

CRIMINAL JUSTICE

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INTRODUCTION

The criminal justice system consists of law enforcement, corrections, and the judiciary. A strong criminal justice system is crucial to the safety and welfare of citizens and the productive function of every Georgia county. Commissioners should work closely with law enforcement, courts, and probation services to ensure that criminal justice within their county is efficient, effective, and adequately funded.

The purpose of this chapter is to provide an overview of the criminal justice system at the county level, including the positions, programs, and services that counties are required by statute to fund and areas where funding is flexible. Topics include:

- Functions, funding, and powers of the sheriff's office relative to the county police department and other local police departments.
- Local jails, county correctional institutions, and management of inmate expenses.
- Agencies and services provided by the State of Georgia that support and supplement local law enforcement.
- Risk reduction resources for county law enforcement.
- Judicial circuits and the trial-level court system.
- Funding for prosecutors, including the district attorney and solicitor general.
- Indigent defense and public defenders.
- Diversion programs and accountability courts.
- Felony and misdemeanor probation.

While this chapter briefly discusses the duties of sheriffs, judges, district attorneys, solicitors general, and circuit public defenders, further detail about their roles and responsibilities can be found in the 2010 ACCG Handbook chapter entitled Other County Officials, Officers, Boards, Authorities, and Regional Commissions.

Throughout the chapter, the term "county governing authority" will be used to represent boards of commissioners, sole commissioners, and consolidated governments.

LAW ENFORCEMENT

Sheriff's Office

Every county in Georgia is required to have an elected sheriff. The sheriff is a constitutional officer whose qualifications, powers, and duties are derived from the

Georgia Constitution and state law.¹ The sheriff's office is not a department of county government, nor is the sheriff controlled by the county governing authority.

In most Georgia counties, the sheriff's office bears the sole responsibility for law enforcement in the unincorporated areas and shares law enforcement authority with city police departments within municipalities. A sheriff has the same duties, powers, and arrest authority within municipalities as it does in the unincorporated areas of counties.² With the consent of the county governing authority, a sheriff's office may contract with municipalities to be the sole provider of law enforcement services within city limits.³

Functions

The sheriff of a county has the right and duty to enforce the laws enacted for the protection of the lives, persons, property, health, and morals of the people.⁴ The sheriff performs various functions dictated by state statute and detailed in the Other County Officials, Officers, Boards, Authorities, and Regional Commissions Chapter.⁵

Among these functions, the sheriff is charged with safeguarding his or her county's court operations. This responsibility includes developing, implementing, and maintaining a comprehensive plan for the security of the main county courthouse and any courthouse annex. The sheriff is required to provide the county governing authority with the estimated implementation cost of security plans, which is subject to the annual budget approved for the sheriff's office, and the schedule for implementation.⁶ The sheriff is the official custodian of the courthouse security plan, keeping the plan confidential as a matter of public security and conducting a formal plan review at least every four years.⁷

Budget

Sheriff's offices depend upon the county governing authority to adequately fund their functions. Like other constitutional officers, sheriffs submit a proposed budget to the county governing authority. The proposed budget must include the amount of anticipated revenues by source and the amount budgeted for expenditures.⁸

The county governing authority is vested with the final decision on where to allocate county property and funds. As such, it is free to make reasonable adjustments to the proposed budget. Though it is not obligated to grant every budgetary funding request by a sheriff, the county governing authority is required by law to adopt a budget that provides the funding necessary for the sheriff to execute the duties of the office.⁹ If questioned, the county governing authority must be able to provide a reasonable explanation as to why county funds were allocated in the way that they were.¹⁰ The Georgia Supreme Court has stated that it will only reverse the county governing authority's budget decision if it is clear and manifest that the authority abused its discretion in establishing a budget.¹¹

Once balanced, the budget is implemented by the passage of a local ordinance or resolution.¹² While the county governing authority is responsible for preparing and maintaining the budget for all county functions, it must defer to the judgment of the sheriff when it comes to spending within the approved budget.¹³ Despite the county governing authority's fiscal control, it has no say in how the sheriff manages his or her office or carries out his or her duties established by law.¹⁴

Jail

By virtue of their offices, sheriffs are the official jailers of the counties, charged with overseeing the operation of jails and ensuring inmates' health, safety, and welfare. Georgia law and court rulings have established that county governing authorities must fund adequate facilities, staffing, food, clothing, bedding, towels, personal hygiene supplies, means of communication, and medical care for jail inmates,¹⁵ adhering to standards set forth by state statute.¹⁶

To help offset these expenses, county governing authorities may adopt a resolution to collect special fees resulting from criminal and traffic violations.¹⁷ As an additional penalty on all criminal and traffic fines in superior, state, probate, or magistrate courts, counties are permitted to assess a sum equal to 10% of the original fine.¹⁸ The 10% penalty is also imposed on any bail or bond posted involving a violation of a criminal or traffic law.¹⁹ Monies collected are added to the county's jail fund and applied toward the construction, operation, and staffing of county jails, county correctional institutions, and detention facilities.²⁰ If municipalities within the county operate police departments, the 10% fee may be assessed on criminal or traffic law in municipal court and remitted to the county to offset the costs of the use of county facilities by municipal inmates. There must be an intergovernmental contract in place between the county and city to assess that fee.²¹

With approval of their respective sheriff's offices, county governing authorities of two or more counties are authorized to create and operate a regional jail.²² Regional jail authority management committees – composed of the sheriffs of all participating counties – manage and operate regional jails.²³

Counties can contract with other counties for jail services, including the provision of prosecution, adjudication, indigent defense, sentencing, and incarceration services for misdemeanor and gross misdemeanor offenses. A sheriff's office may contract with another county for jail services if, for example, a county is too small to operate its own jail, the county jail becomes overcrowded or is in an unsafe condition, or certain inmates need to be transferred elsewhere for their safety or to ensure the orderly administration of the jail.²⁴

County Police Departments

County police departments exist under the county governing authority. The county governing authority has exclusive oversight and power over county police departments, appointing the department leader and establishing rules and regulations for the department's conduct, management, and control. County police departments have the same power as the sheriff's office regarding patrol and law enforcement activities within their county.²⁵ The sheriff has no management of county police departments.²⁶

Today, there are 14 county police departments in the state.²⁷ Any county governing authority can authorize the creation of a county police force, but any ordinance or resolution to create a county police force must be approved by voter referendum.²⁸ All of the currently operating county police departments were created prior to 1992 and, as such, were exempt from the requirement that a local referendum be held prior to their establishment.²⁹ County governing authorities may abolish a county police force at any time.³⁰

The General Assembly [passed legislation in 2021](#) that restricts county governing authorities from reducing a county police department budget by more than 5%. There are exceptions to this requirement – it does not apply in the following situations:

- If the department has less than 25 full or part-time certified law enforcement officers.
- If the actual or anticipated revenues of the county governing authority decrease by more than 5%. In this case, a reduction to the budget can be made as long as the percentage decrease is not larger than the overall percentage decrease of county revenues.
- If the county has a one-time capital public safety facility, equipment, or software purchase or one-time legal obligation in the previous fiscal year that increased the budget by more than 4%.

