Reconstructing Criminal Law Policy for Combating Narcotics Offenses through a Digital Intelligence–Based Predictive Policing Approach

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Abstract

Narcotics trafficking within the jurisdiction of the North Sumatra Regional Police continues to follow a concerning trend, despite sustained conventional law enforcement efforts. This study examines the limitations of conventional enforcement in addressing narcotics offenses and proposes a reconstruction of criminal law policy through a digital intelligence–based predictive policing approach. It employs normative legal research using statutory, conceptual, and case approaches. Primary legal materials comprise relevant legislation, government regulations, and court decisions, while secondary materials include scholarly articles, academic books, and official law enforcement reports. The findings indicate that conventional enforcement has structural limitations: it is largely reactive, struggles to anticipate the increasingly digital operations of narcotics networks, and is constrained by limited intelligence capacity. The proposed policy reconstruction involves integrating digital intelligence into systems for predicting narcotics crime, reforming the regulatory framework under Law No. 35 of 2009 on Narcotics, and establishing a dedicated predictive policing unit within the North Sumatra Regional Police. The study concludes that a shift from reactive to predictive law enforcement requires a clear legal basis and adequate technological capacity.

***Keywords**:* Narcotics; Predictive Policing; Digital Intelligence; Criminal Law Policy; Legal Reconstruction

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Introduction

The narcotics problem in Indonesia extends beyond public health. It has developed into a serious threat to national security, social stability, and national resilience. The National Narcotics Agency (*Badan Narkotika Nasional*, BNN) reported that approximately 3.33 million people, or 1.95% of Indonesians aged 15–64, had used narcotics in 2023 [1]. Despite decades of law enforcement efforts, the scale of the problem raises a fundamental question: does the existing policy framework remain suited to the changing nature of narcotics crime?

The situation in North Sumatra presents particular challenges. Its access to international waters and cross-border trade routes makes the province vulnerable to narcotics trafficking from abroad. Data from the North Sumatra Regional Police indicate that thousands of narcotics cases were uncovered during 2022–2023. Yet increasingly organized distribution networks and the use of digital technologies suggest that conventional enforcement has not adequately addressed the underlying structure of the trade [2]. Narcotics networks may use encrypted communications, the dark web, cryptocurrency transactions, and instant messaging applications to evade detection, limiting the effectiveness of conventional patrols and arrest operations [3].

From a criminal law perspective, crime prevention encompasses both penal and non-penal policies [4]. Law No. 35 of 2009 on Narcotics provides a broad legal framework, including imprisonment, capital punishment, and rehabilitation for people who use narcotics. Its implementation, however, remains heavily oriented toward reactive enforcement: intervention generally follows the commission of an offense [5]. This approach faces difficulties when applied to organized, cross-border narcotics networks that increasingly operate through digital infrastructure.

One approach receiving growing attention in modern policing is *predictive policing*: the use of data, algorithms, and artificial intelligence to estimate where, when, or by whom an offense may be committed [6]. This approach has been integrated into policing systems in countries including the United States, the United Kingdom, and China; some studies have reported reductions in crime in particular areas [7]. Its application in Indonesia remains limited, and an explicit regulatory basis has yet to be established. This creates a gap between operational needs and the existing legal framework, or, in legal philosophical terms, between *das sollen* and *das sein*.

Previous studies have examined narcotics law enforcement from several perspectives. Siregar et al. reviewed the evolution of Indonesia's criminal justice system and identified limited integration of technology into law enforcement [8]. Zarzani et al. discussed the need to reform terrorism law in accordance with principles of justice, offering a point of comparison for reform of narcotics law [9]. Hutagalung and Zarzani examined the implementation of restorative justice by the North Sumatra Regional Police, illustrating the scope for new approaches within a regional police institution [10]. Aspan analyzed law enforcement discretion, which is relevant to the flexibility of enforcement models [11]. However, the literature reviewed has not specifically addressed the reconstruction of narcotics criminal law policy through the integration of digital intelligence–based predictive policing within the North Sumatra Regional Police. This gap provides the basis for the present study.

Accordingly, this study addresses two research questions: First, why have conventional enforcement-oriented policies failed to substantially reduce narcotics trafficking within the jurisdiction of the North Sumatra Regional Police? **Second**, how can criminal law policy be reconstructed through a digital intelligence–based predictive policing approach to provide a model of narcotics crime prevention that responds to developments in digital crime?

