



## CAMERON COUNTY DISTRICT ATTORNEY

---

**Armando R. Villalobos**  
County and District Attorney

**RECEIVED**

APR 22 2011

April 19, 2011

**OPINION COMMITTEE**

FILE # ML-46728-11  
I.D. # 46728

The Honorable Greg Abbot  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711

Re: Request for Attorney General Opinion

Dear General Abbott:

We request your opinion as to whether a municipal law enforcement agency with a local agreement is authorized to distribute money from its forfeiture fund to the local Crime Stoppers organization. Our memorandum brief is attached.

Sincerely,

Armando R. Villalobos  
County and District Attorney

:rg

Attachment

## QUESTION PRESENTED:

Does Article 59.06(c)(2) of the Texas Code of Criminal Procedure authorize a municipal law enforcement agency to distribute a portion of their Chapter 59 forfeiture fund to a local Crime Stoppers organization?

## FACTS:

The Brownsville Police Department is a municipal law enforcement agency that has a local agreement with the Cameron County District Attorney's Office that divides up all Chapter 59 forfeited property, money and proceeds from the sale of forfeited property for cases brought in by the Brownsville Police Department.

The Brownsville Crime Stoppers program is a non-profit organization run by local citizens aimed at combating crime. The program offers monetary rewards to persons providing anonymous information that leads to felony arrests of criminals and fugitives. The program is not a part of the Brownsville Police Department or any other governmental law enforcement agency.

The Brownsville Police Department uses crime stoppers information in investigating crime. In the past Crime Stoppers' information has been used successfully by the Brownsville Police Department to help secure arrests and convictions.

Crime Stoppers programs in Texas and through the nation are funded through grants and donations from local and federal law enforcement entities.<sup>1</sup> According to statistics from the Texas Crime Stoppers website, in 2009 Crime Stoppers' information assisted in 6,185 suspects arrested, 11,059 cases cleared, \$3,107,245.00 value of property recovered, and \$50,004,049.00 value of narcotics seized throughout the State. See [TexasCrimeStoppers.org](http://www.texascrimestoppers.org), 2009 Texas Crime Stoppers Statistics, <http://www.texascrimestoppers.org/index.html> (last visited April 8, 2011).

The Brownsville Police Department wants to contribute no less than 10% and no more than \$500.00 from its share of every Chapter 59 forfeiture case to the local Brownsville Crime Stoppers Program. The money would be restricted specifically for Crime Stopper's reward fund used to pay informants whose information helped secure a felony arrest.

## DISCUSSION:

Chapter 59 of the Texas Code of Criminal Procedure is a civil asset forfeiture statute that governs state forfeiture cases from seizure to disposition. Because the Brownsville Police Department has a local agreement to divide forfeited property with the Local District Attorney's Office, Article 59.06(c)(2) of the Texas Code of Criminal Procedure controls and limits how the agency may use forfeited property. See *Tex. Att'y Gen. Op. No. GA-0613 (2008)* (Article 59.06(c)(1) does not authorize the Harris County

---

<sup>1</sup> According to a report by the United States General Accounting Office entitled *Asset Forfeiture: Improved Guidance Needed for Use of Shared Assets* there was a prior split between the Customs and Border Protection Agency and the Department of Justice as to whether state and local law enforcement agencies were authorized to distribute shared federal forfeiture money to Crime Stopper programs. The guidelines for the federal asset sharing program at the time required in part that shared forfeiture funds be "used... for law enforcement purposes." Despite a dispute as to whether the guidelines authorized the money to pass through an outside organization, both Customs and the Justice Department found that money distributed to a local Crime Stoppers was used for law enforcement purposes. See United States General Accounting Office, Report to the Chairman, Government Information, Justice, and Agriculture Subcommittee, Committee on Government Operations, House of Representatives, *Asset Forfeiture Improved Guidance Needed for Use of Shared Assets* (GAO/GGD-92-115) 9 (1992), available at <http://www.archive.gao.gov/d33t10/147390.pdf>.

Attorney's to use its forfeiture fund to help commissioners court purchase or lease a juvenile detention facility) It holds:

- (c) If a local agreement exists between the attorney representing the state and law enforcement agencies, all money, securities, negotiable instruments, stocks or bonds, or things of value, or proceeds from the sale of those items, shall be deposited, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), according to the terms of the agreement into one or more of the following funds...
  - (2) a special fund in the municipal treasury if distributed to a municipal law enforcement agency, to be used *solely for law enforcement purposes*, such as salaries and overtime pay for officers, officer training, specialized investigative equipment and supplies, and items used by officers in direct law enforcement duties; (emphasis added)

With the exception of nonprofit drug and alcohol abuse programs identified in Article 59.06(h), a municipal law enforcement forfeiture fund may only be used for "law enforcement purposes." "Law enforcement purposes" is not defined by the statute, however Article 2.13 of the Texas Code of Criminal Procedure holds that:

- (a) It is the duty of every peace officer to preserve the peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means.
- (b) The officer shall:
  - (1) in every case authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime;
  - (2) execute all lawful process issued to the officer by any magistrate or court;
  - (3) give notice to some magistrate of all offense committed within the officer's jurisdiction, where the officer has good reason to believe there has been a violation of the penal law; and
  - (4) arrest offenders without warrant in every case where the officer is authorized by law, in order that they may be taken before the proper magistrate or court and be tried.

Law enforcement agencies must strictly comply with forfeiture statutes when disposing of forfeited property. *See* Tex. Att'y Gen. Op. No. GA-0613 (2008). We can find no case law and no Attorney General Opinion that directly disavows expenditures for the factual scenario in the instant case. In the past, Attorney General Opinions have approved the use of expenditure of county forfeiture funds under 59.06(c) to purchase real property used to house a sheriff's anti-drug task force and to purchase and maintain helicopters used for counter-drug activities. *See* Tex. Att'y Gen. Op. No. LO 96-012; Texas Att'y Gen. Op. No. LO 96-096.

The argument that this expenditure complies with the statute is that the information provided by Crime Stoppers is used by law enforcement officers in the course of their official duties in investigating crime and preserving the peace. Likewise, while Crime Stoppers is an outside organization not affiliated with the Brownsville Police Department, nothing in the code specifically prevents an agency from exchanging

forfeiture funds for goods or services provided by an outside organization or business. In fact many of the items, supplies and equipment specifically allowed to be purchased by a municipal agency are purchased from private businesses. The statute does not reference money going to outside businesses or organizations; the sole determining factor is whether the expenditure is used for law enforcement purposes. Crime Stoppers' pledge to use the money solely for its reward fund would be in consideration for the money provided. In turn, a larger reward fund would facilitate more anonymous leads to law enforcement.

We request your opinion as to whether Brownsville Police Department is authorized in the above factual scenario to distribute portions of their forfeiture fund to the local Crime Stopper's program.