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# Use of Noncustodial Measure and Independent Monitoring Body as Panacea to Awaiting-Trial Problems in Ebonyi State, Nigeria

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## **Abstract**

*The complexity of awaiting-trial problems in Nigeria particularly in Ebonyi State has been researched and documented by many scholars. One of the glaring outcomes of these problems is overstretching of prison facilities. This paper discusses how the use of 'noncustodial measure and independent body' will improve the Nigerian criminal justice system to attain substantial efficacy in dispensing justice. Using qualitative and quantitative research approaches, a sample of 1498 respondents comprising 623 awaiting-trial inmates, 617 police officers, 145 prison officers and 113 court staff was drawn from Ebonyi state. Multi-stage and purposive sampling techniques were used to reach the respondents. Questionnaire and in-depth interviews were instruments for data collection. The quantitative data were descriptively analyzed using percentages and charts while thematic method of analysis was employed in the qualitative data. We found that keeping accused persons in prison longer than necessary is traumatic to suspects and expensive to government. This paper proposes the use of noncustodial measures in crime cases where keeping suspects in prisons would produce no fruitful impact. The paper also calls for the creation of an independent body that will be fundamental in monitoring the different criminal justice agencies and holding them accountable and ensuring that the goals of the system are achieved.*

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**Keywords:** Awaiting-trial problems, Criminal justice system, Independent body, Noncustodial measure, Panacea.

## **Introduction**

The criminal justice system (CJS) is the structure through which laws guiding the existence and order in every society are applied and the rights of citizens are upheld (Alemika, 2014). Alemika (2005) noted that the main duty of the CJS is to dispense justice in accordance with the provisions of law. In practical terms, the criminal justice system is the machinery that determines the guilt or innocence of suspects and allocates sanctions that are fair and proportionate to offences. The system is also responsible for the care, reformation and rehabilitation of individuals that have been found guilty and sanctioned for their crimes (Olonisakin, Ogunleye & Adebayo, 2017).

More generally, the task of criminal justice system is carried out by detecting, apprehending, prosecuting, adjudicating and sanctioning those members of the society who violate established laws of the State (Ugwuoke, Ajah & Onyejegbu, 2020; Ugwuoke, 2010). The effectiveness of the system is measured by its ability to meet the goals of deterrence, incapacitation, retribution, reformation, rehabilitation and reintegration. The realization of these goals depends on the level of coordination among the various components of the system (Ukwayi & Okpa, 2017).

In Sub-Saharan Africa, the criminal justice systems are rooted in the practices of their previous colonial rulers (Bowd, 2005). Colonial powers, in their need to establish and retain control of large populations with relatively few administrators imposed the institutions that served them in their own countries on African countries. In Nigeria, like other Sub-Saharan African countries, the history of the criminal justice system is rooted in the colonial past of the country and public perception of this justice system is largely

negative. Alemika and Alemika (2005) asserted that there is minimal concern for the rights of the suspects at all levels of the system, from the police to the prisons. They concluded that the manifestations of the colonial established philosophy in the system include the provisions of harsh punishments (even for minor crimes), wide police powers and inhuman conditions of police and prison cells that were neither designed nor maintained with respect to human dignity and privacy. It is deductible to conclude that the Nigerian criminal justice system is faulty from the root not only due to its inheritance from the colonial systems, but also on account of its lack of consideration for human dignity.

In Ebonyi State, an average of 76% of inmates are behind bars on holding charges – yet to be charged to court but kept in prison while police investigations are on-going. In most cases, a sheer ineffectiveness in these investigations on the side of police officers cause profound delays that contribute to the long and painful overstay of awaiting-trial suspects in prisons. When cases eventually proceed to trials, bail conditions given by courts are sometimes obviously unattainable or too stringent for the inmates – further causing the inmates to remain in prison custody till the ‘unattainable’ bail conditions are met. Application of alternative measures in lieu of remanding offenders in prisons or police custodies has proven effective in western countries and helped reduce congestion in prisons. Absence of these measures and facilities in Ebonyi State has led to the congestion of prison facilities in the state and each negative impact results to further delays for inmates awaiting trial.

