

Restoring and Rebuilding:

Indigent Defense in Gwinnett County

THE WREN COLLECTIVE

JANUARY 2024

Sixty years ago, in *Gideon v. Wainwright*,¹ the Supreme Court declared that all people facing a felony criminal charge are entitled to the effective assistance of counsel. But in many places in this country, that promise has been elusive. As part of the 60th anniversary of *Gideon*, the Wren Collective sought to evaluate the state of indigent defense in five places that look very different from one another: rural counties, big cities, places with a public defender, and a place that opted out of a public defender system. We decided to examine the state of indigent defense in Gwinnett, a rapidly growing county that sits just outside of Atlanta.²

85%

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In Georgia today, about 85% of people charged with a crime and facing a loss of liberty are too poor to afford a defense lawyer.³ For decades, the state struggled to ensure that the Supreme Court's promise of a lawyer became a reality for its residents. As its jail population spiked, the need for lawyers who could provide effective representation grew.⁴ In 2003, it established the Georgia Public Defender Council (GPDC), which not only increased the number of public defenders in the state but also provided a means of oversight and support to those attorneys. Soon after, the number of people held pretrial in Georgia's local jails significantly dropped, illustrating the impact effective representation could have.

Six counties elected not to join GPDC when the state established it, opting instead to operate independent and locally controlled systems of indigent defense. Gwinnett is one of those counties.⁵ Operating independently of GPDC leaves these counties without access to many of the resources offered by the public defender, including a centralized staff and budget for training and professional development; a team of specialty offices handling appeals and mental health, gang, and capital offenses; and a dedicated general counsel's office to provide insight to lawyers about complex issues. But, at the same time, operating independently from GPDC keeps the Gwinnett Indigent Defense Governing Committee (IDGC) immune from some of the larger political influences, including the politics of whomever the governor appoints as head of GPDC and fluctuating state budget constraints.

In Gwinnett, we discovered a framework that is currently struggling under the weight of increased demand.

The county needs more lawyers who are willing to represent poor people charged with crimes, more staff to support the work of those lawyers, and better training programs to prepare new lawyers and improve the quality of representation. The number of lawyers taking court appointments in Gwinnett County has dropped considerably over the last few years. As a result, remaining attorneys have unmanageable caseloads, especially those qualified to handle serious cases. Additionally, the county itself does little to ensure that lawyers are appropriately staffed and adequately trained to handle complex cases.

We believe this is a solvable problem if the county is willing to spend the money. By providing stability, administrative support, and other benefits, like health insurance, retirement, or a steady salary to court-appointed attorneys similar to those given by other governmental agencies, we believe that the county can attract more attorneys to this work. Additionally, funding a cadre of salaried investigators and social workers who can immediately help court-appointed attorneys (which also removes judicial barriers to funding) will dramatically improve defense in the county and make it a more appealing place to practice, as lawyers will not have to beg for resources. By establishing and promoting local training programs, the county can convey to young lawyers that if they come to Gwinnett, they will have long-term support. We believe that, if implemented, these changes will lead to more effective lawyers and, most importantly, meaningfully improved client outcomes.

I. Overview of Indigent Defense in Gwinnett County

Gwinnett County, Georgia, once one of the fastest-growing counties in the country, remains one of the largest and most diverse counties in the state.⁶ Today, Gwinnett is an urban county that is home to nearly one million residents, and sits just 30 miles northeast of downtown Atlanta. Despite its geographic proximity and similar population density to other metro Atlanta counties, the indigent defense system differs significantly.

90%

of people accused of a crime in Gwinnett cannot afford to hire a lawyer and thus require the services of appointed counsel

The Georgia Indigent Defense Act of 2003 established the Georgia Public Defender Council (GPDC), which oversees the indigent defense system across the state.⁷ Today, of the 159 counties in Georgia, only six have opted out of GPDC governance. Gwinnett is one of those six counties. Instead, Gwinnett has an Indigent Defense Governing Committee (IDGC) composed of six members who are tasked with operating the indigent defense system, including setting policy and overseeing the appointment of counsel for indigent clients. The attorneys responsible for representing indigent defendants in Gwinnett County all maintain their own private practices but have also agreed to accept appointments to represent indigent defendants. An estimated 90% of people accused of a crime in Gwinnett cannot afford to hire a lawyer and thus require the services of appointed counsel.⁸

The IDGC is responsible for creating a panel of attorneys and a “term list” once every three months. The term list designates the attorneys eligible to receive appointments in the county during each term of court. Attorneys on the list can fall into one of several categories:⁹

- The **“A List”** is composed of attorneys who the IDGC has deemed qualified to handle cases that are punishable by life imprisonment or greater.

