

FEB 06 2025

Tim Beard  
Circuit Clerk  
Warren County

**IN THE CIRCUIT COURT OF WARREN COUNTY, MISSOURI**  
**ORDER TERMINATING APPOINTMENT**

Hannah Dunakey accepted appointment as interim prosecuting attorney for Warren County upon condition that her tenure would be until further order of this Court or the position was otherwise filled by law.

The Court does hereby terminate the appointment based on repeated violations of the Supreme Court Rules of Professional Conduct and professional incompetence. The Warren County Sheriff is ORDERED to collect her credentials and keys; and to notify building security that she is no longer employed by Warren County and thus has no access to non-public areas of the courthouse. The Warren County Circuit Clerk is ORDERED to enter this document and the attachments into the record as an 'MC' filing. The Clerk is further ORDERED to forward a copy to the Missouri Office of Chief Disciplinary Counsel at 3327 American Avenue in Jefferson City, Missouri 65109-1016 and to the Warren County Commission.

The Court would not wish to give the impression that this decision is either arbitrary or capricious, so various exemplars of the issues plaguing the tenure of Ms. Dunakey are included. This is not and is not intended to be a complete list, but rather the high-points of what led the Court to rescind her appointment.

Ms. Dunakey, while married to another man, has engaged in a months-long affair of an intimate nature with a local deputy sheriff, also married to another and father to five children. The pair left their respective families and moved in together the first week of November, 2024.

Ms. Dunakey, as prosecuting attorney, had and has an obvious conflict of interest in prosecuting cases where her paramour is a witness. She acknowledged as much in her December 16, 2024 letter to the Court declaring a conflict for any case that had been handled by her paramour. There were approximately 220 such cases pending at that time with another dozen awaiting charging decisions. Additional cases had been filed and disposed of during the months of the relationship prior to December 16, adding substantially to the number of cases affected.

Despite the conflict, Ms. Dunakey made matters worse by doing night-time 'ride-alongs' with her paramour where she would ride along in his car with him and observe his work. Each time she did so, she made herself a witness to any case that she filed thereon. Missouri Supreme Court Rule 4-3.7 prohibits a lawyer from handling any case where the lawyer is a witness.

Further, it appears that her paramour omitted her presence as a witness in the reports he filed, and she omitted her presence as a witness in disclosures made by the State to the Defense. SCR 25.03(b)(3) requires the State to disclose any witness to oral statements made by a defendant, such as would have been made in her presence during and after a traffic stop that resulted in an arrest and/or transport of a defendant to jail. *Brady v. Maryland*, 373 U.S. 83 (1963) and SCR 25.03(g) require the state to disclose anything that would be favorable to the accused. Such as the prosecutor having a conflict of interest, having a bias toward the arresting officer and her being a witness in the case.

For many months prior to the relationship becoming public, Ms. Dunakey did nothing to mitigate or appropriately address the conflict. Instead she was involved in moving the bulk of her paramour's cases to a so-called 'rocket-docket' with an out-of-circuit judge. At that docket defendants were allowed to resolve their cases without conviction and for two-year terms of probation regardless of their criminal histories or the facts of the case.

Ms. Dunakey also used the grand jury then active in the county to move cases to circuit court without allowing cross-examination of her paramour at a preliminary hearing. This, despite the fact that the Order Convening the Grand Jury did not allow for the case types he worked to be brought in front of the Grand Jury in the first place. It should be noted that the normal defense practice at preliminary hearings in the county includes questions as to what other witness(es) were present at the scene.

When the affair became public in December of 2024, Ms. Dunakey sent a letter to the Sheriff on December 17 in her official capacity as the Prosecuting Attorney of Warren County and on her official letterhead as same. In that second letter she made various claims that were untrue and/or misleading both factually and as to claims of law.

Ms. Dunakey claimed that the situation she created was a common one and listed prior prosecutors by name that she alleged had done the same. The below signed judge, based on personal knowledge of the matters in question because he was a judge and/or practicing attorney in the counties and during the time periods in question, knows such claims to be untrue. Neither those prosecutors, nor those they dated, were married or involved with anyone else. Neither of those prosecutors was working on cases from the same counties as those they dated. Consequently, neither of those prosecutors were disqualified wholesale from hundreds of cases as a result of their relationships.

