Correctional destabilization and jail violence: The consequences of prison depopulation legislation

Jonathan W. Caudilla,⁎, Chad R. Trulson, James W. Marquart, Ryan Patten, Matthew O. Thomas, Sally Anderson

a California State University, Chico, USA
b University of North Texas, USA
c University of Texas at Dallas, USA

ARTICLE INFO
Available online xxxx

Purpose: This study explored the effects of prison depopulation on local jail violence through a general systems perspective – where an abrupt shift in the processing of offenders had the potential to create ripple effects through other organizations – of the criminal justice system.

Methods: In 2011, California passed the Criminal Justice Realignment legislation aimed to reduce prison population by making low-level felony offenders ineligible for state incarceration and diverting those already in state prison for the included offenses from state to county-level community supervision once paroled. This study incorporated bivariate and negative binomial regression analyses to model officially-recorded county jail panel data to estimate the effects of state prison depopulation on California county jails.

Results: Findings demonstrated support for the general systems framework as there was a significant decrease in jail utility in the bivariate analysis and a significant increase in jail violence in the multivariate analysis associated with passage of California’s prison depopulation legislation.

Conclusions: The results supported the notion of an interconnected criminal justice system. Policy implications include the consequences of increased violence on jail operations, the potential for a cadre of habitual offenders, and generalizing these findings to the community.

© 2014 Elsevier Ltd. All rights reserved.

Introduction

Recent economic and political pressures have led states to consider actions to reduce prison populations. California, for instance, passed legislation in mid-2011 in response to federal court orders to reduce the prison population to 137.5% of capacity. This prison depopulation legislation, Criminal Justice Realignment (Assembly Bill 109 (AB 109), 2011), set into motion a transfer of supervision for low-level felony offenders – as specified by the controlling offense at conviction – from the state prison system to county correctional agencies. In effect, defendants guilty of felony drug, property, or other non-violent or serious offenses were no longer eligible for state prison. Instead, legislation required courts to sentence these felons locally, with county correctional agencies – mainly probation departments and jails – providing long-term supervision. From estimates provided by the California Department of Corrections and Rehabilitation (CDRC, 2014), it appears AB 109 successfully depopulated state prisons. Just prior to implementation of AB 109 in October 2011, there were approximately 160,000 inmates in state custody. One year later, there were approximately 135,000 inmates in state custody.

While successful in depopulating state prisons, the impact this legislation had on other criminal justice organizations is uncertain. To better understand its consequences, we incorporated the general systems theory of criminal justice. The theory suggests organizations are interconnected through the processing of cases and, thus, defective processing in one organization increases workloads in other organizations (Bernard, Paoline, & Pare, 2005). Along these lines, research on previous prison depopulation actions has suggested a ripple effect through the criminal justice system, resulting in higher risk offenders being released to the streets (Ekland-Olson & Kelly, 1993; Gottfredson & Barton, 1993; Joo, Ekland-Olson, & Kelly, 1995; Kelly & Ekland-Olson, 1991). While increased recidivism has been associated with previous prison depopulation efforts, how these reform efforts impact other areas of the criminal justice system are also of interest.

This study incorporated a general systems framework to observe the effects of prison depopulation on county jail violence. Longitudinal data originated from a state oversight agency responsible for maintaining correctional standards and included population estimates, characteristics of the inmate population, and counts of assaults on staff in California jails.

⁎ Corresponding author. Tel.: +1 530 898 4951; fax: +1 530 898 6010.
E-mail address: jcaudill@csuchico.edu (J.W. Caudill).

http://dx.doi.org/10.1016/j.jcrimjus.2014.09.009
0047-2352/© 2014 Elsevier Ltd. All rights reserved.
Literature review

Correctional destabilization

Scholars exploring criminal justice reform have referenced a system of intertwined organizations that exert force on one another, and serve as the recipient of other organizational actions. Feeley (1983) identified correlates of failed sentencing reform and Walker (2006) attributed resistance to changing the status quo through a process of “thermodynamics,” where “every action has an equal and opposite reaction” (p. 62). Bernard et al. (2005) provided a criminal justice specific general systems perspective, where external pressures impact organizational goals of successfully closing cases and organizational practices affect external relations through a transfer of case responsibility. This interconnectedness of organizations, that also share common goals, creates an environment not only based informally in processing efficiency, but also produces an environment ripe for ripple effects across organizations.

