COUNTY DEPARTMENT AGENDA REQUEST

Department:	Administration	Presenter(s):	Jack Krakeel
Meeting Date:	Thursday, March 10, 2011	Type of Request:	Old Business

Wording for the Agenda:

Further discussion of a request from the Public Defenders Office concerning a request to the Georgia Public Defender Standards Council that will allow the County to retain certain funds collected when applications for indigent defense services are filed.

Background/History/Details:

When the Public Defenders Office is asked to assist a client, an application is completed to verify indigency and other things, there is an associated application fee collected. State law provides for the local County to retain the application funds, upon approval of the Georgia Public Defender Standards Council. The process for the Griffin Judicial Circuit's Public Defenders Office to allow its four counties to retain these funds was not completely finalized prior to the death of Joe Saia, the Circuit's Public Defender.

The document in question will complete the process, allowing Fayette County to retain the funds.

What action are you seeking from the Board of Commissioners?

Motion to authorize the County Administrator to execute the Agreement for Local Governing Authority of Fayette County to Retain Application Fees as provided by O.C.G.A. Sections 7-12-80, to be filed with the Georgia Public Defenders Standards Council.

If this item requires funding, please describe:

No funding required.

Has this issue come before the Commissioners in the past?	Yes	If so, when?	
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

APPLICATION FOR LOCAL GOVERNING AUTHORITY
OF FAYETTE COUNTY TO RETAIN APPLICATON FEES AS
PROVIDED BY O.C.G.A. SECTIONS 17-12-80

TO: Georgia Public Defender Standards Council

FROM: W. Allen Adams
Interim Circuit Public Defender
Griffin Judicial Circuit

Pursuant to O.C.G.A. Section 17-12-80, the Interim Circuit Public Defender for the Griffin Judicial Circuit hereby submits this application to the Georgia Public Defender Standards Council on behalf of the governing authority of Fayette County, Georgia. Application was previously made on behalf of all counties in said Circuit by the former Circuit Public Defender, Joseph Saia, and the application was approved as to Spalding, Pike, and Upson Counties. This application is being submitted to supplement and to amend the original application so that all four counties, including Fayette County, may retain the funds provided in O.C.G.A. Section 15-21-74 & 15-21A-6. This application is submitted in accordance with the GUIDELINES AND PROCEDURES FOR INDIGENCY VERIFICATION SYSTEMS adopted by the Georgia Public Defender's Standards Council on September 18, 2009. In support of this application the following is stated:

(1) A detailed description of the application process for public defender services specifying how applications are taken is attached and submitted with this application as required by the GUIDELINES.

(2) A copy of the application for public defender services is attached and submitted with this application as required by the GUIDELINES.

(3) A Procedure for the Verification of Indigency is attached and submitted with the application as required by the GUIDELINES. This procedure outlines what action may be taken when verification of an application for services becomes necessary.

(4) The verification process is funded by Fayette, Spalding, Upson and Pike Counties from the general funds of those counties. The approximate amount funded by Fayette County is stated in the accompanying documents, and these funds go to pay a portion of the salaries of the administrative assistants, investigators and other staff involved in the application and

approval process and to pay certain operating expenses associated with the application process.

We respectfully request that you grant this request on behalf of Fayette County. Thanking you and with kindest regards, I am,

Sincerely,

W. Allen Adams
Griffin Judicial Circuit
Interim Circuit Public Defender

REQUEST TO RETAIN INDIGENT APPLICATION FEES AND
APPLICATION FOR APPROVAL OF INDIGENCY VERIFICATION SYSTEM
OF FAYETTE COUNTY, GEORGIA, GRIFFIN JUDICIAL CIRCUIT

The governing authority of Fayette County, Georgia and the Interim Circuit Public Defender for the Griffin Judicial Circuit submits this request to retain indigent application fees. The Interim Circuit Public Defender and the County governing authorities of the Griffin Judicial Circuit have developed and do utilize, the following procedures for verification of the indigency of all applicants for public defender services in the Griffin Judicial Circuit.

1) Applications for public defender services in the Griffin Judicial Circuit, including Fayette County, are taken and/or completed at several different stages of the judicial process by the methods or manners described below:

a. A staff member of the office (generally an investigator or administrative assistant) does intake at the county jail routinely and within the time limits prescribed by law or policy of all persons arrested and incarcerated on criminal charges. The investigator or administrative assistant will interview the arrestees and determine if they desire to apply for services of the Griffin Circuit Public Defender's office. If an arrestee chooses to apply, the investigator assists the arrestee in completing the application. If the arrestee chooses to waive the services, then a waiver is prepared and maintained by this office.

b. The offices of each county is staffed with personnel, including the investigators, administrative assistants, and attorneys who do intake on persons (callers and walk-ins) who have been arrested and charged with criminal defenses and desire to inquire about or apply for public defender services. When any person contacts the office by telephone or other media, an appointment is usually made or otherwise the person is instructed that he or she may come to the office and apply at any time during operating hours. When any person enters the office unannounced, there is generally staff available to meet with and assist the person with application. In all instances, a staff member, who is trained and knowledgeable about the protocol for determining indigency, will meet and assist applicants in completing the application.

c. The office has staff available at court during all court sessions, especially arraignment, to do intake of persons desiring to apply for services of the public defender's office. In all instances, staff members assist persons with completing the application either at the court or by sending the person to the local office to meet with another staff member to assist with the completion of the application.

d. In limited instances, such as cases where the indigent person lives outside this circuit or state and travel arrangements are difficult; or, when the person is incarcerated in a remote jail or prison, applications may be mailed to such person. Generally, and whenever possible, a staff member will assist such applicant after receipt of the application by telephone or other media, whenever possible.