These attorneys must have been members of the bar for at least 10 years and must have participated in the presentation of at least 15 felony cases, 5 of which must have resulted in a jury trial.

- The **“B List”** is composed of attorneys who the IDGC has deemed qualified to handle cases that are punishable by 10 years or more. These attorneys must have been members of the bar for at least 3 years and must have participated in the presentation of 10 felony cases, 4 of which must have resulted in a jury trial.
- The **“C List”** is composed of attorneys who the IDGC has deemed qualified to handle cases that are punishable by less than ten years. These attorneys must have been members of the bar for at least 2 years and participated in at least 5 felony criminal cases, 2 of which must have resulted in a jury trial.
- The **“D List”** is composed of attorneys who the IDGC has deemed qualified to represent clients in misdemeanor cases. Any lawyer who practices criminal law and is in good standing with the state bar and actively practices in the circuit is eligible for inclusion on the panel and the term list for appointment to represent an indigent person charged with a misdemeanor violation.
- The **Juvenile Defense List** is composed of lawyers who are qualified to represent children in juvenile court cases. Any attorney who has requested to be included on the juvenile court panel, has attended (or will attend within one year of being placed on the panel) the GPDC juvenile law seminar, practices criminal law, and is in good standing with the state bar and actively practices in the circuit shall be eligible for inclusion on the panel and the term list for appointment to represent an indigent child or parent of a child alleged to be deprived.

All attorneys on the term list must also complete at least six continuing education hours per year related to criminal defense, trial practice, or appellate practice. While the Indigent Defense Program Guidelines allow judges to appoint any attorney who practices law in the jurisdiction and meets the above qualifications to represent indigent defendants,¹⁰ it is the IDGC’s practice to appoint only those attorneys who express an interest in joining the panel and taking appointed cases.¹¹

This system of providing the constitutionally required representation of indigent people has been in place in Gwinnett County for over twenty years. However, when Gwinnett County opted out of governance by the state-run Georgia Public Defender Council in 2003, the county’s needs were significantly different. For example, it was home to just 666,651 residents and had a 6.2% poverty rate.¹² Now, twenty years later, the population is about 975,353, and nearly 10.8% of those residents live in poverty.¹³

As the county has grown and changed, so have its indigent defense needs. Today, Gwinnett County must equip an indigent defense system that allows for the appointment of lawyers to more than 13,000 juvenile, misdemeanor, and felony cases each year.

In addition to the changes that are demanded by the county's growth and changing demographics, there are additional factors that put pressure on the county's indigent defense system. Unfortunately, like many other jurisdictions in the country, the COVID-19 pandemic had an incredible impact on indigent clients and the lawyers who represented them. By 2022, nearly 40% of the lawyers in the county who had represented indigent clients before March 2020 had left the panel, and the lawyers who remained were seeing incredibly high caseloads.¹⁴

II. Findings

A. Gwinnett County's indigent defense system has many strengths.

Though there are several areas where increased investment in indigent defense is needed, there are some bright spots in Gwinnett County's indigent defense system.

Gwinnett County pays attorneys hourly for their work, and the pay rate is among the highest in the state for contract public defenders

Adequate funding is central to the county's ability to meet its constitutional obligation to provide robust representation to each indigent person accused of a crime. Though it is one of the most populous counties in the state, Gwinnett County's budget for indigent defense is less than half of the budget of neighboring and similarly sized jurisdictions in Georgia.¹⁵ Despite this funding disparity, the county has been competitive in its hourly attorney compensation, which is often cited as one of the primary obstacles to recruiting and retaining indigent defense lawyers. As of January 2024, attorneys handling felonies are paid between \$150 and \$175 per hour, and attorneys handling misdemeanor and juvenile offenses are paid \$100 per hour—a pay rate that is among the highest in the state for contract public defenders.¹⁶

A competitive pay structure can help attract attorneys with significant criminal defense and trial experience to the indigent defense panel. In interviews conducted with several of the attorneys on the term list, particularly those who represented clients accused of serious felonies, several shared that the competitive pay is what kept them representing indigent clients when they would have otherwise been unwilling to work in a public defender office.