If an exception applies and a county proposes to adopt a budget with more than a 5% reduction, a public meeting must be held and notices must be posted on the county's website and in the local newspaper describing the reduction.³¹

Since the sheriff's constitutional duty is to provide law enforcement functions, county police departments and minimum funding are not mandated. In addition, police services are a supplementary power under the Georgia Constitution, so counties cannot provide this service inside a city without the city's permission via an intergovernmental contract.³² The sheriff is not bound by this restriction.

There are hundreds of police departments in Georgia that are operated by municipal governments and educational institutions (colleges, universities, and public-school systems). These departments are not funded by counties, but they ease some of the burden of providing law enforcement services. Within the city limits or the boundaries of the property of the educational institution, officers of such police departments possess standard law enforcement powers, including the power of arrest.³³

County Correctional Institutions

County governing authorities may contract with the Georgia Department of Corrections to house low-security, long-term state prisoners in county correctional institutions (CIs).³⁴ Currently, 21 Georgia counties house state offenders in CIs, which are also known as work camps.

CIs are a mutual benefit to counties and to the state, as they provide unpaid work to the communities in which they are housed and ease overcrowding in state prisons. The CI system serves to train invaluable skills to inmates. Inmates help counties with road and park maintenance, work at landfills, provide firefighting services, participate in small construction projects, and assist in other ways as needed.³⁵

The Georgia Department of Corrections pays counties a per diem for housing inmates. The per diem rate is set by budget and not by statute.³⁶ The wardens of CIs are appointed by, and report to, the county governing authority.³⁷

Interaction Between Local and State Law Enforcement

Various agencies and services are provided by the State of Georgia to support and supplement local law enforcement.

Georgia Bureau of Investigation

The Georgia Bureau of Investigation (GBI) is a state government agency that exists largely to assist other law enforcement agencies. The GBI is empowered to render assistance in criminal cases, in the prevention or detection of violations of the law, and in the detection or apprehension of persons violating criminal laws.³⁸ A request for GBI assistance may come from the following:

- The governing authority or chief law enforcement officer of any municipality.
- The sheriff of any county.
- The chief of the county police force of any county having an official Census population of more than 100,000.
- A head of a municipal or county fire department.
- A district attorney.

- A superior court judge.
- The governor.³⁹

The GBI's Investigative Division provides special agents to assist upon request in investigating major crimes, such as homicide, rape, child abuse, armed robbery, fraud, and other felonies. The GBI has statewide original jurisdiction in drug enforcement investigations and can initiate such investigations without request.⁴⁰ The GBI's Division of Forensic Sciences operates a statewide system of crime labs that aid in the forensic analysis of evidence. Evidence may be submitted to the laboratory by law enforcement agencies, prosecuting attorneys, coroners, and medical examiners.⁴¹

Georgia Department of Behavioral Health and Developmental Disabilities

The Georgia Department of Behavioral Health and Developmental Disabilities (DBHDD) is charged with administering the state's programs that serve people living with mental health challenges, substance use disorders, intellectual and developmental disabilities, or any combination of these issues.⁴² DBHDD operates state hospitals and provides for community-based services across the state through contracted providers.⁴³ Local law enforcement officials use the DBHDD's Georgia Crisis and Access Line to be directed to a crisis center that has space available for people taken into involuntary care. DBHDD's Office of Forensic Services provides statutorily mandated evaluations and competency remediation services to superior, juvenile, and state courts.⁴⁴

A county governing authority is financially responsible for the expense of involuntary intake and transport of individuals requiring mental health evaluation and treatment. This funding requirement can create a budgetary drain, as long-distance transportation to mental health emergency receiving facilities incurs steep mileage, fuel, and salary (often overtime) costs within the sheriff's office.⁴⁵

Georgia Public Safety Training Center

The Georgia legislature established the Georgia Public Safety Training Center (GPSTC) in 1980 as a training facility for all state and local law enforcement officers, firefighters, emergency medical personnel, and correctional personnel.⁴⁶ GPSTC's training divisions include the Georgia Police Academy, the Georgia Fire Academy, the Basic Training Division, and the Instructional Services Division. These divisions are the state's leading providers of certified basic, advanced, and specialized training for public safety officials.⁴⁷

Joint Drug Task Forces

Counties may contract with local, state, and federal agencies to form joint drug task forces. These task forces aim to identify and investigate individuals or drug trafficking

organizations that import, manufacture, and distribute illegal drugs in Georgia. The GBI provides resources to these cooperative efforts and operates Regional Drug Enforcement Offices in the four corners of Georgia.⁴⁸

A joint drug task force is typically created by an intergovernmental agreement authorized by the Georgia Constitution and state statute.⁴⁹ The intergovernmental agreement should clarify that personnel assigned to the task force by one county or city do not become employees, volunteers, or agents of the task force or of any other county or city for any purpose. It should state that a county should not be responsible for any liability resulting from the acts of an employee of another county or city participating in the task force.

