

MISSISSIPPI MUNICIPAL ATTORNEYS ASSOCIATION
2024 SUMMER CLE SEMINAR

Attorney General Opinions Update
(for June 1, 2023 – May 31, 2024)

By: Jeff Bruni, Esq.

I. PREFACE

The Attorney General (“AG”) in our State is compelled to give written (official) opinions (without fee) to various public officials. This duty is set forth in Miss. Code Ann. § 7-5-25 (Rev. 2019). Section 7-5-25 lists the specific officials who can request these opinions. Included in this list, among others, are the “boards of supervisors of the several counties, the sheriffs, the chancery clerks, the circuit clerks, the superintendents of education, the tax assessors, county surveyors, the county attorneys, the attorneys for the boards of supervisors, mayor or council or board of aldermen of any municipality of this state, and all other county officers (and no others). . . .” According to the statute (§ 7-5-25), requests for these opinions must be “in writing.” The requirement that the AG issue these official opinions is “upon any question of law relating to [these officials’] respective offices.”¹

The process for requesting and receiving opinions has changed within the past several years. Requests for opinions must be submitted electronically through the AG’s website and via a set digital form in addition to a written letter on letterhead of the requesting party (see Exhibits 1 and 2 attached hereto). According to the AG’s website, opinions are attempted to be issued within 100 days after receipt. For qualifying requests that are “emergencies,” opinions are attempted to be issued within 45 days after receipt. In order to request an expedited opinion, the requesting party must minimally set forth: (1) the specific circumstances that necessitate an expedited opinion; and (2) the date by which the expedited opinion is needed. If the AG determines the emergency to be legitimate, “reasonable efforts shall be made to accommodate the request for an expedited response.”²

Why an AG Opinion? Attorneys representing elected officials of political subdivisions may have several different reasons for requesting an official opinion from the AG. Section 7-5-25 provides the primary reason:

“When any officer, board, commission, department or person authorized by this section to require such written opinion of the Attorney General shall have done so and shall have stated all the facts to govern such opinion, and the Attorney General

¹Section 7-5-23 of the Mississippi Code requires the Attorney General to keep an “opinion book,” “in which he shall record or cause to be recorded each and every opinion given by him, or by his assistants, in pursuant of law. Each of his opinions shall be prefaced with a clear and concise statement of the facts upon which it is predicated. The ‘opinion-book’ shall be kept well indexed, both as to subject matters and parties.”

²For a copy of the AG’s protocol for requesting official opinions (from the AG’s website), see Exhibit 3 attached hereto.

*has prepared and delivered a legal opinion with reference thereto, **there shall be no liability, civil or criminal, accruing to or against any such officer, board, commission, department or person who, in good faith, follows the direction of such opinion and acts in accordance therewith** unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without any substantial support. However, if a court of competent jurisdiction makes such a judicial declaration about a written opinion of the Attorney General that applies to acts or omissions of any licensee to which Section 63-19-57, 75-67-137 or 75-67-245 applies, and the licensee has acted in conformity with that written opinion, the liability of the licensee shall be governed by Section 63-19-57, 75-67-137 or 75-67-245, as the case may be. No opinion shall be given or considered if the opinion is given after suit is filed or prosecution begun.”*

Miss. Code Ann. § 7-5-25 (Rev. 2019) (emphasis added). If a court of competent jurisdiction (after a full hearing) determines that an opinion is manifestly wrong and without substantial support, the opinion provides no protection. *See e.g., City of Durant v. Laws Construction Co., Inc.*, 721 So. 2d 598, 603 (Miss. 1998). The Supreme Court, when determining that an AG opinion is erroneous, has historically applied the correct construction prospectively, thereby not penalizing a party’s reliance on the erroneous opinion. *See e.g., Meeks v. Tallahatchie County*, 513 So. 2d 563, 568 (Miss. 1987).

However, a party is insulated from liability only when they are relying on an opinion specifically written (addressed) **to them** – and not to someone else. For example, the Supreme Court found that AG’s opinions were manifestly wrong in *City of Durant v. Laws Construction Co., Inc.* and the City then argued that it should not be penalized because it had relied on them. The Court was quick to point out, though, that a municipality cannot merely rely on opinions issued to others.