Finally, because each of the attorneys on the term lists maintains their own private practice, conflicts in client representation are limited. Lawyers are prohibited from representing a client if “there is a significant risk that the lawyer’s own interests or the lawyer’s duties to another client, former client, or a third person will materially and adversely affect the representation of the client.”¹⁷ For criminal defense attorneys, for example, this rule generally means that a lawyer should not represent two or more people charged as co-defendants, two or more people who implicate each other even if not charged as co-defendants, or two or more people who are defendants or victims in the same case. Gwinnett County is able to minimize these potential conflicts because the vast majority of the attorneys on the panel are not sharing an office or a law practice.

B. Gwinnett County does not have enough attorneys to effectively handle all of its cases.

Like much of the legal profession, and despite its decent pay, Gwinnett County experienced an extraordinary loss of lawyers during the pandemic. In 2022, the county had 132 lawyers willing to take court appointments. Now, that number is 80.¹⁸ Those 80 lawyers are responsible for 13,000 cases per year. There are only **8 lawyers eligible to handle murder cases**, which have a potential punishment of death or life in prison without the possibility of parole.¹⁹ There are **21 lawyers on the “A List,”** which means there are only 21 lawyers available to represent people facing a potential sentence of life in prison. There are also only **10 lawyers on the “B List,”** a group that handles cases involving crimes punishable by 10 or more years.²⁰ There are **3 attorneys on the “C List,”** which handles cases punishable by under less than 10 years. There are **25 attorneys on the “D List,”** and they handle misdemeanors. There is only **one attorney who handles misdemeanor mental health cases.**

There are simply not enough lawyers to handle all of Gwinnett’s cases.

In 2021, the last year of publicly available criminal filing data, there were 3,271 felony cases filed in Superior Court.²¹ Those cases require a tremendous number of hours conducting investigations, reviewing evidence like body camera footage and forensic testing, and preparing for trial or plea negotiations. Acknowledging the substantial effort required, a recent workload study on indigent defense conducted by the RAND Corporation recommended that attorneys handle no more than 7 felony cases that carry a life sentence, 8 murder cases, 21 felony-high cases (non-LWOP felonies that involve serious prison time above 15 years), or 59 felony-low cases per year

(cases that involve potential sentences of incarceration up to two years).²² RAND made this calculation assuming that lawyers had 2,080 hours a year to work, which it acknowledged, is an extremely high estimate because those hours do not include work spent on activities unrelated to adult criminal case representation—like travel and billing.²³

Unsurprisingly, given the number of filings and the number of lawyers available to take court appointments, many attorneys in Gwinnett have caseloads that far exceed those numbers. According to data obtained by the Wren Collective, 47 lawyers who received court appointments had over 100 cases appointed to them in 2022. **Seven attorneys on the "A List" had over 100 appointments. One had 339 cases, another had 242, and a third attorney had 164. On the "B List," one attorney had 334 cases, another had 313, and a third had 275.** It is simply impossible for lawyers to handle that many cases, even if some of those cases are misdemeanors, which still require time and work. A review of attorney payments also makes clear that attorneys are either not spending or not billing for very much time on individual cases, further indicating that caseloads are likely too high. For example, in 2022, almost no attorney billed above \$1500 per case, even attorneys who are on the serious felonies (A and B) appointment list.²⁴ This suggests that some attorneys are not spending anywhere near the number of recommended hours on each of their cases.

C. Attorneys lack access to investigators and other supports.

Interviews and data reveal that attorneys are not regularly utilizing investigators, social workers, and experts, to the detriment of clients. Available and competent support staff are necessary for quality representation. According to the American Bar Association Guidelines, "[q]uality legal representation cannot be rendered either by defenders or by assigned counsel unless the lawyers have available other supporting services in addition to secretaries and investigators."²⁵ Most basically, a defense attorney must investigate every case, and they need an investigator to do so.²⁶

Investigators are skilled in interviewing witnesses, inspecting a crime scene, and gathering records and other documents. Because the IDGC does not have investigators on staff, attorneys must search for them on their own. That adds extra time and stress, and an attorney may forgo finding and hiring an investigator due to the extra work it requires and instead attempt to complete an investigation on their own. Additionally, in Wren's interviews with local attorneys, they reported problems knowing where to look for capable investigators.

