SPECIAL EXAMINATION • REPORT NUMBER 24-12 • JANUARY 2025

Georgia Public Defender Council

Requested information on financial and operational controls

Greg S. Griffin | State Auditor

Lisa Kieffer | Executive Director

DOAA
Georgia Department of Audits & Accounts

Performance Audit Division
Greg S. Griffin, State Auditor
Lisa Kieffer, Executive Director

Why we did this review

The Senate Appropriations Committee requested this special examination of the Georgia Public Defender Council (GPDC). The Committee asked that we examine GPDC's management of its state appropriations (including internal controls around agency finances and compliance with program-based budgeting), use of other or temporary funds for ongoing operations, and practices related to setting salaries and salary adjustments.

About GPDC

GPDC is charged with ensuring adequate and effective legal representation to indigent persons who are entitled to such services. State law defines an indigent defendant as a person who earns—or, for a juvenile, whose parents earn—less than a percentage of the federal poverty level as determined by the charge of misdemeanor or felony.

GPDC represents indigent persons in criminal cases, including death penalty and appellate cases, and provides support services on cases involving those deemed mentally incompetent. GPDC also provides administrative support to local circuit public defender offices in 44 of the state's 50 judicial circuits.

In fiscal year 2024, GPDC managed $145 million in federal, state, and other funds. Approximately 30% of this funding is restricted for uses specified in contracts with county governments.

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What we found

According to the Georgia Constitution, every person charged with an offense is entitled to legal representation, and GPDC is the agency charged with providing this service to qualified individuals. In doing so, GPDC's financial and operational practices carry risks. In recent years, GPDC has heavily relied on temporary federal pandemic-related funds to cover ongoing indigent defense services and avoid a budget shortfall, though this presents risk for continued stability once the funds expire. In addition, GPDC has regularly transferred expenditures between its two programs without supporting documentation, which places it at risk of non-compliance with program-based budgeting requirements. Finally, while largely compliant with state salary requirements for its attorney positions, GPDC has not yet created a salary plan as required by law, though it has attempted to do so. This can lead to inconsistency in compensation practices.

GPDC's expenditures regularly exceed its monthly revenue, requiring various strategies to balance its budget.

GPDC achieved a balanced budget at the end of fiscal years 2019-2023 (official *Budgetary Compliance Report* was not available for 2024 at the time of review). However, GPDC's monthly spending regularly exceeds its monthly allotment of state funds and other revenue. For example, GPDC's spending exceeded monthly revenue for three of the first six months of fiscal year 2024. Advanced state fund allotments helped ensure revenue remained above expenditures in the second quarter of the year, but deficits resumed in January 2024 and GPDC projected it would end the year with a $4.1 million deficit. This was ultimately avoided with an influx of federal American Rescue Plan Act (ARPA) funds ($2.7 million more than the $1.2 million GPDC initially anticipated would be available).

In addition, we found that GPDC transferred expenditures between programs and fund sources in a process known as "rerating." Agencies may use rerating to correct accounting errors or meet spending limits established by the appropriations act. In fiscal year 2024, GPDC transferred $1.4 million in expenditures initially charged against state funds to another fund source—this included approximately $1 million charged to federal ARPA funds in June 2024, made possible after the funds' purpose was expanded to include all conflict cases. GPDC also moved $603,000 in expenditures previously charged against one of its two programs. GPDC did not provide documentation to support the program-level changes, citing the executive director's authority to make such decisions (though this is not explicitly stated in statute). Without justification, GPDC is at risk of noncompliance with program-based budgeting requirements if expenses incurred by one program are charged to another.

According to GPDC, expenditures often exceed revenue because of the unpredictability of conflict cases, which require the agency to incur additional expenses to hire more contract attorneys. Trend data may assist in determining whether additional state funds are needed to manage the workload in future years.

GPDC uses temporary federal and other funds for ongoing operations.

Since January 2022, GPDC has spent $32.8 million of the $53.3 million in federal funds available through ARPA, leaving $20.5 million available for spending by December 31, 2026. The purpose of GPDC's ARPA funds has evolved over time—funds were initially intended to expedite a case backlog created by the pandemic; more recently, eligibility was expanded to include any conflict case (a standard case type within GPDC's normal operations). GPDC's use of ARPA funds for conflict cases presents a risk that additional state funds will be required to maintain the current level of service once the ARPA funds are exhausted.

GPDC also received a small amount of operating funds ($2.0 million to $3.5 million between fiscal years 2019 and 2024) from other sources, including administrative fees on county contracts. These funds account for a small percentage of GPDC's operating expenses (4% in fiscal year 2024). Given the funds' stability, there is less risk that GPDC will need to identify new funding sources for the operating expenses they currently cover.

Though attorney salaries largely comply with state requirements, GPDC has not established a salary plan as required by law.

GPDC's statute includes salary ranges for its attorney positions, which match statutory requirements for the Prosecuting Attorneys' Council (PAC). These ranges do not align with those in the statewide salary plan established by the Department of Administrative Services (DOAS), which GPDC is also expected to follow as an executive branch agency.

While nearly all of GPDC's attorney salaries complied with statutory limits, approximately 44% (55 of 125) exceeded maximum salaries in the statewide salary plan. According to GPDC, ranges established in its enabling legislation (O.C.G.A. § 17-12-27) take precedence over the DOAS statewide salary plan.

Unlike PAC, GPDC has not established a salary plan as required in statute, though there have been several unsuccessful attempts. Without a plan, circuit public defenders and GPDC management have used discretion to set salaries of their respective state-funded employees, leading to variation across positions.

What we recommend

GPDC should appropriately document rerate decisions to ensure compliance with program-based budgeting. GPDC should also track and analyze case data to support requests for additional funding as well as evaluate how it will continue to meet its obligations once ARPA funds are exhausted. In addition, GPDC should formally adopt a salary schedule as required by law. Finally, the General Assembly should consider clarifying how the statewide salary plan should factor into GPDC attorney pay.

See **Appendix A** for a detailed listing of recommendations.

GPDC's Response: *In its response, GPDC expressed its general disagreement with the report. Its concerns and positions are included at the end of the relevant findings. It should be noted that, in addition to disagreeing with the content of the report, GPDC questioned the auditors' understanding of its operations and the auditors' adherence to standards.*

> ***Auditor's Response:*** *The concerns over the auditors' programmatic understanding are unsubstantiated. Over the course of more than eight months, the auditors interviewed staff, reviewed documentation, and analyzed data—as is common in all audits—to gain an understanding of the nature of the operations and achieve the evidentiary standard as required. Assurance is further provided by supervisory review and an extensive quality control review process to assess audit evidence.*
>
> *GPDC's assertion that the department did not adhere to standards is also unfounded. As outlined in* ***Appendix B****, the audit was conducted in accordance with applicable standards and is documented as such. Internal quality control processes were employed, as is the case with all reports, to ensure the accuracy, completeness, and validity of the information contained in this report.*
>
> *We remain committed to presenting a factual, objective report. The department stands by the information contained in the report.*

Table of Contents

Purpose of the Special Examination

This review of the Georgia Public Defender Council (GPDC) was conducted at the request of the Senate Appropriations Committee. Our review focuses on the following questions:

- To what extent is GPDC appropriately managing its state appropriations?
- To what extent does GPDC use temporary and other funds for ongoing operations?
- To what extent does GPDC follow state requirements around pay adjustments?

A description of the objectives, scope, and methodology used in this review is included in **Appendix B**. A draft of the report was provided to GPDC for its review, and pertinent responses were incorporated into the report.

Background

The U.S. and Georgia Constitutions, along with subsequent court cases and acts of the General Assembly, legally entitle all defendants to representation regardless of their ability to pay. When a defendant is unable to pay (i.e., indigent), the state provides representation. O.C.G.A. § 17-12-2 defines an indigent defendant based on earnings as percentage of federal poverty guidelines, the type of crime the defendant is charged with, and other resources available to the defendant.[1] For example, a person charged with a misdemeanor is considered indigent if they earn less than 100% of federal poverty guidelines, while the threshold is 150% for a person charged with a felony.

The Georgia Public Defender Council (GPDC) is responsible for "assuring that adequate and effective legal representation is provided, independently of political considerations or private interests, to indigent persons who are entitled to representation." GPDC is a state agency within the executive branch (though when first established it was within the judicial branch). GPDC is overseen by a council of nine members who serve four-year terms and are appointed by the governor (five members), lieutenant governor (two members), and the speaker of the House of Representatives (two members). GPDC's day-to-day operations are managed by an executive director.

The state is organized into 50 judicial circuits, each with its own circuit public defender and district attorney[2] offices. District attorneys are supported by the Prosecuting Attorneys' Council (PAC), a judicial branch agency.

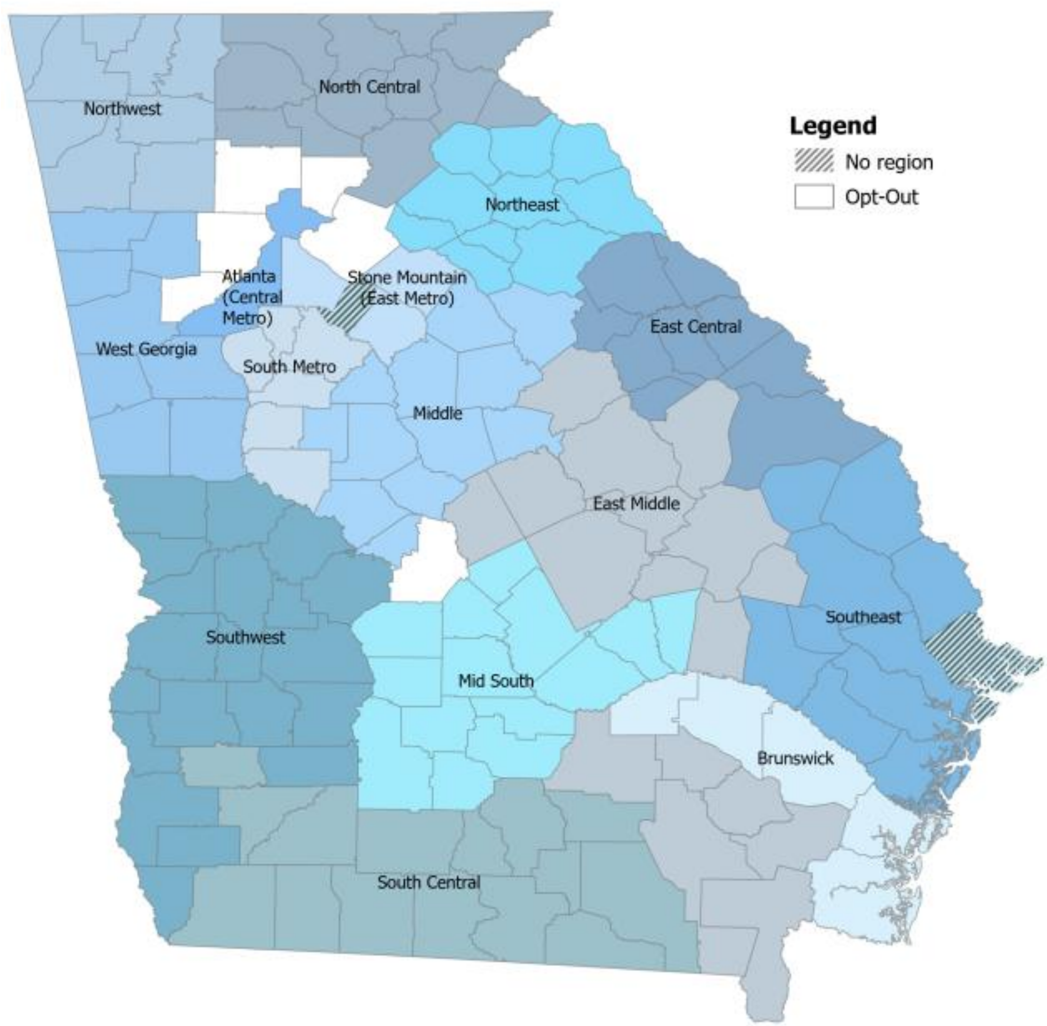
[1] According to state law, indigent defendants include adults charged with misdemeanors, probation violations, or other offenses punishable by imprisonment; juveniles charged with delinquent acts punishable by detention or probation violations; or any person charged with a felony, as long as income requirements are met.

