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November 4, 2024

Office of the Attorney General
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

VIA Certified Mail

RE: Request for Attorney General Opinion

Opinion Committee Members:

On behalf of the 235th Judicial District Attorney and in my capacity as County Attorney, we are in need of an opinion regarding authority over the Asset Forfeiture Account of the District Attorney.

We are relying on the District Attorney's statutory authority to control funds generated from forfeiture proceedings; we ask if there is any authority for the County Auditor to remove money from the District Attorney's Asset Forfeiture fund without the permission of the District Attorney?

Alternatively, do County Commissioners have the authority to direct the County Auditor to move Asset Forfeiture funds to any other county account for any purpose, without the authority of the District Attorney?

These inquiries arise from circumstances that were discovered which appear to usurp the authority for the disposition of forfeited property or the proceeds from the sale of such property as required by the Texas Code of Criminal Procedure Article 59.06 (a).

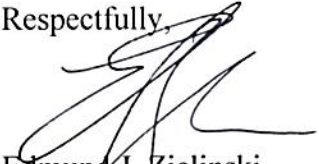
Texas Code of Criminal Procedure Article 59.06 (a)

Except as provided by Subsection (k), all forfeited property shall be administered by the attorney representing the state, acting as the agent of the state, in accordance with accepted accounting practices and with the provisions of any local agreement entered into between the attorney representing the state and law enforcement agencies.

The District Attorney's review of his office's budget records showed that the Cooke County Auditor has transferred funds from the District Attorney's Asset Forfeiture Account to other county accounts without any approval from the District Attorney.

These actions were discovered after a public meeting of the Cooke County Commissioners' wherein a County Commissioner suggested that "asset forfeiture funds could be used" as opposed to a designated line item in the District Attorney's budget.

Respectfully,



Edmund J. Zielinski
Cooke County Attorney



John Warren
235th Judicial District Attorney