Performing an investigation without an investigator can be detrimental to clients, as well-done investigations often win cases. Further, performing investigations without the assistance of an investigator is problematic because when an attorney personally interviews witnesses, the attorney may have to take the stand to challenge a witness's credibility, testify to an inconsistent statement, or withdraw from the case altogether.²⁷

The county paid investigators in just 157 of the nearly 4,000 felony cases filed that year

Data received by the Wren Collective shows that attorneys in Gwinnett are simply not using investigators in the majority of court-appointed cases. In 2022, the county paid investigators in just 157 cases, even though there were nearly 4,000 felony cases that year.²⁸ Put another way, less than 4% of the indigent people facing criminal felony charges and lengthy sentences of incarceration in the county received the benefit of a trained investigator to help their lawyer defend them against those charges. In contrast, in many other similarly sized counties, investigators are available to attorneys in every case because they are salaried employees of the county and can be brought on to a case immediately upon appointment and throughout the duration of the case. Lawyers in those counties are not required to request funding from judges for the work of other integral members of the defense team. They are also not required to seek, vet, or retain the services of investigators on their own. But lawyers in Gwinnett County must file motions with the trial judge to get permission to engage investigators and experts before fees will be paid by the Gwinnett indigent defense program.

A defense attorney also often needs to utilize a social worker. Social workers can tell a client's story by gathering mitigating evidence about their life history that puts the crime into perspective by explaining the client's mental health struggles or trauma, for example. Social workers also connect clients to other services, like housing, jobs, and food assistance, which is often critical to convincing a judge or prosecutor to offer a less carceral plea or sentence. Without the assistance of a social worker, attorneys end up doing that work themselves when conducting such work is not necessarily within their skillset, or worse, they don't do it at all. Few attorneys use social workers; the Wren Collective was unable to find evidence of a single payment made to a social worker hired by a defense attorney in 2022.²⁹

35%
of people in Gwinnett County speak a language other than English as their primary language

Equally problematic, the IDGC does not have any interpreters on staff, which is troubling when 35% of Gwinnett County speaks a language other than English as their primary language.³⁰ If an attorney cannot reasonably communicate with a client, the lawyer has the duty to use a qualified and impartial interpreter.³¹ Appointed attorneys may request that Gwinnett's Administrative Office of the Courts provide an interpreter, but the needs exceed the number of available interpreters and the limited number increases the possibility of conflicts.

Likewise, experts can make or break a case. Experts have specialized knowledge, training, and experience in their field, and testimony can clarify or explain complicated forensic or mental health evidence in a credible way. As the ABA Standards point out, "[t]he quality of representation at trial...may be excellent and yet unhelpful to the defendant if the defense requires the assistance of a psychiatrist or handwriting expert and no such services are available."³² Experts were paid in just 22 cases in 2022.

D. Gwinnett County lacks comprehensive training programs for attorneys—especially newer ones—on its court appointment list.

In order to serve as an attorney on the “A List,” attorneys must meet certain experiential benchmarks (for example, that they have practiced for ten years or have tried a certain number of felonies).³³ They must also complete six hours of continuing legal education each year in the area of criminal defense, trial practice, or appellate skills.³⁴ But Gwinnett County’s panel attorneys lack sufficient access to local training programs that are reasonably priced, readily available, and substantively helpful.³⁵

This type of training does, in fact, exist: the Georgia Public Defender Council ensures that it is provided to all of its attorneys. For example, GPDC offers its new attorneys two weeks of training and hosts a number of additional educational courses throughout the year for all state public defenders.³⁶ While panel attorneys in Gwinnett could access some of the trainings, they are not advertised to them³⁷ and the costs would not be covered for panel attorneys as they would be for the public defenders.³⁸

Similarly, the county bar association used to conduct another annual training, but it has been discontinued. This training was very beneficial to Gwinnett’s panel attorneys: it was provided consistently, targeted local issues and practices, and was affordable.³⁹ But the bar association’s criminal defense section dissipated during the first year of the COVID-19 pandemic and has not yet recovered though it has been reactivated and participation by panel attorneys is increasing.⁴⁰

The loss of this training seems to have had a significant impact on attorney compliance.

GDIC reports that the number of attorneys “out of compliance” with education requirements has tripled over the last three years.⁴¹ It points to the disappearance of these trainings, but in particular the collapse of the criminal defense section, as the reason for the increase.

