state or symptoms of positive and empirical law but also to provide ideal arrangements (das Sollen) and solve legal problems related to the development of drug abuse offenders in correctional institutions based on Law No. 22 of 2022 concerning Corrections. This research was conducted at Class II A Binjai Correctional Facility due to the relevance of the location and object of research to the proposed title.

Data collection in this research uses secondary data which includes primary, secondary, and tertiary legal materials. Primary legal materials include the Preamble and the 1945 Constitution, the Criminal Procedure Code, Law No. 12 of 1995 and No. 22 of 2022 on Corrections, Government Regulation No. 25 of 2011, Law No. 35 of 2009 on Narcotics, as well as Minister of Law and Human Rights Regulation No. 12 of 2017 and other relevant regulations. Secondary legal materials include law books, legal discovery lectures, legal journal articles, comments on court decisions, theses, legal dissertations, and other legal works. Tertiary legal materials include legal and Indonesian dictionaries, related magazines, and newspapers containing drug cases and decisions.

Data collection procedures in this study included the use of primary and secondary data. Researchers collected data through several methods. First, literature study to find concepts, theories, opinions, and findings that are closely related to the subject matter, including legislation and scientific works. Second, field studies to obtain primary data, specifically related to the number of female prisoners in narcotics cases in Class II A Tanjung Gusta Medan Women's Prison. Third, interviews with one prison employee and three convicted narcotics offenders to obtain

maximum results from the research. Data analysis is carried out with qualitative juridical analysis, which emphasizes deductive and inductive inference using formal and argumentative thinking. Qualitative methods are used to describe and explain the data obtained, and processed through interactive analysis which includes cycles of data collection, data reduction, presentation, and conclusion drawing according to the stages proposed by Miles and Huberman in Moleong.

Results and Discussion

Implementation of Counseling Against Perpetrators of Narcotics Abuse in the Correctional Institution of Class II A Binjai Correctional Facility

Law No. 22/1997 on Narcotics was considered no longer by the development of the situation and conditions in overcoming and eradicating narcotics crimes, so it was finally revoked and replaced with Law No. 35/2009 on Narcotics on October 12, 2009. This new law increases efforts to eradicate illicit drug trafficking and abuse (Gayo, 2014) ^[12].

Narcotics crimes are no longer committed individually, but involve many people together, even an organized syndicate with a wide network that works neatly and very secretly both at the national and international levels.

Based on this, to improve efforts to prevent and eradicate narcotics crimes, it is necessary to update Law Number 22 of 1997 concerning Narcotics. This reform aims to prevent an increase in narcotics abuse, especially among the younger generation, as well as to protect the public from the dangers of narcotics and eradicate illicit trafficking. Law No. 35/2009 on Narcotics replaces the previous law and regulates various provisions including narcotics precursors, which are substances or chemicals that can be used in the manufacture of narcotics.

Law No. 35/2009 brought changes in the classification of narcotics, by including 65 types of Class I Narcotics in its appendix. This addition occurred due to the incorporation of Psychotropic Group I (such as ecstasy) and Group II (such as methamphetamine) into Narcotic Group I, considering that methamphetamine and ecstasy are the most popular types for drug addicts (Sunarso, 2014) ^[27]. Article 153 letter b states that the types of Psychotropic Group I and II from Law Number 5 Year 1997 are transferred to Narcotic Group I in Law Number 35 Year 2009. This merger was carried out due to the increasing use of methamphetamine and ecstasy in Indonesia so the criminal sanctions for their use were aggravated. The aggravation of criminal sanctions is regulated by special minimum criminal provisions, 20 years imprisonment, life imprisonment, and death penalty, based on the class, type, size, and amount of narcotics.

Law Number 35/2009 on Narcotics regulates several provisions that discuss etymology and terminology related to the definitions and terms in the law. These provisions include the basis, principles, and objectives of drug regulation based on Pancasila and the 1945 Constitution of the Republic of Indonesia. This law is organized based on the principles of justice, the principle of protection, the principle of humanity, the principle of order, the principle of protection, the principle of security, the principle of scientific values, and the principle of legal certainty.