She went on to claim that the Sheriff conferring with any sitting judge about the administration of justice with respect to the situation at hand would violate Judicial Cannon 3, Section 2-3.2 and that doing so would lead to her moving to disqualify any such judge from her cases. On the contrary, part (a) of that cannon specifically allows a judge to advise a member of the executive on a matter that involves the administration of justice – the exact thing Ms. Dunakey admitted to having done in her December 16 letter to Judge Lamb.

Since taking over as circuit judge on January 1, 2025 and prior to that as Associate Circuit Judge of the Warren County, the below signed judge has noted multiple cases where charges were not filed timely, discovery has not been answered timely, orders compelling disclosure have been ignored, witness lists have not been filed, cases have been routinely dismissed and refiled – over 200 in the last year, nonsensical offers have been made – such as for an SIS with an imposed fine or a jail sentence to serve with probation conditions to be required after the sentence was complete, and multiple instances of filing cases after the statute of limitations has passed. In this vein, instances of note are:

16BB-CR00476-04: Official Court Document Not an Official Court Document Not an Official Court Document  
Warren County Grand Jury Indictment filed in Montgomery County in the first instance.

24BB-CR01113:

BRIAN ALLEN BOLAND Indictment filed 11/5/24. Ms. Dunakey personally files an amended indictment 12/18/24 – two days after having announced a conflict in the case. New indictment charges ROBERT EARL BALDWIN with same charge. Later dismissed by conflict PA.

24BB-CR01021-01:

Defendant waived preliminary hearing 10/29/24, Felony Information was filed 10/30/24 and case was then taken to the Grand Jury 11/8/24, leading to an indictment for the same charge. The Indictment has the wrong charge code, the wrong range of punishment and omits the mandatory sentencing.

24BB-CR01190:

Defendant posted bond 9/6/24 and subsequently waived preliminary hearing 11/1/24 and was given an arraignment date for Circuit Court of 1/7/25. State then took the case to the Grand Jury on 11/8/24 and obtained an indictment for the same charge. State then requested a new \$25,000 warrant. The Circuit Court's Order convening the grand jury required that State inform the judge about the pre-existing case, about the bond in that case and the fact that there were no violations of that bond. They did none of those things.

24BB-CR00305-01

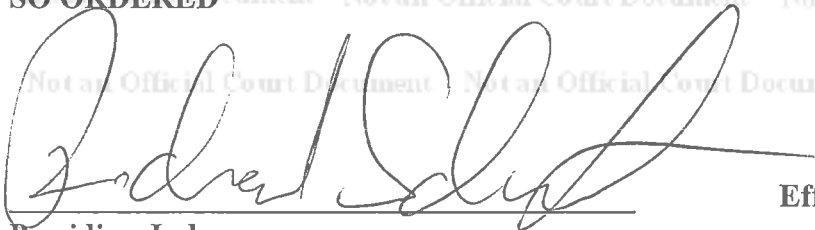
Preliminary hearing was waived 12/11/24, but no Felony Information was filed, despite SCR 23.03 requirement that it be filed within 10 days. Dismissed by court without prejudice on the regularly scheduled arraignment date of 1/7/25 in that a charging document has still not be filed at that time.

The December 10, 2024 docket had 24 cases filed after statute of limitations passed.

Lied to the Associate Circuit Judge, Circuit Clerk and Chief Deputy clerk when she approached them, in person, and claimed she was 'considering' having law enforcement stop writing court dates on tickets because she was unable to keep up with the filings. All three officials, including the judge, told her not to and that it would cause significant issues. She did not inquire further as to what the issues would be but simply assured them it was just an idea and she would obviously not do it.

Ultimately there was a docket where she filed over 100 of the tickets with no court dates on the ticket – meaning the Defendant's had not been informed of a court date. She filed them including the claim that the tickets had the requested court date on them – resulting in no notice being sent to defendants because the clerks relied on that claim and did not believe a notice was needed. Inquiries were later made of the local Highway Patrol officer, who reported that Ms. Dunakey had told him to implement the practice with the agreement of the traffic judge. If the clerks had not gone above and beyond to look into the odd number of filings over 100 local citizens would have been in jail for failure to appear without ever having been given notice to be in court in the first place.