[2] District attorneys are elected in general elections, unlike circuit public defenders who are nominated by local supervisory panels and appointed by GPDC's director. District attorneys prosecute criminal cases within their jurisdiction.

GPDC Organizational Structure

Public defender services in Georgia are delivered through a hybrid system implemented by GPDC and circuit public defender offices. GPDC is responsible for operating its central and regional offices (established since fiscal year 2022 to address conflict cases), while each circuit office is managed by a circuit public defender. See **Exhibit 1** for a map of regional offices (see **Appendix C** for a detailed listing of regions and circuits). The operations of each office are described below.

Exhibit 1
GPDC regional offices handle conflict cases across 44 judicial circuits[1]



[1] Two circuits (Rockdale and Eastern/Chatham) handle conflict cases internally and are not part of a region. State law permitted six circuits to “opt out” of the state funded indigent defense system.
Source: DOAA analysis of GPDC data

- **Circuit Public Defender offices** – The State of Georgia has 50 circuit public defenders (CPD) who are responsible for their respective office within a judicial circuit. CPD offices provide legal representation primarily for defendants of cases originating from counties within their circuit, which may include multiple counties. Circuit attorneys may also provide representation for other circuit offices' cases. CPDs are responsible for managing the operations of their offices by employing attorneys, investigators, administrative staff, and other staff depending on available resources. Circuit offices may receive funding from both the state and the counties within their circuits.

GPDC oversees 44 CPD offices, providing direct services for payroll, human resources, and other administrative functions. The other six CPD offices operate as Alternative Delivery System Circuits that chose to "opt out" of involvement with GPDC under the Indigent Defense Act of 2003.[3] Opt-out circuits are able to exercise local control over areas like case assignment and how state funds are spent.[4] For example, one opt-out circuit solely contracts with private attorneys instead of hiring staff attorneys.

- **Regional offices** – As shown in **Exhibit 1**, GPDC operates 15 regional offices across the state that provide legal representation for defendants unable to obtain services from attorneys at circuit offices due to a conflict of interest (known as "conflict cases," described in the text box below). Regional offices receive conflict cases from the circuits in their region and can provide representation for multiple codefendants depending on staff availability. Regional offices use both staff and contracted private attorneys for these cases.
- **Central office** – GPDC's central office provides legal representation for capital, appellate, and some conflict cases. Central office staff also provide oversight and support services for other GPDC offices and units. For example, GPDC's Deputy Director of Legal Services serves as its General Counsel, provides oversight for the 15 regional offices and appellate division, and oversees contracts with private attorneys. Other services provided by central office staff include administrative services (e.g., human resources, finance, purchasing, IT support) and professional services in support of clients represented by GPDC attorneys, such as mental health and social services.

Conflict Cases

Conflict cases involve a defendant that circuit office attorneys are unable to represent due to a conflict with another client, a former client, a third person, or the lawyer's own interests. A conflict typically occurs in multi-defendant cases but may also occur when an attorney previously provided legal representation for a witness or other third party related to the case. As required by Georgia State Bar Rule 1.7 and Georgia State Bar Formal Advisory Opinion 10-1, attorneys are prohibited from representing opposing parties in the same or a similar proceeding, including simultaneous representation of parties whose interests may conflict, such as co-plaintiffs or co-defendants. Since 2013, lawyers associated with a CPD office have been prohibited from knowingly representing a client when any one of them practicing alone would be prohibited from doing so by conflict-of-interest rules.

[3] *State law does not allow for additional opt-out circuits other than the six single-county circuits that chose to opt-out in 2003: Blue Ridge (Cherokee County), Bell-Forsyth (Forsyth County), Cobb, Douglas, Gwinnett, and Houston.*
[4] *State funds for staff positions mandated under state law are passed through GPDC to opt-out circuits.*

State and Locally Funded GPDC Employees

GPDC employees are located in the central office, regional offices, and circuits. As of April 2024, GPDC had 774 employees—102 (13%) worked at the central or regional offices. The majority (672) worked at CPD offices, with approximately 41% (317) in positions mandated under state law and funded through state appropriations.[5] These individuals are classified as state employees.

The CPD offices employ an additional 355 staff who are funded by the local governments. Under O.C.G.A. § 17-12-32, local governments can voluntarily contract with GPDC to classify these additional personnel as state employees, which provides them benefits such as membership in the Employees Retirement System and State Health Benefit Plan. These employees are referred to as State Paid County Reimbursed (SPCR) employees.[6] As of July 2024, 139 local governments within 37 circuits have contracted with GPDC for SPCR employees (the last circuit to withdraw from a contract did so in 2017). The contracts include an administrative fee to GPDC.

Although both state-funded and SPCR employees are classified as GPDC employees, the CPD is responsible for hiring and setting their salaries. Most state-funded employees of CPD offices have salaries subject to statutorily set pay ranges, while SPCRs do not. In particular, O.C.G.A. § 17-12-27 defines the compensation range of assistant public defenders in four classifications (Attorneys 1-4), allowing GPDC's Council to set qualifications for each class based on education, training, and experience. For example, the Council has instituted non-mandatory guidance that classifications use a points criteria system (e.g., one point for completing advanced criminal defense training).

GPDC Financials

Since fiscal year 2019, GPDC's revenue has increased by 52%—from $95.2 million to $145 million (see **Exhibit 2**). Revenue increased by approximately 10% between fiscal years 2019 and 2022, then increased by 23% in 2023 (when GPDC received an influx of federal COVID-19 funds) and 13% in fiscal year 2024. GPDC was appropriated $82.5 million in state funds for fiscal year 2025, a 3% increase from the $80.1 million in fiscal year 2024 (federal funds and other funds are not fully reflected in the appropriations acts).

[5] Under O.C.G.A. §§ 17-12-27 through 17-12-29, each circuit, including opt-out circuits, are entitled to a certain number of assistant public defenders, administrative assistants, and criminal investigators who will be classified as state employees (state-funded). The six opt-out circuits receive a monthly check from GPDC equivalent to the funds for their state-mandated positions.

[6] PAC has nearly identical provisions for state-funded employees and SPCRs in its respective statute.

Exhibit 2
GPDC's two budget programs received revenue from three primary sources (FY 2019-2024)

	2019	2020	2021	2022	2023	2024
Public Defenders						
State	$50,430,371	$52,555,088	$51,519,277	$57,627,573	$64,524,721	$70,839,665
Federal	$35,913	$35,913	$0	$708,589	$12,761,296	$17,220,239
Other	$35,133,033	$36,108,357	$37,285,678	$36,127,368	$40,705,682	$46,004,295
Total	**$85,599,317**	**$88,699,358**	**$88,804,955**	**$94,463,530**	**$117,991,699**	**$134,064,199**
Public Defender Council						
State	$8,107,532	$8,088,053	$8,175,687	$8,482,273	$8,999,031	$9,216,278
Federal	$16,742	$27,415	$1,010	$12,909	$10,481	$0
Other	$1,464,397	$990,692	$1,292,228	$1,778,549	$1,692,735	$1,681,839
Total	**$9,588,671**	**$9,106,160**	**$9,466,905**	**$10,273,732**	**$10,702,247**	**$10,898,117**
Total Revenue	**$95,187,988**	**$97,805,518**	**$98,271,861**	**$104,737,261**	**$128,693,945**	**$144,962,316**

Source: DOAA analysis of TeamWorks Financials data

GPDC receives revenue from state, federal, and other sources. In fiscal year 2024, state funds represented 55% of total funds, followed by other funds (33%) and federal funds (12%). The majority of other revenue (93%) represents funds related to the SPCR employees described above (and is thus restricted), and the remaining 7% includes the administrative fees GPDC receives (discussed further in Finding 3). GPDC's federal funding increased significantly in fiscal year 2023, when it received additional funds through the American Rescue Plan Act (ARPA) (discussed further in Finding 2). With the inclusion of federal funds, the percentage of state revenue decreased from 61% in fiscal year 2019 to 55% in 2024.

The appropriations acts authorize funds by program with the intent to provide greater budgetary control and performance management by establishing a link between program activities and the appropriation of state funds. State procedures created by the Governor's Office of Planning and Budget require that state agencies comply with appropriations by program and fund source and may only transfer funds within a program through budget amendments. GPDC operates two budget programs, described below. Both employ attorneys and support staff.

- **Public Defenders Program** – The majority of GPDC's revenue (92%) is dedicated to this program. According to appropriations acts, this program is responsible for assuring that "adequate and effective legal representation is provided, independently of political considerations or private interests, to indigent persons who are entitled to representation" and "providing representation to clients in cases where the Capital Defender or circuit public defender has a conflict of interest."
- **Public Defender Council** – According to appropriations acts, the GPDC Council program funds "the Office of the Georgia Capital Defender, Office of the Mental Health Advocate, Central Office, and the administration of the Conflict Division."

Requested Information

Finding 1: GPDC's expenditures regularly exceed its monthly revenue, requiring various strategies to balance the budget by fiscal year end.

Since fiscal year 2019, GPDC has achieved budgetary compliance by the end of the fiscal year; however, monthly expenditures often exceed revenue. To achieve a balanced budget, GPDC has heavily relied on federal funds in recent years and has regularly transferred funds between its two programs (though this may not comply with budget requirements). GPDC attributed its challenges to the unpredictability of conflict cases, though analyzing case data may help justify future requests for additional appropriations once federal funds expire.