Scholars have pondered how these conditions could be improved (see for example, Ajah, 2019; Ajah, 2018, Ajah and Ugwuoke 2018; Adelani, 2018; Ukwaiyi and Okpa, 2017; Ugwuoke, Ajah and Onyejegbu, 2020; Alo and Ugah, 2015). For years, the discussions have been around massive improvements in prison facilities like advanced toilet systems, installation of modern prison housing, disbursement of proper prison vehicles to commute inmates to courts, and many more. Somehow, little is being suggested on instituting an independent monitoring technique to oversee the operations of CJS agencies and ensure implementation of both noncustodial measures and other methodologies to enhance the justice system. This paper fills this gap – focusing on instituting independent monitoring bodies and adoption of noncustodial measures in Ebonyi State’s Criminal Justice System.

## Method

### *Study design and location*

The study adopted a cross-sectional survey research design. This design is considered appropriate for this study because it has the capacity to accurately gather necessary information within a limited timeframe on large sample. The design is economical and focuses on studying large and small populations with emphasis on relative incidence, distribution and interrelations of sociological and psychological variables (Isangedeghi, Joshua, Asim, & Ekuri, 2014). The study was conducted in Police Command Headquarters, courts and prisons (Abakaliki and Afikpo prisons) located in Ebonyi State, Nigeria.

### ***Participants and procedures***

The target population for this study was 4032 which comprised of awaiting-trial inmates, police officers, court officers and prison officers in the study area. Of this population, 1013(25.1%) are awaiting-trial inmates in two prisons, 312(7.7%) are prison officers (see Nigerian Prison Records, 2018), 118(2.9%) are court officers (see Ebonyi State Judicial Records, 2018; Ajah, 2018) and 2,589(64.2%) are police officers (see Nigeria Police Records, 2018). Using Alien Taro Yamane (1967) method of sample size determination, with a 95% confidence level and level of maximum variability ( $P = 0.02$ ), a sample of 1551 was computed—out of which—1498 respondents were finally used after data collation, gleaning, cleansing and analysis.

The multi-stage sampling technique that involves successive random sampling was adopted in the selection of respondents from the Local Government Areas (LGAs), prisons, police stations and courts. Multi-stage method is relevant to this study because the population is made up of several clusters: prisons, police stations and courts. The researchers clustered Ebonyi state into its 13 LGAs which were further grouped into urban and rural LGAs. From this categorization, five LGAs were purposively selected. In this light, Ebonyi, Abakaliki and Afikpo North LGAs were purposively selected from the urban LGAs, while Ezza South and Afikpo South LGAs were purposively selected from the rural LGAs. The essence of choosing these LGAs is because the only two existing prisons in Ebonyi State are located within the selected LGAs, precisely in Abakaliki and Afikpo North LGAs. Also, a greater number of courts and police stations in Ebonyi State with sufficient manpower, from where the researchers had drawn their respondents, are also located in these LGAs.

### ***Data Collection and Procedures***

This study adopted mixed methods of scientific enquiries, following quantitative and qualitative approaches in its data collection. The instruments for data collection were structured questionnaire and unstructured ‘In-Depth Interview (IDI).’ The research instruments were administered by four researchers. Participation in the research was risk-free, anonymous, voluntary, confidential and based on informed consent of all participants. Ethical clearance was obtained from Ethical Committee of the University of Nigeria Teaching Hospital; Ituku-Ozalla, police, court and prison authorities. Of the 1551 questionnaires distributed, 1518 were returned; 20 of them were not properly completed and thus were rejected while 33 were not returned. and Thus, we had a total of 1498 copies for analysis. In order to complement data generated through questionnaire instrument, in-depth interviews were conducted on eight inmates and four police officers, prison officers and court officials, respectively - totally 20 interviewees. Each respondent’s interview lasted between 35 and 90 minutes. The interviewees disapproved of our attempts to record their responses in audiotape, so only handwritten notes were taken.