Because organizational outcomes are best understood in the context of the entire criminal justice system (Bernard et al., 2005), it is important to consider the influence of external forces on organizations. Feeley (1983) suggested that every qualified shift in the criminal justice system away from the status quo is met with resistance through some action to minimize the intended change. This suggests a criminal justice workgroup of some form acts in concert to preserve standard operating procedures and insulate against organizational changes in processing practices. From a broad scope, criminal justice thermodynamics suggests shifts in the system send corollary effects rippling through associated organizations (Walker, 2006). Walker, in the exploration of court reform through shifting the “going rate” for criminal sentencing, suggested the origins of these ripple effects typically are public policy changes, where a fracture in the process in one criminal justice arena forces a change in workflow in some other criminal justice entity (p. 47). This theoretical orientation of a criminal justice system comprised of interconnected organizations focusing on efficient casework processing provides the framework from which we can understand the consequences of prison deinstitutionalization.

If it is the case that efficiency maintains a significant motivation in criminal justice workgroups, then the expectation is that organizations tailor their case processing in an effort to create an equilibrium of efficiency (Bernard et al., 2005). Accordingly, organizational actors (i.e., those agents responsible for processing of cases) have a tendency to refine local practices for the sake of efficiency. For traditional example, an individual convicted for the first time for felony possession of a controlled substance would qualify for a prison sentence, but typically would receive a term of community supervision in lieu of incarceration. Only when he persisted in criminal or non-compliant behaviors would the example offender’s supervision be escalated resulting in a transfer to state prison. From a systems perspective, the criminal persistence, not the original charge of possession, encourages community supervision agents to forward the case to a more secure environment. In essence, criminal justice agents adjust the level of supervision based on their knowledge of the system and the needs of specific offenders. This suggests successful reform actions (e.g., prison depopulation) fracture common protocols and the effects of these fractures ripple across the criminal justice system. This phenomenon, combined with the understanding that the criminal justice system and localized practices are the product of trial and error, suggests major state-level criminal justice shifts destabilize the local criminal justice environment through deleterious ripple effects. Evidence of this effect fills the literature on system reform.

Destabilizing effects of prison depopulation

Studies on prison reform suggest fracturing the system produces damaging effects within the prison organization and beyond its organizational boundaries. Scholars have observed these collateral effects in studies focusing on recidivism in the community (Ekland-olson & Kelly, 1993; Gottfredson & Barton, 1993; Joo et al., 1995; Kelly & Ekland-Olson, 1991). Findings of these studies suggest prison depopulation results in unintended increased workloads for local criminal justice agents as a product of persistent criminality of those released prematurely.

Exploring the criminogenic and incapacitation effects of incarceration, Gottfredson and Barton (1993) compared the official records and self-reported criminal behaviors of three cohorts of juvenile offenders – a group that completed their sentence, a second group that experienced early termination of their incarceration, and a third comparison group that avoided incarceration – coinciding with the 1988 closing of the Maryland’s Montrose Training School. Findings based on official recidivism records presented a consistent deterrent effect of incarceration as the group of offenders avoiding incarceration were significantly more likely to persist in their criminal behaviors compared to both incarcerated cohorts. The authors offered in conclusion, “the postclosing group’s recidivism was significantly higher than that of the institutionalized groups for serious crimes (felonies)… especially for crimes against property” (p. 604).

Specific to the adult criminal justice system, Texas officials facing monumental institutional overcrowding during the late 1970s and early 1980s were forced to depopulate prisons. The Texas Legislature passed in 1983 the Prison Management Act and created a back-door pressure relief value to release prisoners more aggressively as the prison population increased (Ekland-Olson & Kelly, 1993). This fracture in the standard processing of offenders shocked the status quo by removing offenders from prison prior to completion of their sentences. As scholars discovered, those offenders purged from the prison system to alleviate crowding posed a significantly greater risk to the community compared to those released before and after their cohort (Ekland-Olson & Kelly; Joo et al., 1995; Kelly & Ekland-Olson, 1991). As was the case in Maryland’s closure of Montrose, destabilization of the correctional environment produced deleterious ripple effects through the system by releasing from custody offenders ill prepared for lower supervision levels. Evidenced by the increased recidivism risk presented by these offenders (Joo et al., 1995), the criminal justice agencies operating in the local community to which these offenders were released experienced increased workload burdens (Ekland-Olson & Kelly, 1993).