**SO ORDERED**



**Presiding Judge**

**Effective – February 6, 2025**

IN THE CIRCUIT COURT OF WARREN COUNTY, MISSOURI

ORDER APPOINTING INTERIM PROSECUTING ATTORNEY

WHEREAS, this Court has been advised that a vacancy will exist in the office of Prosecuting Attorney for Warren County effective April 1, 2024 at 12:00 PM;

NOW IT IS ORDERED that Hannah Schweissguth Dunakey be appointed as Interim Prosecuting Attorney for Warren County effective April 1, 2024 until such time as the vacancy is filled by law or until further order of this Court.

IT IS SO ORDERED:

  
\_\_\_\_\_  
JASON H. LAMB, Presiding Judge

DATE:

  
\_\_\_\_\_  
3/29/24

OATH

I, Hannah Schweissguth Dunakey, do solemnly swear, that I will support the Constitution of the United States, and the Constitution of the State of Missouri, and will faithfully demean myself while serving in the office of Interim Prosecuting Attorney.

  
\_\_\_\_\_  
HANNAH SCHWEISSGUTH DUNAKEY

Subscribed and sworn to before me this 29<sup>th</sup> day of MARCH 2024.

  
\_\_\_\_\_  
JASON H. LAMB, Circuit Judge

# OFFICE OF PROSECUTING ATTORNEY

Warren County, Missouri

104 West Main, Suite E, Warrenton, Missouri 63383

Phone: (636) 456-7024 Fax: (636) 456-5285



**Hannah Schweissguth Dunakey**  
Interim Prosecuting Attorney

## WARREN COUNTY ELECTED PROSECUTING ATTORNEYS

|                        |           |
|------------------------|-----------|
| William L. Morsey      | 1875-1890 |
| J.W. Delventhal        | 1891-1900 |
| J.B. Garber            | 1901-1904 |
| Theodore Hukriede      | 1905-1910 |
| Emil Roehrig           | 1911-1924 |
| Alvin H. Juergensmeyer | 1925-1952 |
| Robert Hoelscher       | 1953-1966 |
| Darryl L. Hicks        | 1967-1974 |
| Keith M. Sutherland    | 1975-1978 |
| John A. Eigel          | 1979-1980 |
| Timothy M. Joyce       | 1981-1990 |
| Michael S. Wright      | 1991-2014 |
| Kelly L. King          | 2014-2023 |

December 16, 2024

To: Hon. Jason H. Lamb

From: Hannah Dunakey

As you are aware from our recent discussions over the last several weeks, I have identified an issue that some could find a potential personal conflict between myself and an officer within the Warren County Sheriff's Department. As I always strive to uphold the highest standard of integrity and impartiality as a prosecutor, I have consulted with several members of the prosecutorial field to determine the best action to uphold that standard. Accordingly, I have prepared this memorandum to set out the legal basis for my request for recusal from certain cases in which Sgt. Jason Maskey is an essential witness.

Under Missouri Rules of Professional Conduct, this type of conflict does not create any violation of ethics *per se*. Under the NDAA Rules of Professional Conduct, while also no violation, it is recommended as best practices under rule 1-3.3(d):

The prosecutor should excuse himself or herself from any investigation, prosecution, or other matter where personal interests of the prosecutor would cause a fair-minded, objective observer to conclude that the prosecutor's neutrality, judgment, or ability to administer the law in an objective manner may be compromised.

Further, Missouri law is clear that "prosecutors, as quasi-judicial officers, have a duty to avoid even the appearance of impropriety." *State v. Boyd*, 560 S.W.2d 296, 297 (Mo.App.1977). While I am certain I would be able to administer the law in an objective manner, the NDAA rules for best practices and Missouri caselaw do not identify this situation as *actual* impropriety, but rather one with the *appearance* of impropriety. Out of an abundance of caution, I am requesting to disqualify from any cases in which Sgt. Maskey is an essential witness to avoid any appearance of impropriety or any such conduct that could cause another observer to conclude my professional responsibilities are compromised.