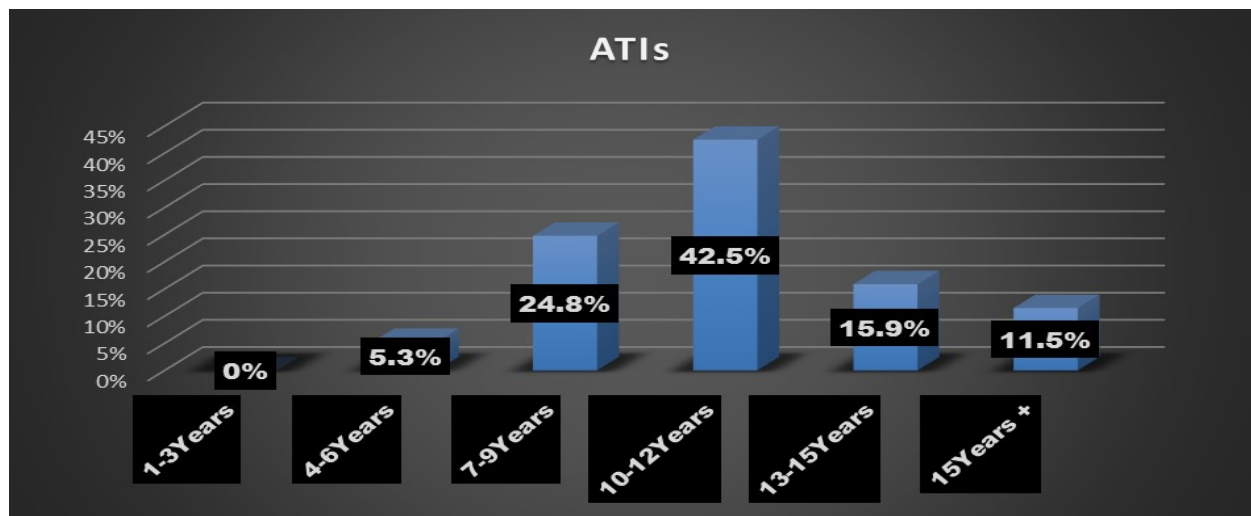
### ***Data Analysis***

Both qualitative and quantitative components of the data collected were subjected to scrutiny before cleansing, coding and analysis. The quantitative data analysis was performed using International Business Machine (IBM) Statistical Packages for Social

Sciences (SPSS) version 20. Utilizing descriptive statistics, the results of IBM SPSS were further analyzed, interpreted and organized using tables, frequencies and charts. The qualitative data were analyzed using manual thematic method, where the responses were transcribed with some catchy phrases retained in their original versions and contexts in the form of extracts or excerpts (see the result section for details).

## Results and Discussion

Figure 1. A bar chart showing length of time spent by ATIs in custody.



Source: Field Survey, 2019

The chart shows that 5.3% of the respondents had spent 4–6 years in custody awaiting trial; 24.8% had spent 7–9 yrs; 42.5% of the ATIs had spent between 10–12 years in custody; 15.9% of the ATIs had spent 13–15 years in custody, and 11.5% of the ATIs had spent more than 15 years in custody. This is an indication that the highest percentage (42.5%) of the awaiting-trial inmates had spent between 10–12 years in custody. The above findings agree with the assertions of Okunola and Dinne (2016) who argued that ATIs are victims of fundamental human right abuse as Nigerian prisons guarantee no prompt trial. They further observed that most ATIs in Agodi prison in Ibadan had spent between 5–10 years awaiting trial for offences such as armed robbery, homicide, peddling in hard drugs and even for petty offences. This shows that the delays in the criminal justice systems especially as it concerns the ATIs is not peculiar to Ebonyi prison, it is equally prevalent in other states in Nigeria like Oyo, as observed by Okunola and Dinne (2016).

This act of holding an accused person in prison without conviction is a breach of the fundamental Human Rights of the accused person. According to section 35 (5) of the Nigerian 1999 Constitution, an accused person who has been arrested on the allegation of having committed an offence must be charged to court within 24 hours where a court of competent jurisdiction is located within a radius of forty kilometers from the police station; and where a court is located within a radius above forty kilometers from the police

station, the accused person must be charged to court within 48 hours or such longer period as a court might consider reasonable.