In addition, AG opinions that might slip through and be issued on matters that are already in litigation are ineffectual. *See e.g., SASS Muni-V, LLC v. DeSoto County*, 170 So. 3d 441, 447, n. 5 (Miss. 2015). Also, opinions have to be in writing (phone conversations do not meet the statutory requirement). *See e.g., Meeks v. Tallahatchie County*, 513 So. 2d 563, 567, n. 1 (Miss. 1987).

Plus, an AG opinion that is based on a request that did not provide all of the relevant facts necessary for such an opinion is equally ineffectual. *See e.g., State ex rel. Summer v. Denton*, 382 So. 2d 461, 467-68 (Miss. 1980).

With respect to litigation, the Supreme Court has recognized that, while AG opinions are not binding, “they are certainly useful in providing guidance to this Court.” *In re Assessment of Ad Valorem Taxes on Leasehold Interest Held by Reed Manufacturing, Inc. ex rel Itawamba County Board of Supervisors*, 854 So. 2d 1066, 1071 (Miss. 2003); *see also Madison County v. Hopkins*, 857 So. 2d 43, 50 (Miss. 2003).

Some Courts, when reviewing past actions taken by municipalities, have even made mention of whether city officials had previously sought an opinion from the AG. *See e.g., Hemphill Construction Company, Inc. v. City of Laurel*, 760 So. 2d 720, 721 (Miss. 2000).

**II. VARIOUS ATTORNEY GENERAL OPINIONS ISSUED FROM
JUNE 1, 2023, THROUGH MAY 31, 2024**

1.	<p><u>Ragan – AG Opinion issued on June 23, 2023 (OP-2023-00043)</u></p> <p>An election commissioner or a candidate running for election commissioner may be affiliated with a political party and may run for election with their party affiliation shown on the ballot (see MCA § 23-15-213(3)). However, an election commissioner must refrain from showing favoritism to any candidate or group of candidates (see <u>Meeks v. Tallahatchie County</u>, 513 So. 2d 563, 569 (Miss. 1987)).</p>
2.	<p><u>Martin — AG Opinion issued on June 23, 2023 (OP-2023-00044)</u></p> <p>The Jackson/Hinds Library System may utilize a general appropriation from the City of Jackson for repairs and maintenance of its library facility in accordance with MCA § 39-3-3.</p>
3.	<p><u>Edwards - AG Opinion issued on June 29, 2023 (OP-2023-00026)</u></p> <p>Applying the plain meaning of MCA § 97-23-93(9), "three (3) or more separate mercantile establishments" may not be interpreted as one mercantile establishment on three different visits for purposes of determining whether the crime of "shoplifting" is a felony. However, House Bill 795 from the 2023 legislative session amends MCA § 97-23-93(9) to allow prosecutors to "aggregate the total price of merchandise shoplifted from the same or separate mercantile establishments within the same legal jurisdiction over a period of thirty (30) or fewer days." This amendment took effect July 1, 2023.</p>
4.	<p><u>Brannon — AG Opinion issued on June 29, 2023 (OP-2023-00045)</u></p> <p>In order for a municipality to expend public funds to install and maintain grinder pumps on private property, the municipality must make a "factual determination" that the grinder pumps are necessary to the functioning of the municipal sewer system (and not for the sole benefit of the private property owner) – i.e., that the same constitutes an "integral part" of a municipal sewer system - and obtain the appropriate easements. The AG opines that there is no set list of factors to be considered in determining whether a grinder pump is part of the municipal sewer system or the individual property owner's responsibility (and there is no legal definition of what constitutes an "integral part" of a municipal sewer system). Instead, this is a factual determination to be made by a city's governing authority and would vary on a case-by-case basis.</p>
5.	<p><u>Kramer - AG Opinion issued on June 29, 2023 (OP-2022-00052)</u></p> <p>MCA § 63-32-3(1) provides that municipalities "may... authorize the operation of golf carts and low-speed vehicles only on public roads and streets as designated by ordinance, within the corporate limits of the municipality." However, MCA § 63-31-3(6) states that there is no authorization for the "operation of an off-road vehicle on a public road or highway of this state." Whether a vehicle is a "low-</p>