Literature Review

2.1 Theory of Criminal Law Policy (*Penal Policy*)

Criminal law policy, commonly referred to in the literature as *penal policy*, forms part of broader social policy. It seeks to protect society from crime while contributing to public welfare [4]. In Indonesian criminal law scholarship, Barda Nawawi Arief defines criminal law policy as an effort to formulate criminal legislation that responds to prevailing conditions and remains appropriate for the future [12]. Under this view, criminal law policy must evolve alongside changing patterns of crime and societal needs.

Marc Ancel, the French legal scholar associated with the *Nouvelle Défense Sociale* movement, describes penal policy as both a science and an art. Its purpose is to improve the formulation of positive law and guide legislators, courts, and those responsible for implementing judicial decisions [4]. This perspective is relevant to narcotics regulation: the question is whether existing rules are formulated and applied in ways that can respond to developments in narcotics crime.

Criminal law policy operates through three stages: legislative policy (formulation), judicial policy (application), and executive or administrative policy (implementation) [12]. In addressing narcotics crime, these stages must function coherently. A recurring difficulty in Indonesia is the gap between legislation and its implementation: laws may establish normative requirements without adequately anticipating the technical and institutional challenges faced by law enforcement agencies [8].

This framework helps explain the first research question concerning the limitations of conventional enforcement. One issue at the legislative stage is that Law No. 35 of 2009 on Narcotics does not explicitly regulate technology-based detection as a law enforcement mechanism. The proposed reconstruction therefore concerns more than police procedures. It also requires examination of the regulatory framework and the policy principles that govern its use [5]. Reform of narcotics criminal law policy must consequently address the full policy process, from formulation to implementation.

2.2 Theory of Criminal Law Reform

Criminal law reform is part of a broader effort to reconstruct the legal system in response to social change, technological development, and evolving understandings of state power. Siregar, Adrian, and Rambe explain that the development of Indonesia's criminal justice system has always been shaped by historical and sociological contexts, as well as changing practical needs in law enforcement [8]. Criminal law reform therefore involves more than technical revisions to statutory provisions; it also requires a transformation of underlying values and policy approaches.

Zarzani, Fitrianto, and Annisa argue that criminal law reform should be grounded in the values of justice that develop within society, rather than adopting legislative models from other countries without adapting them to the local context [9]. This is particularly relevant to predictive policing, which must be aligned with human rights protections recognized under Indonesian law, including the presumption of innocence and the prohibition of arbitrary state action.

Siregar emphasizes that human rights must remain a foundation of any reconstruction of Indonesia's legal system [13]. This concern is especially significant in predictive policing because crime prediction technologies may produce data-driven discrimination, particularly against historically marginalized communities [6]. Any reconstruction of narcotics criminal law policy through predictive policing must therefore include robust safeguards for individual rights.

Criminal law reform theory also provides a framework for examining institutional reform within the police. Siregar and Lubis observe that reform of Indonesia's sentencing system requires alignment between technical innovation and institutional readiness [14]. Without

adequately trained personnel and a clear ethical framework, the use of digital intelligence in policing could enable abuses of power and undermine the objectives of law enforcement.

2.3 Predictive Policing and Digital Intelligence

Predictive policing refers to the use of big data analytics, artificial intelligence, and machine learning algorithms to identify crime patterns, estimate where and when offenses may occur, and assess the likelihood that particular individuals or groups may become involved in criminal activity [6]. Systems such as PredPol, subsequently renamed Geolitica, helped bring this approach into wider use in the United States and prompted substantial academic and legal debate [15]. COMPAS (*Correctional Offender Management Profiling for Alternative Sanctions*) has also figured prominently in debates about algorithmic risk assessment, although it is used primarily in criminal justice decision-making rather than police crime prediction.

The policing literature commonly distinguishes four types of prediction: place-based, individual-based, group-based, and victim-based prediction [7]. For narcotics crime prevention, place-based and individual-based analyses may be particularly relevant because trafficking networks use identifiable distribution points and may leave digital traces of their activities. The use of individual-level predictions, however, requires particular care because an algorithmic risk assessment cannot establish that a person has committed an offense.

