

**Board of County Commissioners. Authority to Offer and Pay
Rewards for the Arrest of Criminals.**

A Board of County Commissioners is not clothed with statutory authority to offer or pay rewards for the arrest of criminals.

Helena, Mont., August 24, 1905.

Board of County Commissioners, Great Falls, Mont.

Gentlemen—I am in receipt of a letter bearing date the 17th inst. in which the County Clerk states that you are desirous of securing the opinion of my office upon the question of the right of the Board of County Commissioners to offer a reward for the capture of criminals, the particular questions being:

1. The right of the Board to offer a reward for the arrest of a person who has been convicted of murder but who has escaped from custody?
2. The right of the Board to offer a reward for the arrest of a person guilty of violating a penal statute of this state?
3. The right of the Board to offer a reward for the capture of a person who has been convicted for the crime of murder and sentenced to death, but who, before the execution of the death sentence, was found to be insane and committed to the State Insane Asylum? and who, thereafter, made his escape?

These questions may all be answered together, for on the question of the right of the Board to offer a reward at all, there is no particular difference in the facts presented in connection with any one of the questions.

It is well settled that a Board of County Commissioners cannot act in excess of the authority vested in it by the statute.

Yegen v. Commissioners (Mont.), 85 Pac. 740.

Williams v. Commissioners (28 Mont. 360), 72 Pac. 755.

State v. Coad (23 Mont. 131), 57 Pac. 1092.

Lebcher v. Commissioners (9 Mont. 315), 23 Pac. 713.

An examination of the statute defining the general and permanent power of boards of county commissioners (Section 4230 to 4233 of the Political Code) and elsewhere in the statutes, does not disclose any language susceptible of a construction that would warrant or authorize the board of commissioners offering or paying reward for the arrest of criminals.

In the case of *Com'rs. v. Bradford*, above cited, the court said:

“The board of commissioners of a county is a creature of the statute, and is vested with and possessed of just such power, rights, privileges and franchises, corporate, judicial, legislative and ministerial, as the statute has conferred upon it, and such as are clearly and necessarily implied, to enable it to carry out and accomplish the objects and purposes of its creation. The law confers no power, and enjoins no duty, upon the board of commissioners of a county to aid in the arrest, prosecution, or conviction of a person charged with the commission of a crime, either by the offer of reward, or the employment of a detective or professional skill.”

Practically, this same question has heretofore passed upon by this office, and the same conclusion reached in an opinion rendered on May 25, 1905, to the Board of County Commissioners of Sweetgrass County, Big Timber, Mont.

You are, therefore, advised that it is the opinion of my office that the Board of County Commissioners have no power or authority to offer r pay rewards for the arrest of criminals, unde the circumstances and conditions presented in your questions.

Respectfully submitted,

ALBERT J. GALEN,
Attorney General.