



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 187

March 25, 1994

Whether it is permissible for Texas Department of Criminal Justice employees to accept gratuities from communities or community groups in which department facilities are located. (AOR-207)

The Texas Department of Criminal Justice has asked whether it is permissible for department employees to accept gratuities from communities or community groups in which department facilities are located. The department provides the following background information:

In connection with the expansion of this agency's prison and jail facilities throughout the state, and in an effort to secure the location of such new facilities in or near their communities, various community and civic organizations (e.g., Chambers of Commerce, cities, and counties) have offered to provide certain gratuities to TDCJ employees moving to their community. The gratuities take the form of discounts, gifts, and coupons provided by local merchants. The expected economic boost to the community is the obvious motive for such site selection efforts.

In responding to this request, we refer to [Ethics Advisory Opinion No. 130](#) (1993), which reviews in detail the bribery law, the gift prohibitions, the standards of conduct for state officers and employees, and the significance of agency policies regarding gifts.

In response to this particular request, we note that the gift prohibitions in section 36.08 of the Penal Code are generally applicable to gifts from cities and counties, as well as to gifts from individuals and private businesses. Penal Code § 1.07(a)(5), (27); [Ethics Advisory Opinion No. 69](#) (1992). We would add that in our opinion these gift prohibitions do not apply to a gift routinely given to new residents of a city or county by, for example, a chamber of commerce. *See generally* [Ethics Advisory Opinion No. 66](#) (1992).

Further, since we adopted [Ethics Advisory Opinion No. 130](#) the legislature has added two new exceptions to the gift prohibitions in section 36.08. S.B. 1067, Acts 1993, 73d Leg., ch. 900, § 1.01, at 3665 (adding Penal Code section 36.10(a)(6) and (7)). These exceptions will take effect on September 1, 1994. *Id.* § 1.19 at 3708. One of the new exceptions will make the gift prohibitions inapplicable to "an item with a value of less than \$50, excluding cash or a negotiable instrument." *Id.* § 1.01 at 3665. Also excepted will be "an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity." *Id.*

SUMMARY

The gift prohibitions in section 36.08 of the Penal Code are applicable to gifts from cities and counties. Those prohibitions do not apply to gifts routinely given to new residents of the city or county by a community group such as a chamber of commerce.