



The Impact of the Global Economic Recession on the American Criminal Justice System

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Abstract

This article explores the impact of the global economic recession on the criminal justice system via the court and prison systems, on the premise that the crimes and increase in social disorder create challenges and problems for the already overcrowded and overburdened court and prison systems in the United States. This article seeks to explore this impact as fully as possible while introducing the issue as a challenge and problem for further research, debate, and consideration. The author presents several examples of how the global economic recession or downturn has created more cases for court systems across the United States, specifically referencing statistics from several sources and states. Several strategies and recommendations are discussed as approaches that can be used to remedy or at best, attempt to effectively manage the major challenges facing the criminal justice system.

Keywords: Deterrence, retribution, rehabilitation, incapacitation, global economic recession, criminal justice system.

Introduction

The global economic recession has had deep and far-reaching impact on human lives and social institutions. In the process, we have seen where governments and schools, as well as businesses have had to rethink and tremendously alter or change their operations and ways of thinking. However, what has been callously overlooked in the process is the severe and continuing impact that the economic downturn which began in 2007 has on the criminal justice system in terms of justice administration in the court and prison systems across the country. As a result of the gross difficulties in finance and economy, many more people have turned to crimes and criminally-related activities, and the jails and prisons must now create more spaces for new convicts on top of already overcrowded conditions.

The court systems across the US which were already flooded with cases of all kinds are now under unbelievable strain with cases arising from new incidents of thefts, increased domestic violence and conflicts among family members, friends and business partners, and buyers and sellers, stemming from financial and economic woes. Consequently, and as a

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result of lost earning opportunities and decrease in consumer spending, there is an increase in mortgage fraud cases, foreclosure cases, employment and unemployment cases, benefits and compensation cases, debtors and creditors cases, the number of civil and criminal contempt cases, crimes against the public, and just a total increase on all sides as affected by this almost unprecedented hardship in American society when we consider all events except the Great Depression of the 1930s. Thus, the criminal justice system will reel from the long-lasting and even some irreparable effects of the 2007 recession and its continuing onslaughts.

The legal fallout from the “Great Recession,” as the global economic downturn which began in 2007 has come to be known, is tremendous and will continue to surface long even after the recession has ended. Many cases will still be piled up in the courts and the doors of the jails and prisons will still have to be expanded to accommodate more offenders. Social order is essential for progress in any society, and when something as important as survival becomes jeopardized by various elements of an economic and political system, this social order becomes subjected to and more vulnerable to increased chaos; social chaos manifesting itself in increasingly disruptive behaviors that fall under the purview of the criminal and administrative justice system. The criminal justice system has several responsibilities and purposes to include (1) deterring behaviors that society has determined to be undesirable, (2) punishing those who take the acts deemed undesirable by society in order to give victims and the community at large a sense of retribution, (3) incapacitating those who commit such acts through imprisonment, electronic monitoring, death, and other methods, and (4) rehabilitating offenders (Hall, 2009; Schaffer & Wieteki, 2009). In order to meet its responsibilities and purpose of retribution, deterrence, incapacitation, and rehabilitation, the criminal justice system’s leaders and administrators must develop effective responses and solutions to the increased burden and fallout from the “Great Economic Recession” which started in 2007 and continues to contribute to increase crimes, prison overcrowding, and a deluge of new and emerging court cases.

