

Cost category Costs in response to crime

Cost item Defence costs

Expenditure on legal services for defendants charged with an offence type. Includes spending by the defendant and/or the government: includes legal advice and assistance and also representation.

Definition

Theoretical discussion

link to

Preferred estimation methodology

Identify all spending on the defence of all individuals (or a sample) charged with a particular offence type: sum public spending on legal aid and any other spending incurred privately. Infer the cost per offence by dividing total spending by an estimate of the number of offences derived from victim surveys.

In many countries the majority of costs will be met through legal aid subsidies. In countries such as Sweden there may be a lot of defendants who have private legal expenses insurance to cover such costs. In other countries there may be a 'public defender' employed by government to assist and/or represent defendants. The costs of provision via all these channels need to be included. It may be difficult to allocate defence costs by offence type, although most legal aid bodies will keep records at the individual case level that can be sampled or audited to identify the type of offence with which a defendant is charged. Private law firms will typically be reluctant to disclose details. Some law societies (lawyer organisations) publish data on costs in criminal cases. Ideally an analysis of defence costs will be part of a wider analysis of the flows through the CJS. Defence costs in criminal cases are a major item. Particularly in lengthy fraud trials the costs can be very large.

Comments

Since defendants who are convicted may be liable to heavy sanctions, including loss of liberty, most countries provide for defendants to be given public support for their legal costs. This may be in the form of either a subsidy to pay for a private-sector defence

Usage

An average cost per case of legal aid can usually be identified. This can be applied to the number of individuals charged with an offence type and brought to court.

Offences normally included

Defence costs arise in relation to all offence types.

Formula

average cost of defence services for cases involving offence type j * number of cases brought for this offence type: divide by estimated number of offences of their type to get cost per offence.

Data sources

Best source of data is likely to be reports of the organisation responsible for administering legal aid. The CEPEJ (2006) report has good coverage of total spending on legal aid by EU countries although it does not disaggregate spending by offence type. Private law firms will typically be reluctant to disclose details. Some law societies (lawyer organisations) publish data on costs in criminal cases. Legal aid bodies may keep detailed data on the cost of legal service provision by offence type

Example