The lack of training is especially problematic given the desperate need in the county for new panel lawyers because of the high number of attorneys who have left that list. Warm bodies will not do—the county needs well-trained lawyers to provide effective representation, and it is critical that those attorneys are in compliance with the education requirements to remain on the list. Without improvements to its training and education resources, less experienced attorneys will have a much harder time developing the necessary skills to represent their clients effectively.

Like high-quality training programs, attorney mentoring can serve as a helpful tool for increasing competency and skill over shorter periods of time, but Gwinnett County's formal mentoring program could also use improvement.⁴² Currently, the mentoring program pairs newer attorneys with more experienced attorneys and pays both to participate in the program.⁴³ As designed, the new attorney will also sit second-chair at trial and work with the experienced attorney to engage in motion practice, client interviewing, and strategy discussions. However, the program needs more participation by the experienced attorneys on the list and could use more oversight and engagement by the Indigent Defense Governing Committee to ensure that the newer attorneys are receiving adequate mentorship.⁴⁴

In short, Gwinnett needs far more attorneys on its court appointment list, but it is likely many of the attorneys who will be joining the list will be newer and have less experience than those who have been on the list. Newer attorneys can gain the critical skills needed to provide competent representation to their clients by attending meaningful trainings and taking advantage of thoughtful mentoring.

Indigent clients have a right to the effective assistance of counsel. Because Gwinnett has opted out of the state indigent defense system, the county is solely responsible for ensuring that right is protected and must fill in the existing gaps in training and mentoring to meet its obligations.

E. Oversight and supervision of attorneys on the indigent defense panel is limited.

While the IDGC is tasked with the oversight of the indigent defense panel and has the ability to add and remove attorneys from the term list, respond to client complaints, mandate training, and set policy, its ability to provide close supervision and training of the attorneys on the term list is limited. The six IDGC members each maintain law practices or other jobs in addition to their service on the governing committee. While all are committed to improving indigent defense, their work and service to that end is necessarily limited in scope.

The members of the governing committee have limited ability to conduct in-court observations to understand the training needs and preparedness of defense attorneys on the term list. Instead, they must rely on reports of deficiencies from clients, prosecutors, other attorneys, and judges. Four members of the governing committee currently practice or have practiced criminal defense and can report observations with more than 80 lawyers and 13,000 cases, they cannot provide observations that produce significant meaningful information for all of the lawyers on the panel. Instead, reports about lawyer performance may only come to the IDGC in extreme circumstances of deficiency and neglect, and because some defense deficiencies might actually serve the interests of prosecutors and judges, like moving a case quickly or avoiding trial, those reports may never come.

Similarly, the governing committee cannot visit clients to solicit their feedback or concerns about the quality of representation from their lawyers. Instead, they must rely on clients submitting complaints—a process that often requires clients to know that they have that option available to them and may even require the Sheriff’s department to provide clients with the opportunity to contact the committee from the jail.

Finally, the governing committee members have limited ability to provide attorneys with direct feedback on the quality of their advocacy or case outcomes. Attorneys are simply paid when the case closes for the work that they have done but are only occasionally given feedback on how they could improve their work in the future. Other counties with institutional public defender offices or a centralized, adequately staffed office of indigent defense have the opportunity to provide supervision, regular performance evaluations, training, or coaching where there are deficiencies.

Feedback on performance is an essential part of attorney development, and attorneys in Gwinnett have little opportunity to receive it.

III. Recommendations

A. Gwinnett should invest in a central indigent defense office that employs staff that can help improve the overall quality of the defense team.

Indigent defense in the county would benefit from better oversight of attorneys, improved training practices, and a more robust investment in social workers, investigators, experts, and interpreters as part of the defense team.

As described in part I, the IDGC is a six-member board of attorneys, all with their own private practice or other employment. They cannot, and should not, actively supervise panel attorneys. Instead, the IDGC should be utilized as a board of directors to make high-level decisions and advocate for resources. Accordingly, the IDGC should be given the resources to hire a director to supervise the day-to-day operations of a centralized Indigent Defense Office.

Indigent defense in Gwinnett would benefit from better oversight, improved training, and more investment in social workers, investigators, experts, and interpreters

After establishing a director, the IDGC should then build up its staff to serve as resources for attorneys. Currently, social workers, investigators, experts, and interpreters are underutilized by the defense bar in Gwinnett County. The county can maintain its practice of contracting with private defense attorneys to provide direct client representation and instead dedicate staffing the central office to administrative personnel and the other members of the defense team that are critical to improving client outcomes.

