

OFFICE OF
PATRICK C. BATCHELOR

CRIMINAL DISTRICT ATTORNEY
NAVARRO COUNTY COURTHOUSE - P.O. BOX 521
CORSIANA, TEXAS 75151-0521

15A 12792
mJ

TELEPHONE
(214) 654-3045
FAX
(214) 872-6858

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

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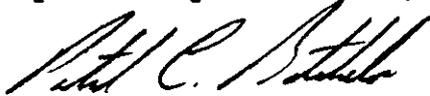
Re: Request for Attorney
General Opinion Concerning
Article 59.06 of the Texas
Code of Criminal Procedure

Dear Committee Members:

I am writing to request an Attorney General Opinion concerning the following question: Under Article 59.06(c)(3) of the Texas Code of Criminal Procedure, may a District Attorney expend funds forfeited to the District Attorney's Office (deposited in a special fund in the County Treasury) for an all-weather running track to be built on school district property.

Enclosed is an accompanying brief on the above topic. If any further information is needed, please do not hesitate to call or to write.

Respectfully submitted,



Patrick C. Batchelor
Criminal District Attorney



April Allison Sikes
Assistant Criminal
District Attorney

AAS/cm
Enclosure: Brief

BRIEF IN SUPPORT OF ATTORNEY GENERAL OPINION CONCERNING
TEXAS CODE OF CRIMINAL PROCEDURE, ARTICLE 59.06

Article 59.06 of the Texas Code of Criminal Procedure became effective October 18, 1989. Such article concerns the disposition of property which has been forfeited under Article 59.02.

The opinion requested deals with the following question: Under Article 59.06(c)(3), may a District Attorney expend funds forfeited to the District Attorney's Office (deposited in a special fund in the County Treasury) for an all-weather running track to be built on school district property.

Article 59.06(c)(3) states:

(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 according to the terms of the agreement into one or more of the following funds:

.....

(3) a special fund in the county treasury if distributed to a county law enforcement agency, to be used solely for law enforcement purposes.

To date, there have been no Attorney General Opinions defining the meaning of "law enforcement purposes," as applicable to this particular Article.

Facts

The Navarro County District Attorney's office currently has monies in a special fund in the county treasury which are proceeds of forfeited property under this Article. There have

been requests made for an all-weather running track to be constructed with these funds. The track would be built on the property of the Corsicana Independent School District and would be made available for the use of all law enforcement agencies in the county.

Argument

The following reasons summarize the District Attorney's position that construction of such a track would be a "law enforcement purpose" under Article 59.06(c)(3):

- (1.) Both the Corsicana Police Department and the Navarro County Sheriff's Department have in place a physical fitness program; it is a part of their policy to insure that the city and county officers are in top physical condition. There is, however, currently not an all-weather track on which these officers can train and stay in condition.
- (2.) Our law enforcement officers are "tested" several times a year, as well as law enforcement candidates; there is currently no set site for such testing to take place. During the last "test," our officers were forced to travel to Waco, Texas (approximately 60 miles away) for a testing location. If the track is built on school district property, the school children could additionally make use of the track, and in return our officers would be allowed to also

use the adjoining playing field and parking lot for training and testing exercises. Use of such a site would save the taxpayers a great deal of expense due to the fact that there would be no land purchase and no paving expense to obtain a suitable location for the officers to train and to be tested.

- (3.) Such facility could be used as a part of the Police Department's "substation" program: officers currently have a substation set up for minority children where activities and sports are planned, etc. The proposed track would serve as a perfect place for such officers and youth to conduct their programs. During the summer months, it would be an excellent facility for coordinated police and youth activities. It is also well-documented that one deterrent to juvenile crime and to drug abuse is participation in such athletic programs.

For all of the reasons set forth above, the proposed track would certainly be used for "law enforcement purposes." It would be of great benefit to our officers for both physical conditioning and for testing purposes. In addition it would be a true asset to our police-youth programs; this track would provide a valuable tool for working with these children.