



## Gwinnett cuts pay rate for defending indigent

By [Andria Simmons](#) and [Bill Rankinbrankin@ajc.com](mailto:Bill.Rankinbrankin@ajc.com)  
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Gwinnett and Cobb counties have long considered themselves the gold standard of the state's indigent defense system.

Their programs for defending the poor were fully funded, and they had stockpiles of qualified private attorneys willing to do the work.

But even those counties are not immune to the pressures of the recession. The budget crunch already has caused furloughs for prosecutors and judges in most counties and led to belt-tightening for state-funded public defenders.

Effective this year, Gwinnett is slashing rates for appointed defense attorneys from \$75 to \$65 an hour for serious felony cases, including murder, rape and armed robbery. For most other cases, rates are being cut from \$60 to \$55 an hour for time spent in court. Out-of-court rates are remaining at \$45 an hour for cases involving less serious offenses.

David Lipscomb, chairman of the Gwinnett County Indigent Defense Governing Committee, said the rate cut amounts to about 5 percent of the county's budget for indigent defense. The move is expected to save about \$250,000 in 2010.

In Cobb County, the defender office is trying to save money by more closely scrutinizing attorney billing, administrator Randy Harris said. The office also is closely hewing to federal poverty guidelines, making prospective indigent clients prove they qualify for a free lawyer based on their financial status. Otherwise, they are denied free attorneys, Harris said.

Cobb has not resorted to cutting the indigent defense budget. For felony cases, the county pays \$60 an hour for in-court and \$50 an hour for out-of-court services. The hourly rate for misdemeanor cases is \$45 out of court and \$60 in court.

Defense attorneys in both counties seem to have taken the changes in stride.

"We're very lucky with respect to our lawyers, who realize this is a service and they're not going to make a ton of money doing this," Harris said.

Gwinnett defense attorney Lawrence Lewis said "everybody understands the belt is going to be tightened." His only concern was whether rates would go back up once the economy improves.

Gwinnett and Cobb are among six Georgia counties that opted out of the state defender system when it was established in 2005. The Legislature created the system to replace a hodgepodge of county-run programs.

Two other counties that opted out of the state defender system, Forsyth and Cherokee, also pay hourly rates to private attorneys who are appointed to represent poor defendants. Douglas and Houston counties have set up their own local public defender offices.

Forsyth's indigent defense administrator, Connie Brooker, said the county has not cut rates paid to appointed attorneys, who get \$75 an hour for in-court work and \$65 an hour for work outside the courtroom.

"Our attorneys know the budget is an issue," Brooker said. "They're sacrificing a lot to make sure the defendants are receiving the same level of quality representation without breaking the bank."

Canton lawyer David Cannon, who chairs Cherokee County's indigent defense committee, said the county's hourly rates — which range from \$65 to \$85 an hour, depending on the seriousness and complexity of the case — have not been cut. "The bills are being scrutinized very closely though," he said.

The fact that other counties can pay slightly more for defense attorneys doesn't concern Lipscomb. He said Gwinnett's indigent defense panel is well-staffed and has plenty of work to offer. Lipscomb said he doesn't expect a falloff in the number of attorneys willing to take indigent cases.

The Georgia Public Defender Standards Council, which oversees public defender offices across the state, has struggled with a similar budget crunch in recent years. To the frustration of lawmakers, the agency has repeatedly asked for emergency funds to keep it afloat.

Equally frustrating to the council is the Legislature's refusal to give it all the funds from a collection system designed to fund the state system.

The system collects money through surcharges on criminal fines and bonds and add-ons to civil court filings. But since 2005 the defender system has been shortchanged more than \$20 million in these collections as lawmakers spent the money elsewhere.

Last year, the defender council's budget was cut by about 10 percent. This year, while other agencies are expecting deep cuts, Gov. Sonny Perdue is recommending a \$40.1 million budget for fiscal 2011, a cut of only 2 percent.

That is still far short of what the defender council says it needs. At a Jan. 22 board meeting, the council's staff said that a fully funded budget for the agency would be \$50.5 million.

The cuts to indigent defense budgets are a cause for concern, said Sara Totonchi, executive director of the Southern Center for Human Rights, which has two pending lawsuits against the council over funding issues.

"Once again it's become clear to us that defense isn't being funded at the level it needs to be," Totonchi said. "If the state and counties don't provide for that, the courts will intervene and force them to do so."

Counties supplement state funding of the 43 circuit public defender offices. But in recent months, some of those counties, feeling a budget pinch, have cut back their indigent defense spending.

David Smith, the public defender for the Tallapoosa Judicial Circuit in west Georgia, said he has lost three positions from his 10-person office because of budget cuts. "We're struggling to do the best we can with what we have," Smith said.

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