The State of the Court and Prison Systems Prior to the Recession

The Supreme Court recently ordered California to make its prisons more humane because of the grave problem of overcrowding confronting the state (The Economist, 2011). The court and prison systems in the United States are suffering from chronic overcrowding and California, though prime among states where the problem is chronic, is not the only state that is crumbling under this difficult challenge. Florida, with the third-largest corrections system in the country after California and Texas (Luscombe, 2008), has also been grappling with overcrowding in its courts and prison systems. According to Luscombe (2008), as of 2008, “faced with a budget deficit of \$2.3 billion, Florida started saving money by buying giant tents to house prisoners at nine of its 137 facilities” (p. 1). Florida has over 100, 000 prison inmates. The Supreme Court ruling which ordered California to aggressively reduce its prison overcrowding is an awakening for several other states (Doyle, 2011), and overcrowding is particularly pronounced in several of the states that joined the brief supporting California; these states with overcrowded prisons include Illinois, Alabama, and Massachusetts (Doyle, 2011). According to Doyle (2011), California needs to reduce its overall prison population by roughly 30,000 to meet the target the three-judge panel has imposed.

The overcrowding in prison further contributes to increased crimes and violence, as well as increases in the number of court cases as those already in the system commit more crimes. According to The Economist (2011), in the prison system, overcrowding not only means more violence, but woefully inadequate health and mental care, with more deaths and suicides. The court system and the prison system are invariably tied, and once those incarcerated develop mental problems, physical health problems, commit crimes in prison or die in custody, more cases on these matters atop of cases held for these victims and offenders are piled onto previous. The economic downturn has added to the costs, both socially and economically in dealing with these challenges.

The State of the Court and Prison Systems during the Recession

The recession has complicated the overcrowding problems in prisons and courts, and thus, has placed a great strain on the American criminal justice system. The types of cases directly stemming from the recession that are increasing and overburdening the prison and court systems include cases involving not only bad debts and failed deals, but also filings that are indirect but still strident measures of economic stresses, like charges of violence in families torn apart by job losses and homes in jeopardy of being lost or already lost (Glaberson, 2009). Prisons nationwide are overcrowded, and it is getting worse (Marwah, 2002). In the United States, California, Florida and Texas are the three states with the most populated prisons, each having over 100,000 inmates in their prison systems (The Pew Center on States, 2010). This represents a great burden for the court systems of these three states which must constantly deal with existing cases, appeals, and new cases emerging from increased criminal activities directly and indirectly related to the economic downturn. By the year 2009 almost half of the states in America had prison populations of over 20,000 inmates (Table 1).

There are several factors that seem to contribute to some states having far greater number of incarcerated individuals than others. For example, states like Texas, California, and Florida with the three most populated prison systems tend to be larger both in size and general populations, and they also have higher numbers of immigrants, visitors and vacationers from other states and around the globe, higher cost of living, higher unemployment and a host of other factors; however, not in all cases. The states with smaller prison inmate numbers (Table 2) tend to be smaller geographically, as well as by populations, and they also tend to have smaller and sometimes less popular urban centers and harsher and colder climates. Examples of these states include North Dakota, South Dakota, Wyoming, Vermont, Maine and New Hampshire (Alcohol Monitoring Systems, 2012).

While some states' prison populations are growing, others are declining. However, it is uncertain what those states with decreasing prison populations are doing that their counterparts are not. There are several factors that regulate the number of crimes and court cases, and economics is no doubt a major factor, especially given the nation's current high rate of unemployment, foreclosures, financial hardship, bankruptcy and business failure rates. Large urban centers tend to naturally have more crimes because of population size and opportunities for criminal activities. In fact, Smith (1976) showed that there is a similar pattern with crimes and urban areas as with demographic gravitation. Thus, it could be argued that larger and more urbanized centers of commerce and trade will have significantly higher crime rates.

Table 1 –States with Prison Population Over 20,000 – United States in 2009

State	Number of Prisoners
Alabama	29,412
Arizona	37,746
California	174,282
Colorado	22,841
Connecticut	20,924
Florida	98,219
Georgia	54,256
Illinois	45,215
Indiana	27,132
Kentucky	22,457
Louisiana	37,540
Maryland	23,433
Michigan	50,233
Mississippi	22,431
Missouri	29,857
New Jersey	26,827
New York	62,623
North Carolina	37,970
Ohio	50,731
Oklahoma	25,849
Pennsylvania	45,969
South Carolina	24,239
Tennessee	26,267
Texas	171,790
Virginia	38,069
Wisconsin	23,743