As to whether this perceived conflict is imputed to the rest of my office, Missouri applies the same test. "A conflict can be imputed in one of two ways: either (1) by the Rules of Professional Conduct, or (2) by the appearance of impropriety test – i.e., whether "a reasonable person with knowledge of the facts would find an appearance of impropriety and doubt the fairness of the trial" to the defendant. *State ex rel. Peters-Baker v. Round*, 561 S.W.3d 380, 385 (Mo. 2018). The Rules of

Professional Conduct do not impute any conflict to the rest of the Warren County Prosecuting Attorney's Office. However, again, out of an abundance of caution and because I am the head of the office, I am requesting recusal of the office from such cases. It would be virtually impossible to "wall" the head prosecutor off from cases.

Issues related to conflicts of interest are matters that attorneys must address under the Rules of Professional conduct. Such issues are not for the client or law enforcement agency to solve themselves. I have brought this issue forward to transparently work with the Court to develop a solution.

A sheriff's department does not have professional conduct rules governed by the Supreme Court; therefore, the conflict of interest standards for law enforcement officers are not the same as legal officers of the court. Conflict of interest of the prosecuting attorney with one officer is not imputed to the respective law enforcement agency in its entirety. The appearance of impropriety between the Prosecutor and one officer is too far removed from the head of the agency to give such appearance in every case referred by that agency. The supposed personal interest inferred above is not present in cases with other unrelated law enforcement officers.

Accordingly, I have compiled a list of pending cases in which Sgt. Maskey is an essential witness and am requesting recusal and appointment of a Special Prosecuting Attorney under RSMo. 56.110. A list of these cases is attached. I believe this is legally sufficient to cure any possible appearance of impropriety, and protect the integrity my office's prosecution of cases and the Sheriff's Department's investigation of cases.

Again, the prosecuting case with integrity and transparency is of utmost importance. I request this action to protect these virtues and assuage any concerns of impartiality. Please contact me if you would like to discuss further.

