

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LARRY KRASNER, in his official capacity
as the District Attorney of Philadelphia,

Petitioner,

v.

SENATOR KIM WARD, in her official
capacity as Interim President Pro Tempore
of the Senate; REPRESENTATIVE
TIMOTHY R. BONNER, in his official
capacity as an impeachment manager;
REPRESENTATIVE CRAIG WILLIAMS,
in his official capacity as an impeachment
manager; REPRESENTATIVE JARED
SOLOMON, in his official capacity as an
impeachment manager; and JOHN DOES,
in their official capacities as members of
the SENATE IMPEACHMENT
COMMITTEE;

Respondents.

Docket No. _____ MD 2022

**PETITION FOR REVIEW
IN THE NATURE OF A
COMPLAINT FOR
DECLARATORY JUDGMENT**

Filed on behalf of Petitioner:
Larry Krasner, in his official capacity
as the District Attorney of
Philadelphia

Counsel of Record for Petitioner:

John S. Summers (I.D. No. 41854)
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Counsel for Petitioner

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association with counsel admitted to
practice law in Pennsylvania*

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Docket No. _____ MD 2022

NOTICE TO PLEAD

TO: Senator Kim Ward, in her official capacity as Interim President Pro Tempore of the Senate;
Representative Timothy R. Bonner, in his official capacity as an impeachment manager;
Representative Craig Williams, in his official capacity as an impeachment manager;
Representative Jared Solomon, in his official capacity as an impeachment manager;
John Does, in their official capacities as members of the Senate Impeachment Committee;

You are hereby notified to file a written response to the enclosed Petition for Review within thirty (30) days from service hereof, in accordance with Pennsylvania Rule of Appellate Procedure 1516(b), or a judgment may be entered against you.

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER



Dated: December 2, 2022

By: _____

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NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this complaint and notice are served, in accordance with Pennsylvania Rule of Appellate Procedure 1516(b), by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THESE OFFICES MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE:

MidPenn Legal Services
213-A North Front Street
Harrisburg, PA 17101
(717) 232-0581

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

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Respondents.

Docket No. _____ MD 2022

**PETITION FOR REVIEW IN THE NATURE OF
A COMPLAINT FOR DECLARATORY JUDGMENT**

INTRODUCTION

1. This Petition for Review concerns the unlawful impeachment proceedings currently pending against the twice-elected district attorney of Philadelphia, petitioner Larry Krasner.

2. It seeks a declaration that the impeachment proceedings against District Attorney Krasner – which commenced during the Two Hundred Sixth

Pennsylvania General Assembly upon the adoption of Amended Articles of Impeachment by the then Republican-controlled House on November 16, 2022, and the exhibition of those Articles to the Senate on November 30, 2022 – are unlawful and may not proceed during the Two Hundred Seventh Pennsylvania General Assembly that began on December 1, 2022.

3. The impeachment proceedings against District Attorney Krasner are unlawful and may not proceed for three reasons. *First*, the Amended Articles of Impeachment were adopted during the 206th General Assembly and Pennsylvania law – the Constitution, statutes, and other authorities – does not permit them to carry over to the (current) 207th General Assembly. *Second*, District Attorney Krasner is not subject to impeachment by the General Assembly because the Pennsylvania Constitution does not authorize impeachment of the Philadelphia district attorney by the General Assembly. *Third*, District Attorney Krasner is not subject to impeachment because the Amended Articles of Impeachment do not allege conduct that would constitute “any misbehavior in office,” the standard for impeachment under the Pennsylvania Constitution.

4. Each of these reasons mandates a declaration that the Amended Articles are null and void, and that there is no authority to pursue them.

5. As a matter of Pennsylvania Constitutional and statutory law, the Amended Articles are dead because they cannot law carry over after November 30,

2022. And also as a matter of law, they fatally collide with the Constitutional requirement that only a statewide (not local) official can be impeached by the Pennsylvania General Assembly for an impeachable offense.

6. This action raises not only the enormously important concern of who leads the Philadelphia District Attorney's Office. It also highlights that the Commonwealth is at a hinge moment in its more than two-century history. The General Assembly has only twice exercised its great power of impeachment. In the early 1800s, it impeached and convicted a judge who had been convicted of the crime of sedition and then was imprisoned. In 1994, a Justice of the Pennsylvania Supreme Court was impeached and convicted *after* he had been convicted of two crimes and removed from that court.