GPDC receives funds from state, federal, and other sources. Other funds include contracts with local governments, administrative fees, and other miscellaneous funds.

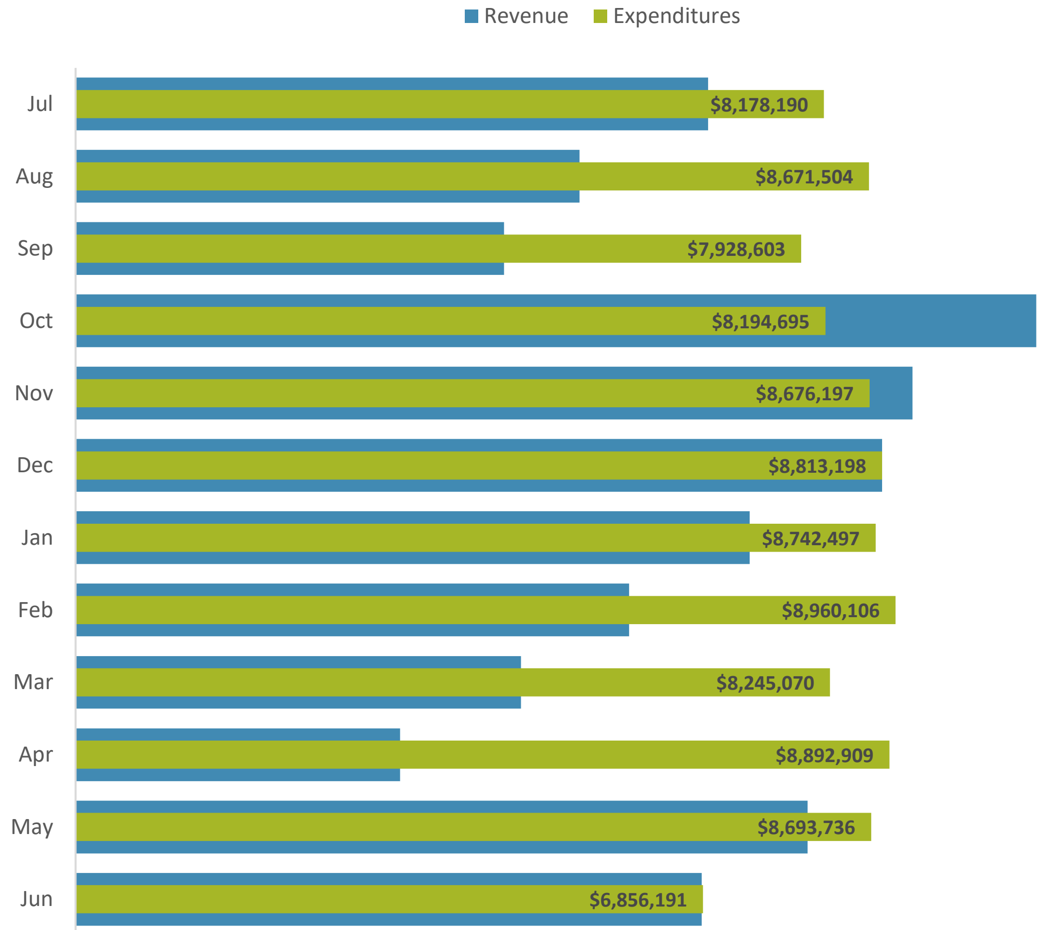
O.C.G.A. §§ 45-12-80 through 89 requires state agencies to conform their expenditure amounts to those in the appropriations acts (by program and funding source, which is the legal level of budgetary control) and ensure no funds are obligated over the approved amounts. Further, requirements set by the Governor's Office of Planning and Budget (OPB) state that agencies' annual operating budgets must comply with appropriations by program and fund source.[7] Agencies are expected to manage their expenditures through the flexibility in program budgeting.

GPDC ends each fiscal year with a balanced budget, as required by statute.[8] However, between fiscal years 2019 and 2024, monthly expenditures frequently exceeded revenue collections.[9] For example, as shown in **Exhibit 3**, deficits for fiscal year 2024 began early in the fiscal year (July 2023) and persisted through the first quarter. In October 2023, GPDC received an advance on its state funds allotments, which helped ensure revenue remained above expenditures for much of the second quarter.[10] According to OPB, this is not unusual because agencies have more expenses during the first quarter.

In January 2024, GPDC's spending again outpaced revenue, and between January and April, the deficit increased from $1.4 million to $5.3 million. On February 7, 2024, GPDC presented its amended fiscal year 2024 budget request to the Senate Committee on Appropriations. During the hearing, GPDC indicated that based on its projections, it would end the year with a $4.1 million dollar deficit. At the time, GPDC indicated that $1.2 million would be covered by federal COVID-19 funding (American Rescue Plan Act funds—known as ARPA—which at the time only covered cases that were more than a year old, as discussed in Finding 2); GPDC indicated it would need an additional $2.9 million to close the gap.

[7] Transfer of funds within programs are only allowed through budgetary amendments. Transfers between programs require approval of the House and Senate Fiscal Affairs Subcommittees.
[8] Based on the State Accounting Office's Budgetary Compliance Reports for fiscal years 2019 to 2023. The fiscal year 2024 report was not available at the time of this report's publication.
[9] According to the Carl Vinson Institute of Government's training documents, expenditure data may be monitored from month to month to identify spending pattern changes to investigate before spending becomes a problem.
[10] Agencies typically request an even amount of state funds each month (1/12 of the total appropriation) per program. In certain circumstances, agencies may request an additional amount in one or more months to pay necessary expenses, subject to OPB approval.

Exhibit 3
GPDC expenditures regularly exceeded monthly revenue allotments in FY 2024



Source: DOAA analysis of TeamWorks Financials data

Between May and June 2024, OPB approved $3.9 million in ARPA funds to be amended into GPDC's budget to meet its obligations for the remainder of the year ($2.7 million more than GPDC anticipated would be available at the time of the budget hearing). This was possible because OPB broadened ARPA's eligible uses to include any conflict case. Once ARPA funds were included in its revenue, GPDC no longer operated with a deficit.

The spending pattern seen in fiscal year 2024 is not unusual for GPDC. We saw similar activity in fiscal year 2023, during which GPDC also received significant federal ARPA funding. In both years, the federal ARPA funds were increasingly used for ongoing indigent defense expenses, though this presents risk for continued stability once the funds expire (see Finding 2). In all years, GPDC was also able to use funds from other sources—such as administrative fees—to fill budget gaps, as discussed in Finding 3.

In multiple fiscal years, GPDC also worked to balance its budget by transferring expenditures between fund sources and programs through a process known as "rerating." Two types are discussed below. While it is typical for state agencies to rerate by fund source within the same program, doing so among budget programs creates risks of noncompliance with program-based budgeting.

- **Fund Source Rerates** – In fiscal year 2024, GPDC transferred $1.4 million of expenditures from state fund sources to federal or other fund sources. This includes approximately $1 million of expenditures rerated to federal COVID-19 relief funds in June 2024, made possible after OPB expanded the funds' purpose to include all conflict cases. This expansion ensured GPDC was able to meet most of its expenditure obligations.

  According to GPDC, the rerate allowed it to comply with the State Accounting Office's spending order policy, which states that federal funds, then other funds, should be used for eligible expenditures prior to the use of state funds. It should be noted that while approximately $1.4 million in state funds were essentially freed up through the rerates, most of these funds were ultimately absorbed by other costs; only $86,000 was returned to the State Treasury.

GPDC's revenue shortfalls since fiscal year 2019 have been driven by expenditures in the Public Defender budgetary program; in fiscal year 2024, nearly all contract attorney costs ($15.5 million) were charged to this program.

- **Program Rerates** – In fiscal year 2024, expenditures totaling approximately $603,000 were transferred from GPDC's Council Program to its Public Defender Program, with nearly all transfers occurring in June 2024. The use of program rerates carries the risk of misallocating funds unless appropriate documentation exists to support the allowability of costs being charged to the program. GPDC did not provide supporting documentation for any of the three transactions reviewed for fiscal year 2024 (we reviewed an additional three program rerate transactions that occurred between fiscal years 2020 and 2023; these were also unsupported). According to GPDC, there is no external review and approval process to ensure program rerates are justified, citing the executive director's statutory authority to repurpose funds, though this is not specifically stated in law. OPB staff confirmed that it does not review rerates. While OPB staff agreed that the executive director's authority may allow for these types of decisions, they could not confirm without further research.

According to GPDC, expenditures often exceed revenue during the fiscal year because of the unpredictability of conflict cases, which generally requires the agency to incur additional expenses to hire more contract attorneys (see text box on page 9). Between fiscal years 2019 and 2023, state funds dedicated to contract attorney expenditures increased by approximately 72%—from $2.2 million to $3.8 million. GPDC's use of state funds decreased to $2.9 million in fiscal year 2024 because some portion was supplanted by ARPA funds after their purpose was expanded to include conflict cases.

Regional Offices created to handle more conflict cases in-house

Beginning in fiscal year 2022, GPDC began creating regional conflict offices to reduce dependence on contract attorneys. Previously, most conflict cases handled by GPDC were managed by the statewide conflict office, though contract attorneys were still needed due to resources and potential conflicts within this single office. GPDC reported that it changed its structure for handling conflict cases to provide a more organized and region-specific management structure, speed up case assignments, and improve communication between attorneys and clients. As of November 2024, GPDC has established 15 regional conflict offices, which allows them to assign more cases to in-house attorneys rather than relying on contract attorneys to avoid conflict.

Annual expenditures related to these offices increased from approximately $1.2 million in fiscal year 2022 to $9.3 million in 2024 as more offices were created. These represent an additional annual expenditure obligation in GPDC's personal services (as well as other operating costs). The offices are generally staffed with one or more attorneys who handle cases and could include an investigator and an administrative assistant. Most staff work out of a regional office, though a few do not have a physical space and work remotely. Regional offices also utilize contract attorneys when necessary to avoid attorney conflicts.

In fiscal year 2023, GPDC received approximately $2 million in state funds to create three conflict offices. Subsequent requests for additional funds in fiscal years 2024 and 2025 were denied. Due to the influx of federal ARPA funds used on additional contract attorneys, we were unable to confirm the extent to which regional offices reduced GPDC's contract attorney expenditures.

GPDC has not requested additional state funds in its annual or amended budget requests.[11] With a few exceptions,[12] OPB instructions have generally required agencies to submit flat budget requests since fiscal year 2019, though budget instructions allow for increases related to "workload or enrollment driven programs" (e.g., education funding and health care programs). According to OPB staff, it is possible for GPDC to be considered for workload adjustments related to increases in conflict cases. Trend data would be necessary to sufficiently support this request (consideration should be given to the complexity and type of cases, which could affect resources needed).

RECOMMENDATIONS

1. GPDC should establish procedures to ensure rerated costs are being charged appropriately and are adequately documented.
2. GPDC should track and analyze case data and other relevant information necessary to document trends that impact its workload and support requests for additional funding.

