

MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE



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October 1, 2022

The Attorney General's Opinion Unit is responsible for researching and drafting the formal opinions of the Attorney General. This Monthly Opinion Report lists all of the questions that are currently under consideration for formal opinions.

The Attorney General welcomes and solicits the views of all interested persons concerning the issues raised in any question submitted for an opinion. Views should be in writing and directed to the deputy assigned to prepare the opinion. Contact information for deputies is included at the end of this report. All views submitted before publication will be considered, but early submissions are greatly preferred. All submissions will be treated as public records subject to disclosure under the Public Records Act.

For more information about the Opinion Unit, or to retrieve a copy of a published opinion, please see our website at <http://oag.ca.gov/opinions>.

NEW QUESTIONS ASSIGNED DURING SEPTEMBER 2022

22-803 Quo Warranto Application

May a person be appointed to fill a vacancy on the Compton City Council by two affirmative votes from the remaining council members, or are three affirmative votes required for the appointment to be valid?

(Assigned to Deputy Attorney General Catherine Bidart.)

22-804 requested by Ventura County Counsel Tiffany North

When the office of a County Supervisor becomes vacant, are the general election dates in Elections Code section 324, subdivision (a)(2) for statewide elections considered general election dates for purposes of filling a vacancy under Government Code section 25061?

(Assigned to Deputy Attorney General Karim J. Kentfield.)

OPINIONS ISSUED OR CONCLUDED DURING SEPTEMBER 2022

Opinion No. 20-1001 (issued September 8, 2022)

Question Presented and Conclusion:

1. During the criminal discovery process, may a district attorney voluntarily provide a public defender, or other defense counsel of record, with a copy of the adult or juvenile defendant's state summary criminal history information ("RAP sheet")?

Yes. During the criminal discovery process, a district attorney may voluntarily provide a public defender, or other defense counsel of record, with a copy of the adult or juvenile defendant's own RAP sheet.

2. If voluntary compliance with defense counsel's request for the defendant's RAP sheet is permissible, must any information be redacted from the RAP sheet before furnishing it to defense counsel?

Yes. Juvenile court information must be redacted from an adult defendant's RAP sheet. Counsel for a juvenile defendant, however, may receive an unredacted copy of the juvenile defendant's RAP sheet.

Opinion No. 21-401 (issued September 8, 2022)

Question Presented and Conclusion:

1. May a district attorney voluntarily provide to criminal defense counsel, or to a self-represented criminal defendant, an unredacted copy of a victim's or a witness's RAP sheet, with or without a protective order limiting distribution, during the criminal discovery process under Penal Code section 11105 as recently amended?

As a general proposition, a district attorney may provide a copy of an adult witness's or victim's RAP sheet to defense counsel during the criminal discovery process, provided that certain information is redacted. A district attorney may not voluntarily provide a copy of a victim's or witness's RAP sheet, unredacted or otherwise, to a self-represented defendant.

2. If redaction is required, what information must be redacted before production?

Any juvenile court information, and (in the case of a victim) any information that may be used to locate or harass the victim or the victim's family, must be redacted from the RAP sheet, unless the district attorney is required to disclose that information under Penal Code section 1054.1(a).

Opinion No. 19-301 (issued September 29, 2022)

Question Presented and Conclusion:

Is a paid unlicensed victim advocate working with commercially sexually exploited children, or children at risk of becoming commercially sexually exploited, a mandated reporter under the Child Abuse and Neglect Reporting Act (CANRA)?

As a general matter, no. Paid victim advocates are not on CANRA's list of mandated reporters of child abuse. But these advocates will nonetheless meet CANRA's definition of a mandated reporter if they perform a function, such as supervising children as part of their employment, that places them in an enumerated reporter category under CANRA. And some paid victim advocates are mandated reporters because they have a license that places them in an enumerated reporter category.

OPINIONS PENDING

Opinion Requests

- 22-804** When the office of a County Supervisor becomes vacant, are the general election dates in Elections Code section 324, subdivision (a)(2) for statewide elections considered general election dates for purposes of filling a vacancy under Government Code section 25061? (Kentfield)
- 22-701** 1. Does Penal Code section 904.6 require a court to impanel a grand jury at the district attorney's request? 2. Do the prosecution's discovery obligations under *Brady* and Penal Code section 1054.1 include criminal grand jury materials? (Bidart)
- 22-602** Does the State Bar of California have the jurisdiction to regulate non-attorney legal document assistants who are not engaged in the practice of law? (Kentfield)
- 22-502** 1. Where a school district governing board has adopted by-trustee area elections and a vacancy is created in a seat held by a member elected at-large prior to the adoption of by-trustee area elections, must an individual live within a specific trustee area in order to be appointed or elected to fill the vacancy, and if so, how is the trustee area determined? 2. Where a school district governing board has revised the boundaries of its trustee areas following the decennial census, do the revised boundaries apply where a vacancy occurs during the term of a governing board member elected prior to revision of the boundaries or would the boundaries in effect at the time of the previous election be used to determine eligibility to fill the vacancy? (Duncan Lee)
- 22-402** Is the governing body of the San Bernardino County District Advocates for Better Schools (SANDABS), a lobbying association within the meaning of Government Code section 53060.5, a "legislative body" within the meaning of the Brown Act, Government Code section 54952? (Medeiros)

- 21-1001** 1. May a county adopt policies to address the environmental impacts of pesticides in a Local Coastal Program without violating Food and Agricultural Code section 11501.1? 2. May a county adopt ordinances to regulate pesticides in the coastal zone to implement Local Coastal Program requirements? (Duncan Lee)

Quo Warranto Matters

- 22-803** May a person be appointed to fill a vacancy on the Compton City Council by two affirmative votes from the remaining council members, or are three affirmative votes required for the appointment to be valid? (Bidart)
- 22-802** May the same person serve simultaneously as a member of the Sacramento County Board of Education and as the President, Chief Executive Officer, and Executive Director of the Pacific Charter Institute, a charter management organization which operates charter schools in Sacramento and other California counties? (Medeiros)

CONTACT US

The Opinion Unit invites comments on the questions posed in pending opinion requests. To share your views, please contact the deputy assigned to prepare the opinion. Deputies can be reached at the following email addresses and telephone numbers:

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To submit an opinion request, please contact Mollie Lee, Senior Assistant Attorney General, at Mollie.Lee@doj.ca.gov or (415) 510-4439.

For all other inquiries, please contact Stephanie Grimes, Staff Services Analyst, at Stephanie.Grimes@doj.ca.gov or (916) 210-6005.

You may also contact the Opinion Unit at the following address:

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