Digital intelligence involves the lawful collection, analysis, and interpretation of data from digital sources, including social media, electronic communications, digital financial transactions, and dark web activity [3]. In Indonesia, certain police organizational responsibilities are addressed in Chief of Police Regulation No. 21 of 2010 concerning the Organizational Structure and Working Procedures of Units at National Police Headquarters. That regulation does not, however, explicitly govern the use of algorithmic prediction systems [16].

Siswanto, Siregar Abdul Rahman Maulana, and Siregar Mhd. Azhali examine differences in court decisions in narcotics cases and identify variations in the quality of evidence presented by prosecutors as one contributing factor [17]. Their findings suggest a potential role for digital intelligence in improving the collection and analysis of evidence during narcotics investigations. Whether such improvements reduce disparities in case outcomes would require further assessment.

2.4 The Principle of Legality and Human Rights Protection in Law Enforcement

The principle of legality, expressed in the maxim *nullum delictum nulla poena sine praevia lege poenali*, ensures that no person may be punished for conduct that was not previously defined as a criminal offense by law [8]. In the context of predictive policing, police measures such as arrest and search must also comply with the applicable legal requirements governing police powers. An algorithmic prediction alone cannot justify such measures; using it without an adequate legal basis or independent grounds for action risks arbitrary interference with individual rights and creates legal uncertainty.

Siregar Abdul Rahman Maulana examines police authority in criminal law enforcement and argues that any expansion of that authority must be accompanied by proportionate oversight [18]. This is particularly relevant to predictive policing, which may give police new capabilities to identify and monitor individuals. Without effective oversight, those capabilities could facilitate arbitrary action. Aspan's discussion of police discretion likewise indicates that operational flexibility must remain subject to proportionality and accountability [11].

In their analysis of restorative justice, Fikri, Siregar Abdul Rahman Maulana, and Rafianti emphasize that a fair law enforcement system must attend to human concerns rather than focus exclusively on punishment [19]. Applied to predictive policing, this means that technical accuracy is only one measure of a system's suitability. Its social effects, fairness, and implications for civil liberties must also be assessed.

Fatmawati, Fikri, and Siregar discuss customary and restorative approaches to justice in Indonesia, highlighting the value of combining different responses to crime [20]. In the

narcotics context, criminal law policy reform should therefore consider rehabilitation, support for affected persons, and community participation alongside technology-assisted prevention and investigation.

2.6 Digital Criminology and Organized Crime Theory

Digital criminology examines how digital technologies shape criminal conduct and institutional responses to it [3]. In narcotics trafficking, digital tools may affect multiple stages of a network's operations, including courier recruitment, ordering, payment, coordination, and the laundering of criminal proceeds.

Theories of organized crime associated with Albini and Cressey describe criminal organizations in terms of their structures, capacity to adapt, and potential to influence formal institutions, including law enforcement agencies [21]. In a digital environment, narcotics networks may also operate through decentralized arrangements that make their activities more difficult to detect and disrupt through conventional policing [7].

Rahmayanti, Zarzani, Sukarwoto, and Diriyanti use a juridical approach to examine physical violence in educational settings [22]. Although their subject differs from narcotics crime, their approach offers a methodological analogy for examining how particular environments shape criminal behavior. In narcotics research, the analysis of digital behavior and relevant social conditions may help identify factors associated with recruitment into trafficking networks. Such findings could inform preventive interventions, provided that they are interpreted carefully and do not treat statistical associations as proof of individual wrongdoing.

Tarigan and Aspan's study of prison overcrowding indicates that ineffective reliance on punishment may worsen crime-related problems over time [23]. Their findings lend indirect support to a broader narcotics policy that combines early detection, targeted intervention, and rehabilitation. Digital intelligence could support parts of that strategy if its use is legally authorized, subject to oversight, and evaluated for effectiveness.

Research Methodology

This study employs normative legal research, which examines legal norms found in written and unwritten sources of law and treats legal materials as its primary objects of analysis [24]. This method is appropriate because the research questions are regulatory and conceptual: the study seeks to identify the legal basis for, and formulate a proposed reconstruction of, criminal law policy. Its principal method is therefore the analysis of legal documents and concepts, rather than the direct collection of field data.