Department of Juvenile Justice Youth Facilities

Regional Youth Detention Centers (RYDCs) and Youth Development Campuses (YDCs) serve troubled youth and are managed by the Department of Juvenile Justice (DJJ). RYDCs offer temporary care and supervision to youth who have been charged with offenses or who have been adjudicated delinquent and are awaiting placement. YDCs provide care, supervision, and treatment services to youth who have been committed to the custody of the DJJ for long-term programs. Each facility provides education, health, and mental health services, meals, resident counseling, substance abuse units, vocational programming, and family visitation, among other services.⁵⁰ Counties do not provide funding for these state-run facilities, but they are responsible for certain detainee expenses and services.⁵¹

The DJJ has a contract with Augusta University Correctional Healthcare-Juvenile Health for the provision of medical services to youth inside these secure facilities. However, when a youth detainee requires outside medical care and he or she is non-committed (with no active insurance coverage) or has been charged or sentenced by a superior court, the DJJ will seek reimbursement for medical expenses from the county who has jurisdiction over the youth's case.

The sheriff's office is expected to provide transportation for all youth going to court proceedings. They must provide transportation to any offsite locations, such as outside medical appointments, as well as provide supervision of youth who are non-committed or have been charged or sentenced by a superior court when they are offsite.

Per state statute, the DJJ could also seek county budget reimbursement for any other cost of detention, including the daily cost of detention or the cost of any detention alternatives.⁵² It currently does not.

Insurance Considerations for Law Enforcement Services

Risk Reduction Resources from LGRMS

Counties carry liability insurance. Counties that participate in the ACCG insurance programs have access to free loss prevention and loss control resources through [Local Government Risk Management Services \(LGRMS\)](#).⁵³ Working together with LGRMS, county law enforcement agencies can minimize the workers' compensation, liability, and property risks that are inherent to their operations.

LGRMS routinely identifies the activities most likely to result in a Georgia law enforcement agency being sued. Based upon the analysis of these trends, LGRMS guides agencies to adopt specific processes to avoid potential liability. They work with the agencies to implement operational procedures, training, documentation, and supervisor review requirements to ensure that agencies comply with established professional and legal standards.

In addition, LGRMS offers Public Safety Driver training that involves classroom instruction and driving simulators. Officers are provided up-to-date and realistic training in their own county or online to further improve their driving skills.

LGRMS provides consultation services to help county governing authorities reduce other liability and property risks, which can lead to a reduction in their future premiums.

Inmate Medical Expenses

Counties are responsible for bearing the costs of any reasonable and necessary medical services, emergency medical and hospital care, or follow-up medical or hospital care required by inmates in their physical custody.⁵⁴ Counties may seek reimbursement for inmate medical expenses from the inmate's health insurance carrier or, in the absence of this benefits eligibility, from the inmate personally. Reimbursements secured are credited to the general fund of the county governing authority to be available for general fund purposes.⁵⁵

Seeking Reimbursement from Inmate's Health Insurance Carrier

If an inmate is insured under any health insurance, group health plan, or prepaid medical care coverage, the sheriff or the supervisor of the detention facility may arrange for the inmate's insurance carrier to pay the healthcare provider for the services or care rendered.⁵⁶ In this case, the county governing authority is responsible only for the costs of medical services and hospital care that are not paid by the inmate's health insurance carrier or by the Department of Community Health.⁵⁷

Seeking Reimbursement from Inmate

If an inmate is not eligible for health insurance benefits, then the inmate is personally liable for the costs of his or her medical care. The assets and property of such inmate may be subject to levy and execution under court order to satisfy the medical costs that are owed. An inmate in a detention facility must cooperate with the county governing authority in seeking reimbursement for medical care expenses incurred for that inmate. Any inmate who refuses to cooperate cannot receive, or be eligible to receive, earned-time allowance or other reduction of time to be served.⁵⁸

Medical Expenses for Inmates in County Correctional Institutions

With respect to state inmates housed in county correctional institutions, the Department of Corrections bears the costs of direct medical services required for emergency medical conditions posing an immediate threat to life or limb if the inmate cannot be placed in a state institution for the receipt of this care. The responsibility for payment will commence when the costs for direct medical services exceed an amount specified by rules and regulations of the Board of Corrections. The department will pay only the balance in excess of the specified amount.⁵⁹

ACCG's Inmate Medical Savings Programs

ACCG offers two inmate medical savings programs to help manage medical costs incurred by county detainees. Neither program is insurance, and the county continues to be responsible for the ultimate payment of inmate care. Both programs provide substantial savings on the actual charges billed by Georgia healthcare providers.⁶⁰

Inmate Medical Savings Program

In 2008, ACCG began offering the Inmate Medical Savings Program to Georgia counties. This program allows county governing authorities to use the Anthem Blue Cross and Blue Shield (BCBS) network discounts to reduce inmate healthcare bills. Anthem BCBS pays the reduced bills from healthcare providers and bills the county for the adjusted amount, plus an Anthem BCBS administration fee. Since 2008, savings have averaged 59% of the billed amount.⁶¹

Emergency Care and Follow-up Care

In 2011, passage of House Bill 197 created an opportunity for Georgia counties to receive additional savings on inmate medical healthcare. Under this program, ACCG re-prices bills to the Medicaid rate and returns bills to the county for payment. Savings have averaged over 74% of the billed amount. Per state statute limits, hospitals can only charge the Medicaid rate for inmate emergency room visits for emergency healthcare and follow-up healthcare services, unless the sheriff or county governing authority has an emergency healthcare contract with the provider authorizing a higher rate.⁶²

Maximum savings can be obtained by sending invoices for emergency care and follow-up care to ACCG for re-pricing and sending all non-emergency invoices to Anthem BCBS.⁶³

COURT SYSTEM

Beneath the Supreme Court of Georgia and the Court of Appeals of Georgia, there are five classes of trial-level courts: superior, magistrate, probate, state, and juvenile courts. The Georgia Constitution requires that each county have the following:

- At least one superior court.
- A magistrate court.
- A probate court.
- Where needed: a state court, a juvenile court, and a business court division of superior court.

In the absence of a state court or a juvenile court, the superior court exercises those jurisdictions.⁶⁴ While not every county has a state court, every county in Georgia does have a juvenile court. Several hundred municipal and special courts also operate at the local level.

Judicial Circuits

At the local level, the court system is organized into judicial circuits; currently 50 judicial circuits encompass all 159 counties in the State of Georgia.⁶⁵ Population growth has spurred increased requests for new judicial circuits.

