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April 30, 2003

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OPINION COMMITTEE

Office of the Attorney General
Attn.: Opinions Department
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0053-GA

RE: Opinion Request

FILE # ML-43090-03
I.D. # 4309D

Dear Sir or Madam:

My county sheriff and county auditor have come to me with questions concerning whether it is legal to have an inmate serving time in our county jail performing work for individuals employed by the county jail in exchange for pay by those individuals. After researching the issue, it appears to me that this issue is one of first impression in Texas. The following paragraphs will give you the factual background relating to the question posed.

The inmate is one who was sentenced to the Texas Department of Criminal Justice-Institutional Division out of one of the district courts serving Madison County. The inmate was then bench warranted back to Madison County to serve his sentence in the Madison County jail as a trusty. This inmate performs various tasks at the jail as a result of his trusty status. Once he finishes his tasks and has extra time, he then performs the tasks that are in question.

The inmate volunteered to launder the uniforms worn by the jailers in his spare time. In exchange for this service, the jailers pay the inmate tips out of their own funds. The tips have ranged from one dollar to five dollars, which is deposited into the commissary account under the inmate's name. The inmate, in performing this service, uses county owned property including the washing machine, dryer, detergent, water and iron.

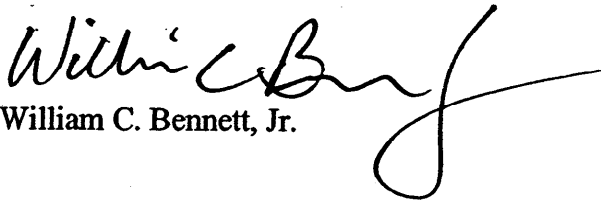
As stated above, it appears to me that this specific issue is one of first impression in Texas. However, I believe that there is some legal support in *Chapter 497 of the Texas Government Code* for the position that this activity is acceptable. This chapter deals with the implementation of inmate

labor in industry and agriculture and is run by the office of Texas Correctional Industries. Two of the purposes of this program are to (1) provide adequate, regular, and suitable employment for the vocational training and rehabilitation of inmates, consistent with correctional purposes; and (2) use the labor of inmates for self-maintenance. *Texas Government Code, §497.002*. The inmate in question has been performing these functions for several months on a regular basis, which has helped him hone his skills as well as develop a work ethic to carry over once he is released from custody. Furthermore, the inmate is being paid for his services, which allows him to accumulate funds for self-maintenance. An inmate receiving payment for services is allowed pursuant to *Texas Government Code, §497.004*. Finally, if the inmate in question were serving his time in the Texas Department of Criminal Justice-Institutional Division, it appears that he would qualify to be a participant in the Texas Correctional Industries program.

The situation involving this inmate is a very informal one, in that there is no set schedule, pay rate or job description. He simply launders uniforms when asked in exchange for payment. Therefore, all of the requirements and restrictions set out in the law regarding the Texas Correctional Industries program are not being met in this situation. However, the inmate involved is being given the opportunity to prepare himself for reentry into society as well as being able to earn money for self-maintenance while incarcerated, which would satisfy the spirit of the law providing for the Texas Correctional Industries Program.

The question(s) I would pose to you are: (1) Whether a Texas Department of Criminal Justice inmate serving time in a county jail can perform work in the jail for private individuals in exchange for pay? Or in the alternative, (2) whether an inmate sentenced to serve time in a county jail can perform work in the jail for private individuals in exchange for pay?

Respectfully submitted,


William C. Bennett, Jr.

WCB/laa