Three approaches are used. First, the statutory approach examines legislation relevant to the study, including Law No. 35 of 2009 on Narcotics, Law No. 2 of 2002 on the Indonesian National Police, Law No. 19 of 2016 concerning amendments to the Electronic Information and Transactions Law, and implementing regulations concerning the use of technology in law enforcement [5]. This approach is used to identify existing provisions, assess potential regulatory gaps, and develop proposals for legal reform.

Second, the conceptual approach examines the legal concepts and theories discussed in the literature review, including criminal law policy, predictive policing, digital intelligence, and human rights in law enforcement [4]. It provides the basis for explaining why policy reconstruction may be necessary and how the proposed framework should be formulated. Third, the case approach examines relevant court decisions and documented narcotics cases in North Sumatra to identify legal issues arising in the application of existing rules [17].

The study draws on three categories of legal materials. Primary legal materials comprise Indonesian legislation concerning narcotics, policing, and information technology, together with relevant court decisions. Secondary legal materials include academic books, peer-reviewed national and international journal articles, previous studies, conference papers, and official government reports concerning narcotics law enforcement and the use of technology in

policing [24]. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to clarify terms and concepts found in the primary and secondary materials.

Legal materials are collected through a systematic literature review. The study searches scholarly databases, including Google Scholar, Scopus, and SINTA, and examines legislation through official Legal Documentation and Information Network (*Jaringan Dokumentasi dan Informasi Hukum*, JDIH) repositories. Published narcotics crime statistics from the National Narcotics Agency (BNN), the North Sumatra Regional Police, and other relevant institutions are used as contextual data [2].

The materials are analyzed qualitatively through grammatical, systematic, historical, and teleological legal interpretation [12]. The analysis proceeds in five stages: identifying relevant legal norms; describing their content; organizing and assessing their consistency; evaluating their application to the research questions; and developing a reasoned proposal for criminal law policy reform. This procedure follows the established approach to normative legal research in Indonesian legal scholarship.

Results

4.1 Structural Limitations of Conventional Narcotics Control Policy within the North Sumatra Regional Police

Understanding why conventional enforcement has not substantially reduced narcotics trafficking in North Sumatra requires a careful assessment of the available data. During 2020–2023, the North Sumatra Regional Police uncovered thousands of narcotics cases and arrested thousands of suspects each year. Nevertheless, the available indicators do not show a sustained reduction in trafficking; some suggest that the volume of narcotics in circulation remained stable or increased [2]. This apparent paradox cannot be attributed solely to the commitment of law enforcement personnel. It also calls for an examination of structural limitations in the prevailing policy model.

The first limitation is the reactive nature of conventional enforcement. Police operations often begin after a report or information indicates that an offense has occurred or is underway. Organized narcotics networks may anticipate such operations by relocating, changing communication channels, or allowing lower-level members to be apprehended while key organizers remain beyond the reach of investigators [6]. Consequently, arrests of lower-level participants do not necessarily disrupt the networks that coordinate trafficking.

The second limitation concerns institutional capacity. Sustained investigations into narcotics networks require trained personnel, appropriate technology, and adequate funding. Siregar Abdul Rahman Maulana notes that the exercise of police authority in criminal law enforcement is often constrained by technical and procedural difficulties that legal rules alone cannot resolve [18]. In North Sumatra, these constraints warrant closer examination of the extent to which case detection depends on arrests during operations or information from informants, as opposed to systematic, data-informed intelligence development.

The third limitation is fragmentation among institutions. Law No. 35 of 2009 assigns important narcotics control responsibilities to both the National Narcotics Agency (BNN) and the Indonesian National Police. In practice, overlapping responsibilities, differences in data management, and misaligned operational priorities may impede coordination [5]. The absence of an integrated platform for appropriate data sharing can further limit a coordinated response.

The fourth limitation concerns the relationship between the legal framework and digitally mediated narcotics crime. Law No. 35 of 2009 provides the principal statutory framework for addressing narcotics offenses, but it does not expressly set out a comprehensive framework for investigating trafficking conducted through the dark web, cryptocurrency payments, or encrypted messaging applications [5]. Investigators may consequently face uncertainty about the lawful scope and procedures for accessing digital communications and collecting electronic

evidence. These questions must be assessed alongside other applicable laws governing investigative powers and electronic information.