**Table 1. Distribution of the ATIs according to the offences they were accused .**

ATIs offences	Frequency	Percentage
Armed robbery	40	6.4%
Kidnapping	62	10%
Cultism	187	30%
Murder	3	0.5%
Stealing	27	4.3%
Assault	11	1.8%
Child trafficking	37	5.9%
Fraud	165	26.5%
Rape	91	14.6%
<b>Total</b>	<b>623</b>	<b>100%</b>

Source: Field Survey, 2019

Table 1 presents distribution of the ATIs according to their alleged crimes, the result shows that 6.4% were accused of armed robbery, 10% were accused of kidnapping, 30% were accused of cultism, 0.5% were accused of murder, 4.3% were accused of stealing, 1.8% were accused of assault, 5.9% were accused of child trafficking, 26.5% were accused of fraud, and 14.6% were accused of rape. This is an indication that higher percentages (30%) were accused of cultism. The above findings could be buttressed by the fact that as stated earlier, higher percentage of the ATIs is between the ages of 28 and 37 which connotes youthful age that is riddled with belief in cultism. The above finding is in tandem with the qualitative data as most of the respondents interviewed said that they were in custody for cultism and related crime. One of the respondents interviewed had this to say:

No brother! We did not start it. It was another cult group that attacked and injured us, so we had to regroup and attack them too. It was they who attacked us first and we had to fight back. They even gave one of my friends a very deep cut on his back with a machete and my friend bled so much all night. So, in the process of our fighting back, the police came and intervened and arrested everybody. They brought us to this place. But they first attacked us.

(Female/IDI/Student/2 years in prison custody as ATI/Afikpo prisons/IDI/July 2019).

On the contrary, another ATI interviewed said his opinion on why he was in custody, in the following way:

I was caught for armed robbery. Although it was not my intention to be an armed robber, it was frustration and unemployment that led me into this. I am a good person. I was not used to stealing people's properties. They knew me as a good person but due to this frustration and hardship, I had to join my friend to do it because they were living very luxuriously and prospering. I had no choice but to join them. However, here in prison I have repented, I will not do such a thing again.

(Male/IDI/SSCE holder/4years in prison custody as ATI/Afikpo prison/IDI/August, 2019)

The above assertions by interviewees (awaiting-trial inmates) show that the ATIs are accused of different kinds of offences that brought them into the criminal justice corridors ranging from simple offence to felony. Although the quantitative data shows that higher percentage of ATIs were accused of cultism, others amongst them were accused of armed robbery, kidnapping, murder, stealing, assault, child trafficking, fraud, rape, *etc.* These findings are not far from the deductions of the qualitative data. This is in line with the assertions of Okunola and Dinne (2016) that higher percentage of awaiting-trial inmates in Agodi prison Ibadan were detained for felony. They however observed that some of the awaiting-trial inmates in Agodi prison were often held for long periods on account of petty offences. The study is also a departure from the assertions of Emeka, Ayuk, Udiba and Francis (2016) who observed and succinctly described the nightmare inflicted on inmates by their inability to access the services of a legal representative (lawyer) in defense. They were kept in dilapidated houses which were mostly built 70 or 80 years ago and lacked basic functioning facilities. Similarly, Agbonika and Alemo (2014) opined that many suspects remain in prison custody awaiting trials. Most intriguing fact is that armed robbery and culpable homicide cases top the list. The general excuse for their remand is that investigations into their cases were yet to be concluded. Some of the accused persons have been in prison custody for more than five years without trial (Agbonika & Alemo, 2014).

**Table 2. CJS agents' opinions on whether the government spends more money because of holding suspects in prisons.**

Opinions	Criminal Justice Systems Agents		
	Police	Prisons	Court
Most likely	223 (36.1%)	119 (82.1%)	92 (81.4%)
Likely	381 (61.8%)	22 (15.2%)	21 (18.6%)
Not likely	13 (2.1%)	4 (2.7%)	0 (0%)
<b>Total</b>	<b>617 (100%)</b>	<b>145 (100%)</b>	<b>113 (100%)</b>

Source: Field Survey, 2019

Table 2 presents CJS agents' opinions on whether the government spends more money because of holding suspects in prisons. The result shows that amongst the police officers, 36.1% of them said that the government most likely is spending more money because of holding suspects in prisons, 61.8% said that government is likely to be spending more money, and 2.1% said government is not likely to be spending more money. This shows that majority (61.8%) of the police officers said that government is likely to be spending more money because of holding suspects in prisons.

