



## Michigan Supreme Court

State Court Administrative Office

### Trial Court Services Division

Michigan Hall of Justice

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Steven D. Capps  
Director

### MEMORANDUM

DATE: May 6, 2010

TO: Circuit Judges  
Family Division Judges  
District Judges  
Municipal Judges  
Court Administrators

FROM: Elizabeth A. Barber, Trial Court Collections Project Manager

RE: Costs, Reimbursement, and Restitution

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Courts have asked what costs of investigation, arrest, and prosecution of criminal offenses may be recovered by local units of government. Only specific expenses incurred for crimes enumerated in MCL 769.1f, or direct monetary loss or damage suffered by a governmental entity during the commission of a crime may be recovered.

#### Costs

Costs are limited to expenses specifically incurred in prosecuting the defendant, providing legal assistance to the defendant, and supervising the probationer. Costs must bear some *direct* relation to actual costs incurred in prosecution, and cannot include the costs of the day-to-day functions of the prosecutor, law enforcement, or other governmental unit, even if the functions resulted in arrest and prosecution. *People v Barber*, 14 Mich App 395 (1968), *Saginaw Public Libraries v Judges of the 70<sup>th</sup> District Court*, 118 Mich App 379 (1982), *People v Teasdale*, 335 Mich 1 (1952).

Local ordinances do not provide authority for a court to assess costs. Rather, a court can only impose costs that are permitted by state statutes (e.g., MCL 257.907, 600.8375, 769.1k, 769.3, 771.3). In addition, the Legislature has specifically included costs of prosecution in the penalty provisions of several statutes (e.g., MCL 257.625, 769.3, 771.3).

**Reimbursement**

Local governmental units are entitled to 100 percent reimbursement only for the expenses that are specifically authorized by MCL 769.1f for the offenses set forth in that statute. No other statutes provide for reimbursement of expenses incurred by local governmental units as a result of a crime.

**Restitution**

Statutes require the court to order restitution to a governmental entity if the entity suffers *direct* physical or financial harm as a result of a felony, misdemeanor, ordinance violation, or juvenile offense. MCL 712A.30, 769.1a, 780.766, 780.794, 780.826.

Costs that would have been incurred without regard to whether a defendant was found to have engaged in criminal activity are not recoverable as restitution to a governmental entity. *People v Newton*, 257 Mich App 61 (2003) (the general cost of investigating and prosecuting criminal activity is not direct “financial harm as a result of a crime”); *cf.*, *People v Crigler*, 244 Mich App 420 (2001) (the loss of “buy money” is direct financial harm as a result of the crime itself, unlike the payment of salaries and overtime pay to the investigators, the purchase of surveillance equipment, the purchase and maintenance of vehicles, and other similar expenditures that are “costs of investigation” unrelated to a particular defendant’s criminal activity).

If you have any questions, please contact your regional administrator or me at 517-373-5895 or [barberb@courts.mi.gov](mailto:barberb@courts.mi.gov).