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EXECUTIVE ORDER

Requiring the Attorney General To Prosecute All Criminal Actions and Proceedings in the Seventh Judicial District

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, and in particular Article IV, Section 2 of the Colorado Constitution and Section 24-31-101 of the Colorado Revised Statutes, I, Bill Owens, Governor of the State of Colorado require the Attorney General to prosecute all actions and proceedings in the Seventh Judicial District in which the state is a party.

1. Background and Need.

Wyatt Angelo has resigned from the elected position of district attorney in the Seventh Judicial District, effective midnight October 6, 2002. Under Colorado Revised Statute § 20-1-201(1)(a) the deputy district attorneys “hold their offices during the pleasure of such district attorney.” It is necessary to assure the continuation of the functions of the office of the district attorney in the Seventh Judicial District upon the resignation of Wyatt Angelo.

Colorado Revised Statute § 24-31-101 provides that the Attorney General “shall appear for the state and prosecute and defend all actions and proceedings, civil and criminal, in which the state is a party or is interested when required to do so by the governor...” Under this provision, the Attorney General must prosecute criminal matters when required to do so by the Governor.

An assistant attorney general that prosecutes a case under the authority of C.R.S. § 24-31-101 is exercising the district attorney’s powers: “[W]hen the governor or the general assembly requires the attorney general to prosecute a criminal case in which the state is a party, he becomes to all intents and purposes the district attorney, and may in his own name and official capacity exercise all the powers of such officer, for he is then, and in that case, the public prosecutor. Being authorized and empowered to appear and prosecute, he can do each and everything essential to prosecute in accordance with the law of the land” People v. Gibson, 53 Colo. 231 (1912); People ex rel. Witcher v. District Court, 190 Colo. 483 (1976). A special assistant attorney general is empowered to prosecute criminal matters in the Seventh Judicial District with the same authority as a district attorney.

As provided in C.R.S. § 24-31-101(f)(3), the Attorney General may appoint the existing deputy district attorneys in the Seventh Judicial District as special assistant attorneys general: “The attorney general may appoint such deputies and assistants as are necessary for the efficient operations of his office...”

By the authority cited above, I am requiring the Attorney General to prosecute criminal matters in which the state is a party in the Seventh Judicial District, effective 12:01 a.m. on October 7, 2002. The Attorney General has agreed that the most effective means of carrying out these duties is to appoint the assistant district attorney, the chief deputy district attorney and the deputy district attorneys in the Seventh Judicial District as special assistant attorneys general. All other appointees of the district attorney shall retain their existing authority.

2. Mission and Scope.

Pursuant to C.R.S. § 24-31-101(1)(a), I hereby require the Attorney General to appear for the state and prosecute all criminal actions and proceedings in which the state is a party in the Seventh Judicial District.

3. Duration.

This Executive Order shall remain in force until modified or terminated by further executive order of the Governor or until I appoint a district attorney pursuant to Article VI, Section 20(4) of the Colorado Constitution for the Seventh Judicial District.

GIVEN under my hand and the
Executive Seal of the State of
Colorado, this 6th
day of October, 2002.

Bill Owens
Governor