Superior court judges and district attorneys are elected by the voters of the judicial circuit they serve.⁶⁶ A three-member Public Defender Supervisory Panel in each judicial circuit nominates the circuit public defender (CPD).⁶⁷ Each of the following appoints an attorney to serve on the circuit's panel:

- Governor.
- Chief judge of the circuit superior court.
- A caucus of the chairs of the county governing authorities within the circuit. (If the circuit is a one-county circuit, the chair/sole commissioner makes the appointment).⁶⁸

Selecting from the panel's list of nominees, the Director of the Georgia Public Defender Council (GPDC) appoints and supervises the CPDs for each circuit.⁶⁹ The panel is not part of the council; its supervisory role is to perform an annual review of the work of the CPDs and provide information to the GPDC.

Many functions are performed within the judicial circuit, but there is no organized structure for funding judicial circuit-wide activities. Counties are required to pay for operational expenses for superior court judges, district attorneys, and circuit public defenders, including offices, utilities, materials, and supplies.⁷⁰ In multi-county judicial circuits, budgets are typically proportioned by population or caseload.⁷¹ If counties within a judicial circuit cannot come to an agreement regarding the share of the overall budget each county is required to pay, a judge may issue an order outlining the amount owed by each county.

Judicial districts are administrative and are made up of one or more judicial circuits.⁷² The Columbia Judicial Circuit, added in 2021, is the newest circuit. The map below provides boundaries for Georgia's 50 judicial circuits and 10 judicial districts.

Courts

Except as otherwise provided in the Georgia Constitution, the courts of each class have uniform

- jurisdiction;
- powers;
- rules of practice and procedure; and
- selection, qualifications, terms, and discipline of judges.⁷³

The superior courts have jurisdiction in all cases, except as otherwise provided.⁷⁴ The state, juvenile, probate, and magistrate courts have limited jurisdiction.⁷⁵ Court is required to be held at the courthouse or at a permanent satellite location, such as a court annex, as prescribed by law.⁷⁶

Court operations are managed by an administrator or clerk who is paid by the county.⁷⁷ The superior court clerk also serves in this capacity in the lower courts, except where local legislation establishes dedicated clerks for these courts. Court reporters who are required for criminal cases are paid by the county and are appointed by the judge of each court.⁷⁸ Court reporters for civil cases are paid by the parties in the case.⁷⁹ Bailiffs are assigned and paid by the sheriff of the county with county funds.⁸⁰

Trial Courts of General Jurisdiction

Superior Courts

Superior courts, which are state funded and organized into the 50 judicial circuits, are Georgia's general jurisdiction trial courts.⁸¹ The superior court exercises original, exclusive, or concurrent jurisdiction of civil and criminal cases.⁸² Superior court judges preside over cases involving misdemeanors, contract disputes, premises liability, and various other actions. In addition, the superior court has exclusive jurisdiction over all cases of divorce, title to land, and felonies involving jury trials.⁸³ Superior courts correct errors made by limited jurisdiction courts and hear appeals from lower courts.⁸⁴

Felony cases heard in superior courts are usually transferred to the Georgia Department of Corrections upon conviction. Counties are responsible for housing inmates awaiting trial.

Trial Courts of Limited Jurisdiction

State Courts

State courts are created by local legislation introduced in the General Assembly.⁸⁵ State courts exercise limited jurisdiction within the territorial limits of the county or counties for which they are created and concurrent with the superior courts.⁸⁶ State courts have

jurisdiction of criminal and traffic misdemeanors, arrest and search warrant hearings, and civil cases not reserved exclusively for the superior courts.⁸⁷ They also hear appeals from magistrate courts.⁸⁸ There are currently 72 counties with state courts.⁸⁹

Court reporting personnel must be made available for the reporting of civil and criminal trials in state courts. Court reporters are managed by the judge and paid by the county governing authority.⁹⁰

Juvenile Courts

Juvenile courts are designed to protect the well-being of children.⁹¹ In this context, a child means any individual who is

- under the age of 18;
- under the age of 17 and alleged to have committed a delinquent act;
- between 18 and 21 years old and receiving extended care youth services from the Division of Family and Children Services; or
- under the age of 21 who committed an act of delinquency before reaching the age of 17 years and who has been placed under the supervision of the court or on probation to the court.⁹²

Juvenile courts handle cases involving the following:

- Children who are alleged to be delinquent, in need of services, dependent, or in need of treatment or commitment as a mentally ill or developmentally disabled child.
- Children who have been placed under the supervision of the court or on probation to the court.
- Children who are receiving extended care youth services.
- Children who require a comprehensive services plan for competency remediation.⁹³

The juvenile courts also hear cases involving traffic violations committed by those under the age of 17; consent to marriage, employment, or armed services enlistment for minors; and emancipation proceedings, among others.⁹⁴

Juvenile courts have concurrent jurisdiction with probate courts in guardianship proceedings and with superior courts in cases involving capital felonies, custody and child support matters, and proceedings to terminate parental rights.⁹⁵ Original jurisdiction over juveniles of the ages of 13 to 17 who commit one or more designated violent felonies resides exclusively in superior courts.⁹⁶

Juvenile courts are assigned and attached to superior courts for administrative purposes.⁹⁷

Probate Courts

Probate courts provide an efficient clerical system for many non-criminal legal matters. Probate courts have original and exclusive jurisdiction in the following:

- Probate of wills.
- Creation and dissolution of guardianships and conservatorships.
- Involuntary hospitalizations.
- Administration of estates of persons who are deceased or incompetent because of mental illness or intellectual disability.⁹⁸

Probate court judges – who are constitutional officers – administer oaths of office, make appointments to certain local offices, and issue marriage licenses and other permits.

In counties that do not have a state court, probate court judges may hear certain misdemeanors, traffic cases, and cases of violations of game and fish laws. Probate court judges can also oversee elections.⁹⁹ In smaller counties, the probate judge may serve as the chief magistrate judge.