7. The effort to impeach District Attorney Krasner stands the Constitution and this Commonwealth's history on its head. *Never* before has the legislature exercised its power to impeach and remove someone duly elected twice for things that do not come close to a crime. And *never* before has the statewide legislature exercised its power to impeach a locally elected officer like District Attorney Krasner.

8. Our courts are the bulwark to stop a majority political party's attempts to weaponize the General Assembly's impeachment powers against elected local officials from a different party to reverse the outcome of a local election. Left

unchecked, the gate will be opened wide. The Commonwealth's Constitution and the Rule of Law cannot allow this to occur.

9. Accordingly, District Attorney Krasner requests the following relief from this Honorable Court: (a) a declaration that the Amended Articles became null and void on November 30, 2022, upon the adjournment *sine die* of the 206th General Assembly's legislative session; (b) a declaration that District Attorney Krasner is not subject to impeachment because, as the district attorney of Philadelphia, he is not subject to impeachment by the General Assembly; and (c) a declaration that District Attorney Krasner is not subject to impeachment because the Amended Articles do not allege "any misbehavior in office" within the meaning of Article VI, Section 6 of the Pennsylvania Constitution.

10. Indisputably, as a matter of law, District Attorney Krasner cannot be impeached under the fatally flawed Amended Articles that died with the end of the 206th General Assembly.

JURISDICTION

11. This Court has original jurisdiction pursuant to title 42 Pa. C.S. § 761(a)(2), which provides that the "Commonwealth Court shall have original jurisdiction of all civil actions or proceedings [] [a]gainst the Commonwealth government, including any officer thereof, acting in his official capacity . . . "

PARTIES

12. Petitioner is Larry Krasner, in his official capacity as the District Attorney of Philadelphia and leader of the District Attorney's Office ("DAO").

13. Respondent Senator Kim Ward was elected to the Pennsylvania Senate in 2008 to represent Senate District 39. She is sued in her official capacity as Interim President Pro Tempore of the Senate. The Interim President Pro Tempore of the Senate presides over the Senate until the next legislative session begins on January 3, 2023 and functions as its majority leader.

14. Respondent Representative Timothy R. Bonner was elected to the Pennsylvania House of Representatives in 2020 to represent the 8th legislative district. He is sued in his official capacity as an impeachment manager for the impeachment proceedings in the Senate.

15. Respondent Representative Craig Williams was elected to the Pennsylvania House of Representatives in 2020 to represent the 160th legislative district. He is sued in his official capacity as an impeachment manager for the impeachment proceedings in the Senate.

16. Respondent Representative Jared Solomon was elected to the Pennsylvania House of Representatives in 2016 to represent the 202nd legislative district. He is sued in his official capacity as an impeachment manager for the impeachment proceedings in the Senate.

17. Respondents John Does are fictitiously-named members of the Pennsylvania Senate's Impeachment Committee. Upon a reasonable investigation with due diligence, District Attorney Krasner does not yet know the actual names of the John Doe respondents. The Senate Impeachment Committee was authorized by S. Res. 386, which was passed on November 29, 2022. Senate Resolution 386 provides that the President Pro Tempore may appoint members to the committee and is an ex officio member who may vote in case of a tie on any question before the committee. *See* S. Res. 386, at Section 10(a). The functions of the committee are, *inter alia*, to receive evidence and take testimony at times and places determined by the committee. *Id.* Section 10(b). The committee and its chairperson have the powers and duties conferred on the Senate and the President Pro Tempore or President of the Senate, respectively. *Id.*

STATEMENT OF FACTS

A. District Attorney Krasner is the Twice-Elected District Attorney of Philadelphia and a Frequent Target of Republican Politicians

18. District Attorney Krasner was first elected district attorney of Philadelphia in 2017, winning the general election with more than 74% of votes after prevailing in a competitive Democratic primary election with more than two-thirds of all Democratic votes. He was then re-elected in 2021, this time winning the general election with more than 69% of votes after defeating a challenger in the primary election. Each time he ran on a reform platform, which included a

promise to, among other things, reform the cash bail system and prioritize the prosecution and enforcement of serious crimes over minor ones.