In effect, the abrupt depopulation of institutions – be it the closing of a secure juvenile facility or legislative backdoor relief valves, such as that outlined in Texas’ Prison Management Act (Ekland-Olson & Kelly, 1993) – ripples through the criminal justice system, interrupting the workflow for organizations beyond the prison system. The increased risk of recidivism for Maryland’s juvenile offenders and Texas’ adult offenders serve as examples of this phenomenon, where local law enforcement experienced an increase in the magnitude of their work. While these findings provide support for Bernard and associates’ (Bernard et al., 2005) notion of incomplete, or defective, processing of correctional clients, it is less clear how massive purging of offenders from state prisons affects local correctional organizations. Specifically, it is unclear how sentencing reform meant to depopulate state prisons impacts operations within county jails.

The nature of jail

Historically, jails served as “catchall” basins for those accused of serious crimes, purgatory for those awaiting corporal or capital punishment, and a short-term incarceration alternative for those unable to pay debts or fines (Casey, 1954; McConville, 1995). Jails have continued in the more recent history to serve as catchall basins for those accused of serious crimes and short-term incarceration for those convicted of more serious misdemeanor offenses, with awaiting transfer to state prison replacing corporal or capital punishment.

The dual source of inmate supply – the pretrial detention of potentially dangerous individuals and the short-term incarceration of
sentenced misdemeanants – and the continuous flow of the “rabble class” inmates supports the notion that jails, much like prisons in this regard, have always suffered capacity issues (Irwin, 1985, p. xiii). Indeed, the State of California Board of Corrections issued a “handbook to combat jail overcrowding” for counties to mitigate jail crowding litigation in 1988 (EMT Associates, Inc, 1988). Approximately one quarter of a century has passed since the American jail crisis of the 1980s and we remain in this paradox of jail crowding.

Policy analysts painted a dismal picture of jail conditions in 2014, estimating that one-third of California county jails operated in 2013 at or over the rated capacity (Martin & Lofstrom, 2014). Their projections estimated approximately 40% of California county jails will be over rated capacities by year 2040. While crowding has remained a persistent issue with jails, the impact of California’s AB 109 may have exacerbated local jail conditions through longer periods of incarceration for more sophisticated offenders within these short-term stay designed facilities. In this context, previously used metrics (e.g., average daily population) may fail to capture the essence of the jail environment, where the jail door becomes a revolving one with more serious offenders replacing less serious ones.

Jail violence

Understanding the impacts of prison-depopulation sentencing reform on jails requires a more focused understanding of this environment. Potentially due to the temporary nature of American jails (Irwin, 1985; Irwin & Cressey, 1962), many previous studies conducted on the jail environment focused on processing of inmates or those inmates characteristics (see, for example, Casey (1954) and Irwin). In fact, Casey referred to the jail as a secure local detention facility designed for temporary custody and assessment of individual amenability. A common theme expressed in studies of the traditional American jail was its transient nature.

A handful of more recent studies exploring the jail environment have turned to official measures of violence (Kellar & Wang, 2005; Tartaro, 2002; Tartaro & Levy, 2007). Tartaro found only limited support for the notion that environmental factors affected the likelihood of jail violence, with spatial density decreasing significantly inmate-on-inmate assaults. Interestingly and counter to the anticipated outcome, findings suggested spatial density did not maintain a significant influence on inmate-on-staff assaults. More recently, Tartaro and Levy confirmed the poor performance of spatial density in predicting jail violence and suggested a compounding effect, where inmate-on-inmate assaults predicted inmate-on-staff assaults.

In addition to the environmental effects on jail violence, scholars also have explored the influence of inmate characteristics on institutional violence. Controlling for administrative influences and environmental factors, Kellar and Wang (2005) discovered the importance of inmate characteristics as a determinant of violence in Texas county jails. While the jails’ therapeutic orientations, structures (nonlinear versus linear), and staff demographics failed to account for violent incidents; the number of maximum-security inmates predicted both inmate-on-inmate assaults and inmate-on-staff assaults. Kellar and Wang’s findings of individual influences on jail violence align with the broader literature on institutional misconduct focusing on prison environments.