Amongst prison officials, majority (82.1%) stated that government is most likely to be spending more money because of holding suspects in prisons. Similarly, among the court officials, majority (81.4%) of them stated that government is most likely to be spending more money because of holding suspects in prisons. This is an indication that all the agents affirmed that government is most likely to be spending more money because of holding suspects in prisons. The above finding could be as a result of feeding expenditures, medications, and funds for the upkeep of the suspects while in custody. It is vital to note that it is the government through the Nigeria Prison Services that caters for the feeding and wellbeing of suspects while in custody. Moreover, their transportation from prison to court for their trials is also being footed by the government. The above finding is in tandem with the qualitative data as most of the CJS agents affirmed that government is spending tremendously for holding suspects in custody. One of the officers interviewed had this to say:

I affirm the truism in the argument of higher expenditure for governments to keep suspects in prison pending completion of investigations. All the economic burdens of such detention ranging from feeding, housing, health supports and basic survival needs lie on the shoulders of government. Non-custodian measures such as parole, house arrest, payment of fines, unpaid community service and others, could overhaul the status quo and immensely reduce congestion and health-related hazards among inmates.

(Male judge/6years experience as a legal practitioner/Afikpo/August 2019)

The above assertions by the CJS agents show that holding suspects in custody has economic implications for the government as they bear the economic burden of catering for the awaiting-trial inmates. Aside the economic costs, such custodial trial for every offence breeds recidivists and hardened criminals as first time offenders and simple offenders come in contact with hardened and condemned criminals in the custody.



**Table 3. ATIs' opinions on whether noncustodial trial for simple offences could help address awaiting trial problems.**

Non-custodial trial for simple offences		
	Frequency	Percentage
Most necessary	332	53.3%
Necessary	186	29.9%
Somewhat necessary	80	12.8%
Unnecessary	13	2.1%
Least necessary	12	1.9%
<b>Total</b>	<b>623</b>	<b>100%</b>

Source: Field Survey, 2019.

Table 3 presents ATIs' opinions on non-custodial trial for simple offences. The result shows that 53.3% of the ATIs responded it is most necessary to grant non-custodial trial for simple offences, 29.9% of the ATIs opined it is necessary to grant non-custodial trial for simple offences, 12.8% of the ATIs stated that it is somewhat necessary to grant non-custodial trial for simple offences, 2.1% said it is unnecessary, while 1.9% were of the view that it is least necessary. This is an indication that majority (53.3%) of the ATIs were of the view that it is most necessary to grant non-custodial trial for simple offences. This will go a long way to decongest the Nigerian prison. The courts and its agents in conjunction with the police are only fond of custodial sentences. No wonder awaiting-trial inmates constitute a larger percentage of prison inmates in Nigeria because people are kept in the prison while trial is ongoing. All these fall short of the United Nations standards of treating suspects. The above finding is in tandem with the qualitative data findings as one of the respondents interviewed had this to say:

When someone fights in Nigeria, they will put the person in prison, even for a very small crime. People are supposed to be given other punishments like flogging, sweeping markets or cleaning public places instead of putting them in prisons every time. That even makes people who are good but made mistake in committing very small offences to mix with very bad and hardened criminals who will negatively influence them into committing crimes.

(IDI/ female ATI/ Abakiliki prison)

The above response by one of the ATIs interviewed shows that the ATIs support the notion that non-custodial trial of suspects who committed simple offences will be beneficial not only to the awaiting-trial inmates but also to the prison wardens and court officials.

**Table 4. CJS Agents views on whether noncustodial trial for simple offences could help address awaiting trial problems**

Opinions	Criminal Justice Systems Agents		
	Police	Prisons	Court
Strongly disagree	0 (0%)	0 (0%)	26 (23%)
Disagree	30 (4.9%)	0 (0%)	28 (24.8%)
Somewhat disagree	5 (0.8%)	0 (0%)	46 (40.7%)
Somewhat agree	48 (7.8%)	7 (4.8%)	13 (11.5%)
Agree	334 (54.1%)	28 (19.3%)	0 (0%)
Strongly agree	200 (32.4%)	110 (75.9%)	0 (0%)
<b>Total</b>	<b>617 (100%)</b>	<b>145 (100%)</b>	<b>113 (100%)</b>

Source: Field Survey, 2019

Table 4 presents opinions of CJS agents on whether noncustodial trial for simple offences could help address awaiting trial problems; the data show that majority (54.1%) of police officers agreed that noncustodial trial for simple offences could help address awaiting trial problems. Amongst the prison officials, majority of them (75.9%) strongly agreed that noncustodial trial for simple offences could help address awaiting trial problems and a higher percentage (40.7%) of court officials somewhat disagreed. This indicates that aside awaiting trial inmates, agents of the criminal justice system agreed that noncustodial trial for simple offences could help address awaiting trial problems.

