



The Attorney General of Texas

October 26, 1981

MARK WHITE
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Mr. Don R. Stiles
Executive Director
Texas Adult Probation Commission
P. O. Box 12427
Austin, Texas 78711

Opinion No. MW-379

Re: Use of district adult probation funds to provide services to the court of probation officers

1607 Main St., Suite 1400
Dallas, TX. 75201
214/742-8944

Dear Mr. Stiles:

You ask the following question concerning the use of district adult probation funds:

4824 Alberta Ave., Suite 160
El Paso, TX. 79905
915/533-3484

Prior to the defendant being found guilty, may district adult probation funds be used under current law to provide services to the court by probation officers interviewing the defendant, advising him/her on the conditions of probation, the expectations of the court in the event that probation is granted, and to prepare the necessary paperwork and the written conditions of probation for the court, and/or to provide to the court a pre-sentence investigation report as contemplated in section 4 of article 42.12 and section 4 of article 42.13 of the Code of Criminal Procedure?

1220 Dallas Ave., Suite 202
Houston, TX. 77002
713/650-0666

806 Broadway, Suite 312
Lubbock, TX. 79401
806/747-5238

4309 N. Tenth, Suite B
McAllen, TX. 78501
512/682-4547

The district adult probation fund is a special fund in the county treasury into which is deposited state aid received from the Texas Adult Probation Commission and fees collected from probationers. Code Crim. Proc. art. 42.12, §6a; art. 42.121, §4.05(b).

200 Main Plaza, Suite 400
San Antonio, TX. 78205
512/225-4191

The purposes of the Texas Adult Probation Commission include improving the effectiveness of probation services, providing funds for the establishment and improvement of probation services, and establishing uniform probation administration standards. Code Crim. Proc. art. 42.121, §1.01.

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Although Attorney General Opinion H-1283 (1978) termed probation a "post-trial" procedure, that opinion addressed the question of whether the Texas Adult Probation Commission could provide financial assistance to pre-trial release programs. The opinion properly determined that pre-trial release programs are not related to

probation under article 42.12, section 2 and article 13, section 2 of the Code of Criminal Procedure. The services you mention, however, are related to probation. We believe that such services may be efficiently carried out by the probation officer before the guilt and innocence phase of the trial.

For example, section 4 of article 42.12 and section 4 of article 42.13 both read in part:

When directed by the court, a probation officer shall fully investigate and report to the court in writing the circumstances of the offense, criminal record, social history and present condition of the defendant.

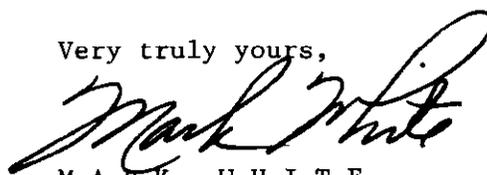
The statutory language does not establish a specific time for the investigation and report. Rather, these are provided "[w]hen directed by the court." This investigation and report can be accomplished either before or after trial.

Also, in light of the stated purposes of the act establishing the Texas Adult Probation Commission, the specific services you ask about seem to be included in the commission's statutory mandate to improve the effectiveness of probation services. We feel that these duties may be carried out before the guilt and innocence phase of the trial.

S U M M A R Y

District adult probation funds may be used to provide certain services related to probation before the guilt and innocence phase of the trial.

Very truly yours,



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APPROVED:
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