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OPINION COMMITTEE



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October 12, 2011

RQ-1004-GA

Honorable Greg Abbott
Attorney General of the State of Texas
Post Office Box 12548
Austin, Texas 78700-2548

Dear Attorney General Abbott,

The purpose of this letter is to request an opinion as to the application of the recently passed provisions of Section 24.377(c)(2) of the Government Code and its alignment with Article 59.06 (d-1)(6)(A-B) of the Texas Code of Criminal Procedure provisions which provide that any expenditures made by the attorney representing the state, if the office holder did not file for re-election, should be approved by the commissioners court.

Upon the passing of S.B. No. 316, Amos Barton the 198th Judicial District Attorney requested to follow the provisions of Section 24.377(c)(2) of the Government Code and have the budget and expenditures of the DA's forfeiture fund subject to the approval of a regional review committee. This regional review committee has been appointed pursuant to the statute and on September 20, 2011 the committee approved the budget presented by Mr. Barton. Finally, District Attorney Barton has indicated that he will not be seeking re-election.

Based on the above facts, I am requesting an opinion on the following three questions:

1. Whether expenditures can be made from the DA's asset forfeiture fund after December 12, 2011 when those expenditures were from the budget previously approved by the regional review committee on September 20, 2011?

2. Whether expenditures made from the DA's asset forfeiture fund after the December 12, 2011 filing deadline has elapsed are to be approved by the county commissioner's courts or the regional review committee?

3. Whether the "proceeds from the sale of forfeited property" in Section 24.377 (c), of the Government Code also include cash that is seized and subsequently forfeited?

Please contact my office if you have any questions regarding these issues presented. Thanking you for your assistance in this matter, I remain

Yours Very Truly,

A handwritten signature in black ink, appearing to read "Mark A. Marshall".

Mark A. Marshall