The purpose of this Narcotics Law is to ensure the availability of narcotics for health services and the development of science and technology, prevent, protect,

and save the Indonesian people from narcotics abuse, eradicate illicit trafficking of narcotics and narcotics precursors, and ensure the regulation of medical and social rehabilitation efforts for narcotics abusers and addicts.

Based on Law No. 35/2009, there was a change in the classification of narcotics by including 65 types of Class I Narcotics in the appendix. This addition is due to the incorporation of Psychotropic Group I (such as ecstasy) and Group II (such as methamphetamine) into Narcotic Group I because methamphetamine and ecstasy are the most desirable for drug addicts. Article 153 letter b states that the types of Psychotropic Group I and II from Law Number 5 Year 1997 have been moved into Narcotic Group I. This merger was done because of the increasing use of Class I narcotics. This merger was carried out due to the increasing use of methamphetamine and ecstasy in Indonesia, so the criminal penalties for the use of methamphetamine and ecstasy were aggravated in Law Number 35 Year 2009. This law regulates criminal sanctions in the form of special minimum punishment, 20 years imprisonment, life imprisonment, and death penalty, based on the class, type, size, and quantity of narcotics (Sunarso, 2012) ^[26].

To streamline the eradication of illicit drug trafficking and abuse, Law No. 35/2009 strengthened the institution of the National Narcotics Agency (BNN) (Sujono & Daniel, 2011) ^[25]. BNN, which is directly responsible to the president, is authorized to conduct investigations and prosecutions. The illicit trafficking of narcotics and narcotic precursors, according to Article 1 point 6 of Law No. 35/2009, is defined as an activity that is carried out without the right or against the law which is considered a narcotics crime. Article 35 states that the scope of illicit trafficking includes the distribution or delivery of narcotics, whether for trade, non-trade, or alienation, which must be accompanied by legal documents according to Article 38. Without legal documents, the trafficking is considered illegal, by the provisions of Law Number 35 of 2009.

Law No. 35/2009 confirms that "Cases of drug abuse and illicit trafficking include cases that take precedence over other cases to be submitted to the court for immediate resolution". In this provision, what is meant by "immediate settlement" starts from examination, and decision-making, up to the implementation of the decision or execution (Gayo, 2014) ^[12].

Criminal Law Policy related to criminal sanctions, punishment, actions, and aggravation in Law Number 35/2009 concerning Narcotics includes several things. First, the sanctions used are criminal sanctions and action sanctions (matrigel). Criminal sanctions include basic crimes such as the death penalty, life imprisonment, imprisonment with a certain time limit, confinement, and fines. Additional penalties include revocation of certain rights against corporations such as revocation of business licenses and/or legal entity status. Action sanctions include medical and social rehabilitation as well as expulsion and prohibition from entering Indonesian territory for foreign nationals who commit criminal offenses in Indonesia after serving criminal sanctions.

The amount of criminal sanctions varies between IDR 1,000,000 to IDR 1,000,000,000. If the crime is committed by a corporation, the fine can be tripled, and imprisonment can range from one to twenty years. Criminal sanctions are formulated in four forms: single (imprisonment or fine only), alternative (choice between imprisonment or fine),

cumulative (imprisonment and fine), and combination/mixed (imprisonment and/or fine). There are specific minimum punishments, such as imprisonment or fine. The aggravation of the crime is based on the amount of narcotics, the consequences of the act, the organization, the use of minors, and recidivism within three years. Attempts and conspiracies are punished the same as the crime committed. If the fine cannot be paid, the perpetrator can be sentenced to imprisonment for a maximum of two years as a substitute.

The policy to use the means of this penal policy in tackling narcotics crimes committed by women is very focused on repressive measures. A very severe punishment is given to the suspected perpetrators of narcotics crimes, this is also a countermeasure to other people who may have the intention to commit narcotics crimes to undo their intentions and will not dare to do so, because of the severe punishment that will be given.

Efforts and Obstacles in the Process of Implementing Guidance for Prisoners at the Correctional Institution of Class II A Binjai Correctional Facility

Combating crime, whether it concerns the legal interests of individuals, society, or the state, is not easy because it is almost impossible to eliminate it. Crime or criminality will remain as long as humans exist on this earth and will be present in all forms of society. Crime is very complex because the behavior of criminals varies and develops along with technological advances that contribute to the increase in drug crime cases. The spread of information through electronic and print media from around the world also has a negative impact.