Sincerely,

Hannah Dunakey  
Interim Prosecuting Attorney

|                 |                      |                 |                        |
|-----------------|----------------------|-----------------|------------------------|
| 23BB-CR00364    | Aery, Ayden          | 171155488       | Ellis, Dorian          |
| 24BB-CR00664    | Almaraz, Carlos      | 24BB-CR00171-01 | Engelage, Jennifer     |
| 23BB-CR00060    | Anglin, Travoy       | 22BB-CR01171-01 | Erb, Jarrod            |
| 24BB-CR00149-01 | Archer, Jeffrey      | 22BB-CR01229    | Erwin, Timothy Gale    |
| 24BB-CR01114    | Archer, Jeffrey      | 22BB-CR01181    | Fennell, Lelsey        |
| 24BB-CR00352    | Archer, Jeffrey      | 24BB-CR01019-01 | Frederick, Adam        |
| 21BB-CR01005-01 | Archer, Jordan       | 24BB-CR01054    | Gauntt, Eryka          |
| 23BB-CR00294-01 | Archer, Jordan       | 23BB-CR00053    | Greenfield, Taylor     |
| 22BB-CR00911-01 | Bader, Cletus        | 24BB-CR01053    | Gregory, Charles       |
| 24BB-CR00753    | Baker, Rikki         | 24BB-CR00279    | Guzman, Tobar          |
| 24BB-CR01113    | Baldwin, Robert      | 24BB-CR01154    | Hammer, Crystal        |
| 24BB-CR00474-01 | Barber, Lori         | 24BB-CR00238    | Harrell, Lee           |
| 24BB-CR00234-01 | Bardol, Rendlin      | 23BB-CR00687    | Harton, Nicholas       |
| 24BB-CR00396-01 | Baskett, Stephanie   | 24BB-CR00567    | Hatcher, Joshua        |
| 24BB-CR00219    | Beach, Russell       | 24BB-CR00787    | Heitgerd, Jennifer     |
| 22BB-CR00241    | Benoist, Joseph      | 23BB-CR00546    | Hemminghaus, Sara      |
| 23BB-CR00075    | Bierman, Edward      | 24BB-CR01115    | Henson, James          |
| 24BB-CR00011-01 | Bierman, Edward      | 24BB-CR00884    | Herndon, David         |
| 23BB-CR00328-01 | Billingsley, Michael | 22BB-CR00877    | Hinrichs, Joseph       |
| 24BB-CR00226-01 | Black, Darrell       | 24BB-CR00225    | Holtmeyer, Nicholas    |
| 24BB-CR00155    | Boesch, Kala         | 22BB-CR01262    | Hoppe, Nichole         |
| 22BB-CR00778    | Boland, Brian        | 23BB-CR00313    | Hoskins, Amanda        |
| 23BB-CR00340    | Briones, Jeremiah    | 24BB-CR00722-01 | Huber, Brian           |
| 23BB-CR00689-01 | Brock, Alexis        | 24BB-CR00694    | Hutson, Richard        |
| 24BB-CR01047    | Buck, Angela         | 23BB-CR00216    | Johnson, Ben           |
| 24BB-CR00228    | Buck, Angela         | 24BB-CR00599    | Johnston, Melissa      |
| 24BB-CR00461    | Buck, Angela         | 24BB-CR00378    | Jones, Curtis          |
| 22BB-CR00700    | Buckner, Christopher | 24BB-CR01083    | Jones, Deshawn         |
| 24BB-CR01045    | Butler, Robert       | 23BB-CR00683    | Jones, Randall         |
| 22BB-CR00624    | Butrum, Johnny       | 22BB-CR00663    | Jones, Terell          |
| 24BB-CR00072    | Chambers, Christina  | 24BB-CR00127    | Karll, Nathaniel       |
| 24BB-CR00325    | Christian, Jamie     | 24BB-CR00322    | Kearney, Christopher   |
| 23BB-CR00419-01 | Christopher, William | 24BB-CR00010    | Kelly, Todd            |
| 21BB-CR00906    | Clark, Ralph Scott   | 24BB-CR00780    | Kidd, Andrea           |
| 24BB-CR00354    | Conder, Travis       | 24BB-CR01052    | Kimmis, Kari           |
| 24BB-CR01030    | Conner, Megan        | 24BB-CR00197    | Kost, Caitlin          |
| 22BB-CR01404    | Conner, Megan        | 24BB-CR00224    | Kostos, Kaley          |
| 24BB-CR00764-01 | Cook, Joseph         | 24BB-TR00005    | Kruckenberger, Kyle    |
| 24BB-CR00693    | Costley, Ryan        | 24BB-CR00165-01 | Landolt, Levi          |
| 22BB-CR00943-01 | Craven, Rebecca      | 24BB-CR00091-01 | Lass, Jacob            |
| 24BB-CR00175-01 | Dalton, Kathy        | 23BB-CR00087    | Latham, Jordan         |
| 24BB-CR00666-01 | Davis, Jennifer      | 24BB-CR00988-01 | Laurent, Kyle          |
| 24BB-CR01009    | Davis, Mark          | 24BB-CR00208    | Leonhardt, James Allen |
| 22BB-CR00942    | Dickson, Daniel      | 24BB-CR00139    | Lesley, Erica          |
| 171154628       | Dietter, Navarro     | 22BB-CR00210    | Leyva-Chavez, Marco    |
| 24BB-CR00745-01 | Dorman, Craig        | 22BB-CR00375    | Livsey, Cori Lynn      |
| 23BB-CR00332    | Duff, Jason          | 24BB-CR00466    | Lockhart, Gwendolyn    |
| 24BB-CR00875    | Duncan, Melissa      | 22BB-CR01297-01 | Long, James Allen      |
| 24BB-CR00772    | Dusenberg, Juanita   | 24BB-CR00607    | Love, Andrew           |
| 24BB-CR00415    | Dusenberg, Paula     | 24BB-CR00337    | Lucas, Kyrie           |