First, the IDGC should hire three to four social workers and three to four investigators as salaried or contract employees to allow attorneys to utilize them in their cases easily. This would ensure that attorneys know where to go for resources and do not have to rely on approval from a judge to get the services their clients need.

Second, the IDGC should compile a bank of experts that lawyers could call upon when needed and establish a way for the experts to bill the county for their services, so attorneys do not have to request funding from judges and risk prematurely sharing defense theories and strategy. It also allows attorneys to reduce the amount of time spent finding appropriate experts and then billing for them.

Third, IDGC should hire or contract court-certified interpreters of the most commonly spoken languages in Gwinnett County and continue to use a language line for attorneys who need to communicate with clients in other languages. This action will reduce barriers to attorneys getting qualified interpreters and lessen the risk that attorneys will try to get by without an interpreter, which could be devastating to a client and their case. It will also facilitate increased out-of-court communication.

The county should also use a more robust central office to offer training opportunities for both new and experienced panel attorneys. Right now, the only IDGC-sponsored training is the mentorship program.⁴⁵ While attorneys are paid to participate in the mentorship program, it is entirely optional, and participation is limited. The county should add a training coordinator who can monitor the qualifications of attorneys on the term list and coordinate free continuing legal education for appointed counsel.

B. Gwinnett should improve attorney recruitment and retention efforts.

Establishing a central Indigent Defense Office will assist the county with its most dire need: improving recruitment and retention of lawyers on the term list, especially for lawyers who can take the most serious cases in the county. One way to do that is by increasing the resources available to attorneys, making it more attractive to them to work there. Currently, the budget for the two prosecuting offices in Gwinnett is more than four times the indigent

defense budget in the county.⁴⁶ Such a disparity is unconscionable, especially considering that the District Attorney and Solicitor's offices can rely on the police department to conduct their investigations and, therefore, only require minimal internal investigative funding.

The county should substantially increase its investment in indigent defense by providing parity between the prosecution and defense budgets. This would allow the IDGC to invest in the resources that attorneys need to handle their cases effectively and to increase attorney compensation, especially for serious cases. The county should also recognize that while its payment structure is competitive with, or better than, other counties, the benefits it provides are not. It should consider providing attorneys county benefits if they handle a certain number of appointments (with IDGC controlling for caseload and quality of representation). Attorneys who work in other counties that have public defender offices receive health care insurance, retirement, and other lucrative benefits that are costly to solo practitioners, both in terms of the direct monetary cost and in terms of the time it takes to set up some of these benefits.⁴⁷ IDGC could hire a human resources officer to help practitioners who take a significant number of appointments, and it could set up a health care option and 401(k) system that lawyers could buy into—which could then be offered at a reduced rate to those lawyers. Providing these benefits would make Gwinnett more competitive and attractive and could help convince attorneys to stay.

Gwinnett could also offer a salary or contract to attorneys who commit to taking a minimum number of cases for each term of court (typically three months). This practice has already proven to be effective in Gwinnett's juvenile court, where four attorneys have in-year contracts.

Attorneys would be assigned to a set of courtrooms and be present at arraignment calendars to take appointments for clients who were not assigned counsel at their first appearance hearing. Attorneys could still take appointments from other courtrooms, but this setup would ensure that there are qualified attorneys available to take cases while providing attorneys with a minimum guaranteed salary. It would give attorneys financial stability, making Gwinnett an attractive place to practice. To make this system work most effectively, IDGC would need to both monitor attorney caseloads and evaluate the quality of representation to ensure that attorneys are never working an excessive number of cases.

The county can also create a culture that makes it more attractive for new attorneys to come to Gwinnett and stay then there.

As explained earlier, there is no attorney training or significant mentorship available for the new attorneys who need it most. This means many lawyers are left alone as they learn how to represent their clients effectively. For new lawyers, working in a public defender office that has training and support can be more attractive. Gwinnett County can become competitive by paying for lawyers to attend state-level training, developing a more intensive mentorship program, and then sending lawyers to more rigorous training programs as they take on more serious cases. It can, in other words, invest in its lawyers.