In their analysis of differing court decisions in narcotics cases, Siswanto, Siregar Abdul Rahman Maulana, and Siregar Mhd. Azhali identify variations in evidentiary quality as one factor associated with disparate outcomes [17]. This finding underscores the importance of improving evidence collection and presentation. Where an investigation cannot adequately establish the roles of key network members, prosecutors may face difficulties proving the case against them. Stronger investigative methods and legally obtained digital evidence could help address that problem, although their effects on case outcomes would need to be evaluated.

4.2 Reconstructing Criminal Law Policy through Digital Intelligence–Based Predictive Policing

Reconstructing narcotics criminal law policy through digital intelligence–based predictive policing would require coordinated legal and institutional reform. The proposed model would expand the capacity to detect emerging patterns and guide preventive action while preserving the legal safeguards that govern investigations and protect individual rights.

The first dimension is regulatory reform. Law No. 35 of 2009, or the regulations that operate alongside it, should provide a clearer framework for the lawful use of digital intelligence and predictive analysis in narcotics investigations [5]. Such reform should address three matters: the scope of police authority to use data analysis and artificial intelligence; procedures for collecting, processing, and presenting digital information as evidence; and independent oversight to protect fundamental rights. Any new authority must also be consistent with existing rules on investigative measures, privacy, and the admissibility of electronic evidence.

The second dimension is integrated digital intelligence infrastructure. The North Sumatra Regional Police could work with BNN, the National Cyber and Crypto Agency (BSSN), and the Financial Transaction Reports and Analysis Center (PPATK) to develop legally governed arrangements for sharing and analyzing relevant data [16]. Depending on each institution's authority and access, these arrangements could support analysis of publicly available online activity, suspicious financial transaction patterns, links among persons under investigation, and logistics movements associated with trafficking. Access controls, data quality standards, retention limits, and records of data use would be necessary to ensure that integration remains accountable.

The third dimension is a specialized predictive policing unit within the North Sumatra Regional Police. Such a unit would require personnel with expertise in policing, data analysis, computer science, and cyber law. Comparable approaches have been developed by police agencies in the United States and the United Kingdom, although their suitability and effectiveness in North Sumatra would require local evaluation [7]. Hutagalung and Zarzani's study of restorative justice in the North Sumatra Regional Police shows that the institution has previously adopted new approaches to case handling [10]. That experience may inform the institutional planning needed for a digital intelligence unit.

The fourth dimension is human rights protection. Fikri, Siregar, and Rafianti emphasize that an effective justice system must also respect human dignity [19]. In predictive policing, an algorithmic output should serve as an investigative lead, not as an independent basis for arrest or search. Any coercive measure must be supported by human assessment and the legal grounds required under Indonesian law. Regular assessment of accuracy and bias is also essential: an unreliable system could direct disproportionate scrutiny toward individuals or communities without sufficient grounds, undermining the presumption of innocence.

The fifth dimension is integration with rehabilitation and social intervention**.** In their study of halal medicine supervision from the perspective of *maqāṣid al-sharīʿah*, Rafianti, Zarzani, and Sahlepi emphasize the value of a holistic approach to policies concerning medicines and public health [25]. Applied to narcotics policy, this suggests that detection and enforcement

should be accompanied by community-based prevention and access to rehabilitation for people who use narcotics. Analysis of area-level trends could help direct voluntary support services to communities with greater need, provided that it does not label individuals as prospective offenders or expose them to unwarranted surveillance.

Conclusion

First, conventional enforcement-oriented policies within the jurisdiction of the North Sumatra Regional Police have not substantially reduced narcotics trafficking because of four interrelated structural limitations: their reactive rather than predictive approach; limited technical and institutional capacity; fragmented coordination among agencies; and a gap between the existing regulatory framework and the realities of digitally enabled narcotics crime. These limitations extend beyond operational matters that could be resolved solely by increasing personnel or funding. They indicate that the prevailing policy model requires reconsideration in light of increasingly digitalized organized crime.

Second, digital intelligence–based predictive policing offers a potentially adaptive approach to narcotics control in Indonesia, particularly in North Sumatra, provided that reform addresses five connected dimensions: a clear legal basis for the use of digital intelligence; integrated data infrastructure across relevant agencies; a specialized unit with appropriate expertise; robust human rights safeguards; and coordination between predictive analysis, rehabilitation, and social intervention. These elements must be developed together. Introducing predictive technology alone would be unlikely to produce a substantive improvement in outcomes.

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