GPDC's Response: *GPDC stated that it "is constitutionally bound to accept all qualifying indigent persons, and the agency does not control the number or timing of their indictments or the charges therein. As such, GPDC's client-*

[11] GPDC attempted to ask the General Assembly for $2.9 million in state funds to address its budget deficit, but this was outside the normal process and the request was not approved.
[12] For example, budget instructions for the amended fiscal year 2020 and the annual fiscal year 2021 required agencies to identify reductions of 4% and 6%, respectively.

related expenses (providing indigent legal services) are irregular and outside of its direct control." GPDC further stated that it "evaluates its budget annually, quarterly, monthly, and weekly…[and] actively manages its budget and ends each fiscal year with a balanced budget."

Finally, GPDC stated that it "cannot and will not delay the assignment of a public defender because doing so would exceed revenues for that month. To undertake such a practice would immediately open Georgia to innumerable state and federal lawsuits and likely result in the disbarment of all involved."

> ***Auditor Response:*** *We agree that GPDC has an important role to play in serving this vulnerable population. This finding conveys the fiscal challenges GPDC has in meeting this obligation and its reliance in recent years on temporary ARPA funds to balance its budget. In future years, this funding will not be available, making it more imperative that GPDC closely monitor its obligations to ensure client needs are met and compliance with state budgeting requirements is maintained.*

Recommendation 1.1: *GPDC stated that it "documents its re-rates and follows OPB and SAO oversight; it will continue to do so." In addition, GPDC "actively manages its budget to create operational efficiencies and enhance client services."*

> ***Auditor's Response:*** *In response to our request during the special examination, GPDC provided documentation to support some fund source rerate transactions. However, no program rerate transactions we reviewed were supported with documentation.*

Recommendation 1.2: *GPDC stated that it has "tracked and analyzed limited case data. Since 2020, this information is shared with funding authorities to support requests for additional funding each year."*

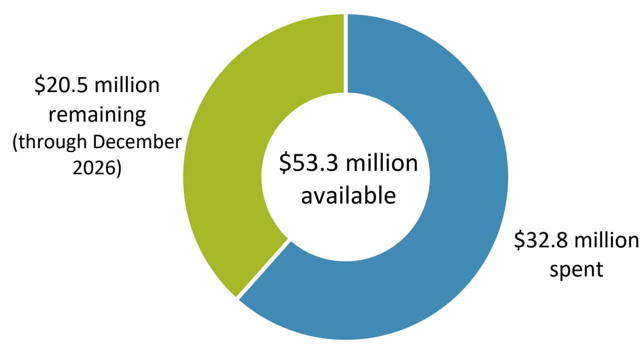
> ***Auditor's Response:*** *In response to our request, GPDC could not provide documentation to support its assertion that it tracks and analyzes case data to document trends.*

Finding 2: GPDC has spent federal ARPA funds on ongoing indigent defense services, which presents a risk to the continuation of services once funds expire.

GPDC has spent 62% ($32.8 million) of the $53.3 million in federal funds available through the American Rescue Plan Act (ARPA). Funds were initially restricted to expediting a case backlog created by the pandemic, but the use recently expanded to include all conflict cases. It is not possible to determine the extent to which these temporary funds have been used to increase attorney services. However, any amount poses a risk to GPDC's ability to continue a similar level of service once federal funds have been exhausted.

In January 2022, judicial agencies received ARPA funds related to the COVID-19 pandemic, with approximately $14.9 million initially made available to OPB as a federal grantee administering funds to GPDC. Over time the amount has increased to $53.3 million, with the most recent increase occurring in November 2024. As shown in **Exhibit 4**, GPDC has spent $32.8 million, or 62%, of all available funds. As of November 2024, approximately $20.5 million is available to cover expenditures; GPDC must spend these funds by December 2026.[13]

Exhibit 4
GPDC has spent more than half of available ARPA funds (January 2022–November 2024)



Source: GPDC

Throughout the ARPA grant period, OPB has given broad guidance on what expenses are eligible for reimbursement. In fiscal years 2022-2024, nearly all of the funds were spent on contract attorneys or full-time staff (approximately 1% was spent on IT services and equipment). As shown in **Exhibit 5**, nearly $19 million (64%) was spent on contracted attorneys, while $10 million (35%) was spent on full-time staff payroll. Specifically, existing staff were given temporary pay increases for additional time spent on ARPA-eligible cases, and new full-time attorneys and staff were hired to work on ARPA-eligible cases for two years. For existing staff receiving temporary pay increases, GPDC stated that pay will return to original amounts once ARPA is exhausted.

[13] As the official grantee, any funds OPB assigns to GPDC by the obligation deadline of December 31, 2024, are available to reimburse GPDC's relevant expenses through December 31, 2026.

Exhibit 5
GPDC has spent ARPA funds primarily on contractors and employee payroll (FY 2022-2024)[1]

	2022	2023	2024	Total
Contractors (Mostly attorneys)	$250,005	$7,005,340	$11,737,662	**$18,993,007**
Employees	$306,249	$4,631,785	$5,317,606	**$10,255,641**
Other (IT, Grants, etc.)	$61,502	$300,635	$11,253	**$373,390**
Total	**$617,756**	**$11,937,760**	**$17,066,521**	**$29,622,037**

[1] Analysis was limited to closed fiscal years to ensuring using the most accurate data available.

Source: DOAA analysis of TeamWorks Financials data

The general purpose of GPDC's ARPA funds has evolved over time. In the first two years of the grant (from January 2022 to November 2023), OPB directed GPDC to use funds only to address violent felony cases that had been backlogged by the COVID-19 pandemic. In November 2023, OPB authorized GPDC to use ARPA funds on operating expenses for any conflict case more than one year old (conflict cases are a standard case type within GPDC's normal operations). Finally, in June 2024 OPB expanded eligibility to include any conflict case regardless of age. GPDC and OPB indicated that the remainder of ARPA funds ($20.5 million) will be spent on these cases through the final date of reimbursement.

GPDC's use of ARPA funds on standard conflict cases presents a risk that additional state funds will be required to maintain the current level of service once the ARPA funds are exhausted. With ARPA, GPDC's use of contracted attorneys (which are primarily dedicated to conflict cases) increased significantly, with state funds contributing a smaller percentage ($2.9 million, or 19%, in 2024 compared to $2.2 million, or 100%, in 2021). At the time of the audit, information on the number and type of cases covered under ARPA was not tracked or readily available, and we were unable to determine how much of the $11.5 million spent on contract attorneys in 2024 was related to case backlog (ARPA's original purpose, which can be scaled back) versus standard conflict cases (which will continue). Without such information, it cannot be determined whether or how GPDC will continue handling a similar volume of conflict cases once ARPA funds are exhausted.

As previously discussed, GPDC will be able to use ARPA funds on conflict cases until December 31, 2026. However, it will be necessary for GPDC leadership to determine how ARPA funds have impacted their normal operations and how they intend to continue or scale back when they return to pre-COVID funding levels. GPDC staff reported considering possible strategies, but they have not yet provided specific plans given the time left on the funds' availability. As previously discussed, GPDC may also be able to request additional appropriations, though the amount should be determined based on an analysis of operations and expenditures.

Documentation related to GPDC's use of ARPA funds was vague

Much of GPDC's documentation related to ARPA was vague. Although OPB reviews all GPDC-submitted supporting documentation before authorizing ARPA reimbursements, the extent to which ARPA funds have assisted with backlog cases or reduced overall caseload (and other programmatic metrics) has not been tracked. As a result, we could not determine the impact of ARPA on GPDC's caseload.

We were also unable to confirm the extent to which employees who received pay increases worked additional hours to expedite ARPA-eligible cases. Administrative forms documenting the increase did not state the amount of time or number of cases expected for the increased pay. We reviewed a sample of time sheets for five employees, which generally reflected a standard 40-hour work week during the period they received additional pay. Four employees received pay increases ranging from 4% to 15% of the employee's regular salary, and one employee's salary increased by $20,000.

RECOMMENDATION

1. GPDC should evaluate its use of ARPA for regular operations and consider how it will continue to meet its obligations once the funds are exhausted.

GPDC's Response: *GPDC "continues to evaluate its use of ARPA funding for indigent defense services" and "has begun planning for the cessation of ARPA funding."*

Auditor's Response: *As noted in the report, GPDC stated that it is currently working on a plan; when asked to provide the plan GPDC declined to do so. As the deadline for ARPA spending approaches, GPDC will need to monitor its expenditures and determine how it will continue to serve the indigent population without those funds.*

Finding 3: Funds from fees and other sources contribute to a small percentage of GPDC's operating expenses.

In fiscal year 2024, GPDC collected approximately $48 million from county contracts, administrative fees on those contracts, bank interest from bond and forfeiture accounts, and other miscellaneous sources. Less than 10% of the collections—recognized as other funds—is available for GPDC to spend as deemed appropriate and represents approximately 4% of GPDC's total operating expenses. Given the stability of the fund source, this does not present risks to GPDC's operations.

As shown in **Exhibit 6**, GPDC collected approximately $47.7 million in other funds (i.e., revenue outside state and federal sources) in fiscal year 2024, an increase of approximately 30% from the $36.6 million collected in fiscal year

2019.[14] Funds were relatively consistent between fiscal years 2019 and 2022 before increasing by approximately 10% in fiscal year 2023.

Exhibit 6
Most of GPDC's other funds are from county contracts (FY 2019-2024)

	2019	2020	2021	2022	2023	2024
Restricted Other Funds						
County Contracts	$34,556,971	$35,138,985	$36,70,230	$35,976,389	$39,935,859	$44,121,512
Unrestricted Other Funds						
Administrative Fee	$1,663,225	$1,646,858	$1,700,762	$1,685,894	$1,921,569	$2,168,030
Clerks/Sheriff Trust	$218,900	$287,408	$168,703	$159,036	$534,161	$1,386,737
Miscellaneous	$51,209	$9,798	$211	$84,599	$6,828	$9,855
Criminal Justice E-Filing	$107,125	$16,000	$0	$0	$0	$0
Total Unrestricted	**$2,040,459**	**$1,960,064**	**$1,869,677**	**$1,929,528**	**$2,462,558**	**$3,564,622**
Total Other Revenue[1]	**$36,597,430**	**$37,099,049**	**$38,577,906**	**$37,905,918**	**$42,398,417**	**$47,686,134**

[1]A placeholder amount of $33.3 million is entered annually into Appropriations Acts with the understanding from OPB that actual revenue is higher.
Source: DOAA analysis of TeamWorks Financials data

More than 90% of GPDC's revenue from other funds is reserved as "pass-through" expenditures related to contracts that county governments voluntarily sign with GPDC. In fiscal year 2024, this totaled $44 million—an increase of 28% from the $35 million in fiscal year 2019. The contracts cover two purposes:

- **State Paid County Reimbursed Employee Costs** – More than 95% of the contract amounts is used to pay the salaries and benefits of approximately 350 employees in the circuit offices. These employees are paid with county funds; however, under O.C.G.A. § 17-12-32 they are eligible for state employee benefits (e.g., State Health Benefit Plan and Employees Retirement System) because GPDC manages the payroll.
- **Operating Costs** – A small percentage of the contract amount is used for operating contracts with 13 circuits. The county pays a monthly amount to GPDC, which then pays any invoices received for the county's operating expenses (e.g., power bills, rent, and IT costs).