	speed vehicle" or an "off-road vehicle" is a question of fact for a city's governing authority.
6.	<u>Morris-Harris — AG Opinion issued on June 29, 2023 (OP-2023-00037)</u> MCA §§ 19-13-23 and 19-13-31 provide the statutory scheme for persons having claims against a county. Under this scheme, a person must first file a claim with the clerk of the board of supervisors. If the board of supervisors rejects or refuses the claim, the claimant may appeal to the circuit court or may bring suit against the county.
7.	<u>Watson — AG Opinion issued on July 7, 2023 (OP-2023-00105)</u> The plain text of Senate Bill 2353 indicates that the January 1, 2024 effective date included in the second amendment of Section 1(1) applies only to that amendment and does not apply to any other portion of S.B. 2353. Accordingly, the rest of S.B. 2353, including Sections 1(2), (3), (4), and (5), took effect July 1, 2023 pursuant to Section 4.
8.	<u>Bruni — AG Opinion issued on July 20, 2023 (OP-2023-00057)</u> If census data is published six months or more before the first municipal party primary, those reapportioned wards become the basis for representation effective immediately upon adoption by the council.
9.	<u>Watkins — AG Opinion issued on July 20, 2023 (OP-2023-00048)</u> A mayor's written veto is not required to be filed and accepted by the city clerk or presented for discussion at a board meeting to be considered a public record. A veto is subject to disclosure under the Mississippi Public Records Act of 1983 once it meets the definition of a "public record" under MCA § 25-61-3(b).
10.	<u>Dionne — AG Opinion issued on July 20, 2023 (OP-2023-00087)</u> The term "disability" is not defined in MCA § 23-15-549, nor is it defined elsewhere in the Mississippi Code. In such instances, the "common and ordinary meaning" of the term controls. Applying the Merriam-Webster Dictionary definition of this term to § 23-15-549, "disability" is a " physical, mental, cognitive, or developmental condition that impairs, interferes with, or limits a person's ability to engage in certain tasks or actions or participate in typical daily activities and interactions" so as to necessitate assistance in order to vote.
11.	<u>Thomas — AG Opinion issued on July 25, 2023 (OP-2023-00007)</u> A donation made to a municipality for a restricted purpose and which cannot or will not be used for that specified purpose may be returned to the donor. Also, the Mississippi Department of Audit is required under MCA § 7-7-211 to identify and define "for all public offices of the state and its subdivisions generally accepted accounting principles" as well as "best practices" for systems of accounting and budgeting.

12.	<p><u>Watson — AG Opinion issued on August 2, 2023 (OP-2023-00104)</u> If an election bailiff determines, based on the scene before him or her, that the use of a noise amplifying device is creating a disturbance about the voting place, causing an improper intrusion upon the voting place, or interfering with the election, he or she has the authority pursuant to MCA § 23-15-241 to take action, with the assistance of local law enforcement if necessary, to stop the disturbance and to enable all qualified voters, who have not yet voted and who desire to vote, to have unobstructed access to the polls.</p>
13.	<p><u>Hudson — AG Opinion issued on August 17, 2023 (OP-2023-00010)</u> The term “personal property” as used in MCA § 21-19-11 can include – depending on circumstances – “dilapidated vehicles” on private property. The AG has opined that in the instance a dilapidated vehicle is removed from a property pursuant to MCA § 21-19-11 and is later determined to be an abandoned motor vehicle as defined in § 63-23-3, it may then be sold or disposed of in accordance with §§ 63-23-5, 63-23-7, and 63-23-9.</p>
14.	<p><u>Turnage — AG Opinion issued on August 17, 2023 (OP-2023-00081)</u> A municipality that operates under a “special charter” has the authority granted to it under such special charter, as specific provisions of a municipal special charter will take precedence over the provisions of general municipal law. If a city’s special charter does not address the issue, such city may exercise the authority provided in MCA § 21-25-3(1) and adopt an ordinance allowing the Fire Chief to close a fire station when he determines that there is insufficient manpower to respond to fires and then temporarily reassign the employees of that station to a neighboring station until sufficient staff is on hand.</p>
15.	<p><u>Gilbert — AG Opinion issued on September 6, 2023 (OP-2023-00065)</u> Pursuant to MCA § 43-33-7, when a “town” or “city” adopts a resolution establishing the need for a municipal housing authority, five (5) people shall be appointed as commissioners. Individuals are appointed pursuant to MCA § 43-33-7. While this statute does not speak to the residency of the commissioners, the AG has previously opined that this Section must be read with MCA § 43-33-131 so that commissioners must reside within the geographic boundaries of the municipal housing authority.</p>
16.	<p><u>Holleman — AG Opinion issued on September 14, 2023 (OP-2023-00093)</u> The prohibition against a city adopting a county's purchasing contract does not prevent a city from acting jointly with a county, by way of an otherwise lawful interlocal agreement, for the paving of roads.</p>
17.	<p><u>Mitchell — AG Opinion issued on September 14, 2023 (OP-2023-00103)</u> While there is no explicit authority for the City of Batesville to donate its ownership interest in real property to a County without consideration, MCA § 17-25-25 may provide a method of disposal at no cost if the City makes the requisite finding of zero fair market value and enters such finding on its minutes.</p>

