

March 24, 2020

Resolution #20-08

Agenda Action Report
Prepared for the
Cascade County Commission

ITEM: Prosecutorial Assistance
INITIATED AND PRESENTED BY: Carey Ann Haight, Deputy County Attorney
ACTION REQUESTED: Approval of Resolution 20-08

BACKGROUND:

The Cascade County Attorney is in need of assistance with regard to the prosecution of a criminal case *State of Montana v. K. D.*, which the Cascade County Attorney's Office has a conflict of interest in which prevents it from acting in this instance.

The Cascade County Attorney's Office, pursuant to MCA § 44-4-111, typically refers conflict criminal matters to the training coordinator for county attorneys and the bureau chief of Prosecution Services Bureau (together with the deputies within said bureau) act as special counsel on request of the county attorney. However, as the City of Great Falls City Attorney's Office has provided prior conflict prosecution assistance to the Cascade County Attorney's Office with this defendant, the County Attorney's Office elected to first seek the assistance of the Great Falls City Attorney's Office. Mont. Code Ann. § 7-4-2401 (1) authorizes the County Attorney to appoint as many deputies or assistants as may be necessary for the faithful and prompt discharge of the duties of the office. The City Attorney's Office has agreed, after consultation, to accept appointment with regard to this matter.

Cascade County will bear costs associated with the prosecution, but not attorney fees.

RECOMMENDATION: Approval of Resolution 20-08

TWO MOTIONS PROVIDED FOR CONSIDERATION:

MOTION TO APPROVE:

Mr. Chairman, I move that the Commission **APPROVE** Resolution 20-08 authorizing the appointment of Joe Cik as a special prosecutor from the Great Falls City Attorney's Office in the matter of *State of Montana v. K. D.*

MOTION TO DISAPPROVE:

Mr. Chairman, I move that the Commission **DISAPPROVE** Resolution 20-08 authorizing the appointment of Joe Cik as a special prosecutor from the Great Falls City Attorney's Office in the matter of *State of Montana v. K. D.*

**BEFORE THE BOARD CASCADE COUNTY COMMISSIONERS
CASCADE COUNTY, MONTANA**

RESOLUTION 20-08

Whereas, due to a conflict, the Cascade County Attorney has requested prosecutorial assistance the in the case of *State of Montana v. K. D.*; and

WHEREAS, it is desired and deemed appropriate that a special deputy county attorney be appointed to assist in the prosecution of the aforementioned case, and

WHEREAS, Mont. Code Ann. § 7-4-2401 (1) authorizes each officer to appoint as many deputies or assistants as may be necessary for the faithful and prompt discharge of the duties of the office; and,

WHEREAS, the Cascade County Attorney's Office has consulted with the Great Falls City Attorney's Office for assistance in the above cause of action and the Great Falls City Attorney's Office has consented to providing such assistance;

It Is Hereby Resolved:

That Joe Cik, City Prosecutor with the Great Falls City Attorney's Office shall be hereby appointed as a special deputy county attorney for Cascade County for the purpose of assisting in the prosecution of the aforementioned case.

It is Further Resolved:

That under the terms of this agreement, no fee will be charged for attorney time provided by the Great Falls City Attorney's Office. Witness fees and expenses, jury costs, attorney travel and lodging at Cascade County approved rates, and other normal costs associated with trial will be the County's responsibility as with all other prosecutions.

Dated this ____ day of _____, 2020

BOARD OF COUNTY COMMISSIONERS
CASCADE COUNTY, MONTANA

James L. Larson, Chairman

Jane Weber, Commissioner

Joe Briggs, Commissioner

Attest

Rina Fontana Moore,
Cascade County Clerk and Recorder

* APPROVED AS TO FORM:

Josh Racki, County Attorney

DEPUTY COUNTY ATTORNEY

* THE COUNTY ATTORNEY HAS PROVIDED ADVICE AND APPROVAL OF THE FOREGOING DOCUMENT LANGUAGE ON BEHALF OF THE BOARD OF CASCADE COUNTY COMMISSIONERS, AND NOT ON BEHALF OF OTHER PARTIES OR ENTITIES. REVIEW AND APPROVAL OF THIS DOCUMENT BY THE COUNTY ATTORNEY WAS CONDUCTED SOLELY FROM A LEGAL PERSPECTIVE AND FOR THE EXCLUSIVE BENEFIT OF CASCADE COUNTY. OTHER PARTIES SHOULD NOT RELY ON THIS APPROVAL AND SHOULD SEEK REVIEW AND APPROVAL BY THEIR OWN RESPECTIVE COUNSEL.