Conclusion

Gwinnett County has the infrastructure to provide poor clients with quality defense, but in the post-pandemic era, it needs to make some serious investments in attorney recruitment and retention to increase the size of its defense team. The solutions will cost money, but they do not require a major overhaul of how the county provides indigent representation.

Instead, Gwinnett should invest in fixes that make it easier and more attractive for attorneys to work there while providing lawyers with the resources they need to utilize investigators, social workers, and experts, housing many of them under the same umbrella that all attorneys can use. We are confident Gwinnett County can provide poor people with the representation that Gideon requires and serve as a model for jurisdictions across the country.

Endnotes

- ¹ 372 U.S. 335, 345 (1963).
- ² See *Population Growth*, GWINNETT CNTY., <https://www.gwinnettcnty.com/web/gwinnett/aboutgwinnett/fastfacts/populationgrowth> (last visited Oct. 26, 2023).
- ³ Dylan Jackson, *Crisis in Georgia's public defender system fuels case backlog, jail overcrowding*, ATLANTA J.-CONST. (Nov. 10, 2022), <https://www.ajc.com/news/investigations/crisis-in-georgias-public-defender-system-fuels-case-backlog-jail-overcrowding/6G47GRR3HJGRZLDQBPSZES2MBU/>.
- ⁴ See *Georgia jail population by conviction status 1978-2013*, PRISON POL'Y INITIATIVE, https://www.prisonpolicy.org/graphs/GA_Convicted_Status_1978-2013.html (last visited Oct. 26, 2023).
- ⁵ Several of these counties (Cobb, Douglas, and Gwinnett) serve a sizable population.
- ⁶ See *Population Growth*, *supra* note 2.
- ⁷ *Our Organization*, GA. PUB. DEF. COUNCIL, <https://gapubdef.org/about-gpd/> (last visited Oct. 26, 2023).
- ⁸ Zoom Interview with David Lipscomb, Chairman, Gwinnett Cnty. Indigent Def. Governing Comm. (Oct. 5, 2023) [hereinafter Lipscomb Zoom Interview].
- ⁹ See GWINNETT CNTY. SUPER. CT. S.O. 012003, <https://www.gwinnettcourts.com/documents/Standing%20Orders/Gwinnett%20Judicial%20Circuit%20Indigent%20Defense%20Program.PDF> [hereinafter Gwinnett County Indigent Defense Program Standing Order].
- ¹⁰ *Id.* at 5.
- ¹¹ Lipscomb Zoom Interview, *supra* note 8.
- ¹² U.S. CENSUS BUREAU, AMERICAN COMMUNITY SURVEY SUMMARY TABLES: GWINNETT COUNTY, GEORGIA (2003), https://www.gwinnettcnty.com/static/departments/planning/Census/2003_american_community_survey_data.pdf.
- ¹³ *QuickFacts: Gwinnett County, Georgia*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/gwinnettcntygeorgia/PST045222> (last visited Oct. 26, 2023).
- ¹⁴ Alia Pharr, *"Devastating" loss of indigent defendeers in Gwinnett County*, ATLANTA J.-CONST. (Nov. 23, 2022), <https://www.ajc.com/news/devastating-loss-of-indigent-defenders-in-gwinnett-county/HESWERYZUJFQNAO4VOMYRQRDU/>.
- ¹⁵ Gwinnett is the second largest county in Georgia. The largest county, Fulton, has a budget of \$22,529, 679, and the third largest county, DeKalb, has a budget of \$16,193,331. In comparison, Gwinnett's indigent defense budget is \$6,710,000. See *Budget*, FULTON CNTY., <https://fultoncountyga.gov/inside-fulton-county/open-government/budget> (last visited Oct. 26, 2023); DEKALB CNTY, FY2023 BUDGET (2023), <https://www.dekalbcountyga.gov/sites/default/files/users/user3568/FY23%20Budget%20as%20adopted%202023.02.28%20w%20TOC.pdf>; GWINNETT CNTY., DEP'T OF FIN. SERVS., MONTHLY FINANCIAL REPORT FOR THE PERIOD ENDED MARCH 31, 2023 (2023), <https://www.gwinnettcnty.com/static/departments/financialservices/pdf/gwinnett-county-financial-status-report-march-2023.pdf> [hereinafter Gwinnett Monthly Financial Report].
- ¹⁶ See Pharr, *supra* note 14.
- ¹⁷ GA R BAR RULE 4-102, RPC RULE 1.7 (Rule 1.7 - Conflict of Interest: General Rule).
- ¹⁸ See Pharr, *supra* note 14.
- ¹⁹ Crimes in Georgia that carry a possible sentence of life in prison with or without parole include certain murder cases, and any second conviction for a kidnapping,

rape, aggravated child molestation, and aggravated sodomy. It also includes many other first-time convictions, including aggravated sexual battery. It also includes many other first-time convictions, including armed robbery or aggravated sexual battery.