Scholars focusing on the correlates of institutional violence of adult offenders have identified specific individual level characteristics inmates import with them into the institutional environment (Berg & DeLisi, 2006; Cao, Zhao, & Van Dine, 1997; Cunningham, Sorensen, Vigen, & Woods, 2010; Delisi, Trulson, Marquart, Drury, & Kosloski, 2011; Sorensen & Cunningham, 2007; Sorensen & Davis, 2011; Walters & Crawford, 2013; Wooldredge & Steiner, 2012). Walters and Crawford, for example, found imported characteristics of medium security federal inmates (i.e., offender’s age, gang affiliation, and criminogenic thinking patterns) were significant correlates of assault while incarcerated. Sorensen and Cunningham found a similar pattern with regards to inmate’s age, where older inmates were less likely to participate in assaultive behaviors. Cunningham et al. further explained the role of age for inmate violence by reiterating the negative correlation between age and perpetrating violence, and demonstrating a positive correlation between age and violent victimization. Scholars have also studied the impact of race on violent victimization in prisons (Wooldredge & Steiner), but as Berg and DeLisi (p. 638) pointed out, “the effects of racial variables on prison violence [are] more complex” than merely an African American / white issue as Hispanic and Native American males and African American and Native American females were more violent prone.

More specific, however, to the shift in California county jails is the role of inmates’ criminal histories on institutional misconduct. Studies of prison violence have suggested that offenders with more significant criminal histories are more likely to engage in serious misconduct while incarcerated (Cunningham et al., 2010; Sorensen & Cunningham, 2007; Sorensen & Davis, 2011). Specific to offense typologies, scholars have suggested criminal histories involving interpersonal violence (i.e., kidnapping, assault, robbery, or carjacking) increase the likelihood offenders will commit violence behind bars (Cunningham et al.; Sorensen & Davis). These findings linking imported offender characteristics and prison violence suggests increasing the criminal sophistication of jail inmates will produce more negative outcomes.

Summary

Although the literature on jails is limited, it provides insight into the jail environment and, specific to this study, it provides context surrounding jail violence. Violence in county jails, interestingly enough, has a tenuous link with institutional population density (Tartaro, 2002; Tartaro & Levy, 2007). Other individual-level factors of interest in the prison violence literature, however, such as inmate sophistication also appear to influence the occurrence of jail violence (Kellar & Wang, 2005). These findings, in concert with the theoretical framework of interconnected criminal justice organizations (Bernard et al., 2005) and findings of increased recidivism risks for offenders released prematurely from incarceration (Ekland-Olson & Kelly, 1993; Gottfredson & Barton, 1993; Joo et al., 1995; Kelly & Ekland-Olson, 1991), suggest prison depopulation will have a negative impact on county jail operations.

Current study

This study fills a void in the literature on the consequences of prison depopulation on jail operations by testing the interconnectedness of state prisons and county jails through a general systems theory of criminal justice lens. Specifically, we explored jail operations through jail violence and anticipated state prison depopulation would produce significant increases in violence in county jails based on the notion of being the legal last resort for defective cases.

Methods

Setting: California’s criminal justice realignment

In response to federal court orders, Californians passed prison depopulation legislation in 2011. California’s Criminal Justice Realignment (AB 109) provided specific sentencing code changes designed to divert “non-violent, non-sexual, and non-serious” felony offenders from state to county custodial responsibility. Assembly Bill 109 legislation focused on county-level community supervision, encouraging courts to incorporate some period of county incarceration with a period of community supervision following incarceration. This re-entry sentencing structure, referred to a split sentences, coupled a stay in “county prison” with a consecutive period of community supervision by probation officials. Straight sentences, on the other hand, remanded offenders to the
custody of the county jails for the entirety of their sentence. Combined with the transfer of parole supervision for offenders sentenced to prison for a non-violent, non-sexual, and non-serious offense prior to passage of AB 109, these sentencing strategies were designed to aggressively reduce the state prison population by transferring supervision responsibilities to county-level correctional agencies. Furthermore, as the motivating factor behind AB 109 was prison depopulation, the legislation was careful to preclude any attempts to return “non- (sexual, violent, or serious) offenders” to state incarceration for correctional programming non-compliance.