Drug trafficking in various ways and the negative impacts caused is a serious threat to humanity, so handling it must be a joint movement to sensitize and combat members of the community involved in drug trafficking, including women who play an important role in the household. Women involved in drug trafficking can set a bad example for their children. Therefore, tackling drug trafficking, especially by women, requires special attention. The ways of tackling crime, including drug trafficking, must vary and be adapted to the situation and conditions in a society, and are influenced by culture, government, and existing policies.

Penal efforts are crime prevention by using criminal law (criminal law application), the policy is operationalized by applying criminal law, namely material law, formal law, and *panitisier* law in society. In the 4th UN Congress in Kyoto, it was agreed that crime prevention efforts, including criminal law enforcement, are an integral part of the national development plan (Widodo, 2013) ^[30].

Hoefnagels argues that the application of criminal law to tackle crime covers several scopes. First, criminal justice administration in the narrow sense, which includes the making of criminal law, jurisprudence, and the criminal justice process in both the narrow and broad sense (including the judiciary, psychiatry, and social science), as well as punishment. Second, psychiatry and forensic psychology. Third, forensic social work. Fourth, crime, removal, and statistical policy (Lapian, 2012; Raharjo, 2017) ^[17, 12].

The central issue in penal policy is determining the acts that should be made criminal (criminalization) and the sanctions threatened against offenders (penalization). Penal policy operations include criminalization, decriminalization,

penalization, and depenalization. Criminal law enforcement is highly dependent on the development of legal politics, criminal politics, and social politics. Therefore, law enforcement must consider autonomous laws as well as societal problems and the science of social behavior. About criminal policy, Bambang Purnomo argues that the purpose of criminal law is to protect society and each of its members to achieve physical and mental well-being. This goal is related to the two functions of criminal law: the primary function as a means to prevent crime and the secondary function to take action against criminals.

Secondary functions are applied if the primary function cannot be implemented. In crime prevention policy, criminal law is only one of the various ways to tackle crime. Efforts to prevent or overcome criminal acts are included in criminal policy. Criminal policy is closely related to social policy, which consists of social welfare policy and social defense policy.

The approach to women's empowerment is very positive and was born out of dissatisfaction with existing approaches, assuming that improving the position of women should focus on eliminating women's subordination. There are five levels of equity in the women's empowerment framework. First, equity of well-being: women need to have economic assets and opportunities to improve their economic capabilities to lift them out of poverty. Second, equity of access: improving women's ability to enter sectors that provide information, employment, and education on an equal footing with men. Third, equity of awareness: with increased awareness, women can improve their own needs. Fourth, equitable participation: women are no longer considered objects of development, but participate in program planning, implementation, and evaluation. Fifth, equitable control: women's participation in decision-making will increase their access to political resources and ensure equitable access and benefit sharing (Lapian, 2012) ^[17].

Empowerment contains three powers: "power to" (the power to do), "power with" (the power to build cooperation), and "power within" (the power within oneself). Strategies and efforts to empower women, especially in politics, are expected to improve women's quality of life, involve their active role in decision-making, and produce women who are qualified, intelligent, and ready to participate in political agendas, including elections and political parties. Feminist legal theory or feminist jurisprudence can be divided into four schools. First, Liberal Feminists emphasize that everyone has autonomy, including women, and that women and men are rationally equal so they should have equal opportunities. Second, Radical Feminists argue that men define women differently, so equality will never be achieved because men dominate women. Third, Cultural Feminists emphasize that women's moral values tend to be responsibility, while men are more inclined to rights (Iriantoro & Malik, 1994) ^[15].

Based on the explanation above, efforts to implement coaching for prisoners at the Class II A Binjai Correctional Institution are carried out in the form of Independence Development. This program includes competency-based certified skills training, such as Cabinet Maker (Furniture) or welding, and obtaining a BNSP Certificate (National Professional Certification Agency). This program is in collaboration with the Ministry of Manpower through the UPT Balai Besar Vokasi Training Medan. The requirements to become a skills training participant are having served 1/3

of the criminal period, good behavior, going through the stages of interest and talent assessment, attending the Correctional Observation Team hearing at the Correctional Facility, and getting a letter of approval from the Head of Correctional Facility (Interview with Zulmy Hermawan, Registration Staff of Correctional Institution Klas II A Binjai, Friday, June 04, 2024).