Source: Alcohol Monitoring Systems (2012)

According to the Alcohol Monitoring Systems (2012), the United States imprisons significantly more people than any other country in the world. The Pew Center on the States, reported in 2008, that an astounding one in every 100 adults in the U.S. lives behind bars. Furthermore, between 2008 and 2011, the U.S. prison population was projected to increase to more than 1.7 million; an increase of 13%, representing triple the growth of the entire population as a whole (Alcohol Monitoring Systems, 2012). This number is not surprising, since each year, over 600,000 people are admitted to state and federal prisons, and over 10 million are incarcerated in local jails in the United States (Alcohol Monitoring Systems, 2012). This number becomes staggering when considered from the perspective of adding all individuals caught up in the criminal justice system together as when adding prison, jail, and probation populations together. The U.S. corrections population exceeds 7 million people, representing 1 in every 32 U.S. adults in the nation (Alcohol Monitoring Systems, 2012). Prison overcrowding is more critical in some states than others as by the end of 2011 it was projected that the Western U.S. states would experience the greatest prison population increases (18%), while the Northeast

would experience the lowest (7%); a situation where even the lowest increase is staggering (Alcohol Monitoring Systems, 2012). Since 1972, the number of prisons in the United States has grown by 705 percent (The Pew Center on the States, 2010).

The recession has brought about increased crimes and violence to many communities, especially as theft increases across the board. Robberies in the form of home invasion, criminal trespass, and associated “necessity-based” criminal activities have been on the rise. One local example of a city which has experienced a dramatic increase in theft, robbery, and especially home invasion and other recession-based or recession-derived crimes is Lauderdale Lakes in Broward County, Florida. Over the past several years, especially since 2009, this bankrupt, mostly immigrant-residential community has seen an increase in the percentage of armed robberies, and even in its murder rate. This is not unique to this local city, as many across Florida and other states have similarly experienced these occurrences.

Table 2 – States with Prison Population below 20,000 – United States in 2009

State	Number of Prisoners
Alaska	5,167
Arkansas	14,314
Colorado	22,841
Delaware	7,276
District of Columbia	7,456
Hawaii	5,978
Idaho	7,319
Iowa	8,732
Kansas	8,696
Maine	2,222
Massachusetts	11,436
Minnesota	9,468
Montana	3,462
Nebraska	4,505
Nevada	13,400
New Hampshire	2,943
New Mexico	6,466
North Dakota	1,416
Oregon	13,948
Rhode Island	4,018
South Dakota	3,311
Utah	6,509
Vermont	2,145
Washington	17,772
West Virginia	6,056
Wyoming	2,084

Source: Alcohol Monitoring Systems (2012)

Impact and Examples in Different Jurisdictions

Glaberson (2009) has provided several great examples of how the recession has impacted different jurisdictions via their criminal justice systems. For example, Glaberson (2009) tells us that Florida officials state that there were some 400,000 foreclosure filings there at the end of 2009, an increase of 446 percent since 2006. Furthermore, officials in Arizona state that eviction cases have tripled in that same year, and that contract disputes went up 77 percent over the last two years (2007–2009), and there is a noticeable increase in cases seeking to commit people for mental health treatment because of stress-related conditions (Glaberson, 2009).

One state where the recession has taken a more than very obvious toll on the criminal justice system is New York, and Glaberson describes this in full: In 2009 New York State's courts closed the year with 4.7 million cases; the highest tally ever and new statistics suggested that courtrooms will see even more because of the delayed result of the country's economic collapse (Glaberson, 2009). Additionally, in the state of New York, statewide home foreclosure filings increased 17 percent, to 48,127 filings, and cases involving charges like assault by family members were up by 18 percent statewide. Misdemeanor charges in New York City were also up by 7 percent and lesser violations were up by 18 percent in 2009 (Glaberson, 2009). Glaberson (2009) argues that this increase in New York offers a preview of the recession-related cases showing up in courts across the nation, as many states, especially California and Florida which already had overcrowded prison and court systems, are hit hard by increased crimes and violence which place added pressures and burden on the criminal justice system.