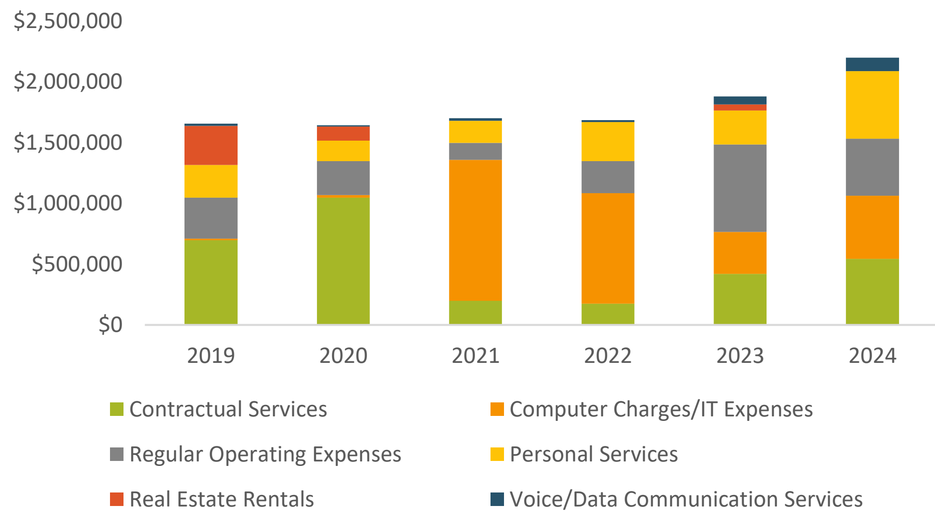
GPDC's county contracts include an administrative fee equal to a percentage of the county's total payments. Between fiscal years 2019 and 2024, this has totaled between $1.7 and $2.2 million and represents the majority of other funds that are unrestricted and can thus be used for GPDC's operating costs. In fiscal year 2024, GPDC also received $1.4 million from the Georgia Superior Court Clerk's Cooperative Authority (GSCCCA), significantly higher than the approximately $160,000-$530,000 collected in past years.[15]

[14] According to GPDC, the contract amounts (which make up the large majority of other funds) are determined by the counties, and staff stated they did not have insight into why the increases occurred.
[15] Per state law, interest earned on bond and forfeiture accounts held by local courts and sheriffs are required to be remitted to GPDC. According to GSCCCA, the amount remitted to GPDC may vary according to interest rates in effect at the time.

The $2.0-$3.5 million of unrestricted other funds represents less than 4% of GPDC's regular operating expenses. The remaining 96% comes from state and federal funds. According to GPDC staff, this revenue can be spent as needed to fill budgetary gaps in both budgetary programs (Public Defenders and Public Defender Council). As shown in **Exhibit 7**, administrative fees from county contracts (the largest and most stable source of other funds) are not consistently used for a singular purpose. The uses of administrative fees in the period reviewed are described below the exhibit.

Exhibit 7

Administrative fees are not consistently used for a single purpose (FY 2019-2024)



Source: DOAA analysis of TeamWorks Financials data

- **Contracted services** ($3.1 million) – Since 2021, GPDC has increasingly used administrative fees to pay for contracted attorneys, as well as contracted services for consultants and psychologists. In fiscal year 2024, the amount was approximately $544,000, significantly higher than amounts in 2021 and 2022 but approximately half of the $1.0 million in fiscal year 2020. (It should be noted that in addition to administrative fees, approximately $1 million from the GSCCCA was spent on contracted attorneys in fiscal year 2024.)
- **Computer services** ($3.0 million) – GPDC began paying for IT service contracts in 2021, when it reduced the number of in-house IT staff. Most of these expenditures occurred in fiscal years 2021 and 2022.
- **Regular operating** ($2.2 million) – This includes general office expenses such as membership dues and subscriptions, as well as reimbursements for meals, lodging, and mileage. In recent years, the amount of administrative fees dedicated to these costs has been higher.
- **Personal services** ($1.8 million) – GPDC consistently used administrative fees to pay most of the salary for one employee and in

some periods approximately 10% of the salary for two other employees. In fiscal year 2023 and 2024, GPDC also used administrative fees to fund small payroll amounts for more than 30 additional employees.

The amounts received from administrative fees did not fluctuate significantly during the period of review (and did not go below $1.6 million). Given the stability of these funds, it is unlikely GPDC would need to identify new sources for the operating expenditures they currently cover.

GPDC's Response: *GPDC stated that it "uses funds and fees to meet the changing needs of its Circuit Offices and attorneys, supplementing the procurement of durable goods (intended to be used for more than 1 year) such as laptops and other resources."*

Finding 4: GPDC salaries largely comply with state requirements, with few exceptions.

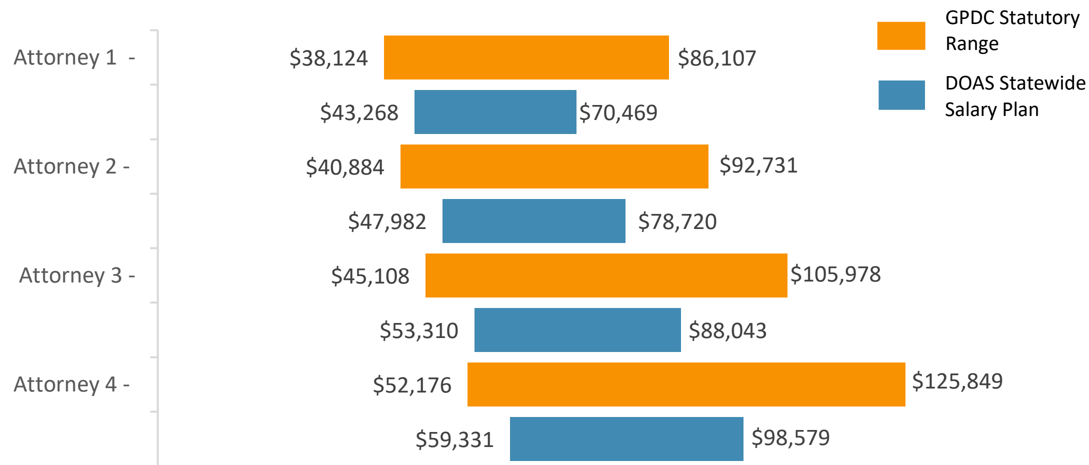
GPDC salaries fall within statute, but some exceed statewide salary plan ranges.

GPDC attorney salaries generally fall within the salary structure outlined in its enabling legislation. However, statutory salary ranges do not align with those in the statewide salary plan, which GPDC is also expected to follow as an executive branch agency. As a result, several of the GPDC's salaries we reviewed exceeded those in the statewide salary plan.

GPDC's enabling legislation sets out minimum and maximum salaries for its attorneys, which match statutory requirements for PAC. Additionally, as an executive branch agency, GPDC is required to follow the statewide salary plan put forth by the Department of Administrative Services (DOAS). As shown in **Exhibit 8**, the salary ranges in GPDC's statute are larger than those outlined in the DOAS salary plan (with maximum salaries exceeding by 18%-28%). GPDC staff indicated they believe their code section (O.C.G.A. § 17-12-27) takes precedence over all other requirements, including DOAS's administrative rules. DOAS staff were not aware of any other executive branch agencies with a statutory salary requirement in addition to DOAS-administered salary plans.

Exhibit 8

GPDC's statutory salary ranges are larger than those in the statewide salary plan (FY 2024)



Source: State Law (O.C.G.A. 17-12-27) and DOAS Statewide Salary (SWD) Plan

As discussed in more detail below, GPDC generally complied with its statutory and DOAS requirements, though there were several attorney salaries that exceeded the DOAS maximums. This is based on a review of 238 state-funded attorneys employed in fiscal year 2024 (125 employed for the full fiscal year and 113 employed for a partial year—see **Appendix B** for our methodology).

We also compared GPDC's attorney salaries to the PAC salary schedule. While the two entities are not required to follow the same salary schedule, they are often treated as similar by budget stakeholders when making funding decisions. This comparison can be found in the text box on page 20.

GPDC Statutory Requirements

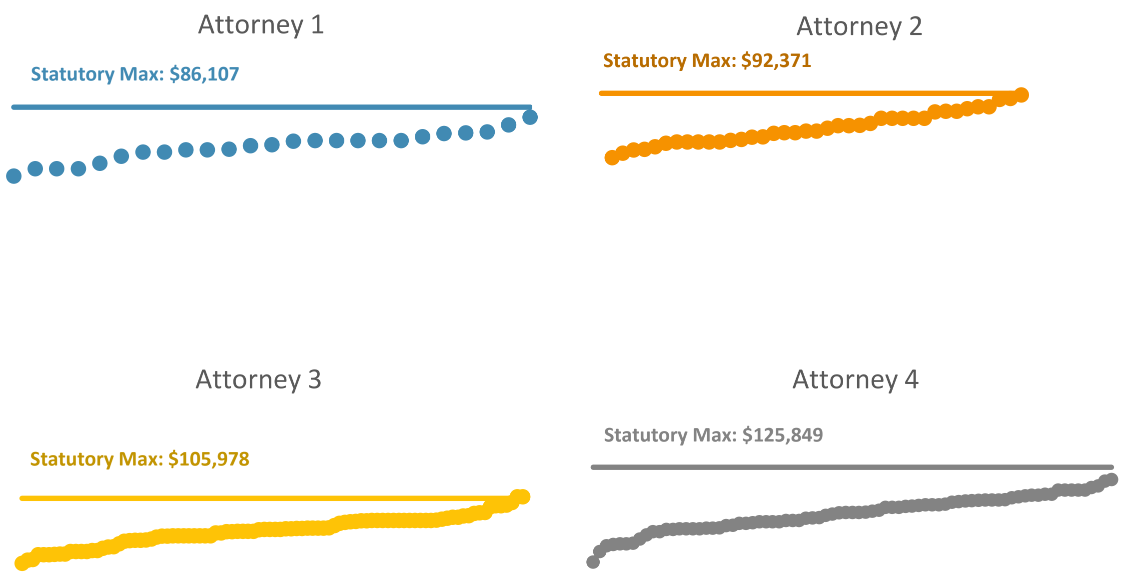
O.C.G.A. § 17-12-27 establishes the salary ranges for state-funded GPDC attorneys. Each attorney classification (1-4) has enumerated minimum salaries and maximum salaries that equate to a percentage of the circuit public defender's (CPD) salary, which is statutorily[16] set to be equal to the district attorney's annual salary. For example, under current statute the Attorney 1 position must earn no less than $38,124 but no more than 65% of the CPD's salary, while the Attorney 4 position must earn no less than $52,176 and no more than 95% of the CPD's salary. In fiscal year 2024, the CPD salary was set at $132,473.