Magistrate Courts

The 1983 Georgia Constitution established a uniform magistrate court system statewide to replace small claims courts. Every county has a magistrate court.¹⁰⁰ Referred to as “the people’s court,” magistrate court helps regular citizens represent themselves in civil cases against other people. Both individuals and businesses can sue and be sued in magistrate court. Most criminal cases originate in magistrate court.¹⁰¹

Magistrate courts issue warrants, try minor criminal offenses, and try civil claims involving amounts of \$15,000 or less.¹⁰² A magistrate court is often the court of first resort for civil disputes such as county ordinance violations, evictions, and bad checks.¹⁰³ In criminal matters, magistrates hold preliminary hearings and issue search warrants and arrest warrants.¹⁰⁴ Magistrates are authorized to grant bail for defendants if another court or officer is not exclusively committed to do so.¹⁰⁵

No jury trials are held in magistrate court.¹⁰⁶ Civil cases are typically argued by the involved parties themselves, rather than by attorneys.¹⁰⁷

Recorder’s Courts

Recorder’s courts are created by local legislation to handle traffic violations and certain misdemeanors.¹⁰⁸ Recorder’s court judges are empowered with the same authority as

magistrates regarding criminal cases.¹⁰⁹ Three counties in Georgia – Chatham, Columbus, and Gwinnett – have recorder’s courts.

Court Fines and Fees

All courts are authorized to charge filing fees and to levy fines as punishment for violations of traffic laws, penal laws, or ordinances. As required or authorized, surcharges may be added to both civil and criminal fines and be applied to special purposes at the state or local level. Funds collected through court fees and fines support a wide variety of services and operations.

At the trial court level, while the base fine is retained by the county, most add-on surcharges go to the state or to beneficiary programs. Examples of such programs include retirement funds and state and local special purpose funds. The revenue from fines, fees, and surcharges is either remittable (state-level programs) or reportable (those held at the local level for specific purposes). Clerks of court are responsible for remitting the funds to the appropriate location.

The Judicial Council of Georgia regularly updates a guide to statutory civil and criminal fees, their amount and purpose, the courts that may be required to assess them, and the beneficiary funds to which they are remitted. The guide can be found at caoc.georgiacourts.gov.

Court Budgets

The activities of the trial courts of limited jurisdiction are funded by counties. The courts submit their budget requests to the county governing authority in the same manner and method as other county departments. This is not a pass-through budget. While counties can make reasonable changes to court budgets, they must provide adequate funding for the courts to operate or face an order – called a mandamus action – from a higher court to compel them to do so.

There are certain court expenses that counties are required to fund by law, but other expenses are funded at the county governing authority’s discretion.

Prosecution

A prosecutor is an attorney who represents the state in a criminal case. The State of Georgia recognizes two kinds of prosecutors: the district attorney and the solicitor general.

District Attorney’s Office

The district attorney (DA), as the chief prosecuting officer, represents the state in felony criminal cases in the superior court and in delinquency cases in the juvenile court.¹¹⁰

Refer to the Other County Officials, Officers, Boards, Authorities, and Regional Commissions Chapter for more information about the duties of district attorneys.

The state pays DAs, but counties are responsible for all operating expenses and office space.¹¹¹ In addition to the DA, the state funds at least two more personnel, including a secretary and an assistant DA for each superior court judge.¹¹² These are considered state positions, with salary, applicable taxes, insurance, retirement, and other associated costs funded through the Prosecuting Attorneys' Council of Georgia (PAC).¹¹³ Though not required, the county governing authorities comprising a judicial circuit often provide supplements to the state salaries in the DA's office.¹¹⁴

Many counties voluntarily fund additional positions in the DA's office, such as assistant DAs, deputy DAs, or other attorneys, investigators, paraprofessionals, clerical assistants, and victim and witness assistance personnel. There is no mandate to authorize these personnel.¹¹⁵

Solicitor-General's Office

The solicitor general is elected for a four-year term to handle misdemeanor cases in a county with a state court.¹¹⁶ In areas without a state court – and in Chatham, Dougherty, Miller, and Rockdale counties – misdemeanor cases are prosecuted by the DA.¹¹⁷

There is no state funding for this function. Counties provide for a solicitor general's compensation and operating expenses; employment of additional personnel is at county discretion.¹¹⁸

Refer to the Other County Officials, Officers, Boards, Authorities, and Regional Commissions Chapter for more information about the position of solicitor general.

Other Prosecutors

Prosecutors may be provided in courts other than superior and state court. The prosecuting attorney of a probate court is required to represent the state in certain cases, including traffic violations, violations punishable by confinement or a fine, and cases relating to weapons carry license revocation or denial.¹¹⁹ Juvenile courts must have a prosecutor for juvenile court criminal cases. In nearly all judicial circuits, the state-funded DA serves as the juvenile prosecutor. If a DA's ability to represent the state in juvenile court is limited by workload, lack of staff, or another factor, a county governing authority has the option to fund and appoint other prosecutors.¹²⁰

A county governing authority may provide that ordinance violations be tried upon citations with or without a prosecuting attorney, as well as upon accusations, in magistrate court.¹²¹ In counties with a solicitor-general, they may act as the prosecuting

attorney in magistrate court. The county attorney or another attorney designated by the county governing authority may also act as prosecuting attorney for violations of county ordinances.¹²²

Indigent Defense

State and federal law requires that anyone charged with a criminal offense in which jail time is a possibility is provided with an attorney if they cannot afford one.¹²³ In 2003, the Georgia General Assembly created a statewide system of circuit public defenders to serve this purpose. Public defense representation is provided at the trial level and on appeal, as authorized, to qualified indigent defendants.¹²⁴

There is no recognized legal right to counsel in non-criminal cases. Public defenders primarily serve clients facing criminal charges in superior courts and may represent clients on criminal matters in state court, if the court contracts for services through the local public defender's office.

Office of the Circuit Public Defender

The state funds a CPD in each judicial circuit,¹²⁵ plus one assistant public defender for each superior court judge authorized for the circuit, and one investigator.¹²⁶ The county governing authority – in conjunction with the other counties in the judicial circuit and in a pro rata, or proportional, share according to each county's population – pays for the operating expenses of the office of the CPD.¹²⁷

Any additional personnel – investigators, staff, and assistant CPDs – are specifically authorized and funded by the county governing authority or counties within the judicial circuit.¹²⁸ To fund these positions, the county or counties comprising the judicial circuit contract with the Georgia Public Defender Council (GPDC). Additional personnel are considered state employees, with their compensation, benefits, and other expenses paid by the county governing authority.¹²⁹

While most counties use the statewide system, six opt-out counties have their own system of indigent defense.¹³⁰

Indigent Defense in Misdemeanor Cases

Counties are required to provide indigent defense in all misdemeanor cases if there is a possibility of imprisonment, probation, or a suspended sentence of imprisonment.¹³¹ Many lower courts contract with the CPD to provide these services and pay the total costs of salary and all fringe benefits. Different jurisdictions provide indigent defense services by appointing local attorneys to represent indigent defendants. Counties are subject to all applicable policies and standards for the representation of indigents.¹³²

Pre-Trial Intervention and Diversion Programs

The prosecuting attorneys for each judicial circuit are authorized to implement pre-trial intervention and diversion programs.¹³³ These programs are often used to manage low-level offenses and first-time offenders, diverting them from court, jail, and supervision.