|                  |                             |                 |                        |
|------------------|-----------------------------|-----------------|------------------------|
| 23BB-CR00338     | Lynch, Wayne                | 23BB-CR00611-01 | Schwane, Jeremy        |
| 24BB-CR00138     | Mann, Amber                 | 24BB-CR00321    | Scott, Trent           |
| 22BB-CR00883     | Mantia, Kelsee Lynn         | 24BB-CR00873    | Shaneberger, Lisa      |
| 24BB-CR00696     | Martinez, Nestor            | 18BB-CR00510-01 | Simpson, Kenneth Lee   |
| 24BB-CR00574-01  | Massey, Joshua              | 171154538       | Simpson, Sean Anthony  |
| 24BB-CR00634     | Maxwell, Shane              | 23BB-CR00588    | Smith, Christopher     |
| 24BB-CR00604-01  | Mayfield, Antystacia        | 22BB-CR01351    | Smith, Christopher     |
| 24BB-CR00874     | McConnell, Jeremy           | 24BB-CR01119    | Smith, Christopher     |
| 23BB-CR00690     | McKee, Ronald               | 24BB-CR00424    | Smith, Noah            |
| 254BB-CR00221-01 | McNatt, Travis              | 24BB-CR00467    | Smith, Noah            |
| 24BB-CR00330-01  | Miller, Ashley              | 24BB-CR01118    | Smith, Phillip         |
| 23BB-CR00115     | Miller, Bradley Allen       | 24BB-CR00306    | Soest, Thomas          |
| 24BB-CR00316     | Moore, Louis                | 24BB-CR01148    | Sparks, Kevin          |
| 24BB-CR00484     | Moore, Louis                | 24BB-CR00156    | Stanleywidener, Brandi |
| 24BB-CR00435     | Moungowoolford, Valmore     | 24BB-CR00227    | Stephens, Zachary      |
| 22BB-CR01418     | Newhart, Sherry             | 24BB-CR00347    | Stokes, John           |
| 24BB-CR00665     | Noltkamper, Bebee           | 24BB-CR01196    | Strokes, John          |
| 24BB-CR00346-01  | Nothnagel, Shawn            | 22BB-CR01433    | Struckmeyer, Tracy     |
| 24BB-CR00291     | Noud, Randal                | 24BB-CR00983    | Strunk, Christina      |
| 21BB-CR00761     | Ortega, Devlin              | 22BB-CR00977-01 | Tatum, Sean            |
| 18BB-CR00141-01  | Osorio Garcia, Hector Pablo | 24BB-CR00327    | Terry, Jackson         |
| 24BB-CR00304     | Owens, Steven               | 24BB-CR00329    | Thomas, James          |
| 24BB-CR00331     | Parker, Pierre              | 22BB-CR00256    | Thompson, Timothy      |
| 24BB-CR00324     | Parton, Corey               | 171155481       | Tiepelman, Casey       |
| 24BB-CR00136     | Paul, Anthony               | 24BB-CR00339-01 | Turner, Sandra         |
| 24BB-CR01050     | Peirce, Charles             | 24BB-CR00553-01 | Vanbibbler, Nathan     |
| 23BB-CR00066     | Perez, Sebastian            | 24BB-CR00361    | Vaught-Markum, Jessye  |
| 24BB-CR01153     | Peterson, Katelyn           | 24BB-CR00990    | Vorderbruegge, Lloyd   |
| 24BB-CR00871-01  | Peterson, Katelyn           | 24BB-CR00756    | Walls, Brian           |
| 22BB-CR00217     | Peterson, Richard           | 24BB-CR00116-01 | Ward, Robert           |
| 24BB-CR00297     | Phillips, Richard           | 24BB-CR00128-01 | Weir, Chelzie          |
| 23BB-CR00626     | Porter, Andrew              | 24BB-CR00241-01 | White, Kashawn         |
| 24BB-CR00369     | Pottebaum, Christopher      | 24BB-CR00205-01 | White, Michael         |
| 24BB-CR01116     | Preis, Chris                | 24BB-CR00335-01 | Williams, Mark         |
| 24BB-CR01049     | Ramirez, Jose               | 23BB-CR00832-01 | Winistoerfer, Bryan    |
| 23BB-CR00564     | Rawlings, Michael           | 24BB-CR01120    | Wolfe, Braxton         |
| 24BB-CR00605-01  | Ray, James                  | 24BB-CR01006-01 | Woodward, Richard      |
| 24BB-CR00332     | Rayburn, Miranda            | 24BB-CR00092    | Wray, Robert           |
| 24BB-CR00349-01  | Riddell, Michael            | 24BB-CR01149    | Yeggy, Joshua          |
| 130369634        | Robinson, Jennifer Kay      |                 |                        |
| 24BB-CR00108-01  | Runkles, Cody               |                 |                        |
| 24BB-CR00106-01  | Runkles, Cody               |                 |                        |
| 23BB-CR00675     | Scheibe, Joshua             |                 |                        |
| 23BB-CR00198     | Schene, Genesis             |                 |                        |
| 23BB-CR00362     | Schene, Genesis             |                 |                        |
| 24BB-CR00323-01  | Schneider, Amanda           |                 |                        |
| 24BB-CR01020-01  | Schubert, Mitchell          |                 |                        |
| 23BB-CR00587-01  | Schuman, Jodi               |                 |                        |
| 24BB-CR00334-01  | Schwane, Jeremy             |                 |                        |