18.	<p><u>Moak — AG Opinion issued on September 14, 2023 (OP-2023-00101)</u> The Brookhaven Board of Aldermen has the authority pursuant to Mississippi Code Annotated §§ 21-13-1 <i>et seq.</i>, to amend, repeal, or rescind an ordinance it previously adopted (which converted the elected position of chief of police to an appointed one) and return the office of chief of police back to an elected position.</p>
19.	<p><u>Wilson — AG Opinion issued on September 14, 2023 (OP-2023-00102)</u> The AG opined here that because the civil service secretary was appointed by a city's civil service commission and was required to "keep the records and preserve all reports made to the commission, and also a record of all examinations held under the direction of the board of examiners, and perform such other duties as the commission may prescribe" in accordance with MCA § 21-31-7, the city's civil service commission (with respect to commission work) controlled the day-to-day activities of the civil service secretary, and the city's mayor did not have control of this position's work for the commission (and the commission could suspend or discharge the secretary pursuant to MCA §§ 21-31-7 and 21-31-5(2)).</p>
20.	<p><u>Burch — AG Opinion issued on September 21, 2023 (OP-2023-00084)</u> The AG opined that a deputy sheriff could not issue a municipal citation returnable through municipal court while acting in the capacity of and being paid as deputy sheriff, even though this same deputy sheriff also worked as a municipal police officer in the city where the municipal court was located,</p>
21.	<p><u>Moore, Jr.- AG Opinion issued on November 3, 2023 (OP-2023-00124)</u> A misdemeanor ticket/citation that has been sworn to prior to filing will suffice to commence a criminal proceeding.</p>
22.	<p><u>Bassi – AG Opinion issued on November 3, 2023 (OP-2023-00115)</u> There is no authority for a municipality to expend public funds to improve a municipal street only to vacate the street for the benefit of a local business. To do so could be considered an impermissible use of public funds or a donation prohibited by MCA § 21-17-5(2)(g).</p>
23.	<p><u>Crider – AG Opinion issued on November 3, 2023 (OP-2023-00131)</u> An alderman vacates his position when he abandons his municipal residence for another residence outside of the city with no intent to return (see MCA § 25-1-59).</p>
24.	<p><u>Gaskin – AG Opinion issued on November 3, 2023 (OP-2023-00113)</u> Electronic signatures may not be used on a written protest against municipal bonds (see MCA § 21-33-307).</p>
25.	<p><u>Purdie – AG Opinion issued on November 3, 2023 (OP-2023-00092)</u> A municipality may settle a claim in accordance with MCA § 25-1-47 if it makes the factual determination that it is legally obligated for the claim and such claim is not exempt from liability.</p>

