



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 10, 1997

The Honorable Tom O'Connell  
Criminal District Attorney  
Collin County Courthouse  
McKinney, Texas 75069

Letter Opinion No. 97-089

Re: Whether the Commissioners Court of Collin County may enter into a contract with a private party for the collection of bond forfeiture judgments (RQ-681)

Dear Mr. O'Connell:

You have asked whether the Collin County Commissioners Court may contract with a private entity for the collection of bail bond forfeiture judgments. You take the view that such collection is within the exclusive purview of your office. Given that "a bail bond forfeiture proceeding is a criminal proceeding governed by the Texas Code of Criminal Procedure," *Regalado v. State*, 934 S.W.2d 852, 854 (Tex. App.--Corpus Christi 1996, no writ), and that the judgment of forfeiture is entered in the name of the State of Texas, article 22.02, Code of Criminal Procedure, we agree.

The enabling statute for the Criminal District Attorney of Collin County, section 44.143 of the Government Code, provides in relevant part:

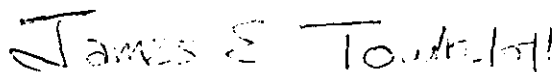
(a) The criminal district attorney of Collin County shall attend each term and session of the district courts in Collin County for the transaction of criminal business. He shall represent the state in all criminal and civil cases in the courts in the county unless otherwise provided by law.

As we have noted, courts have described a bail bond forfeiture proceeding as criminal in nature. Accordingly, that proceeding is within your exclusive purview under the terms of the Government Code. The nature of an action to collect on the judgment is less clear. However, whether it be considered a criminal or civil matter is of no consequence. Since it is the state which "shall . . . recover of the defendant the amount of money in which he is bound, and of his sureties, if any, the amount of money in which they are respectively bound," Code Crim. Proc. art. 22.02, and since you represent the state in all criminal and civil cases "unless otherwise provided by law," it is your office which has charge of these matters.

**S U M M A R Y**

The authority of the Collin County Criminal District Attorney in bail bond forfeiture matters may not be contracted away by the Collin County Commissioners Court.

Yours very truly,

A handwritten signature in black ink that reads "James E. Tourtelott". The signature is written in a cursive style with some capital letters.

James E. Tourtelott  
Assistant Attorney General  
Opinion Committee