# OFFICE OF PROSECUTING ATTORNEY

Warren County, Missouri

104 West Main, Suite E, Warrenton, Missouri 63383  
Phone: (636) 456-7024 Fax: (636) 456-5285



**Hannah Schweissguth Dunakey**  
Interim Prosecuting Attorney

## WARREN COUNTY ELECTED PROSECUTING ATTORNEYS

|                        |           |
|------------------------|-----------|
| William L. Morsey      | 1875-1890 |
| J.W. Delventhal        | 1891-1900 |
| J.B. Garber            | 1901-1904 |
| Theodore Hukriede      | 1905-1910 |
| Emil Roehrig           | 1911-1924 |
| Alvin H. Juergensmeyer | 1925-1952 |
| Robert Hoelscher       | 1953-1966 |
| Darryl L. Hicks        | 1967-1974 |
| Keith M. Sutherland    | 1975-1978 |
| John A. Eigel          | 1979-1980 |
| Timothy M. Joyce       | 1981-1990 |
| Michael S. Wright      | 1991-2014 |
| Kelly L. King          | 2014-2023 |

December 17, 2024

To: Warren County Sheriff's Department  
Attn: Sheriff Kevin Harrison  
From: Hannah Dunakey

I hold myself and my team to the highest standards of attorney ethics. Accordingly, to avoid any questions about my participation in cases involving Sgt. Maskey in the Warren County Sheriff's Department, I have prepared this memorandum. The memorandum outlines the legal basis for handling of cases where Sgt Maskey is an essential witness – including those already pending and any future cases.

It is clear that prosecutors, as quasi-judicial officers, have a duty to avoid even the appearance of impropriety. *State v. Boyd*, 560 S.W.2d 296, 297 (Mo.App.1977). Nonetheless, a prosecutor may be disqualified only "when he has a personal interest of a nature which might preclude his according the defendant the fair treatment to which he is entitled." *State v. Stewart*, 869 S.W.2d 86, 90 (Mo.App.1993).

Under the NDAA Rules of Professional Conduct, it is recommended as best practices under rule 1-3.3(d):

The prosecutor should excuse himself or herself from any investigation, prosecution, or other matter where personal interests of the prosecutor would cause a fair-minded, objective observer to conclude that the prosecutor's neutrality, judgment, or ability to administer the law in an objective manner may be compromised.

While I am certain I would be able to administer the law in an objective manner, the rules and caselaw do not address *actual* impropriety, but rather the *appearance* of impropriety. Defense counsel may argue that there is a personal interest in ratifying the officer's investigation of a case or witness credibility. Out of an abundance of caution, I have taken it upon myself to disqualify from any cases in which Sgt. Maskey is an essential witness to avoid any appearance of impropriety or other observer to conclude my professional responsibilities are compromised.

As to whether this perceived conflict is imputed to the rest of my office, we apply the same test. "If (and only if) such a conflict exists, the court then must determine whether that individual attorney's conflict is to be imputed to the entire office." *Lemasters*, 456 S.W.3d at 422. A conflict can

be imputed in one of two ways: either (1) by the Rules of Professional Conduct, or (2) by the appearance of impropriety test – i.e., whether “a reasonable person with knowledge of the facts would find an appearance of impropriety and doubt the fairness of the trial” to the defendant. *State ex rel. Peters-Baker v. Round*, 561 S.W.3d 380, 385 (Mo. 2018). The Rules of Professional Conduct do not impute any conflict to the rest of the WCPAO. However, again, out of an abundance of caution and because I am the head of the office, I have requested recusal of the office from such cases.

Conflicts are matters the attorney must bring to light and work with the Court– it is not the responsibility of a client or an officer to address the conflict. I have followed the best practice recommendations for prosecutors and brought the issue to the attention of Judge Lamb. I am working with the Court to make sure each case is handled appropriately and fairly.