Recession-Based Crimes in the Criminal Justice System

Research shows that as the national economy declines, crime rates and the incidence of alcohol-related crimes also increase (Alcohol Monitoring Systems, 2012). We have perhaps at one point or another heard the proverb "poverty breeds crime" or some variation thereof. According to Smith (2012), the criminal justice system is mostly made up of people with poor literacy and numeracy skills, with serious drugs problems, and who come from broken homes, so the results of accelerated family break-up as a result of the recession will also have an impact on the criminal justice system. In the United Kingdom for example, violent crime is predicted to rise by almost 20 percent as a result of the global economic downturn or recession. In Florida, the number of crimes that are economic-based have increased dramatically since 2007. These crimes include more frequent occurrences of armed robberies, larceny, fraud of all kinds, prostitution and drug trafficking, etc; and this is also a general trend increasing across the United States.

Many individuals are not aware of the deep and strong relationship between economics and poverty and crime. The recession has certainly created more poverty on a greater and wider scale, and this increased difficulty for basic necessities invariably leads to people engaging in prohibited activities and behaviors to meet their needs or obligations. One of these activities that have long plagued American society and criminal justice system is gang involvement, activities and crimes. According to Smith (2011), "The rise in knife and gun crimes is often gang related and these gangs have their roots in the broken homes of children who for the most part have grown up in areas of social housing with high youth unemployment" (1). The unemployment among young people has increased significantly since the recession began in 2007, with the number of employed youth 16 to 24 years rising by 1.7 million to 18.6 million in July 2011 (48.8 percent employment); the lowest

July rate on record for the series which began in 1948 (U.S. Bureau of Labor Statistics, 2011).

Crimes among needy youths are only one side of the equation when we consider the impact of the global recession on the criminal justice system. Crimes by repeat offenders, new adult offenders, as well as an increasing number of businesses add to the number of court cases and prison inmates. Individuals from every walk of life are being pressed hard on every side by this global recession, and the range and forms of reactions outside behaviors or conducts characterized as normal and acceptable under criminal law and by society contribute significantly to increased social disorder. These behaviors, whether fraud, theft, prostitution, tax evasion, domestic violence from financial stress or disagreements, etc, must meet retribution, deterrence, incapacitation, and/or rehabilitation by the criminal justice system. Thus, it is in the best interest of society to appropriately respond to the current economic situation in the interest of preserving social order and justice.

Strategies and Recommendations

In order to effectively meet its responsibilities of (1) deterring behaviors that society has determined to be undesirable, (2) punishing those who take the acts deemed undesirable by society in order to give victims and the community at large a sense of retribution, (3) incapacitating those who commit such acts through imprisonment, electronic monitoring, death, and other methods, and (4) rehabilitating offenders (Hall, 2009; Schaffer & Wieteki, 2009), the criminal justice system must effectively and successfully deal with overcrowding and increased crimes and cases in the prison and court systems. This is a great challenge that will require far more than court and prison administrators can do with their current leadership and managerial skills, as well as authority and power. It will need serious national and state attention and intervention.

Given the foregone exploration and understanding of the impact of the recession on the criminal justice system via the court and prison systems, the major challenge posed in the form of a question is: “How do leaders and administrators address the overcrowding and increased crimes resulting from this?” The great recession which has been sweeping across the globe and the American landscape since 2007 has forced many states to pay attention to overcrowding in the criminal justice system: prisons and courts. According to Sethi (2011), prompted by the increasing financial stress, overcrowding and unmanageable number of court and prison cases, financially strapped states that can no longer afford them, and as well as the nation, are beginning to tackle overcrowded prisons and court systems. California with a severe problem has taken several drastic steps that will act as precedents for other states such as Florida, Illinois, Alabama, and Massachusetts, etc.