Data

This study includes the combination of three county-level official records databases collected by state agencies. In addition to population estimates extracted from California Department of Finance reports, this study incorporated county jail data collected monthly and quarterly (01/2006-06/2013) by a regulatory California state agency. Monthly data were aggregated for comparison with quarterly data.4 Included in this data were reported incidents of jail violence and several indicators of recoucurring jail operations (e.g., average daily population, bookings, pre-sentence and sentenced population, and staff assaults). Data were collected from 58 counties in California; however, several counties were excluded due to poor or inconsistent reporting practices over the timeframe.5 This resulted in 30 observations per 46 county jails (79 % of 58 California counties) in a panel dataset.

Measures

Included in this study were five variables of interest. The independent variable, AB 109, represented enactment of prison depopulation legislation, while control variables included jail environmental and inmate population measures. Inmate-on-staff assaults served as the dependent variable proxy for jail violence.

Independent variable

To capture enactment of California’s prison depopulation legislation in October 2011, this study included the independent binary variable, AB 109 (0 = pre-AB 109, 1 = post-AB 109). Data availability (01/2006-06/2013) produced 23 observations pre-AB 109 and seven observations post-AB 109 per each county jail.

Control variables

Several measures of the jail environment were extracted from the state’s survey data. With an interest in the impact on the community, we estimated county-level incarceration rates (average daily population / county population estimates) and the average number of bookings per quarter for county jails. Focusing on the inmate characteristics, we estimated the average number of sentenced felons per quarter gauging the criminal sophistication of those incarcerated in county jails.

Dependent variable

This study operationalized jail violence as inmate-on-staff assaults. Staff assaults serve as a conservative estimate of jail violence in that it does not include lower-level institutional violence (i.e., inmate-on-inmate assaults), but also has a lower legal standard than convictions resulting from serious institutional misconduct. On average, there were greater than three assaults-on-staff per quarter in California jails during the period under consideration.

Graph 1 represents the average reported quarterly staff assaults in California jails from the first quarter of 2006 (1.2006) through the second quarter of 2013 (2.2013). On average, there were just greater than four reported staff assaults during 2006. Reported staff assaults remained stable between a low of 3.64 incidents in 2007 and the 2006 estimate until a noticeable uptick during the 2011 year. This increase continued through the end of data collection, where there was an average of 6.57 reported incidents of staff assaults during 2013.

Analyses

The analysis strategy included bivariate and multivariate modeling to test Bernard et al.’s (2005) assertion that premature termination of cases in the criminal justice system produce “defective” products that return to the system as inputs. Based on the distribution of the dependent variable, the contribution of other environment factors on staff assaults, and the longitudinal structure of the data; this study utilized a time series negative binomial regression model to estimate the consequences of AB 109 prison depopulation legislation (Frees, 2004; Long & Freese, 2006).

Findings

Table 1 presents the results of bivariate analyses (1,233 observations over 46 facilities) exploring the impact of AB 109 legislation on the jail environment. The average incarceration rate (average daily jail population divided by county population estimates) changed significantly with the implementation of AB 109 (p < 0.01), with a smaller proportion of incarceration post-AB 109. On the other hand, the average reported bookings remained stable across the entire period under analysis.

Given the nature of California’s AB 109 legislation, it was expected that jails would experience an increase in the number of sentenced felons after October 2011. The analysis suggested there was a significant increase (from 234 sentenced felons per quarter to 327 sentenced felons per quarter, p < 0.01) from the pre-AB 109 to post-AB 109 periods. Accompanying the increase in sentenced felons was a significance increase in inmate-on-staff assaults (just over four assaults on staff per average per quarter to just fewer than six assaults on staff per quarter, p < 0.05) from pre-AB 109 to post-AB 109. Collectively, implementation of California’s AB 109 occurred simultaneously with significant changes

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Sample descriptive statistics</th>
<th>Full Sample</th>
<th>Pre-AB109</th>
<th>Post-AB109</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incarceration rate**</td>
<td>0.002</td>
<td>0.003</td>
<td>0.002</td>
<td></td>
</tr>
<tr>
<td>Bookings</td>
<td>4841.830</td>
<td>4971.293</td>
<td>4382.258</td>
<td></td>
</tr>
<tr>
<td>Sentenced felons**</td>
<td>254.021</td>
<td>233.504</td>
<td>326.852</td>
<td></td>
</tr>
<tr>
<td>Inmate-on-staff assault*</td>
<td>4.444</td>
<td>4.132</td>
<td>5.553</td>
<td></td>
</tr>
</tbody>
</table>

* - significant at p < 0.05, ** - significant at p < 0.01.
in the jail environment. Specifically, there was a significant decrease in the local incarceration rate, a significant increase in the number of sentenced felons held in county jails, and a significant increase in assaults on staff.

