

# OPINIONS OF THE ATTORNEY GENERAL

*The full text of an informal or formal opinion of the Attorney General may be obtained by writing to the Office of Legal Records, Department of Law, State Capitol, Albany, NY 12224. Please include the identification number, the date, the section(s) of law considered and the subject of the opinion.*

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## INFORMAL OPINIONS

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### No. 2007-8

**Criminal Procedure Law §§ 1.20, 1.20(34), 2.10, 2.10(21)(a), 2.10(70), 2.20, 2.20(1)(a), 2.20(1)(b), 70.10(2), 120.20(a), 120.50, 120.55, 120.60, 140.10, 140.25, 140.25(1), 140.25(1)(a), 140.25(1)(b), 140.25(2), 140.25(3), 140.25(3)(a), 140.25(3)(b), 140.25(4), 140.25(5) (b); Penal Law §§ 10.00(6), 35.30, 35.30(1), 35.30(4), 350**

A peace officer who becomes aware of an outstanding arrest warrant through the performance of his special duties may physically detain the subject of the warrant pending arrival of a police officer to make the arrest if the subject of the warrant tries to leave. A peace officer may make a warrantless arrest based upon knowledge of an outstanding arrest warrant for a qualifying offense when the peace officer learns of the outstanding warrant through the performance of his special duties. *December 17, 2007.*

### No. 2007-9

**Second Class Cities Law § 40; General City Law §§ 20, 20(21), 20(23), 23, 23(1), 23(2), Article 2-A; General Construction Law §§ 41, 110**

A city's authority to issue subpoenas for the testimony of witnesses may extend to non-city entities in the course of the city's investigation into matters of concern to the city or its inhabitants. In at least some circumstances, this authority encompasses the authority to subpoena documents. In the absence of other law providing otherwise, this authority may be exercised by the common council by a vote of a majority of the whole council, if the council has previously adopted an ordinance designating itself as the official body vested with this power. *December 17, 2007.*

### No. 2007-10

**Public Officers Law §§ 3, 3(1), 3(4), 3(9); Session Laws 1962 Chapter 976 § 1, 1963 Chapter 375 § 1, 1965 Chapter 865 § 1**

Public Officers Law § 3(9) does not pertain to the paid members of the uniformed force of the paid fire department of the City of Syracuse. They are therefore governed by Public Officers Law § 3(4). Because the charter of the City of Syracuse requires that city employees live within the city, pursuant to Public Officers Law § 3(4), persons employed in the city's paid fire department must reside within Onondaga County. *December 20, 2007.*

### No. 2008-1

**Town Law §§ 176, 176(2), 176(3), Article 11; General Construction Law §§ 41, 110**

Pursuant to Town Law § 176(3), two fire commissioners then in office may appoint qualified persons to fill three vacancies on the board. *April 9, 2008.*

### No. 2008-2

**County Law § 216; Election Law §§ 3-200(2), 3-212(1), 3-214(2), 5-210, 6-144, 8-400(2)**

Establishing an additional site outside the city for the board of elections and moving certain staff and equipment does not constitute a removal pursuant to County Law § 216, but removing the public functions of the board of elections from the city office would constitute such a removal. While individual commissioners may work independently at a location outside the city, the functions of the commissioners acting as a board must remain in the city absent approval of a move at a referendum. *April 16, 2008.*

### No. 2008-3

**Racing, Pari-Mutuel Wagering and Breeding Law §§ 502, 502(1), 502(8), 502(10), 502(10)(a), 502(10)(b), 502(10)(c), 502(11), 503(6), 516(2), 606(3), General Municipal Law § 77-c; Civil Service Law §§ 163(2), 167(2)**

The Suffolk Regional OTB Corporation may not provide health benefits to its directors. The directors may not receive health benefits from the county nor may they participate in the New York State Health Insurance Plan at their own expense. *May 22, 2008.*