States, counties, courts, sheriffs, and administrators are actively looking for ways to decrease incarcerated populations, remain fiscally solvent, and to continue protecting public safety (Alcohol Monitoring Systems, 2012). The range of strategies that have been used to address overcrowding in prisons and courts vary across states and countries. However, there are several common strategies that are being adapted by these criminal justice systems including softer prison sentences by pardoning first offenders or reducing normal recommended time for lesser serious crimes, building more prisons, and increasing rehabilitation efforts. According to Dailymail.com (2007), the United Kingdom as of 2007 expected to see more than 11,000 serious criminals walking free because of softer sentences. Misstear (2012) states that drugs rehabilitation experts in Wales have supported

a policy move which could see some drug dealers caught with heroin, cocaine or cannabis avoid jail. In Alabama in the United States, a bill has been proposed that could change sentencing guidelines to reduce suggested punishments for first-time, non-violent criminals (White, 2012).

Sethi (2011) believes that “the road to prison reform, and less crowding, includes revamping ‘three strikes’ laws, as in California, and limiting pre-trial detention”. California’s recent change in its sentencing laws stemming from the recent budget shortfalls due in part to the poor economy is an example of drastic measures that states will perhaps increasingly look toward. In California, *Assembly Bill 109 - Criminal Justice Realignment* seeks to transfer the economic burden from the State Prisons back to the local or county levels (Public Defender Office, County of Santa Clara, 2012). Assembly Bill 109 is a legislation to reduce the prospective prison population as well as encourage counties to invest in rehabilitative programming for their offenders to reduce recidivism (Public Defender Office, County of Santa Clara, 2012, p. 1). Assembly Bill 109 has several features that make this approach sensible: (1) increasing use of community sanctions and programs, reduction in incarceration; (2) reducing recidivism by providing access to treatment, housing and employment opportunities and providing access to helpful people and services in the community; and (3) reducing costs (Public Defender Office, County of Santa Clara, 2012). Under this new approach, low level felony offenders will serve their sentence in county jail rather than in the crowded prisons. Perhaps several states need to consider this Bill and devise their own to match their current challenges and situations.

In the United States, today there are more prisoners than farmers (Huling, 2002). Building prisons is big business and the number of prisons built since 1972, a reported 705% increase (The Pew Center on States, 2010), attests to this lucrative aspect of the criminal justice industry. Huling (2002) argues that prisons are heralded by economic development professionals and politicians as beneficial economic engines for depressed rural economies. Huling (2002) believes that prisons have become one of the three leading rural economic enterprises (along with gambling casinos and animal confinement units for poultry and hogs) as states and localities seek industries which provide large scale and quick opportunities (p. 1). While prisons provide economic opportunities, the costs and damages they do in terms of collective impact of crimes and overcrowding do not offset social costs to society. Building more prisons is not a good solution as it only serves incapacitation purpose of criminal law and many individuals who are imprisoned and released after their sentence become repeat offenders.

Rehabilitation is no longer embraced as the viable solution to criminal problems, and thus, both the courts and prisons are at a loss as to how they must approach the problems of increasing crimes and increasing incarcerations. The rehabilitative ideal which is a correctional paradigm that reigned supreme for nearly seven decades into the 20th century has lost favor with politicians and the public alike (Cullen & Gendreau, 2000). The rehabilitative ideal embraces several beliefs: (1) crimes are caused by an array of psychological and social factors that intersected to push a person to commit criminal acts, (2) that the way to prevent future crime is to change the unique set of factors that drives each individual into crime, (3) that the process of corrections should be organized to identify these crime-causing factors and to eliminate them; the goal of the correctional system should be rehabilitation, (4) that the rehabilitation that is delivered have to be customized so that each offender is assessed on a case-by-case basis, seeing that they are pushed to criminal activities by different reasons, and (5) that by providing individualized