26.	<p><u>Smith – AG Opinion issued on November 3, 2023 (OP-2023-00128)</u></p> <p>There would be no violation of Mississippi’s general nepotism law (MCA § 25-1-53) if a school district hired the brother of the school district’s purchasing agent to perform concrete work for the school district. However, such appointment could violate MCA § 37-11-27, which applies to school personnel, as well as Mississippi’s Ethics in Government Laws (MCA §§ 25-4-101, <i>et seq.</i>).</p>
27.	<p><u>Gaston – AG Opinion issued on November 3, 2023 (OP-2023-00125)</u></p> <p>MCA § 25-1-113 prohibits the State, counties, and municipalities from employing a person convicted of embezzlement. It does not prohibit such entities from contracting with a corporation or a limited liability company that is controlled or wholly owned by a person who would otherwise be prohibited under § 25-1-113 from being employed by such governmental entity.</p>
28.	<p><u>Callaway – AG Opinion issued on November 28, 2023 (OP-2023-00136)</u></p> <p>A city may only negotiate with the lowest and best bidder if the bid is not more than ten percent above the amount of funds allocated for the project, pursuant to MCA § 31-7-13(d)(iv). This applies even if there is only one (1) bidder.</p>
29.	<p><u>Kirk – AG Opinion issued on November 28, 2023 (OP-2023-00145)</u></p> <p>Pursuant to MCA § 21-19-69, a municipality may donate funds out of the municipal treasury to a certified farmers’ market that is operating within the municipality. The AG here further opined that a municipality can donate the use of a vacant city parking lot (an “in-kind” donation) to a certified farmers’ market in lieu of a rental fee so long as the requirements of the statute are met, and the value of the donation does not exceed the amount established in the statute.</p>
30.	<p><u>Kirk – AG Opinion issued on November 29, 2023 (OP-2023-00144)</u></p> <p>Under the authority of MCA § 21-17-1(8), a city’s governing authority has the discretion to “expend municipal funds <i>to match</i> any state, federal or private funding for any program administered by ... any nonprofit organization that is exempt under 26 U.S.C. § 501(c)(3) from paying federal income tax.” If the governing authority of a city determines that a particular foundation qualifies as an organization that is exempt under 26 U.S.C. § 501(c)(3) from paying federal income tax,” then the city may spend funds to match other funding for the purpose of supporting a program administered by the nonprofit in question.</p>
31.	<p><u>Pittman – AG Opinion issued on December 21, 2023 (OP-2023-00172)</u></p> <p>The separation of powers doctrine prohibits a person from holding positions in two different branches of government if both positions exercise “core powers” within their respective branch. A member of the county board of supervisors exercises core powers within the judicial branch of government. The Pat Harrison Waterway District is a state agency, which falls within the executive branch of government. If the executive director position within the PHWD exercises “core powers” within the executive branch, a person cannot simultaneously serve in this position as well as a member of the county board of supervisors.</p>

32.	<p><u>Heck – AG Opinion issued on December 28, 2023 (OP-2023-00148)</u></p> <p>This opinion involves local and private legislation - 2022 Mississippi Senate Bill No. 2998, which authorized the governing authorities of the town of Sardis to levy and collect certain taxes “[f]or the purpose of providing funds for the enhancement of tourism and for the provision of parks and recreational facilities.” Whether paying a third-party contractor to cut and maintain a municipal cemetery constitutes an action “for the enhancement of tourism and for the provision of parks and recreational facilities,” as provided in S.B. 2998, is a factual determination that must be made by the governing authority of the town of Sardis.</p>
33.	<p><u>Manley – AG Opinion issued on January 9, 2024 (OP-2023-00137)</u></p> <p>MCA § 17-2-4(1) mandates certain minimum building codes for counties and municipalities. If a city did not opt out of § 17-2-4(1)’s application within 120 days of its effective date of August 1, 2014, as provided by § 17-2-4(3), state law does not provide for exemptions from these mandatory minimum building codes. However, the city’s requisite adopted code may exempt certain historical or other properties from the code requirements, but the AG held that such a determination was outside of the scope of the AG’s authority.</p>
34.	<p><u>Espy - AG Opinion issued on February 7, 2024 (OP-2023-00214)</u></p> <p>Pursuant to § 104 of the Mississippi Constitution, statutes of limitation do not run against the State or its political subdivisions. Thus, the three-year statute of limitation in MCA § 15-1-49 for actions for which no other period of limitation is prescribed would not apply to a claim by a municipality against a county.</p>
35.	<p><u>Compton – AG Opinion issued on February 8, 2024 (OP-2023-00011)</u></p> <p>While the AG opined that it cannot make the factual determination that the Lauderdale County School District is owed prior years’ taxes, if such a determination is made by the local governing authorities, there is no limit on the number of years the School District may seek to be paid because § 104 of the Mississippi Constitution provides that statutes of limitation shall not run against the State or its political subdivisions.</p>
36.	<p><u>Ladner – AG Opinion issued on February 20, 2024 (OP-2023-00232)</u></p> <p>Unless specifically authorized by law, in the absence of consideration, municipal donations to private citizens violate the Mississippi Constitution. There was not enough information provided in this opinion. However, it appears the context of this opinion request involved federal grant funds received by cities from FEMA for flood mitigation.</p>
37.	<p><u>Merchant – AG Opinion issued on February 28, 2024 (OP-2023-00192)</u></p> <p>MCA § 25-1-47(1) provides municipalities with the authority and power, within their discretion, to “provide legal counsel for the defense of any claim, demand, or action, whether civil or criminal, made or brought against any ... municipal officer, agent, servant, employee, or appointee as a result of his actions while acting in the capacity of such officer, agent, servant, employee, or appointee.”</p>