Instead of filing an accusation or indictment, prosecutors may give offenders a set of requirements, such as attending classes, performing community service, and paying a fine. Upon meeting all the requirements of the programs, charges are dismissed. These programs ease the burden on the criminal justice system and allow low-level offenders to remediate their behavior and maintain a clean criminal record.

A program administration fee of less than \$1,000 can be assessed from each participating offender and is remitted to the county general fund.¹³⁴ Restitution may be ordered as a part of the pre-trial program and is collected and remitted to the victim.¹³⁵

Some accountability courts (see Accountability Courts section), while structured differently, are also considered diversion programs and may dismiss charges upon successful completion of the accountability program.

Juries

Juries are crucial to the administration of justice. In civil cases, juries review evidence and testimony to ascertain if the defendant injured the plaintiff or failed to fulfill a legal obligation and, if so, determine what penalty should result. In criminal trials, juries listen and deliberate to decide if a defendant committed a crime as charged.

Activities related to summoning jurors and maintaining the master jury list are handled by the superior court clerk or a jury clerk. A jury clerk may be appointed by the superior court judge in counties with a population of 600,000 or more.¹³⁶ Citizens serving on juries or appearing in answer to the summons for trial or grand jury service – even if not sworn as jurors – are paid by the county at least the minimum compensation rates listed in statute. The county governing authority may increase the daily expense allowance for jurors.¹³⁷

Grand jury information is detailed in the Other County Officials, Officers, Boards, Authorities, and Regional Commissions Chapter.

Accountability Courts

Accountability courts are special court programs, or divisions, operated by the superior, state, or juvenile courts in Georgia. They include the following:

- Drug court.
- Operating-under-the-influence/DUI court.

- Mental health court.
- Veterans court.
- Family treatment court.¹³⁸

Some juvenile courts also operate juvenile drug courts and juvenile mental health courts. Accountability court programs are sometimes presided over by probate court or magistrate court judges acting by appointment.

Georgia's accountability courts address – and strive to remedy – underlying issues in a case, such as a substance use disorder or mental health disorder. They do so by requiring treatment, judicial supervision, drug testing, and community policing. Accountability courts provide an alternative to traditional adjudication and incarceration for nonviolent offenders charged with certain crimes, most commonly those related to drug use, a severe and persistent mental illness, or driving under the influence. In addition, family treatment courts serve the purpose of reducing foster stays and reunifying families. Accountability courts are proven to reduce the prison population and associated costs of incarceration and to transition Georgia's nonviolent offenders into lawful members of the community, significantly reducing recidivism.¹³⁹

When an offender meets the eligibility criteria, the court may refer his or her case to the accountability court division prior to the entry of a sentence (with the consent of the prosecutor), as part of a sentence, or upon consideration of a petition to reduce probation.¹⁴⁰ The offender is assigned program requirements such as receiving treatment and counseling, abstaining from drugs or alcohol, making regular court appearances, and providing community service. Upon successful completion of all requirements, the participant may have their case dismissed or – if participation in the accountability program was part of a sentence imposed by the court – have their sentence reduced or modified.¹⁴¹ Failure to meet program requirements may result in sanctions or revocation of probation and a return to court for sentencing.¹⁴²

Every judicial circuit operates an accountability court, and in some circuits, there are several. The Council of Accountability Court Judges (CACJ) of Georgia provides training, technical assistance, and oversight of accountability courts and establishes standards and practices.¹⁴³

Upon the direction of CACJ, the Criminal Justice Coordinating Council administers to counties state funds that are allocated for the operation of accountability courts. Typically, a local match is required, and funds are administered on a reimbursement basis.

The superior court judges, DAs, and CPDs within a circuit that has implemented a certified accountability court receive a \$6,000 annual salary supplement from the state.¹⁴⁴ In many counties, there is local legislation that ties certain local positions to the superior court judges. The accountability court supplement cannot be included in the calculation for other officials' compensation that may be tied to the superior court judge's salary.¹⁴⁵ State court judges who serve accountability courts do not receive a supplement from the state, but some counties have opted to fund a supplement to encourage participation.

PROBATION

Defendants convicted of a felony or misdemeanor offense may be sentenced to serve a period on probation instead of – or in addition to – time in jail. While on probation, offenders must report to a probation officer and behave in accordance with certain terms and conditions.¹⁴⁶ If a probationer violates the terms of his or her probation, he or she may be arrested and taken back to court.¹⁴⁷

Statewide Felony Probation/Community Supervision

Adult felony offenders may be sentenced to time on probation, which is called a “probated sentence,” or they may be sentenced to a term of imprisonment followed by time on probation (a “split sentence”).¹⁴⁸ Supervision of felony defendants who receive a probated sentence or split sentence is provided by the Department of Community Supervision.¹⁴⁹ Each judicial circuit has a community supervision officer who supervises and counsels probationers and parolees.¹⁵⁰

Misdemeanor Probation

Misdemeanor offenders may be sentenced to complete a period of probation not to exceed one year for each violation.¹⁵¹ Probation service may be provided either by a county probation system or by a private entity with which a county governing authority contracts.¹⁵² Counties and private entities providing probation supervision services must meet requirements and be registered and approved by the Department of Community Services before providing such services.¹⁵³

¹ Ga. Const. art. IX, § I, para. III.

² O.C.G.A. § 15-16-10 (a)(9).

³ O.C.G.A. § 15-16-13(a).

⁴ *Elder v. Camp*, 193 Ga 320 (1942); *Veit v. State*, 182 Ga. App. 753 (1987).