While these findings suggest AB 109 has had significant impacts on the local jail environment, the consequences of AB 109 on inmate-on-staff assaults is of particular interest. Table 2 reports the results of negative binomial models regressing the incarceration rate, bookings, sentenced felons, and AB 109 on staff assaults. Model 1 (chi-square = 33.28, p < 0.01) included the county incarceration rate, quarterly bookings, and the number of sentenced felons. Findings of the first model suggest a significant and positive association between the staff assaults and both the number of bookings per quarter (beta = 0.00, p < 0.05) and the number of sentenced felons per quarter (beta = 0.00, p < 0.01). Model 2 (chi-square = 38.24, p < 0.01) includes the previous variables and the addition of the binary AB 109 indicator. After controlling for the other factors, AB 109 was associated with a significant increase (beta = 0.15, p < 0.05) in staff assaults.

Discussion

Bernard et al. (2005) developed a general systems theory specific to the criminal justice system, where case processing creates measurable products. Organizational success, in this context, is based on an equilibrium of efficiency and, according to Feeley (1983), this creates an anticipated consequence, or “going rate” (p. 47). Bernard and associates also suggested that premature termination of services increases the likelihood of defective products, with correctional clients persisting in criminal behaviors and remaining burdens on the criminal justice system. Based on the natural tendency of organizations to maintain efficiencies in case processing and the concept of premature termination, we expected the effects of prison depopulation legislation to negatively impact county jail operations. In addition to refining scholarship on the interconnectedness of organizations within the criminal justice system, we were interested also in the hydraulic impact of prison depopulation legislation. California’s AB 109 (“Criminal Justice Realignment”, 2011) legislation provided a natural experiment with which to observe the ripple effects of prison depopulation on county jail operations.

Derived from longitudinal survey data on monthly and quarterly California jail operations from January 2006 through July 2013, implementation of prison depopulation legislation was correlated significantly with negative consequences on jail operations. First, there was a significant decrease in the local incarceration rate for California counties coinciding with implementation of AB 109. Second, there was a significant increase in the number of sentenced felons in county jails with AB 109’s implementation and, accompanying this increase of felony offenders came a significant increase in jail violence. After holding other factors constant, the results of multivariate analyses suggest there was significant correlation between prison depopulation and jail violence.

Before exploring the implications of these findings, the study’s limitations deserve attention. First, our operationalization of jail violence included only inmate-on-staff assaults and, thus, could be considered a conservative estimate of violence occurring in county jails. Had longitudinal data been available, this study’s analyses would have included inmate-on-inmate assaults in addition to the statistical modeling of inmate-on-staff assaults as both measures provide context. Unfortunately, inmate-on-inmate assault data was unavailable. Second, this study used a binary indicator for the transfer of offender supervision from the state to county correctional agencies based on an exact period in time. Future analyses assessing the impact of prison depopulation might benefit from using the actual number of offenders affected by such legislation, if such data is available. Additionally, future research should include micro-level data to further specify the determinants of jail violence during this period. The remaining limitations revolve mainly around the nature of official records collected through survey design and the issue of time intervals. Because some of the data used in these analyses were collected on only a quarterly basis, we were forced to aggregate monthly reported data to coincide with the quarterly reports. This aggregation of data had the potential to mask monthly effects; however, preliminary assessments suggested this limitation was minimal. Specific to official records of survey collected data, there is the potential for data entry error or outright deceptive reporting. To minimize this effect, we excluded counties with poor or inconsistent reporting practices. Even considering these limitations, there are several theoretical and policy implications of this study’s results.

The theoretical implications of these findings are optimistic. Results provide broad support for the notion of an interconnected criminal justice system, where change directed at one organization creates ripple effects through other interconnected organizations. As anticipated, a major shift in sentencing and correctional supervision practices fractured system efficiencies and, therefore, produced increased workloads for agents in an organization beyond the organization of interest (Bernard et al., 2005). In this case, depopulation legislation aimed at state prisons produced negative consequences for county jail operations. The increase in jail violence undoubtedly changed the jail environment for the worse. Of course, these findings are the results of right-censored data, and this significant increase in defective workflow may be a temporary effect similar to the prison violence experienced after desegregation of Texas’ prisons (Trulson & Marquart, 2009). Future studies should consider a broader longitudinal scope to assess temporary imbalance of organizational efficiency.