**Table 5. ATIs opinion on whether establishing independent body to monitor activities of the police, the court and the prisons could help address awaiting trial problems.**

	Establishing independent monitoring body	
	Frequency	Percentage
Most necessary	433	69.5%
Necessary	83	13.3%
Somewhat necessary	92	14.8%
Unnecessary	11	1.8%
Least necessary	4	0.6%
<b>Total</b>	<b>623</b>	<b>100%</b>

Source: Field Survey, 2019

Table 5 presents ATIs' opinions on establishing an independent body to monitor activities of the police, court and prisons. The result shows that 69.5% of the ATIs stated that it is most necessary to establish an independent body to monitor activities of the police, court and prisons, 13.3% of them stated it is necessary, 14.8% responded it is somewhat necessary, 1.8% were of the view it is unnecessary, and 0.6% said it is least necessary. This shows that majority of ATIs (69.5%) said that establishing independent body to monitor activities of the police, court and prison is most necessary.

**Table 6. CJS Agents response on whether establishing independent body that will be monitoring activities of the police, the court, and the prison could help address awaiting trial problems.**

Criminal Justice Systems Agents			
Opinions	Police		Prisons
Court			
Most necessary	320 (51.9%)	35 (24.1%)	43 (38.1%)
Necessary	180 (29.2%)	83 (57.2%)	57 (50.4%)
Somewhat necessary	30 (4.9%)	6 (4.1%)	13 (11.5%)
Unnecessary	53 (8.5%)	14 (9.7%)	0 (0%)
Least necessary	34 (5.5%)	7 (4.8%)	0 (0%)
<b>Total</b>	<b>617 (100%)</b>	<b>145 (100%)</b>	<b>113 (100%)</b>

Field Survey, 2019

Table 6 presents CJS agents' responses on the assertion to establish independent body that will be monitoring activities of the police, court and prison. The result shows that amongst police officers, majority (51.9%) stated that it is most necessary to establish independent body to monitor activities of the police, court and prison. Amongst prison officials, majority (57.2%) stated that it is necessary to establish independent body to monitor activities of the police, court and prison. Amongst court officials, majority (50.4) stated that it is necessary to establish an independent body to monitor the activities of police, court and prisons. This is an indication that all the agents of CJS agreed that it is necessary to establish an independent body to monitor the activities of the police, court and prison officials. The above finding corroborates the qualitative data as most of the criminal justice agents stated that there is need to establish independent body to monitor the police, court and prison. A court official further shared her views on this:

It is very necessary to establish an independent body to oversee the activities of both police and court in handling criminal cases. Such body should particularly checkmate the number of adjournments in the processes of court trials.

(Female/Court official/6years experience as a legal practitioner/August 2019).

As demonstrated above, establishing an independent monitoring body will not only help to curtail the incessant adjournment of cases but also enhance speedy conclusion of criminal trials

### Conclusion and Recommendation

Just like all crimes are not of same intensity, their natures and requirements are often not same either. The use of special courts has greatly improved the speed of trials but also ensured deepened skillset of courts in trying crime cases. Such deepened skillsets come with unique understandings of the peculiarities of the crime and efficiency in administering proper rehabilitative tablets to the convicts. A good approach to proper

rehabilitation is the use of noncustodial measures in crime cases where keeping suspects in prisons would produce no fruitful impact.

A good implication is that this helps to reduce the number of awaiting-trial inmates, overcrowding of prison facilities as alternative measures to custodial approaches are used. Similarly, critical evaluations of the Nigerian criminal justice system is fundamental to holding the different agencies therein accountable and ensuring that the goals of the system are achieved. Actualizing this purpose does require the use of independent monitoring bodies that are skilled in the operations of the system and can relate to every circumstance like investigations by police or trials by court, such vast knowledge and connection would engender proper appraisals and accountability of the system. Particularly, this body would be quick to identify causes of overcrowding in prison facilities and address them.

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