	<p>Municipalities are authorized “to pay for all costs and expenses incident to such investigation and defense” permitted by § 25-1-47(1). The AG opined here that a city’s governing authority can, upon proper finding, determine that an official be provided legal counsel at the city’s expense in addition to legal counsel provided through the city’s insurer.</p>
38.	<p><u>Ellzey – AG Opinion issued on February 28, 2024 (OP-2023-00194)</u> The privilege tax proceeds received by a county pursuant to MCA § 27-19-11 may not be distributed to municipal school districts within the county.</p>
39.	<p><u>Bullard – AG Opinion issued on February 29, 2024 (OP-2023-00054)</u> If a city desires to “reopen” a street that was previously vacated, the city must determine first whether the street (or part thereof) was actually closed and then, if so, further determine who owns the underlying fee. If a private party (not the city) owned the underlying fee, the city would have to pursue eminent domain to reopen the closed street.</p>
40.	<p><u>Moore - AG Opinion issued on February 29, 2024 (OP-2023-00183)</u> A city may not clean a perpetual care cemetery and enroll the actual cost of cleaning as a lien on the land nor assess the actual cost of cleaning as a judgment against the cemetery’s owner. Instead, a city may proceed pursuant to MCA § 21-19-11 and upon adjudicating the property as a menace to the public health, safety, and welfare of a community, go in and clean the property if the owner fails to do so. The assessment of penalties against a cemetery’s owner is expressly prohibited (see § 21-19-11(7)(a)).</p>
41.	<p><u>March – AG Opinion issued on March 14, 2024 (OP-2023-00231)</u> A sheriff is prohibited by Mississippi’s general nepotism laws from hiring his brother as a deputy sheriff (i.e., brothers are related within the third degree of kinship, the sheriff is the hiring authority for a sheriff’s department, and a sheriff’s deputy is within one of the five (5) prohibited positions listed in the nepotism statute (MCA § 25-1-53). Utilizing the board of supervisors to hire a deputy sheriff and then assign him to the sheriff’s department would not cure this violation of the law as he sheriff is the hiring authority for the sheriff’s department.</p>
42.	<p><u>Prewitt – AG Opinion issued on March 19, 2024 (OP-2023-00217)</u> There is not a mandatory waiting period for defendants being held in jail on a domestic violence charge. While Mississippi Code Annotated § 99-5-37 previously authorized a “twenty-four-hour cooling-off period,” this language was removed by an amendment in 2012. Under current law the judge may, upon setting bail, impose a holding period of up to twenty-four hours that starts “from the time of the initial appearance or setting of bail.”</p>
43.	<p><u>Clark – AG Opinion issued on March 19, 2024 (OP-2024-00007)</u> Social worker is not one of the five (5) prohibited positions listed in Mississippi general nepotism statute (MCA § 25-1-53). Additionally, because the board of</p>