Global and national policies that suppress drug trade and trafficking have resulted in a high level of illegal drug trade and trafficking. The high and persistent demand for drugs, coupled with harsh penalties from various countries, has resulted in an illicit drug trade with huge profits for producers, dealers, and distributors. One of the modus operandi in drug trafficking is using women as couriers. The drug business is getting out of control as big producers and dealers use children and women. In many countries, poverty is the main cause of women's involvement in the global drug trafficking chain. Poverty not only marginalizes women in various aspects of life, but also draws them into criminality, including prostitution. In addition, violence in the private sphere due to poverty makes women perpetrators of crimes such as drug couriers.

Many women become drug couriers because of violent coercion by people close to them. Robert Gay revealed that when women realize they are trapped in drug trafficking, they cannot just walk away. Poverty puts them in a weak bargaining position, especially if they are financially dependent and fearful of the perpetrators' threats, so they cannot do much even though they know they are being exploited for criminal activities (Anastasia, 2012) ^[3]. The illicit drug trade, which is closely linked to violent organized crime, makes the position of women couriers even more vulnerable to ongoing suffering, including physical violence, sexual violence, and psychological violence. The involvement of women as criminal actors such as drug couriers and dealers needs to be studied because many factors lead to their involvement in drug trafficking and distribution.

Law enforcement conceptually lies in the activity of harmonizing the relationship of values described in stable rules and attitudes of action to create, maintain, and maintain peaceful living relationships. Law enforcement as a process is essentially the application of discretion concerning decision makers who are not strictly regulated by legal rules, but have elements of personal judgment. Satjipto Raharjo in his book "Problems of Law Enforcement" states that law enforcement is an effort to realize ideas about legal certainty, social legal benefits, and justice into reality (Diyah, 2015) ^[7]. The process of realizing these ideas is the essence of law enforcement. Disruption of law enforcement can occur if there is a mismatch between paired values, which incarnate in conflicting rules and undirected patterns of behavior, disturbing the peace of life. Based on the factors causing the criminal act of drug trafficking committed by women that have been described in the previous chapter, the beginning is due to domestic failure which causes no one to provide income. The obstacles in the efforts of each woman's lack of patience in conducting household relationships, because it causes failure and plunges women into drug trafficking.

Conclusion

The implementation of guidance for perpetrators of narcotics abuse at the Class II A Binjai Correctional

Institution includes personality development through rehabilitation and independence. Coaching data shows that in 2021 there were 215 narcotics prisoners, in 2022 there were 309 prisoners, and in 2023 there were 187 prisoners. Personality development through rehabilitation involved 115 people in 2021, 120 people in 2022, and 110 people in 2023. Independence development in 2021 involves 2 packages x 20 people (40 people), in 2022 involves 17 packages x 20 people (340 people), and in 2023 involves 6 packages x 20 people (120 people). Efforts to foster independence include competency-based certified skills training in the field of Cabinet Maker (Furniture) or welding, and obtaining a BNSP Certificate (National Professional Certification Agency), with the cooperation of the Ministry of Manpower from the UPT Balai Besar Vocational Training Medan. The requirements for skills training participants include having served 1/3 of the criminal period, good behavior, going through an interest and talent assessment, attending a Correctional Observation Team hearing at the Correctional Facility, and getting a letter of approval from the Head of Correctional Facility.

As a suggestion, the basic concept of implementing coaching for drug abuse offenders is a rational idea in responding to crime, so to overcome the increasingly complex dynamics of society, facilities, and infrastructure in correctional institutions need to be improved. The pros and cons of this coaching do not occur at the level of ideas, but at the practical level, so what must be addressed is its effectiveness in the field. Since the issue of correctional as part of criminal law politics is the realm of public law, the problem of prisoner development must be fully addressed by the state. The implementation of guidance must be by applicable laws and regulations so that there is no discrimination against the rights of prisoners. Socialization of government regulations must be maximized so that there is no misunderstanding among both prisoners and the community.

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