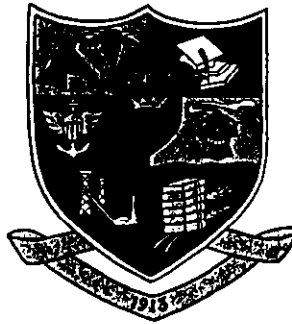


700 E. KLEBERG  
P. O. BOX 1411  
KINGSVILLE, TX. 78364



361-595-8583  
FAX- 361-595-4726

COUNTY of KLEBERG  
KINGSVILLE, TEXAS

DELMA RIOS  
COUNTY ATTORNEY

RQ-0192-20

RECEIVED

FEB 23 2000

OPINION COMMITTEE

FEB 22 2000

RECEIVED

February 15, 1999

Office of the Attorney General  
Executive Administration (001)  
P.O. Box 12548  
Austin, TX 78711

The Honorable John Cornyn  
Texas Attorney General  
P.O. Box 12548  
Capitol Station  
Austin, Texas 78711

FILE # ML-41284-00  
I.D. # 41284

Dear Attorney General Cornyn:

The following questions are respectfully submitted for the considered opinion of the Office of the Attorney General of Texas pursuant to the authority of Section 402.042, Texas Government Code.

**QUESTION #1:**

Whether or not the reimbursement fees collected by the Sheriff's Department for the storage, or disposal of controlled substances seized in connection with the offense under Art. 42.12, Sec. 11, (19) require that such funds be deposited with the county treasurer for placement in the county depository.

**QUESTION #2:**

Whether or not there are any restrictions on the expenditure of monies collected under Art 42.12, Sec. 11, (19).

**FACTS:**

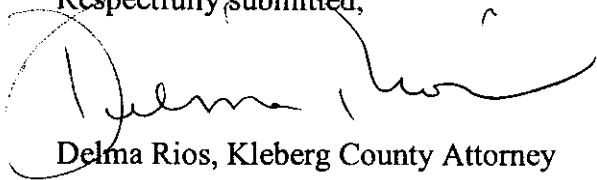
Every defendant who is placed on community supervision is ordered by the judge to abide by certain conditions authorized under Art. 42.12, C.Cr.Procedure. One of the conditions that is ordered to Defendants who are placed on community supervision as a result of a drug case is the payment of a storage and disposal fee of \$110.00 which goes to the arresting agency. The sheriff of Kleberg County deposits these fees in a separate account under his name and spent at his sole discretion. During the month of December, 1999, the sheriff expended approximately \$11,000 for roofing, sheet metal and electrical work in a building he is planning to use for offices and training. \$895.00 were expended for mugs with the sheriff's name and DARE Program logo. The Sheriff has never submitted a budget to Commissioners Court prior to making any expenditures from his storage fee account. Section 111.003 Local Gov. Code, requires that the County judge, assisted by the county auditor or county clerk prepare a budget to cover all proposed expenditures of the county government for the succeeding fiscal year.

**ANALYSIS:**

I have not found a case on point nor an Attorney General opinion on point. Art.42.12, C.Cr. Procedure gives no guidance as to which fund the reimbursements for storage or disposal fees are to be deposited in, nor is there any guidance as to what expenditures are allowed with the reimbursement collected. Section 113.003, Local Gov. Code, authorizes the County Treasurer to receive all money belonging to the county from whatever source it may be derived. Section 113.021,

be deposited with the County Treasurer by the officer who collects the money. Assuming that the reimbursements collected are to reimburse the county for the hours expended by Sheriff's deputies in storing and disposing controlled substances, my conclusion is that the fees should be deposited with the County Treasurer. Further, it is my opinion that any expenditures of these monies should be authorized by Commissioner's Court and should be budgeted. I do not think that it was the intent of the legislator's that it serve as a slush fund for law enforcement agencies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Delma Rios", with a large, sweeping flourish extending to the right.

Delma Rios, Kleberg County Attorney