	trustees of a community hospital was not the hiring authority for the facility, the nepotism statute would not be violated if the wife of a trustee of the hospital was hired as a social worker for the hospital.
44.	<u>Knoblock – AG Opinion issued on March 20, 2024 (OP-2024-00010)</u> It would not be a nepotism violation for the mayor to appoint his son to the local school board if the mayor’s son waives all payments or reimbursements that come from public funds. The AG has previously opined that a nepotism violation is avoided if the appointee waives all payments or reimbursements using public funds.
45.	<u>Mord - AG Opinion issued on April 2, 2024 (no number identified yet)</u> MCA Section 23-15-281(2) does not authorize the board of supervisors to purchase and install culverts and cover them to improve private property used for a polling place.
46.	<u>Barber - AG Opinion issued on April 2, 2024 (no number identified yet)</u> Notably, while there is no authority for a county or sheriff’s department to contract with a non-profit, private entity to provide increased police protection, there is nothing prohibiting a private school from hiring private security services, and MCA § 17-25-11 allows certified law enforcement officers to “wear the official uniform and . . . utilize the official firearm and the official vehicle issued by the employing jurisdiction while in the performance of private security services in off-duty hours.”
47.	<u>Lee - AG Opinion issued on April 3, 2024 (no number identified yet)</u> Although MCA § 17-25-11 does not directly address reimbursement outside of indemnity, an employing jurisdiction may make reimbursement of incurred expenses due to gasoline, wear and tear, etc., a condition of approval for a certified law enforcement officer to utilize his or her official vehicle for an off-duty private security job.
48.	<u>Rushing - AG Opinion issued on April 4, 2024 (no number identified yet)</u> The AG is not aware of any statutory authority or case law stating that a city prisoner becomes a county prisoner upon being bound over to the county grand jury at a preliminary hearing. Also, if a county and municipality choose to contract with one another for the holding of municipal prisoners in the county jail pursuant to MCA § 47-1-39, the AG opines that such contract should include the terms negotiated between the parties in accordance with the law.
49.	<u>Hopkins – AG Opinion issued on May 10, 2024 (no number identified yet)</u> A municipal judge is authorized to administer oaths pursuant to MCA § 11-1-1 and he or she may administer an oath to an elected official from an adjoining county. MCA § 21-23-1 holds that “police justice” means “municipal judge.” Note that a sheriff is not authorized by MCA § 11-1-1 to administer oaths.



REQUEST FOR ATTORNEY GENERAL'S OPINION

Attorney General's Office
Opinions Division
Post Office Box 220
Jackson, Mississippi 39205-0220

Telephone: 601-359-3680
www.ago.ms.gov

THIS OFFICE DOES NOT ADDRESS ISSUES ON MATTERS CURRENTLY IN LITIGATION

Is this issue in litigation? (YOU MUST CHECK ONE)

Yes No

If no, do you anticipate that litigation will be filed? (YOU MUST CHECK ONE)

Yes No

Requestor's Name: _____ Date: _____

City/County/Agency Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Email address: _____

Telephone Number: _____ Alternate Number: _____

Specify public title or official public position that qualifies you to request an opinion:

Specify the question which is the subject of your request for an official opinion (Attach additional sheets if required):

EXHIBIT "1"

Set forth the facts relevant to the question which is the subject of your request for an official opinion (Attach additional sheets if required):

Please upload your written request for an opinion on your official letterhead here.

Signature and title of individual requesting opinion:

SIGNATURE

TITLE



OPINIONS AND POLICY

Opinions

The Attorney General issues official opinions pursuant to Section 7-5-25, Miss. Code Ann. The official opinion process can be [found here](#).

[Request form for an official Attorney General's opinion](#)

Submit the request form and your request letter on official letterhead [here](#). If you are in need of the opinion on short notice, please note that and the specific circumstances that necessitate an expedited opinion in your request.

Recently published opinions can be found [here](#).

Search Attorney General opinions [here](#).

The Attorney General's Office publishes opinion outlines, as well, summarizing recent opinions and interlocal agreements.

- The outline covering January 1, 2020 through June 30, 2020 can be found [here](#).
- The outline covering July 1, 2020 through December 31, 2020 can be found [here](#).

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* This a snip from the website of the Mississippi Attorney General (on May 30, 2024): <https://attorneygenerallynnfitch.com/divisions/opinions-and-policy/>

EXHIBIT "2"



Lynn Fitch

ATTORNEY GENERAL
OPINIONS AND POLICY

MS ATTORNEY GENERAL'S OFFICE **OFFICIAL OPINION PROCESS**

Issuing legal opinions to Mississippi governmental entities is a very important function of the Office of the Attorney General. Attorney General Opinions serve to provide legal advice on questions of statutory interpretation to public bodies. Opinions of the Attorney General are advisory only and not binding in a court of law. However, an official written opinion of the Attorney General statutorily affords protection to the requesting public official against civil and/or criminal liability if such official, in good faith, follows the direction of the opinion and acts in accordance.

