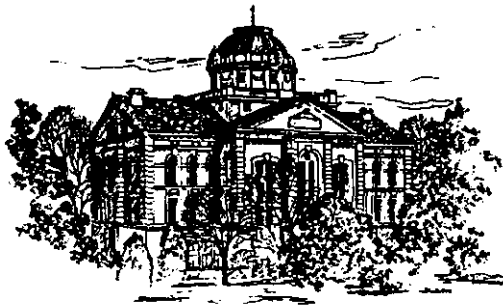


COLORADO COUNTY
Courthouse - 3rd Floor
Columbus, Texas 78934
409/732-2791



RAYMIE KANA
County Auditor

*Colorado County Courthouse
Constructed in 1890*

RQ-0058-JC

April 22, 1999

FILE # ML-40801-99
I.D. # 40801

The Honorable John Cornyn
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RECEIVED

APR 26 1999

Dear Sir:

Opinion Committee

Since the county attorney requested an opinion (ID # 40190) but never provided your office with a brief concerning the law relevant to his question, your office closed the file. Therefore, I am requesting an opinion of the Attorney General on the matters below:

Whether the county attorney has the authority to refuse to offer pre-trial diversion unless \$1,500 is paid to a non-profit corporation incorporated by the county attorney and his two assistant county attorneys?

Whether the county attorney has the authority to use his official county office address as the registered office of the non-profit corporation?

Whether the money's received from offenders for pre-trial diversion be controlled by the county attorney's office?

Our county attorney has utilized a pre-trial diversion contractual agreement (a copy of which is enclosed for your review) that outlines the rules of probation and in it he orders the offender to grant \$1,500 to Offenders, Inc., a non-profit corporation before probation on the diversion commences.

The county attorney and his two assistant county attorney's signed the articles of incorporation of the non-profit corporation (copy of Articles of Incorporation enclosed). The same two assistant county attorney's and spouse of the county attorney's office manager serve as three of the four members of the board of directors of the non-profit corporation. This board of directors controls the disbursement of all funds received from the offenders. In the bylaws, the corporation has designated the Colorado County courthouse as the location of the registered office (copy of Bylaws of the corporation enclosed).

Due to the fact that the opinion directly effects the county attorney, I am requesting an opinion from the Attorney General. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "Raymie Kana". The signature is written in a cursive style with a large, looping initial "R".

Raymie Kana
Colorado County Auditor

Enclosures