²⁰ This is a broad category of offenses, and includes possession of controlled substances with intent to distribute, armed carjacking, aggravated assault or battery, and first-degree burglary.

²¹ *Data & Statistics*, JUD. COUNCIL OF GA. ADMIN. OFF. OF THE CTS., <https://research.georgiacourts.gov/data-and-statistics/> (last visited Oct. 26, 2023).

²² NICHOLAS M. PACE, ET AL., NATIONAL PUBLIC DEFENSE WORKLOAD STUDY (2023) https://www.rand.org/pubs/research_reports/RRA2559-1.html.

²³ *Id.*

²⁴ Data on file with the Wren Collective.

²⁵ AM. BAR ASS'N, ABA STANDARDS FOR CRIMINAL JUSTICE, PROVIDING DEFENSE SERVICES 21 (3d ed. 1992) [hereinafter *Providing Defense Services*], https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/providing_defense_services.authcheckdam.pdf (Standard 5-1.4).

²⁶ AM. BAR ASS'N, CRIMINAL JUSTICE STANDARDS: DEFENSE FUNCTION (4th ed. 2017) (Standard 4-4.1).

²⁷ See PROVIDING DEFENSE SERVICES, *supra* note 25, at 22 (Standard 5-1.4).

²⁸ Data on file with the Wren Collective.

²⁹ *Id.*

³⁰ See *QuickFacts: Gwinnett County, Georgia*, *supra* note 13.

³¹ ABA Comm. on Pro. Ethics & Grievances, Formal Op. 500 (2021), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba-formal-opinion-500.pdf (Language Access in the Client-Lawyer Relationship).

³² PROVIDING DEFENSE SERVICES, *supra* note 25, at 22 (Standard 5-1.4).

³³ See Gwinnett County Indigent Defense Program Standing Order, *supra* note 9.

³⁴ *Id.*

³⁵ See Lipscomb Zoom Interview, *supra* note 8.

³⁶ Zoom Interview with Trish McCann Bertram, Professional Development Director, Ga. Pub. Def. Council (Oct. 18, 2023) [hereinafter *Bertram Zoom Interview*]. See also *Professional Development*, GA. PUB. DEF. COUNCIL, <https://gapubdef.org/professional-development/> (last visited Oct. 26, 2023).

³⁷ Bertram Zoom Interview, *supra* note 36.

³⁸ See Lipscomb Zoom Interview, *supra* note 8. Mr. Lipscomb noted that the trainings are functionally unavailable to Gwinnett County panel attorneys at this point.

³⁹ *Id.*

⁴⁰ A review of past events hosted by the Gwinnett County Bar Association over the last three years shows that the criminal law section is notably absent. See *generally Upcoming Events*, GWINNETT CNTY. BAR ASS'N, <https://www.gwinnettbar.com/events> (last visited Oct. 26, 2023).

⁴¹ Lipscomb Zoom Interview, *supra* note 8.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ For example, GPDC has a mentoring plan that has been approved by the state bar of Georgia, a checklist of things to do, and guidelines the in-circuit mentor should go through with the new attorney. See Bertram Zoom Interview, *supra* note 36.

⁴⁵ See Pharr, *supra* note 14.

⁴⁶ Combined, the District Attorney and Solicitor's Offices have a budget of \$32,073,773. The budget for Indigent Defense in the same year was \$6,710,000. Chairman Lipscomb reports that the 2023 budget increased to \$9.9 million and the 2024 budget is \$11 million. While there may have been recent increases in

the indigent defense budget, the Wren Collective was unable to find a county budget document that indicates such an increase. We are similarly unaware if the prosecuting offices also received a budget increase. See Gwinnett Monthly Financial Report, *supra* note 15.

⁴⁷ Attorneys in each of the judicial circuits governed by GPDC are entitled to state benefits. This means that public defenders in 153 of the 159 Georgia counties have access to health insurance and retirement plans.



THE WREN COLLECTIVE

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