The policy implications are less optimistic, however, when considering the collateral damages associated with prison depopulation. On the back of prison depopulation legislation, California jails experienced significant decreases in county jail use, significant increases in the number of sentenced felons, and significant increases in inmate-on-staff assaults. Given that California county jails have suffered crowding issues themselves, the reduced use of local incarceration for individuals suspected of crimes and the increase in sentenced felons in local jails may help to understand the new environment in California jails. The decrease in the incarceration rates and increase in sentenced felony offenders, coupled with a statistically non-significant dip in the number of bookings, suggest jails have adjusted their operations to accommodate inmates that are more sophisticated for longer periods. These longer periods of local incarceration for AB 109 offenders has translated into jails being forced to reduce their incarceration rate, including those individuals suspected of crimes. This suggests finite resources (i.e., exhausted bed space), where jail administrators are forced into least bad decisions about who to release and who to keep.

It is quite possible that this diminished jail utility – fewer beds to accommodate arrested persons – would help to explain initial reports of increased property crimes associated with California’s prison depopulation legislation. Lofstrom and Raphael (2013) discovered a significant increase (14.8 %) in motor vehicle thefts associated with prison depopulation. There is also evidence of a post-AB 109 increase in the number of offenders with multiple arrests (Lofstrom, Raphael, & Grattet, 2014). Lofstrom and colleagues found the proportion of arrests for the early
parolee group relatively stable (2% decrease), but those arrested were more likely to be arrested more times (7% increase) compared to those offenders paroled prior to AB 109. These findings in concert with findings of this study provide limited evidence of a cohort of habitual offenders immune to the deterrent effects of formal social control, and limited jail space precludes their continued incarceration. If this is the case, then the focus should be on who receives incarceration and less on how many we incarcerate.

DeLisi (2003, p. 177) explored this phenomenon and discovered the criminal histories of incarcerated drug offenders extended into “arrests for violent, property, and nuisance crimes.” His findings suggest a means-to-an-end offender, focused less on the modus operandi than the anticipated criminal reward. This suggests prison depopulation attempts based on the offense of record might overlook important factors associated with criminal persistence. Along those lines, the increase in the number of sentenced felons and corresponding increase in the likelihood of jail violence aligns with the notion of focusing on individual offender traits. Coupled with the persistent effects of criminal sophistication on jail violence, the increase in jail violence correlated with AB 109 further supports the possibility of offender-specific correlates of jail violence.

This line of thought corresponds with the importation framework of institutional behaviors. Cao et al. (1997) found evidence of offender-specific characteristics predicting both serious and minor institutional misconduct in prison, while measures of deprivation failed to explain recorded misconduct. With a more focused view on imported factors, Delisi et al. (2011) discovered significant correlations between institutional misconduct and a record of prior delinquent behaviors, gang involvement, illicit drug use, and residential placement. Additionally, those offenders with a history of prior residential placements, originating from poverty situations, and those with a record of family violence were more likely to accumulate violent institutional misconduct records. In the context of the findings reported in this study, underlying criminal propensities of individuals within the realigned AB 109 offender group may have contributed to the observed increase in jail violence associated with prison depopulation.

Housing a cadre of inmates with elevated criminal propensities for extended sentences in county jails presents a major shift to the jail environment. Prior to AB 109, California county jails typically housed those suspects deemed either a high risk to public safety, a high risk of not appearing to face charges against them, or both and those sentenced for misdemeanor offenses. It appears that AB 109 tipped the scale of inmate criminal sophistication in county jails and changed nature of incarceration for inmates from one of temporary pre-trial detention to one of long-term sentence. The long-term, post-adjudication housing may appear more permanent and, thus, inmates might find the attraction of the illicit market within facilities irresistible. Commonly associated with “inmate politics,” engagement in the illicit market increases the likelihood inmates will, at the very least, witness victimization (Hochstetler & Delisi, 2005). These complex economies require rules and enforcement of those rules. The increase in jail violence is evidence to support this line of thought. Interjecting formal social controls, such as jail rules, inherently creates conflict between those interested in the continuance of prison politics and those with a vested interest in controlling prison politics – jail staff. Much like the social order void created in Texas’s prison system on the heels of the “Ruiz v. Estelle” (1980) reforms, where the absence of strict social controls (i.e., building tenders) produced violence and the coagulation of prison gangs (Marquart & Crouch, 1985), it is likely the fracturing of the social order in California county jails has enhanced gang activity.