⁵ O.C.G.A. § 15-16-10.

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- ⁶ O.C.G.A. §§ 15-16-10(a)(10), 36-81-11.
- ⁷ O.C.G.A. § 15-16-10(a)(10).
- ⁸ O.C.G.A. § 36-81-5(b).
- ⁹ ACCG (2016). [Constitutional Officers: Budgeting, Contracting, and Other Critical Issues: A Guide for County Commissioners.](#)
- ¹⁰ Paul Vignos, "Georgia Local Government Law: Court Resolution of County Government Disagreement," 46 Mercer Law Review. 599, 623 (1994).
- ¹¹ *Lovett v. Bussell*, 242 Ga. 405 (1978).
- ¹² O.C.G.A. § 36-81-3(b)(1).
- ¹³ *Griffies v. Coweta County*, 272 Ga. 506, 508-09 (2000).
- ¹⁴ *Griffies*, 272 Ga. at 508.
- ¹⁵ O.C.G.A. § 42-5-2(a).
- ¹⁶ For example, O.C.G.A. §§ 42-4-4, 42-4-31, and 42-4-32.
- ¹⁷ O.C.G.A. § 15-21-92.
- ¹⁸ O.C.G.A. § 15-21-93(a)(1).
- ¹⁹ O.C.G.A. § 15-21-93(a)(2).
- ²⁰ O.C.G.A. § 15-21-95.
- ²¹ O.C.G.A. § 15-21-92.
- ²² O.C.G.A. § 42-4-93(a) and (b).
- ²³ O.C.G.A. § 42-4-95(a).
- ²⁴ O.C.G.A. § 42-4-4(a)(3) and (b).
- ²⁵ O.C.G.A. § 36-8-5.
- ²⁶ O.C.G.A. § 36-8-7.
- ²⁷ The following 14 counties operate county police departments: Athens-Clarke County, Chatham County, Clayton County, Cobb County, Columbus Muscogee County, DeKalb County, Dougherty County, Floyd County, Fulton County, Glynn County, Gwinnett County, Henry County, Polk County, and Walker County.
- ²⁸ O.C.G.A. § 36-8-1(b)(1) and (b)(2).
- ²⁹ O.C.G.A. § 36-8-1(c).
- ³⁰ O.C.G.A. § 36-8-2.
- ³¹ O.C.G.A. § 36-8-8.
- ³² Ga. Const. art. IX, § II, para. III(a)(1), Ga. Const. art. IX, § II, para. III(b)(1).
- ³³ Ga. Const. art. IX, § II, para. III(a)(1), O.C.G.A. §§ 36-35-3(a), 20-8-2 et seq., 20-8-5(a).
- ³⁴ O.C.G.A. § 42-5-53.
- ³⁵ *Id.*
- ³⁶ O.C.G.A. § 42-5-53(c)(2).
- ³⁷ O.C.G.A. § 42-5-30.
- ³⁸ O.C.G.A. § 35-3-8.1.
- ³⁹ O.C.G.A. §§ 35-3-8.1, 35-3-13(a) and (b).
- ⁴⁰ Investigative Division. *Georgia Bureau of Investigation*. Retrieved September 16, 2021, from <https://gbi.georgia.gov/investigative-division>. See also O.C.G.A. §§ 35-3-9 et seq., 35-3-4(b), 35-2-33(a)(2).
- ⁴¹ O.C.G.A. § 35-3-151(1).
- ⁴² O.C.G.A. § 37-1-20(1) and Be Informed. *Georgia Department of Behavioral Health and Developmental Disabilities*. Retrieved September 16, 2021, from <https://dbhdd.georgia.gov/organization/be-informed>.

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- ⁴³ Be Informed. *Georgia Department of Behavioral Health and Developmental Disabilities*. Retrieved September 16, 2021, from <https://dbhdd.georgia.gov/organization/be-informed>.
- ⁴⁴ Forensic Services. *Georgia Department of Behavioral Health and Developmental Disabilities*. Retrieved September 16, 2021, from <https://dbhdd.georgia.gov/forensic-services>.
- ⁴⁵ See, O.C.G.A. §§ 37-3-41(a), (b), and (c), 37-3-101 et seq.
- ⁴⁶ O.C.G.A. § 35-5-2.
- ⁴⁷ About GPSTC. *Georgia Public Safety Training Center*. Retrieved September 16, 2021, from <https://www.gpstc.org/about-gpstc>.
- ⁴⁸ Regional Drug Enforcement Offices. *Georgia Bureau of Investigation Investigative Division*. Retrieved September 16, 2021, from <https://investigative-gbi.georgia.gov/investigative-offices-and-services/regional-drug-enforcement-offices>.
- ⁴⁹ Ga. Const. art. IX, § III, para. I; O.C.G.A. § 36-69-3.1.
- ⁵⁰ Regional Youth Detention Centers and Youth Detention Centers. *Georgia Department of Juvenile Justice*. Retrieved September 20, 2021, from <https://djj.georgia.gov/rydcs-ydcs>. For information about the DJJ's community services function, visit <https://djj.georgia.gov/division-community-services>.
- ⁵¹ O.C.G.A. § 15-11-36.
- ⁵² O.C.G.A. § 15-11-36(b).
- ⁵³ More information about resources provided by LGRMS can be found at <https://www.lgrms.com>.
- ⁵⁴ O.C.G.A. § 42-5-2(a).
- ⁵⁵ O.C.G.A. § 42-4-51(i).
- ⁵⁶ O.C.G.A. §§ 42-4-51(a), 42-5-2(b).
- ⁵⁷ O.C.G.A. § 42-5-2(b).
- ⁵⁸ O.C.G.A. § 42-4-51(d).
- ⁵⁹ O.C.G.A. § 42-5-2(a).
- ⁶⁰ ACCG Insurance Inmate Medical Savings Program. *ACCG Insurance Programs*. Retrieved August 17, 2021, from <http://www.accg.org/insurance/inmatesavings.php>.
- ⁶¹ *Id.*
- ⁶² O.C.G.A. § 42-4-15(b).
- ⁶³ ACCG Insurance Inmate Medical Savings Program. *ACCG Insurance Programs*. Retrieved August 17, 2021, from <http://www.accg.org/insurance/inmatesavings.php>.
- ⁶⁴ Ga. Const. art. VI, § I, para. VI.
- ⁶⁵ O.C.G.A. § 15-6-1.
- ⁶⁶ O.C.G.A. § 15-6-4.1; Ga. Const. art. VI, § VIII, para. I(a).
- ⁶⁷ O.C.G.A. § 17-12-20.
- ⁶⁸ O.C.G.A. § 17-12-20(a).
- ⁶⁹ O.C.G.A. § 17-12-20(b)(2).
- ⁷⁰ O.C.G.A. §§ 15-6-24(a), 15-18-23, 17-12-34.
- ⁷¹ O.C.G.A. § 17-12-34.
- ⁷² O.C.G.A. § 15-5-2.
- ⁷³ Ga. Const. art. VI, § I, para. V.
- ⁷⁴ Ga. Const. art. VI, § IV, para. I.
- ⁷⁵ Ga. Const. art. VI, § III, para. I.
- ⁷⁶ O.C.G.A. §§ 15-6-17, 15-6-18 (Superior Court); 15-9-82 (Probate Court).
- ⁷⁷ O.C.G.A. §§ 15-6-61(a), 15-6-88(a).
- ⁷⁸ O.C.G.A. § 15-7-47(c).