treatment, the state, through its agents in the correctional process should be invested with virtually unfettered discretion (Cullen & Gendreau, 2002). The rehabilitative ideal still makes much sense. The problem is that there has never been any concerted state and national movements to make rehabilitation a priority because the majority of politicians who are influential, and majority of people who care about addressing society's crimes tend to believe in tough punishment and sentences. Additionally, rehabilitating criminals is extremely costly and many states could not single-handedly afford to do so. The annual cost of maintaining a prisoner is already prohibitive, and if rehabilitation is added to this figure, the burden on tax payers and states would seem overwhelming. This is why many individuals and states are not prepared to talk rehabilitation.

Just developing techniques and strategies to deal with the overcrowded court and prison systems will not be sufficient as the problems that have led to this originally go much deeper, and the recession has magnified the problems. Thus, we need to recognize the damaging effects of debt on family and institutional breakdown and its impact on the lives of individuals - from the taxes we pay to the commission and fear of crimes (Smith, 2011). Smith feels that as the recession hits, just dealing with the raw financial effects on the economy will not be enough as we are drawn to recognize the need to help stabilize families so that the social costs do not make the downturn permanent for a growing number of children who could become tomorrow's criminals and convicts, further adding to our challenge to preserve social order and administer justice through the court and prison systems. Leaders and administrators across government, community structures, and the justice system need to become proactive and engage in sound and continuous debates and planning for real improvement in the criminal justice system. They must develop more programs that serve the rehabilitative and deterrence purposes of criminal law, and must educate the public to prevent crimes and violence of varying nature by attempting to eliminate the root causes. Increasing social and economic welfare will certainly be a huge part of the silver bullet or formula for some positive results or success in addressing these challenges.

The solutions that are being implemented today create conflicts among various stakeholders, and the move to decrease prison and court burdens through pardons and softer sentences, as well as referring back cases to local jurisdictions and authorities are still no real solutions, especially with the continuing economic downturn which brings in the question of finance. What is being done now is shifting the problem from one geographical and administrative division to another and this will not serve as a long-term solution. Perhaps education as a preventive measure can aptly decrease these problems in the future by eliminating recidivism, as well as by preventing thousands of school-age children and adults from becoming new court and prison statistics in the next several years and decades ahead. Whatever the case, the types of solutions that will emerge over the next several years will highly depend on several factors including economy, politics, and the types of changes we experience as a global society.

Conclusion

While there are obviously many examples and signs of how the recession has impacted the criminal justice system via operations and administration of justice in the courts and prison systems, many court administrators believe that they have seen only the first wave of recession cases since courtroom battles take time to develop and come to a close. Many administrators in the prison and court systems are bracing for more criminal incarcerations

from crimes directly or indirectly related to the recession and from suits over business disputes, foreclosures, evictions and family disputes that emerge as the economic downturn continue to reveal itself in varied and many ways (Glaberson, 2009).

The impact of the global recession is far-reaching and these same challenges and problems it has created are not unique to the American criminal justice system, as the United Kingdom and other nations across the globe are experiencing the same. The many political disruptions we have seen across countries such as Bahrain, Libya, Egypt, Italy, Greece, and Syria are triggered by deepening economic hardships, and as a result, social disorder characterized by crimes against government and the public have become widespread in many of these societies, overburdening their criminal justice systems, even crippling the executive arms of governments.

A society that cannot afford its citizens a certain standard of living should expect to have certain disruptions in social and political order reflected as crimes and glitches in, or challenges to the administration of justice. This is what has been happening across the globe, and the great recession beginning in 2007 has complicated and increased this challenge faced by the criminal justice systems and governments in preserving social order. As a society, we will be faced with increased social stress as the economic downturn continues coupled with already existing future uncertainties.

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