Nearly all of GPDC's state-funded attorney salaries comply with statutory requirements, as shown in **Exhibit 9**. Of the 125 attorneys employed for the full fiscal year 2024, only one was compensated above the maximum for their respective position; however, this was a temporary salary increase using ARPA funds. This attorney was paid approximately $1,000 more than the maximum, though this represents less than 1% over the statutory limit.

[16] *Prior to fiscal year 2023, the CPD's salary in statute was a specific dollar amount ($99,526 in fiscal year 2022).*

We also identified one attorney paid at a rate higher than the statutory maximum had they been employed for the full fiscal year; this was also due to an ARPA supplement. This attorney, who was paid for approximately two months in fiscal year 2024, was on track to earn approximately $1,000 more than the maximum amount (1%) if they had been paid the same monthly amount the full fiscal year.

Exhibit 9
GPDC generally paid less than statutory salary maximums (FY 2024)[1]



[1] This exhibit shows actual and projected salary amounts.
Source: DOAA analysis of TeamWorks Financials data

DOAS Statewide Salary Plan

As an executive branch agency, GPDC is required to adhere to the rules established by the State Personnel Board, which carry the "force and effect of law." These rules require DOAS to develop and maintain a classification plan, which includes a statewide salary plan that GPDC must follow.[17] This ensures GPDC aligns its salary practices with the standards set forth for executive branch agencies.

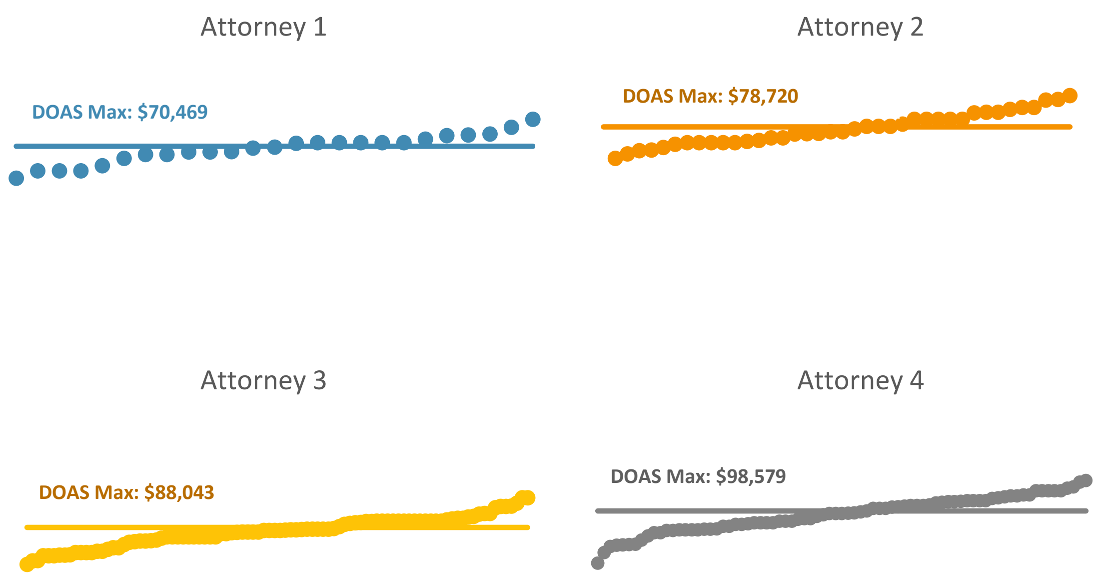
The Statewide Salary Plan applicable to GPDC includes classifications and grades for Attorneys 1-4. In fiscal year 2024, the salary range for Attorney 1 was set between $43,268 and $70,469, while Attorney 4 ranges were between $59,331 and $98,579. As previously shown in **Exhibit 8**, GPDC's statute permits ranges that are wider than those in State Personnel Board rules.

Among the 125 GPDC state-funded attorneys employed for the full fiscal year 2024, 55 (44%) earned more than the maximum limits in the Statewide Salary

[17] *The Attorney General's Office, as an executive branch agency, is also required to follow the DOAS statewide salary schedule.*

Plan (see **Exhibit 10**). On average, salaries exceeded the maximum by $7,000; however, three attorneys' salaries were approximately $14,000-$19,000 higher. We projected an additional 46 employees (41% of the 113 partial year employees) were paid at a rate that would have exceeded the DOAS maximum had they been paid for the entire fiscal year.

Exhibit 10
Some GPDC salaries exceeded statewide salary maximums (FY 2024)[1]



[1]This exhibit shows actual and projected salary amounts.

Source: DOAA analysis of TeamWorks Financials data

GPDC staff stated they consider the DOAS salary plan to be guidance rather than a requirement because of GPDC's statutory language. DOAS staff stated that they do not currently monitor agencies' compliance with the Statewide Salary Plan or impose penalties for non-compliance.

RECOMMENDATION

1. The General Assembly should consider clarifying how the statewide salary schedule should factor into GPDC attorney pay. This would assist in reconciling O.C.G.A. § 17-12-27 with other conflicting code sections and State Personnel Board rules.

GPDC's Response: *GPDC stated that it "welcomes guidance and support from the General Assembly and respectfully defers to their prerogatives in this regard."*

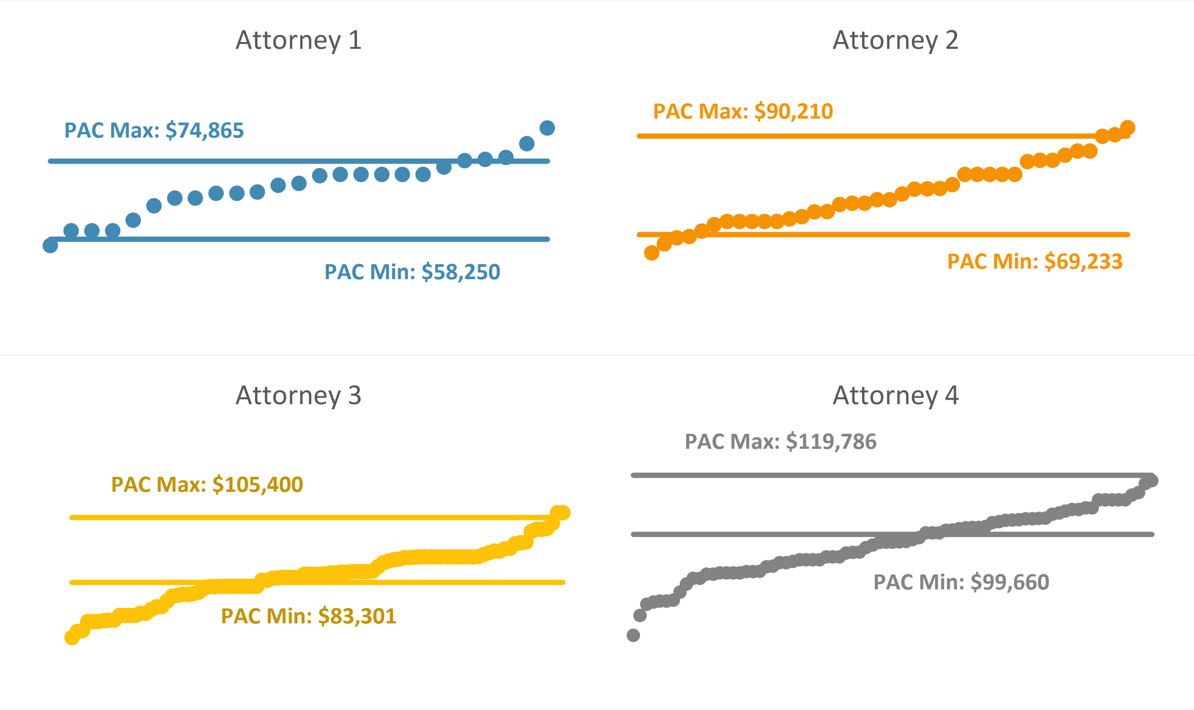
Prosecuting Attorneys Council Salary Ranges

We also compared GPDC salaries to PAC's salary ranges because these entities are often treated as similar. The General Assembly often gives PAC and GPDC similar funding and direction in their appropriations documents (e.g., both received additional appropriations for "recruitment and retention" and implementing a "step scale increase in the pay schedule"). Additionally, the passage of House Bill 1391 (effective as of fiscal year 2023) established parity for the salaries of the circuit public defender and the district attorney, and both entities have the same statutory salary ranges for their attorneys.

GPDC and PAC are required to create their own salary schedule within statutory ranges. As noted in Finding 5, GPDC has not created a salary schedule, while PAC has. Additionally, as a judicial branch agency PAC is not subject to the OPB budget review and approval imposed on executive branch agencies (including GPDC). As such, PAC may have more flexibility to request pay adjustments for its assistant district attorneys.

We compared GPDC's attorney salaries to the ranges defined in PAC's 2024 salary schedule (we did not compare actual salaries of PAC attorneys). PAC's salary schedule establishes pay ranges for the state-funded portion of attorney salaries only. Therefore, our analysis does not include any county supplements that attorneys for both entities may receive in addition to their state-funded salary.

As shown in the exhibit below, most GPDC attorneys' state-funded salaries were under PAC's maximum. Five GPDC Attorney 1s exceeded PAC's fiscal year 2024 salary maximum (by $2,400 on average). Several of GPDC's Attorney 3s and Attorney 4s were paid less than the PAC minimum salary.



[1] This exhibit shows actual and projected salary amounts.

Source: DOAA analysis of TeamWorks Financials data

Finding 5: GPDC has not set a salary schedule for its attorney positions.

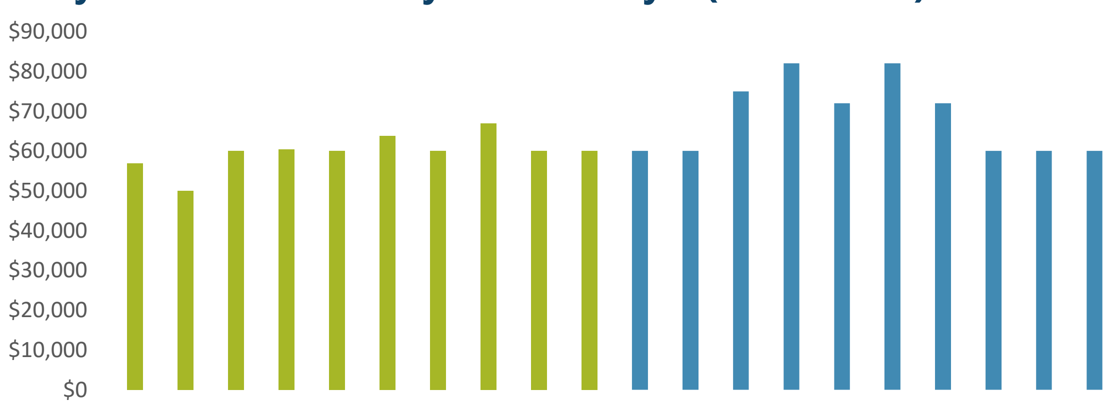
GPDC has not established a salary schedule, as required by state law. In its absence, circuit public defenders and GPDC management have had discretion to set salaries of their respective state funded employees, leading to variation across positions. There have been several unsuccessful attempts to formalize a GPDC salary schedule, but none have been adopted by the Council.

