



**THE ATTORNEY GENERAL
OF TEXAS**

July 30, 1990

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Sam L. Darden
Bandera County Attorney
P.O. Box 518
Bandera, Texas 78003

LO-90-50

Dear Mr. Darden:

Your questions concern the use of funds collected by a county at a licensed racetrack located within the county pursuant to section 6.17 of article 179e, V.T.C.S. You ask:

(1) May I, as Bandera County Attorney, use the amount of admission fee collected under the above Article to enforce State Laws, in general, as well as, and in addition to, the enforcement of the provisions of the Racing Act?

(2) Is the amount of admission fee collected under the above article allocated solely to the office of district and county attorney, or may the county commissioners' court use such fees for raises and salaries to deputy sheriffs, or to fund the construction of new jail facilities?

Subsection (a) of section 6.17 of article 179e provides that a commissioners court may collect a fee not to exceed 15 cents as an admission fee to a licensed racetrack located within the county. Subsection (e) limits the use that may be made of the funds collected by the county, as follows:

The amount collected by the county under this section may be used only by the county in which the racetrack is located for the purpose of providing the county with funds to enforce the provisions of this Act, including but not limited to the hiring of investigators, attorneys, staff, and other personnel to assist the county attorney or

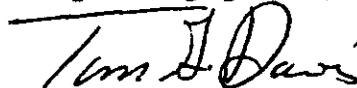
district attorney in enforcing this Act.
(Emphasis added.)

Your first question asks whether money allocated the county attorney may be used to enforce state laws in general in addition to the provisions of the racing act. Subsection (e) limits the use of these funds by the county by providing the amount collected "may be used only to enforce the provisions of this Act." The money allocated the county or district attorney for "hiring of investigators, attorneys, staff, and other personnel" is to be used "in enforcing this Act." The matter of whether a particular expenditure made by a district or county attorney is for the purpose of enforcing this act requires the resolution of a factual issue on a case-by-case basis and is not within the province of the opinion process.

The first portion of your second question asks whether the money collected under subsection (e) is allocated solely to the offices of the district and county attorneys. Subsection (e) provides that money may be used only by the county to enforce the provisions of this act, "including but not limited to the hiring of . . . personnel to assist the county attorney or district attorney in enforcing this act." This provision does not limit the use of the funds solely to the district and county attorney's office.

The second portion of your question concerns the authority of the commissioners court to use fees collected for raises for deputy sheriffs and the construction of new jail facilities. The resolution of this question turns on whether such expenditures are necessary to "enforce the provisions of this Act." Of necessity, the determination of these factual questions must be made on a case-by-case basis. Such matters are not subject to resolution of this office.

Very truly yours,



Tom G. Davis
Assistant Attorney General
Opinion Committee

APPROVED: Rick Gilpin, Chairman
Opinion Committee

Sarah Woelk, Chief
Letter Opinion Section

RG/TGD/SW/mc

Ref.: RQ-2003.

ID# 9480