The Sheriff's Department itself is not implicated in any conflict because Sgt. Maskey is not the Sheriff. The Sheriff's Department does not have professional conduct rules governed by the Supreme Court as to appearance of a conflict of interest; so, the conflict-of-interest standards for law enforcement officers are not the same as for legal officers of the court. A potential conflict of interest of the prosecuting attorney with one officer is not imputed to the entire law enforcement agency itself. Preventing any appearance of impropriety between the Prosecutor and one officer is too far removed from the head of the agency to give such appearance as to every case referred by that agency. The supposed personal interest noted above is not present in cases with other law enforcement officers, and as such, I expect a reviewing court would find there is no appearance of impropriety.

While there is limited Missouri caselaw on this issue, prior prosecuting attorneys within the Circuit who were involved in relationships with law enforcement officers in their jurisdiction were disqualified from that officer's cases alone, but no such disqualification was sought for cases from the rest of the agency (i.e., ██████████ as Montgomery Prosecuting Attorney personal conflict with a MSHP Trooper, ██████████ as Warren County APA and Prosecuting Attorney, personal conflict with a MSHP Trooper). The entire MSHP was not disqualified. ██████████ and ██████████ were disqualified and matters were handled by special prosecutors.

Accordingly, it is my intention to only disqualify my office (now and in the future) from cases in which Sgt. Maskey was the actual reporting officer or an essential witness. There is no appearance of impropriety where Sgt. Maskey reviewed a report, was a non-essential witness, or has no direct involvement in a case.

I have compiled a list of pending cases in which Sgt. Maskey is an essential witness and requested recusal from the Circuit Court. Pursuant to RSMo. 56.110, Judge Lamb will appoint Special Prosecuting Attorneys to prosecute these cases to disposition. While these cases will no longer be prosecuted by my office, they will still be pending and heard in Warren County.

Moving forward, I will disqualify my office on referred cases in which Sgt. Maskey is the reporting officer or an essential witness. To understand the possible burden of such recusals, I have run an inquiry of deputies who were sergeants in 2024 in the Sheriff's Department for the number of cases in which they are a listed witness (essential or otherwise) that were issued in the year 2024. It



is important to note these will also include cases that were pending from the 2021-22 backlog, and thus may be inflated.

Sgt. Levinson – 17  
Sgt. Brown – 50  
Lt. Schmutz – 24  
Sgt. Malin – 54

In a supervisory role, I anticipate the cases requiring recusal in 2025 would be substantially lower and manageable. However, as stated above, be advised that all cases referred by Sgt. Maskey would be assigned to a special prosecutor.

Additionally, please be advised, as the Judicial Cannon of Ethics bar judges are from giving advisory opinions, I cannot include judicial positions on this issue<sup>1</sup>. I expect currently sitting judges would abstain from doing so. It risks requiring a judge to recuse themselves when they are consulted about matters that could be litigated before them. Asking a member of the bench to provide even informal opinions may require the Court to remove themselves should the issue or related issues be presented to them. Ex parte communications with a judge about a witness's potential credibility or an attorney's actions may necessitate the judge removing themselves. Please refrain from seeking such opinions from members of the bench so as not to compromise their positions.

While the burden is initially on the prosecutor to move to disqualify herself in potential conflict situations, the Defense too could move to have the prosecutor disqualified on the basis of appearance of impropriety. This motion would require legal argument/briefing and a ruling from the court, in addition to possible appeals. I believe the available legal authority is in favor of the opinion I have set out above. Public disclosure, motions to remove, and independent prosecutor review happens routinely in cases such as these. This is not a unique situation and when handled with transparency, candor to the court, and calm independent review of cases, it should resolve itself in favor of public safety and confidence.

I hope this memorandum provides some clarity as to the impact a prosecutor's conflict may have on pending cases and the WCPAO relationship with the Sheriff's Department. Should have further questions, please do not hesitate to contact me.

Hannah Dunakey  
Interim Prosecuting Attorney

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<sup>1</sup> Missouri Supreme Court Judicial Cannon 3 (2-3.2) prohibits judges at any level from providing informal advice or advisory opinions to members of the executive branch "... in all other respects, a judge shall not appear voluntarily at a public hearing before, **or otherwise consult with**, an executive or legislative body or official." As you are a member of the executive branch, judges may not provide your advisory opinions.