

Cost of prison versus the cost of justice



Andrew Langdon, QC, leader of the Western Circuit

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If you have to rely on cut-price justice to pay for prisons, how do you know the right people are going to end up inside?

Last week, former chief justice Lord Woolf expressed his concern over the conditions of our prisons, calling for a new inquiry into the prison system — and rightly so.

There are currently 85,576 people in prisons and young offender institutions in England and Wales. The male prison population is 81,709 and the female prison population is 3,867.

It costs £33,000 per year to hold a category B male prisoner. That's most of them. Over the past 20 years the prison population has doubled.

Courts are trying a larger and larger number of serious cases, especially serious sex-abuse cases. Sentences of four years or more increased by 26,600 between 1993 and 2014, representing 66 per cent of the total prison population increase over the period.

The Ministry of Justice foots the bill, the cost of prison.

These long sentences arise out of the serious cases being prosecuted and defended in the Crown Court. The Ministry of Justice foots most of that bill too: for the running of the courts, and for legal aid. The CPS pays for the prosecution.

Over the past six years, defence trial fees have been slashed by 35 per cent. The CPS budget is also being cut. Though they won't admit it publicly, the CPS, like legal aid lawyers, are on the ropes. These people — those working on either side of these serious cases — are not fat cats but professional men and women doing a hard and skilled job. A job that more and more of them are deciding is just not worth the hours at the rates now being paid. There are easier and much less stressful ways to make a living.

And meanwhile the number of people going to prison and the average length of sentences rises inexorably, as politicians dare not risk being slurred as soft on crime.

Are those same politicians willing to invest in the cost of justice to make sure that the guilty and only the guilty are serving those sentences?

Last week's news? The Ministry's 2014/15 spend of £7.1 billion is to be reduced to £6.4 billion in 2015/16. That's the same budget that pays for the prisons, the courts and the lawyers. Cut by another 9.9 per cent: that's the government's plan and the opposition is not voicing any public opposition.

We can't make meaningful cuts in the cost of prison if the numbers are rising. So what to cut by 9.9 per cent? Does justice take another hit? What is a miscarriage of justice actually worth?

Our system is adversarial. It depends on each side putting its best foot forward, pointing to the strength and weakness of the opposing cases. The better that is done the less mistakes are made. If the prosecution and the defence are weaker, and don't do the work or make mistakes or take short cuts to save money, then it is more likely that you get the wrong result — both types of miscarriages of justice. The number of innocent people convicted rises, as does the number of guilty people acquitted.

So here's the thing: if, to pay for prisons you have to rely on cut-price justice, how do you know that the right people are going to end up inside? Have we reached the stage where we are going to pretend that doesn't matter?

One budget for both prisons and for justice at court. There never was a good time to be accused of a crime that you did not commit. But if you can't afford to pay for a lawyer privately, it looks like now is an especially bad time.

Andrew Langdon, QC, is leader of the Western Circuit