19. Republican politicians in the Commonwealth frequently attack District Attorney Krasner to rally their political base and/or raise their political profile. Earlier this year, for example, State Senator Jake Corman tried (and failed) to obtain the Republican nomination for governor by calling for the impeachment of District Attorney Krasner on the (baseless) grounds that “crime” is the “result” of his “policies.”¹ Former United States Attorney William McSwain promised to “rid the city of Larry Krasner” in his unsuccessful campaign in the Republican primary for governor.²

B. The Amended Articles of Impeachment Adopted by the House During the 206th General Assembly

20. On October 26, 2022, Rep. Martina White introduced HR 240, a resolution “Impeaching Lawrence Samuel Krasner, District Attorney of Philadelphia, for misbehavior in office; and providing for the appointment of trial managers.” See Exhibit A, House Resolution 240, Printer’s No. 3607 (Oct. 26, 2022) (“HR 240”).

¹ Letter from Pennsylvania State Senator Jake Corman, Office of the President Pro Tempore, to the Honorable Bryan Cutler, Jerry Benninghoff, and Rob Kauffman, regarding Impeachment of Philadelphia DA Larry Krasner at 1 (Jan. 18, 2022).

² Tom Waring, *McSwain, in Mayfair, vows to oust Krasner*, Northeast Times, (Feb. 18, 2022), <https://northeasttimes.com/2022/02/18/mcswain-in-mayfair-vows-to-oust-krasner/> (last visited Dec. 1, 2022).

21. HR 240 alleges two Articles of Impeachment against District Attorney Krasner.

22. The House did not vote on HR 240.

23. On or around November 16, 2022, Representative Torren Ecker, a member of the 206th General Assembly's House of Representatives Select Committee on Restoring Law and Order ("Select Committee"), sponsored Amendments to HR 240. The Amendments amend HR 240 by striking all of the lines on all of the pages in HR 240 with the exception of lines 1-3 on page 1 and inserting all of the lines on the pages in the Amended Articles.

24. On November 16, 2022, HR 240, as amended, was introduced. *See* Exhibit B, Amendments to House Resolution No. 240, A05891, Printer's No. 3607 (Nov. 10, 2022) ("Amended Articles" or "Amended Articles of Impeachment").

25. The Amended Articles contain seven articles. *See id.*

26. None of the seven articles allege that District Attorney Krasner committed a criminal offense or used the power of his office for personal or pecuniary gain. *See id.* Instead, they include:

- Article I: Misbehavior in Office In the Nature of Dereliction of Duty and Refusal to Enforce the Law
- Article II: Misbehavior in Office In the Nature of Obstruction of House Select Committee Investigation

- Article III: Misbehavior in Office In the Nature of Violation of the Rules of Professional Conduct and Code of Judicial Conduct; specifically Rule 3.3 Candor Toward the Tribunal, Rule 8.4 Professional Misconduct, and Canon 2 of the Code of Judicial Conduct Impropriety and Appearance of Impropriety in the Matter of *Robert Wharton v. Donald T. Vaughn*
- Article IV: Misbehavior in Office In the Nature of Violation of the Rules of Professional Conduct; specifically Rule 3.3 Candor Toward the Tribunal, Rule 8.4 Professional Misconduct, and Canon 2 of the Code of Judicial Conduct Impropriety and Appearance of Impropriety in the Matter of *Commonwealth v. Pownall*
- Article V: Misbehavior in Office In the Nature of Violation of the Rules of Professional Conduct and Code of Judicial Conduct; specifically Rule 3.3 Candor to Tribunal, Rule 8.4 Professional Misconduct, and Canon 2 of the Code of Judicial Conduct Impropriety and Appearance of Impropriety in the matter In re: Conflicts of Interest of Philadelphia District Attorney's Office
- Article VI: Misbehavior in Office in Nature of Violation of Victims [sic] Rights
- Article VII: Misbehavior in Office in the Nature of Violation of the Constitution of Pennsylvania By Usurpation of the Legislative Function

27. The Amended Articles state that upon their adoption, the Speaker of the House of Representatives “[s]hall appoint a committee of three members, two from the majority party and one from the minority party, to exhibit the same to the Senate, and on behalf of the House of Representatives to manage the trial thereof.” *Id.* at 17.