Conclusion

While the stability of the current phenomenon remains unknown, the findings of this study suggest California’s Criminal Justice Realignment has taken a toll on county jails. The sentencing shift requiring low-level felony offenders to serve their incarceration in local jails fundamentally changed not only the nature of inmates, but also the nature of jail stays. The escalation in jail violence corresponding with AB 109 translates into a more dangerous environment. This increased violence has consequences.

Evidence suggests that the United States’ incarceration rate outstrips other international nations (Hartney, 2006) and there has been a recent momentum to reduce it. The United States Department of Justice (U.S. Department of Justice (DOJ), 2013) released a reform-oriented report on the deleterious consequences of incarceration on individual offenders, their families, and their communities. The DOJ report went on to suggest that prison depopulation occur based on the offense of record: “the Attorney General is announcing a change in Department of Justice charging policies so that certain people who have committed low-level, nonviolent drug offenses, who have no ties to large-scale organizations, gangs, or cartels will no longer be charged with offenses that impose draconian mandatory minimum sentences” (p. 3). It appears the United States is in the flow period of the ebb and flow in correctional reform. The increasing costs of ensuring prisoners’ rights on top of increasing prison populations and poor performing interventions have initiated the reform movement. California moved forward with a prison depopulation plan designed to divert low-level felony drug and property crime offenders from state prison, and transfer and restrict supervision of those offenders already in prison for the included offenses to counties. The results of this depopulation legislation were remarkable – a 16% decrease (160,000 to 135,000) in the state prison inmate population in one year (2011 to 2012). While it is yet to be observed whether California will realize the full prison depopulation plan, the legislation has produced consequences beyond the organization of interest.

The organizational interconnectedness of criminal justice agencies, as introduced by Bernard and associates (Bernard et al., 2005), suggests reforms in one organization produce a change in workload in another organization. This study demonstrated support for this notion as prison depopulation based on offense was significantly correlated with county jail violence. If this interconnectedness holds true as it has in other states that have experienced correctional shifts to reduce prison populations, the increase in jail violence may serve as a proxy for other deleterious effects for other criminal justice organizations. In line with studies from another state (Ekland-Olson & Kelly; Joo et al., 1995; Kelly & Ekland-Olson, 1991), policy analysts have reported increases in reported crime associated with California’s prison depopulation (Lofstrom & Raphael, 2013). This further supports the idea of ripple effects through the criminal justice system from fractures in the processing of criminals.

Although an important endeavor, the rationale for or against prison depopulation is beyond this study. Instead, this study focused on the consequences of prison depopulation on another area of the criminal justice system. Based on findings presented here, state and the federal governments should anticipate and consider the undesired consequences of prison depopulation prior to implementation. If future legislation fails to limit the collateral damage of prison depopulation, communities should anticipate increased operational expenses and should prepare for an increase in criminal victimization.

Notes

1 Along those lines, Bernard and colleagues refer to this as the “paradox of efficiency,” where organizations maintain this equilibrium of efficiency by producing just enough defective products to avoid “under-utilization of processing capacity” (p. 209).

2 John Irwin (1985, p. xiii), through his research in California jails, suggested the rabble class is made up of those “detached and disreputable persons who are arrested more because they are offensive than because they have committed crimes.” Fitzpatrick and Mysklo (2011) reported similar findings as it related to the offensiveness of transient individuals held in jails; however, other scholars have countered the offensiveness thesis. Backstrand and colleagues (Backstrand, Gibbons, & Jones, 1992) and DeLisi (2000) have suggested those in jails are there as a result of their offense seriousness instead of their offensiveness. Specifically in DeLisi’s work, homeless inmates were just as likely as
domiciled inmates to be arrested for violence, weapons, and almost as likely to be jailed for burglary. While there remain mixed findings for the rabble class thesis, it none the less suggests a continuous flow of jail inmates.

4 This means that serious violation of county supervised parole resulted in offenders previously incarcerated in state prison being incarcerated in county jails for the remainder of their parole supervision period.

5 Models also exclude data from the most populated jurisdiction due to allegations of systemic corruption.

**References**