Attorney General Opinions are intended to address only questions of state law. Official opinions cannot answer questions of federal law, questions of fact, mixed questions of fact and law, or questions of executive, legislative, or administrative policy. *An Attorney General Opinion is not a substitute for the advice and counsel of the attorneys who represent governmental agencies and officials on a day-to-day basis.*

1. Opinion Requests. Requests for official opinions must be submitted electronically through the Attorney General's website. A requesting party must electronically submit a completed "Request for an Official Attorney General's Opinion" form as well as an official request letter on official letterhead.
 - a. If an official opinion is needed on short notice, the requestor may ask for an expedited response and set forth the specific circumstances that necessitate an expedited opinion, including the date by which the opinion must be issued. If an emergency is determined to be legitimate, reasonable efforts shall be made to accommodate the request for an expedited response.
 - b. The Opinions Division will aim to turn around requests within 100 days after receipt. If it is an emergency request, the Opinions Division will aim to turn around requests within 45 days after receipt. Of course, this time frame could be changed depending upon the nature of the request.
2. To Whom Requests May Be Issued. Official opinions of the Attorney General may be issued only to the following officials and entities:
 - Any state-wide elected official;

- Any state agency, board, or commission;
- Member of the Legislature;
- District Attorneys;
- Any County Officer, i.e., boards of supervisors, sheriffs, chancery clerks, circuit clerks, superintendents of education, tax assessors, and county surveyors;
- Mayors, city councils, and boards of aldermen.

3. Subject Matter of Requests. Requests for official opinions may only seek an interpretation of Mississippi statutory law. The Office of the Attorney General **will decline** to issue an official opinion upon any of the following questions:

- Questions of a speculative nature;
- Questions involving federal law;
- Questions interpreting contracts;
- Questions requiring factual determinations;
- Questions which cannot be resolved due to an irreconcilable conflict in the laws;
- Questions of executive, legislative, or administrative policy;
- Questions on matters that are addressed in proposed legislation currently before the Legislature;
- Questions pending before a court or administrative forum;
- Questions involving only an interpretation of local codes, charters, ordinances, or regulations;
- Questions involving the official duties of someone other than the requestor;
or
- Questions the official or agency has already acted on (past actions) and is seeking to justify (such as the expenditure of public funds or the adoption of an ordinance).

4. Acknowledgement of Opinion Requests. Receipt of a proper request is acknowledged by electronic correspondence to the requestor within three (3) business days of receipt. If the request is not one upon which the Opinions Division can opine because it is from an improper official or entity or involves an improper question, the requestor will be notified of such by electronic correspondence.

5. Requests for Withdrawal. A request for withdrawal of a pending opinion may be made at any time by the requesting party. A request for a withdrawal must be made electronically through the website. A request for withdrawal made after the opinion is in the drafting process is subject to the discretion of the Office of the Attorney General and may not be granted if it is determined significant time and effort has already been expended in drafting

an opinion in response to the request. If the withdrawal is granted, the requesting party will receive electronic correspondence acknowledging the withdrawal.

6. Opinion Review. Draft opinions are subject to a rigorous review process prior to final review by the Attorney General including, but not limited to, review by the Opinions Committee, which consists of the Deputy Attorney General over Opinions, Solicitor General, and the Division Directors for Opinions, Civil Litigation, Criminal Litigation, and State Agencies. The Opinions Committee meets every month, but may meet more often, dependent upon the volume of pending opinion requests or any request seeking an expedited response.
7. Opinion Approval. Upon the Attorney General's approval, the final opinion is issued to the requesting party by electronic correspondence and posted on the website.
8. Publication of Issued Opinions. A comprehensive summary outline of all official opinions issued each month is published on the Attorney General's website. Furthermore, a searchable database of published opinions is available through the website as well as Lexis and Westlaw.
9. Request for Reconsideration. A requestor or another interested party may request an official opinion be reconsidered. Such a request must be submitted in the same form as any other opinion request, cite the opinion to be reconsidered and set forth the reasons for which the opinion should be reconsidered.