28. On November 16, 2022, HR 240, as amended by the Amended Articles of Impeachment, passed the full House of Representatives by a vote of 107-85. *See* Exhibit C, House Resolution No. 240, Printer's No. 3634 (Nov. 16, 2022).

29. All but one Republican voted in favor of HR 240. All Democrats voted against HR 240.

C. Exhibition of the Amended Articles of Impeachment to the 206th General Assembly Senate

30. On November 18, 2022, in a press release, the Speaker of the House of Representatives of the 206th General Assembly, Representative Bryan D. Cutler, announced that the committee to “exhibit the articles of impeachment to the Senate, and manage the trial on behalf of the House” referenced in the Amended Articles of Impeachment would be comprised of Respondents Rep. Craig Williams, Rep. Timothy R. Bonner, and Rep. Jared Solomon.³

31. On November 29, the Senate of the 206th General Assembly adopted Senate Resolution 386 (SR 386), titled “A Resolution Proposing special rules of practice and procedure in the Senate when sitting on impeachment trials.” *See* Exhibit D, Senate Resolution No. 386, Printer's No. 2020 (Nov. 29, 2022).

³ Press Release, Speaker Names Impeachment Managers for Krasner Trial, Nov. 18, 2022, <https://www.repcutler.com/News/31561/Latest-News/Speaker-Names-Impeachment-Managers-for-Krasner-Trial>.

Among other “special rules of practice and procedure,” the resolution states “the President pro tempore may appoint a committee of Senators, no more than half of whom must be members of the same political party. . . . The functions of the committee are to receive evidence and take testimony at times and places determined by the committee . . . The committee shall report to the Senate in writing that it has completed receiving evidence and taking testimony, and the committee shall provide a summary of the evidence and testimony . . . [which] shall be received by the Senate . . .” *Id.* Section 10. The “committee” referenced in Section 10 is comprised of the John Doe Respondents.

32. On November 29, 2022, the 206th General Assembly’s Senate adopted Senate Resolution 387 (SR 387), titled “A Resolution Directing the House of Representatives to Exhibit the Articles of Impeachment.” *See* Exhibit E, Senate Resolution No. 387, Printer’s No. 2021 (Nov. 29, 2022). The Senate resolved that “the Secretary of the Senate inform the House of Representatives that the Senate will be ready to receive, at 10:30 a.m., the 30th day of November, 2022, the managers appointed by the House for the purpose of exhibiting Articles of Impeachment, agreeably to the notice communicated to the Senate.” *Id.*

33. On November 30, the 206th General Assembly’s Senate adopted a separate Resolution “[d]irecting a Writ of Impeachment Summons to be issued to the Honorable Lawrence Samuel Krasner, District Attorney of Philadelphia.” *See*

Exhibit F, Senate Resolution No. 388, Printer's No. 2023 (Nov. 30, 2022). The Resolution provides that a Writ of Impeachment Summons be issued to District Attorney Krasner "immediately" and served by December 7, 2022. *Id.* at 2. The Resolution further provides, *inter alia*, that the Writ of Impeachment Summons shall "order and command" that District Attorney Krasner: (a) answer the Amended Articles by December 21, 2022; and (b) appear before the Senate on January 18, 2023, at 11:30 a.m., "to answer to the said Articles of Impeachment . . ." *Id.* at 1-2.

D. The Termination of the 206th General Assembly Legislative Session

34. On November 8, 2022, a general election was held to elect all members of the 207th General Assembly House of Representatives and one-half of the members of the Senate.

35. On November 30, 2022, at 11:59 p.m., the 206th General Assembly ended. *See* Pa. Const., Art. 2, secs. 2-4.

36. On December 1, 2022, after the termination of the 206th General Assembly, a copy of a Precept to the Sergeant-at-Arms of the Senate and Writ of Impeachment Summons were delivered to District Attorney Krasner. Those documents were purportedly signed on November 30, 2022, by the President Pro Tempore of the 206th General Assembly Senate, Jacob D. Corman, III, and the

Secretary of the Senate, Megan L. Martin. *See* Exhibit G, Precept to the Sergeant-At-Arms and Writ of Impeachment Summons, Nov. 30, 2022.

