



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTON
ATTORNEY GENERAL**

March 31, 1988

Honorable Charles D. Houston
District Attorney
155th Judicial District
Austin and Waller Counties
One East Main
Bellville, Texas 77418

LO-88-36

Dear Mr. Houston:

You ask whether a judge may require, as a condition of probation, that a probationer reimburse a crime stoppers organization for a reward it paid for information leading to the arrest or prosecution of the probationer.

In Attorney General Opinion JM-853 (1987), we considered the effect of a 1987 amendment to article 42.12 of the Code of Criminal Procedure. Acts 1987, 70th Leg., ch. 939, at 6289. That legislation added section 6(e), which provides:

A court may not order a probationer to make any payments as a term and condition of probation, except for fines, court costs, restitution of the victim, and other terms and conditions expressly authorized by statute.

We concluded that the amendment overruled Attorney General Opinion JM-307 (1985), which had held that a judge could require a probationer to make a payment to a crime stoppers organization as a condition of probation. Your question is whether a judge can order a probationer to make a payment to a crime stoppers organization if the organization actually paid a reward for information about the probationer.

In order for a judge to require a probationer to make any payment as a condition of probation the payment must be expressly authorized by statute. Code Crim. Proc. art. 42.12, §6(c). You do not suggest what provision could be

construed as authorizing a judge to order a probationer to reimburse a crime stoppers organization for a reward it paid. Perhaps you are relying on article 42.12, §6(a)(8), which authorizes a judge to order that a probationer shall:

Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine.

We think, however, that a judge's authority to order a probationer to make restitution or reparation allows a judge to order a probationer to make payments only to victims of the probationer's crime. We do not think the words "restitution" and "reparation" can be read to authorize payments to volunteers who have made expenditures in attempting to solve a particular crime. See State v. Stalheim, 552 P.2d 829, 832 (Or. 1976) ("restitution" means return of an object or the value of an object that a defendant wrongfully obtained in the commission of a crime); State v. Sullivan, 544 P.2d 616, 617 (Or. Ct. App. 1976) ("reparation" means making complete amends for wrong or injury done). See Gov't Code §312.002 (in construing statutes, words should be given ordinary meaning). Our reading of the words "restitution" and "reparation" is supported by section 6c of article 42.12, which sets out the procedures for dealing with payments received under section 6(a)(8) (formerly section 6(a)(h)) for transmittal to a victim of an offense. If section 6(a)(8) authorized payments to private parties other than victims, it would make no sense to discuss the procedures set out in section 6c in terms of payments received for transmittal to victims.

We conclude, therefore, that a judge has no authority to order a probationer to reimburse a crime stoppers organization or any other private party for a reward paid for information leading to the arrest or conviction of the probationer.

Very truly yours,



Sarah Woelk
Assistant Attorney General
Opinion Committee

SW/bc