O.C.G.A. § 17-12-30 requires GPDC's council to establish a salary range for each state funded position and adhere to the minimum and maximum limits specified in O.C.G.A. § 17-12-27 (see Finding 4). Best practices emphasize the importance of having a salary schedule in place. In particular, a salary schedule provides transparency to the employee regarding progression within and across positions, which helps ensure consistency and fairness in compensation. It can also help an organization with budgeting.

GPDC has not established a salary schedule for the state-paid Attorney 1-4 positions. According to GPDC, a prior director created a pay schedule in fiscal year 2018; however, it was never officially approved by the Council and is not currently used. Rather, GPDC relies on the circuit public defenders to set attorney salaries, but GPDC staff stated that salary-related decisions must be approved by central office.

Without an established salary schedule, variation can exist across the attorney positions. For example, as shown in **Exhibit 11**, starting salaries for Attorney 1s hired during fiscal years 2023-2024 ranged from \$50,000 to \$82,000. According to GPDC, starting salaries may vary based on factors such as experience, job duties (e.g., traveling attorney), and whether the individual is filling a position paid at a higher rate.[18] However, there is no documentation of these criteria and thus no assurance they are consistently applied across all employees.

Exhibit 11
Salary has varied across newly hired Attorney 1s (FY 2023-2024)



Source: DOAA analysis of TeamWorks Financials data

[18] *For example, if a long-term employee making \$80,000 leaves, GPDC does not have a salary plan that would prevent a new employee from being hired at that salary level because the funds are available.*

GPDC staff stated they have not been able to formalize a salary schedule because they have been unsuccessful in completing a compensation study. Since February 2022, the organization has sought to hire a compensation analyst but has been unable to find qualified candidates. They also attempted to obtain a compensation study through a third-party contractor recommended by DOAS, but this initiative was canceled. Finally, the fiscal year 2025 appropriations bill included language directing the State Compensation Commission to perform a compensation study; however, this was identified as outside the Commission's traditional scope of work and the study was not initiated. It should be noted that joint compensation studies related to GPDC and PAC have been conducted and resulted in recommendations (see text box).

In comparison, PAC has established a pay schedule for each of its attorney positions and does not permit variation across judicial circuits. For example, all new hires enter at the same[19] pay grade for their position and advance according to set criteria. The pay schedule is formally approved by the council contingent upon appropriations. This includes formal rules on classifying attorney positions and where to place them within the pay schedule.

RECOMMENDATION

1. GPDC should create and formally adopt a salary schedule as required by law.

GPDC's Response: *GPDC stated that prior to the special examination, it had attempted several times to set a salary schedule, citing that "[m]ost recently, a compensation study was discontinued via language in HB 916."*

Multiple compensation studies have recommended parity between GPDC and PAC

Between 2016 and 2024, multiple compensation studies have been conducted regarding assistant attorney salaries, including those for assistant public defenders and assistant district attorneys. These studies have been conducted by varies entities, including the Judicial, District Attorney, and Circuit Public Defender Compensation Commission (ordered by the General Assembly HB 279), the DOAS Compensation Committee, and the Judicial Council of Georgia Ad Hoc Committee. Recommendations have been consistent across studies but have not been implemented. These include:

- Assistant district attorneys and assistant public defenders should be placed on the same pay schedule (recommended by the study committee) and the General Assembly should fully fund it.
- Assistant public defenders and assistant district attorneys should be on a single pay schedule codified in law.
- The state's compensation structure for attorneys should be analyzed and improved.

[19] *There are some exceptions, such as transfers from county-funded positions and staff with experience at the U.S. Department of Justice.*

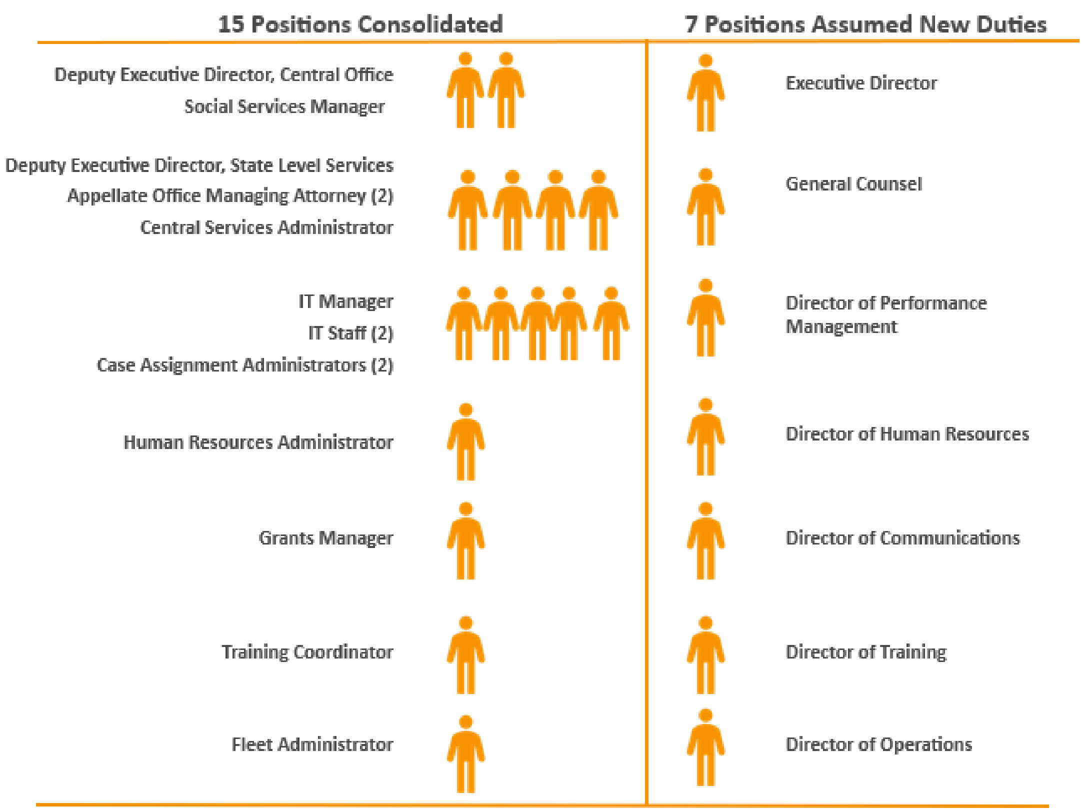
Finding 6: GPDC's consolidation of central office duties has risks.

GPDC has consolidated duties associated with several central office positions in recent years. These consolidations should be evaluated to ensure no negative impact on GPDC's staff or its operations has occurred. If deemed ineffective, additional resources may be needed to restore impacted positions.

Beginning in 2020, GPDC consolidated the duties of several positions within its central office. Ultimately, duties formerly assigned to 15 positions were absorbed by seven senior executive staff members, as shown in **Exhibit 12**. These duties—which include legal, IT, human resources, grants, social services, training, and fleet management functions—had been assigned to nine management staff and six staff-level positions.

Exhibit 12

GPDC re-assigned the duties of 15 staff members to 7 existing staff (2020-2024)[1]



[1] Duties as communicated by GPDC at the time the consolidation occurred. May not reflect current duties.
Source: GPDC Documents

GPDC achieved the 15 vacancies through normal attrition or a reduction in force. GPDC's reduction in force occurred in October 2021 and eliminated one employee from human resources, one from operations, and four from the IT division (the IT division was considered redundant due to GPDC's contract with a new Microsoft system). GPDC staff stated the remaining consolidations occurred as positions became vacant over time.

According to management best practices, an organization should effectively plan, execute, control, and assess its operations to ensure it is achieving its objectives. Specifically, management is responsible for assigning duties to discrete units to ensure efficient and effective operations. Each unit should be capable of fulfilling its responsibilities, and management should periodically evaluate the structure to ensure it aligns with the organization's goals. In evaluating the reasonableness of GPDC's consolidations, it is necessary to consider the extent to which the strength of the central office has been impacted. We identified some examples of potential risks, as described below.

- GPDC's consolidations resulted in some employees taking on non-traditional duties outside their usual roles. For example, during the consolidation, GPDC created a single position to handle multiple disparate duties formerly assigned to five full-time employees. Duties include performing property lease acquisitions, managing statewide facilities management, and supervising fleet management, in addition to the traditional role of Performance Measurement and Information Systems. Should the current employee leave GPDC, it is questionable whether a single candidate would meet all qualifications[20] for this role.
- GPDC recently consolidated the duties of four positions under the Chief Legal Officer, in addition to the position's existing general counsel duties. The General Counsel now performs duties formerly held by managing attorneys over the appellate division, conflict division, and 15 regional conflict offices. The General Counsel also now supervises the training division. Consolidating too many roles under a single position inherently creates a risk that the individual cannot adequately perform all job duties.

It will be necessary to regularly evaluate the success and sustainability of GPDC's consolidated organization structure. Should GPDC's current or future administration conclude that its central office positions would need to expand beyond the seven senior executive staff members, it would need to determine how to pay for such expansion with existing resources or request additional funds.