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- ⁷⁹ O.C.G.A. § 5-6-41(c).
- ⁸⁰ O.C.G.A. §§ 15-6-35, 15-12-6.
- ⁸¹ Legislator’s Guide to the Judicial Branch. *Judicial Council of Georgia*. Retrieved September 29, 2021, from https://georgiacourts.gov/wp-content/uploads/2019/09/Guide_Judy_for_web-1.pdf.
- ⁸² O.C.G.A. § 15-6-8(1).
- ⁸³ Welcome to Georgia Superior Courts. *Georgia Superior Courts*. Retrieved September 29, 2021, from <https://georgiasuperiorcourts.org>.
- ⁸⁴ O.C.G.A. § 15-6-8(4).
- ⁸⁵ O.C.G.A. § 15-7-2.
- ⁸⁶ O.C.G.A. § 15-7-4(a).
- ⁸⁷ *Id.*
- ⁸⁸ O.C.G.A. §§ 15-7-4 (a)(6), 15-10-41 (b)(1).
- ⁸⁹ A map of counties with a state court can be found at <https://georgiacourts.gov/wp-content/uploads/2021/05/State-Court-District-Map-2020-1.pdf>.
- ⁹⁰ O.C.G.A. § 15-7-47(a) and (b).
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- ⁹² O.C.G.A. § 15-11-2(10).
- ⁹³ O.C.G.A. § 15-11-10(1).
- ⁹⁴ O.C.G.A. § 15-11-10(2) and (3).
- ⁹⁵ O.C.G.A. §§ 15-11-11, 15-11-14, 15-11-15.
- ⁹⁶ O.C.G.A. § 15-11-560(b).
- ⁹⁷ O.C.G.A. § 15-11-54(a).
- ⁹⁸ O.C.G.A. § 15-9-30(a).
- ⁹⁹ O.C.G.A. § 15-9-30(b)(2).
- ¹⁰⁰ O.C.G.A. § 15-10-1.
- ¹⁰¹ Video Tutorials. *Council of Magistrate Court Judges*. Retrieved October 28, 2021, from <https://georgiamagistratecouncil.com/video-tutorials>.
- ¹⁰² O.C.G.A. § 15-10-2(a)(1), (a)(2), (a)(4), and (a)(5).
- ¹⁰³ O.C.G.A. § 15-10-2(a)(4), (a)(6), and (a)(12).
- ¹⁰⁴ O.C.G.A. § 15-10-2(a)(1), (a)(2), and (a)(3).
- ¹⁰⁵ O.C.G.A. § 15-10-2(a)(9).
- ¹⁰⁶ O.C.G.A. § 15-10-61.
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- ¹⁰⁸ O.C.G.A. § 36-32-1(a).
- ¹⁰⁹ O.C.G.A. § 36-32-3.
- ¹¹⁰ O.C.G.A. § 15-18-6.
- ¹¹¹ O.C.G.A. §§ 15-18-10(a), 15-18-23.
- ¹¹² O.C.G.A. §§ 15-18-14(a), 15-18-17(a).
- ¹¹³ O.C.G.A. § 15-18-19.
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- ¹¹⁸ O.C.G.A. §§ 15-18-67(a), 15-18-71(a), 15-18-73(a).
- ¹¹⁹ O.C.G.A. § 15-9-155(a)(1).
- ¹²⁰ O.C.G.A. § 15-18-6.1.
- ¹²¹ O.C.G.A. § 15-10-63.
- ¹²² O.C.G.A. § 15-10-66.
- ¹²³ O.C.G.A. § 17-12-23(a).
- ¹²⁴ O.C.G.A. § 17-12-2(6).
- ¹²⁵ O.C.G.A. § 17-12-25(a).
- ¹²⁶ O.C.G.A. § § 17-12-27(a)(1), 17-12-28(a).
- ¹²⁷ O.C.G.A. § 17-12-34.
- ¹²⁸ O.C.G.A. § 17-12-31(a).
- ¹²⁹ O.C.G.A. § 17-12-32.
- ¹³⁰ O.C.G.A. § 17-12-36. Opt-out counties include Gwinnett, Cobb, Houston, Forsyth, Douglas, and Cherokee.
- ¹³¹ O.C.G.A. § 17-12-23(a)(1).
- ¹³² O.C.G.A. § 17-12-23(d).
- ¹³³ O.C.G.A. § 15-18-80(a).
- ¹³⁴ O.C.G.A. § 15-18-80(f).
- ¹³⁵ O.C.G.A. § 15-18-80(g).
- ¹³⁶ O.C.G.A. § 15-12-11(a).
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- ¹⁴⁵ O.C.G.A. § 15-6-29.1(b).
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- ¹⁴⁹ O.C.G.A. § 42-3-3(a)(1) and (a)(2).
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- ¹⁵¹ O.C.G.A. §§ 17-10-3(a) and (b), 17-10-4(a).
- ¹⁵² O.C.G.A. § 42-8-101(a).
- ¹⁵³ O.C.G.A. § 42-8-109.3.