

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

June 20, 2000

Opinion No. 00-114

Contributions to a special fund by criminal defendants

QUESTION

Whether a city judge has jurisdiction to dispose of criminal charges in exchange for voluntary contributions to the City Court Special Fund from criminal defendants in lieu of the assessment of fines, penalties, or other disposition of proceedings?

OPINION

It is the opinion of this Office that it is beyond the statutory authority and jurisdiction of a city judge to dispose of State and city criminal charges in exchange for a contribution to the City Court Special Fund.

ANALYSIS

The requesting letter provides a brief summary as to how the above described program works. In all cases involving traffic violations under the city code or state law, the city judge offers defendants the following options for the disposition of their charges:

1. The defendant may pay the forfeiture (fines plus court cost);
2. For traffic offenses, the defendant may, for a first appearance, attend a State certified traffic school;
3. The defendant may participate at a trial on the merits of the alleged offense;
4. The defendant may pay a voluntary contribution to the City Court Special Fund and obtain dismissal with prejudice of the pending charges. The amount of the contribution is set by the Judge in his discretion and has ranged in practice from \$5.00 to \$75.00.

In certain cases involving State criminal charges and when agreed to by the prosecutor, a voluntary contribution to the City Court Special Fund is accepted in exchange for a dismissal with prejudice of a pending State charge. The amount of this contribution is set by the

judge in his discretion and has ranged in practice from \$100.00 to \$1,000.00.

Tenn. Code Ann. § 6-21-502(a) sets out the powers conferred by the legislature to a city judge. According to the statute, a city judge has the power to (1) impose fines, costs and forfeitures, and punish by fine for violation of city ordinances; (2) preserve and enforce order in the city judge's court; (3) enforce collection of all such fines, costs and forfeitures imposed by such city judge; and (4) in default of the payment, or of good and sufficient security given for the payment of any such fines, costs, or forfeitures imposed by such city judge, the city judge has the power, and it is such city judge's duty, to commit the offender to the workhouse or other place provided for such purpose, and to such labor as may be provided by ordinance until such fines, costs or forfeitures are fully paid, at the rate set in § 40-24-104; provided, that no such imprisonment shall exceed the period of time established for a Class C misdemeanor for any one (1) offense, and that fines may be paid in installments in such manner as may be provided by ordinance.

The statute does not extend to a city judge the power to collect a voluntary contribution of any kind in exchange for dismissal of a pending charge. Furthermore, the language of the statute does not permit any inference that the legislature intended to confer upon a city judge the power to dismiss cases in this manner. For these reasons, it is the opinion of this office that this program goes beyond the statutory authority and jurisdiction of a city court judge and is illegal.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

J. ROSS DYER
Assistant Attorney General

Requested by:

Honorable Ronnie M. Cole
State Representative
Seventy-Eighth Legislative District
33 Legislative Plaza
Nashville, TN 37243