RECOMMENDATION

1. GPDC should regularly assess the effectiveness and sustainability of its consolidated central office positions.

GPDC's Response: *GPDC acknowledged that "all consolidations contain inherent risk" and stated "GPDC's leadership team, helmed by the Executive Director, regularly assesses the operations and efficiency of its central office positions and their attendant duties."*

> ***Auditor's Response:*** *In response to our request, GPDC could not provide documentation to support its assertion that it regularly assesses the impacts of its consolidation decisions.*

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[20] *Any future candidate for this position would need to have knowledge on several specialized functions, including fleet management, information systems, budgetary administration, and case assignment.*

Appendix A: Table of Findings and Recommendations

Note: *In its response to the report, GPDC's stated position was that it disagreed with most of the findings, as shown in the table below. However, in some instances, GPDC's more detailed response identified actions planned or taken that were consistent with the recommendations in the report. Please see the individual findings for the more detailed responses.*

	Agree, Partial Agree, Disagree	Implementation Date
Finding 1: GPDC's expenditures regularly exceed its monthly revenue, requiring various strategies to balance the budget by fiscal year end. (p. 6)	**Disagree**	**N/A**
1.1 GPDC should establish procedures to ensure rerated costs are being charged appropriately and are adequately documented.	Disagree	N/A
1.2 GPDC should track and analyze case data and other relevant information necessary to document trends that impact its workload and support requests for additional funding.	Disagree	N/A
Finding 2: GPDC has spent federal ARPA funds on ongoing indigent defense services, which presents a risk to the continuation of services once funds expire. (p. 11)	**Disagree**	**N/A**
2.1 GPDC should evaluate its use of ARPA for regular operations and consider how it will continue to meet its obligations once the funds are exhausted.	Disagree	N/A
Finding 3: Funds from fees and other sources contribute to a small percentage of GPDC's operating expenses. (p. 13)	**Agree**	**N/A**
3.1 No recommendation included.		
Finding 4: GPDC salaries largely comply with state requirements, with few exceptions. (p. 16)	**Disagree**	**N/A**
4.1 The General Assembly should consider clarifying how the statewide salary schedule should factor into GPDC attorney pay. This would assist in reconciling O.C.G.A. § 17-12-27 with other conflicting code sections and State Personnel Board rules.	NA	NA
Finding 5: GPDC has not set a salary schedule for its attorney positions. (p. 21)	**Agree**	**N/A**
5.1 GPDC should create and formally adopt a salary schedule as required by law.	Disagree	N/A
Finding 6: GPDC's consolidation of central office duties has risks. (p. 23)	**Disagree**	**N/A**
6.1 GPDC should regularly assess the effectiveness and sustainability of its consolidated central office positions.	Disagree	N/A

Appendix B: Objectives, Scope, and Methodology

Objectives

This report examines financial and operational controls of the Georgia Public Defender Standards Council (GPDC). Specifically, our examination set out to determine the following:

1. To what extent is GPDC appropriately managing its state appropriations?
2. To what extent does GPDC use temporary and other funds for ongoing operations?
3. To what extent does GPDC follow state requirements around pay adjustments?

Scope

This examination generally covered activity related to internal controls during fiscal years 2019 through 2024, with consideration of earlier or later periods when relevant. Information used in this report was obtained by reviewing relevant laws, rules, and regulations; reviewing agency policies and procedures; interviewing agency officials and staff from GPDC, the Prosecuting Attorneys' Council (PAC), the Governor's Office of Planning and Budget (OPB) and the Department of Administrative Services (DOAS)*;* and reviewing compensation studies by DOAS and the Judicial Council of Georgia, as well as best practice guidance documents. Revenue and expenditure data from the TeamWorks Financials System (including employee compensation data) was used to inform multiple objectives and was considered reliable for purposes of the objectives.

Government auditing standards require that we also report the scope of our work on internal control that is significant within the context of the audit objectives. All of our objectives address aspects of GPDC's internal control structure. Specific information related to the scope of our internal control work is described by objective in the methodology section below.

Methodology

To determine the extent to which GPDC appropriately managed its state appropriations, we reviewed financial and state budgeting policies of the State Accounting Office (SAO) and OPB. We also reviewed financial management training provided by the University of Georgia's Carl Vinson Institute of Government. We extracted and analyzed budget, expenditure, and revenue reports from the TeamWorks system. We used OPB's Planning and Budget Cloud Service (PBCS) to obtain budget amendment data. We also reviewed SAO reports including the *Georgia Revenues and Reserves Report, Budgetary Compliance Report, and Single Audit Report* to document revenue collection, distribution, and reporting. Further, we reviewed all statutes, regulations, and directives pertaining to agency budgeting and expenditures and analyzed GPDC's quarterly and monthly expenditures, budget, and revenue data to document financial trends over the review period. We also reviewed manual journal entries to assess the extent to which GPDC complies with program-based budgeting requirements. We assessed GPDC's transfer of expenditures between fund sources and between its two budgetary programs.

To determine the extent to which GPDC used temporary and other funds for ongoing operations, we analyzed data from the TeamWorks system to identify actual expenditures related to the federal COVID-19 American Rescue Plan Act (ARPA). We interviewed GPDC staff to identify the nature of specific cost categories and accounts used for ARPA expenses. After analyzing TeamWorks data (labor distribution module) to determine the size of ARPA supplemental pay received by GPDC staff, we identified some staff members who received all of their pay from ARPA. We selected a small sample of five employees from each of those two categories and verified personnel action forms from GPDC. We also interviewed staff from OPB to confirm the ARPA reimbursement request and approval process, as well as obtain a sample of reimbursement request documentation.

To examine how other funds sources were used, we analyzed data from the General Ledger by singling out fund sources such as county contracts. We reviewed GPDC's database of county contracts' billing information, as well as examples of personnel and operational contracts local governments had with GPDC. We interviewed GPDC staff to confirm our understanding of contracts, as well as staff with the Georgia Superior Court Clerk's Cooperative Authority to confirm our understanding of the Clerks and Sheriffs Trust Fund program.

To determine the extent to which GPDC followed state requirements around pay adjustments, we analyzed data from the TeamWorks system (labor distribution module) for GPDC. We analyzed regular salaries of GPDC employees with the job title of "Attorney" who were not paid with county contract funds. We examined the regular salaries of 125 attorneys who worked the entirety of fiscal year 2024 as well as the salaries of an additional 113 attorneys who did not work the full fiscal year. For the latter, we combined their actual salary earned for the partial year with projected salary (salary that would have been earned in the remaining months) to calculate total annual salary. To ensure we did not project based on infrequent pay fluctuations (retroactive payments, annual leave payouts, etc.), we generally projected salaries based on the repeating payment (same stable amount for two consecutive pay periods) closest to their break in service. Attorney 1-4 salaries were compared to the respective maximum salaries under O.C.G.A. § 17-12-27 and the DOAS salary scale, as well as PAC's minimum and maximums.[21] We interviewed GPDC staff to determine the state-funded salary of a CPD in the respective year and used that amount to apply the respective percentages outlined in state law as a maximum salary allowable for the respective position. We included supplemental pay from ARPA as part of an attorney's salary (when relevant); only two attorneys' salaries exceeded the statutory maximum when ARPA was included.[22]

We conducted a similar analysis to determine the variation in pay for new Attorney 1s in fiscal year 2023 and 2024 after determining that the attorney was not employed by GPDC in the prior fiscal year (based on pay records).

We utilized data from GPDC to identify the circuits, regions, and contracts associated with each county, as well as the number of employees. To identify the number of state-mandated employees, we obtained an employee count from GPDC as of April 2024, which indicated the number of statutory positions at each circuit and GPDC's central office, including those designated as attorneys. Our count of State Paid County Reimbursed (SPCR) employees came from the same source; however, contract amounts were analyzed separate from point-in-time data provided by GPDC. We used this data to calculate the percentage of administrative fees charged on each circuit's contract and verified the information by interviewing GPDC and reviewing a sample of circuits' contracts.

We treated this review as a performance audit. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

[21] *We removed one attorney's salary from the analysis because it fell below the minimum of state law criteria.*
[22] *This individual received a $20,000 supplement through ARPA.*

findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

If an auditee offers comments that are inconsistent or in conflict with the findings, conclusions, or recommendations in the draft report, auditing standards require us to evaluate the validity of those comments. In cases when agency comments are deemed valid and are supported by sufficient, appropriate evidence, we edit the report accordingly. In cases when such evidence is not provided or comments are not deemed valid, we do not edit the report and consider on a case-by-case basis whether to offer a response to agency comments.

Appendix C: Region and Circuit Detail by County

Region	Circuits	Counties
Atlanta (Central Metro)		
	Atlanta	Fulton
Brunswick		
	Brunswick	Appling, Camden, Glynn, Jeff Davis, Wayne
East Central		
	Augusta	Burke, Richmond
	Columbia	Columbia
	Toombs	Glascock, Lincoln, McDuffie, Taliaferro, Warren, Wilkes
East Middle		
	Dublin	Johnson, Laurens, Treutlen, Twiggs,
	Middle	Candler, Emanuel, Jefferson, Toombs, Washington
	Ocmulgee	Hancock, Wilkinson
	Waycross	Bacon, Brantley, Charlton, Coffee, Pierce, Ware
Mid South		
	Cordele	Ben Hill, Crisp, Dooly, Wilcox
	Oconee	Bleckley, Dodge, Montgomery, Pulaski, Telfair, Wheeler
	Tifton	Irwin, Tift, Turner, Worth
Middle		
	Macon	Bibb, Crawford, Peach
	Ocmulgee	Baldwin, Greene, Jasper, Jones, Morgan, Putnam
	Towaliga	Butts, Lamar, Monroe
North Central		
	Appalachian	Fannin, Gilmer, Pickens
	Enotah	Lumpkin, Towns, Union, White
	Mountain	Habersham, Rabun, Stephens
	Northeastern	Dawson, Hall
Northeast		
	Northern	Elbert, Franklin, Hart, Madison, Oglethorpe
	Piedmont	Banks, Barrow, Jackson
	Western	Clarke, Oconee
Northwest		
	Cherokee	Bartow, Gordon
	Conasauga	Murray, Whitfield
	Lookout Mountain	Catoosa, Chattooga, Dade, Walker
	Rome	Floyd
South Central		
	Alapaha	Atkinson, Berrien, Clinch, Cook, Lanier
	South Georgia	Baker, Calhoun, Decatur, Grady, Mitchell
	Southern	Brooks, Colquitt, Echols, Lowndes, Thomas
South Metro		
	Clayton	Clayton
	Flint	Henry
	Griffin	Fayette, Pike, Spalding, Upson
Southeast		
	Atlantic	Bryan, Evans, Liberty, Long, McIntosh, Tattnall
	Ogeechee	Bulloch, Effingham, Jenkins, Screven
Southwest		
	Chattahoochee	Chattahoochee, Harris, Marion, Muscogee, Talbot, Taylor
	Dougherty	Dougherty
	Pataula	Clay, Early, Miller, Quitman, Randolph, Seminole, Terrell

Region	Circuits	Counties
	Southwestern	Lee, Macon, Schley, Stewart, Sumter, Webster
Stone Mountain (East Metro)		
	Alcovy	Newton, Walton
	Stone Mountain	Dekalb
West Georgia		
	Coweta[1]	Carroll, Coweta, Heard, Meriwether, Troup
	Paulding	Paulding
	Tallapoosa	Haralson, Polk
Opt-Out		
	Bell-Forsyth	Forsyth
	Blue Ridge	Cherokee
	Cobb	Cobb
	Douglas	Douglas
	Gwinnett	Gwinnett
	Houston	Houston
No Region[2]		
	Eastern	Chatham
	Rockdale	Rockdale

[1]This circuit was split into two separate circuits (Coweta and West Georgia) beginning fiscal year 2025.
[2]These circuits handle conflict cases internally.
Source: DOAA analysis of GPDC data

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