2. All staff members of this office who do intake and assist in the application process, especially those who review and approve the applications, are familiar with the IOP 02-05 concerning the determination of indigency and the financial parameters and guidelines adopted by Georgia Public Defender Standards Council. They are also familiar with IOP 13-05 concerning the application fee procedure and the duty to provide notice of the application fee to all applicants.

3. Once an application is completed, the application is reviewed by a staff member authorized to make a determination of indigency. This person will generally make a decision and immediately, or within the time prescribed by policy, rule or statute, notify the applicant whether the application is denied or approved. If the intake and/or reviewing staff member has any issues, questions or concerns about eligibility or qualification for public defender services, said person may decide that additional information is required, and same will be obtained or the issue investigated, before the approval or denial is made. If there is an issue, question or concern about eligibility that the intake and reviewing personnel cannot resolve, then the supervising attorney of each local office will review and decide about the approval or denial of the application. In those instances where there are extremely extenuating or special circumstances, the supervising attorney may refer the issue of eligibility to the Circuit Public Defender, who will then review and decide about the approval or denial of the application. In all instances, the applicant is timely notified as to approval or denial of the application.

4. A copy of the application for public defender services used in this Circuit is attached and submitted with this application. The application used in this circuit requires the applicant to provide all the information required under the GUIDELINES for verification of indigency. Most specifically, the application requires the applicant to reveal all income, assets, and other financial information relevant to an appropriate determination of indigency. The application also requires the applicant to make a sworn oath that the information provided on the application is true to the best of the applicant's knowledge. The application includes a request for public defender services.

5. All applicants are given notice of the $50.00 application fee required to be paid under 15-21A-6. They are required to sign a form stating that such notice has been provided to the applicant.

6. Whenever, the intake and/or reviewing personnel deem that verification of indigency is necessary then one or more of the following actions may be taken: (a) there may be an inquiry with the local clerk's office or tax assessor's office to verify or determine ownership of any property, liens on property or other such matters related to real or personal property in which the applicant has, or may have, an interest; (b) the applicant may be required to produce current pay stubs or other income information to verify the income of the applicant or the applicant's spouse or parent; (c) the applicant may be required to produce copies of the last two years federal or state income tax returns of the applicant or the applicant's spouse or parent to verify qualifying dependents, income history, or other income or financial information

contained therein and relevant to a determination of indigency; (d) the applicant may be required to produce a copy of any dismissal or separation notice from his last employer or to provide a dismissal letter or statement signed by his last employer to verify any claimed unemployment status; (e) the applicant may be required to provide copies of any applications (and denials) related to any unemployment benefits, worker's compensation benefits or social security benefits, if same appear to be applicable or available; (f) an investigation may be made with the local office of Child Support Recovery to verify current child obligations; (g) an investigation may be made with the probation or parole office to verify any fines, fees or other such obligations; (h) an investigation may be made with the local utility companies or other service providers to verify service history; (i) an investigation may be made with the applicant's current employer to verify employment and income; (j) an investigation or inspection of the applicant's residence and/or business may be made to determine or verify the existence or non-existence of assets and/or to determine the value of any reported or non-reported assets; (k) the office may use a computer program that collects and analyzes financial data or it may require the person to obtain and/or provide a credit report and rating; and (l) the applicant may be required to provide such other financial, income and other information requested by this office and deemed necessary to the determination of indigency; or, the applicant may be requested to sign releases so that this office can obtain such information from any financial institution or other entity, if such is deemed necessary to verify indigency and so long as the information sought and the method employed does not violate any rights of privacy or any law. (Note: This specifically includes medical records and/or records pertaining to expenditures for medical treatment, if the person is claiming those as a basis for indigency).

7. The verification process as outlined in item 6 above would usually be conducted by one of the investigators employed by this office.

8. The approximate cost of salaries of the intake and reviewing personnel associated with this system for verification of indigency is $56,800.00. The amount of operating expenses associated with this system for verification of indigency is approximately $15,000.00. The total cost is approximately $71,800.00. These costs are apportioned to the amount of time that one investigator and one administrative assistant dedicate to the application verification procedure.

W. Allen Adams
Griffin Judicial Circuit Interim Public Defender

2/17/11
Date

Jack Krakeel
Fayette County Administrator

Date