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The Honorable Thomas B. Norton, M.D.
Mayor
Town of Gulf Shores
P. O. Box 299
Gulf Shores, Alabama 36542

Attorneys - Indigents -
Fair Trial Tax

Fair trial tax funds may not be used by a municipality to defray the administrative costs of providing legal representation to indigent defendants in municipal courts.

Dear Mayor Norton:

You have asked the opinion of this office regarding the following matter:

May the Town of Gulf Shores Municipal Court System retain fair trial tax funds, in addition to the amounts authorized by law for payment of defense attorneys for the indigent, to defray the clerical and administrative costs incurred in the performance of the following related functions:

- a. To ascertain the cases where a defense attorney is necessary.
- b. To assist the Court in the determination of indigency.
- c. The preparation of a special docket for indigent cases.

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- d. The selection, notification and payment of defense attorneys.
- e. The notification of all parties involved, the defendant, witnesses, etc.
- f. General administration.
- g. To defray the cost of substantiating the withholdings with documentation and accounting for the costs incurred.

The statutory provision pertinent to your question is Code of Alabama (1975), § 12-19-251.1, which permits a municipality to deposit to its general fund monies collected from the fair trial tax. Section 12-19-251.1 further provides:

The governing body of such municipality shall use and expend so much of said funds as is necessary to defray the costs of providing representation of indigent defendants in their municipal court and after payment of such costs shall pay into the state treasury any funds not used for such purpose.

It is the opinion of this office that fair trial tax funds may not be used by a municipality to defray the administrative costs of providing legal representation to indigent defendants in municipal courts. We believe that the sole purpose of the fair trial tax act in this regard is to pay the fees and expenses of attorneys who represent indigent criminal defendants.

Very truly yours,

CHARLES A. GRADDICK
Attorney General

By -



MARDA WALTERS SYDNOR
Assistant Attorney General