

ROB BAIAMONTE
County Attorney
Goliad County, Texas



P. O. Box 24, Goliad, Texas 77963
(361) 645-2184
Fax (361) 645-1711
Email: rbaiamonte@goliadcogovt.org

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OPINION COMMITTEE

April 29, 2004

The Honorable Greg Abbott
Attorney General
State of Texas
P.O. Box 12548
Austin, TX 78711-2548

RQ-0217-GA

Re: *Whether County inmates are allowed to work for nonprofit organizations?*

FILE # ML-43670-0
I.D. # 43670

Dear Mr. Abbott:

The facts of our situation are as follows:

The county has several nonprofit organizations (Rotary Club, Knights of Columbus, Zaragosa Society) that put on fund raisers throughout the year. Some of these fund raisers are used to award college scholarships to the youth of Goliad County.

In the past, county inmates have been used to help set up tables and chairs, stages, lighting and clean up after the event. There are times when the event is held on county property, like the courthouse lawn or county fair grounds, but it is not a county event, it is still sponsored and run by the non profit organization.

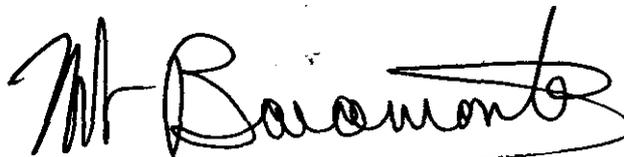
The county extension agent helps with the local 4H county fair. Part of his job description, as county extension agent, is to work with and promote agriculture careers to the youth. Since the county is directly involved with 4-H, the extension agent has used county inmates to set up and tear down the fair under the theory it is the extension agent's "public works". Code of Criminal Procedure article 43.10 (4) allows inmates to be used for manual labor upon public works and maintenance projects.

Commissions Court wants to enter into agreements with the various nonprofits whereby the fund raising is a joint-venture allowing the use of inmates to be used in a "public works".

Our question is if the county enters into a joint venture with a nonprofit, is that sufficient enough to allow county inmate labor to be used for setting up and tearing down the event under CCP article 43.10(4).

Your response to this inquiry is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Baiamonte". The signature is stylized with a large, sweeping initial "R" and a long horizontal flourish at the end.

Rob Baiamonte

RB/yjt

**Brief in Support of Using County Inmates
To Help Non Profit Organizations**

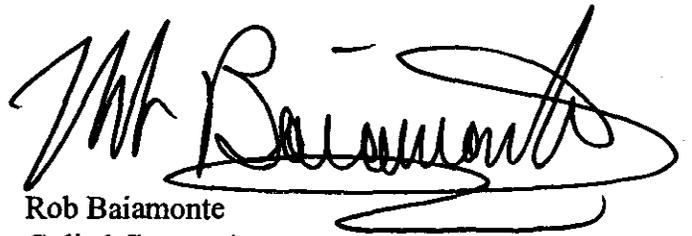
It is well established that county inmates are not allowed to benefit private industry or individuals, Attorney General Opinion H-1038 (1977). It is Goliad County's position that entering into a joint venture with nonprofits takes it out of the realm of this law and is allowable under Code of Criminal Procedures Article 43.10(4).

Article 43.10(4) states county inmates shall be put to labor upon public works and maintenance projects. The particular nonprofits have fund raisers for college scholarships. Some of the money raised is used to pay for operating expenses of that particular organization. If the county enters into a contract with the organization the only obligation on the county would be to set up and tear down the events. To do this the county would use county inmates. The thought is the event would then become a public works for the county, thus an allowable use of the county inmates.

Finally, the commissioner's court would only enter into these events that were raising money for scholarships.

In conclusion, it is the belief of Goliad County that entering into contracts for setting up and tearing down events for nonprofits would allow Goliad County to use county inmates, pursuant to CCP Article 43.10(4), because the event would be a public works project.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rob Baiamonte', with a large, sweeping flourish underneath.

Rob Baiamonte
Goliad County Attorney
P.O. Box 24
Goliad, TX 77963
(361) 645-2184
State Bar No. 01513300