Claims for Declaratory Judgment

37. This Petition seeks declaratory relief only from this Court.

38. Declaratory relief, not injunctive relief, should be sufficient because District Attorney Krasner trusts that Respondents will not take action inconsistent with a declaration by the Court that (a) the Amended Articles became null and void on November 30, 2022 upon the adjournment *sine die* of the 206th General Assembly’s legislative session; (b) that District Attorney Krasner is not subject to impeachment because, as the district attorney of Philadelphia, he is not subject to impeachment by the General Assembly; and (c) that District Attorney Krasner is not subject to impeachment because the Amended Articles do not allege “any misbehavior in office” within the meaning of Article VI, Section 6 of the Pennsylvania Constitution.

39. Notwithstanding this, if Respondents take action inconsistent with any such declarations, District Attorney Krasner reserves all rights to promptly file the necessary pleadings to obtain emergency injunctive relief.

CLAIM I

Declaratory Judgment (District Attorney Krasner Is Not Subject to Impeachment Because the Amended Articles of Impeachment Do Not Survive the Adjournment of the Legislative Session *Sine Die*)

40. District Attorney Krasner incorporates herein the preceding allegations.

41. District Attorney Krasner is entitled to a declaration that the 207th General Assembly Senate cannot proceed with his impeachment because the Amended Articles and other related legislative business, including Senate Resolution Nos. 386, 387, and 388, do not carry over past November 30, 2022, the adjournment *sine die* of the 206th Pennsylvania General Assembly and end of the legislative session.

42. Under the Pennsylvania Constitution, the General Assembly lasts only two years. Pa. Const. Art. II, secs. 2, 3, 4. Pennsylvania statutes confirm that a General Assembly is a “continuing body” that lasts only two years and not more. 101 Pa. Code § 7.21(a); *see also* Pa. Const. Art. II, secs. 2, 4.

43. The two-year General Assembly consists of two one-year sessions, with the one held in odd-numbered years “referred to as the first regular session” and the one “held in even-numbered years . . . referred to as the second regular session.” 101 Pa. Code § 7.21(a).

44. By law, all matters pending before the General Assembly in the first regular session are maintained in the second regular session. *See* 101 Pa. Code § 7.21(b) (“All matters pending before the General Assembly upon the adjournment sine die or expiration of a first regular session maintain their status and are pending before the second regular session.”).⁴ Importantly, it authorizes the General Assembly to carry over business only from the first regular session to the second regular session. *See id.* It does not authorize the General Assembly to carry over business from the second session of one General Assembly to the first session of an entirely different General Assembly. *See id.*

45. No statute provides that matters pending at the end of the General Assembly’s *second* regular session maintain their status or remain pending for the next General Assembly. *See id.* And no statute could because it would conflict with the Constitutional mandate that the General Assembly is a “continuing body” only “during the term for which its Representatives are elected,” *i.e.*, from

⁴ “The term ‘sine die’ means ‘without day,’ and a legislative body adjourns sine die when it adjourns ‘without appointing a day on which to appear or assemble again.’” *Creamer v. Twelve Common Pleas Judges*, 281 A.2d 57, 65 (Pa. 1971). An adjournment *sine die* “end[s] a deliberative assembly’s or court’s session without setting a time to reconvene.” *Scarnati v. Wolf*, 173 A.3d 1110, 1114 n.4 (Pa. 2017) (citing, e.g., BLACK’S LAW DICTIONARY 44 (8th ed. 2004)); *see also* P. Mason, MANUAL OF LEGISLATIVE PROCEDURES § 445(3), at 301 (1970) (“A motion to adjourn sine die has the effect of closing the session and terminating all unfinished business before the House, and all legislation pending upon adjournment sine die expires with the session”).

December 1 of one year until November 30 two years later. Pa. Const. Art. II, secs. 2, 4.

46. Accordingly, it is clear from both the Constitution and Section 7.21 that pending matters do not “carry over” from one General Assembly to the next.

47. The 206th General Assembly House and Senate’s work regarding the impeachment of District Attorney Krasner was conducted during the second regular session of that General Assembly. There is no statute that establishes an impeachment exception to the mandate that pending matters do not carry over from one General Assembly to the next. And the Constitution does not create one.

48. Now that November 30, 2022 has passed, the Amended Articles and all related legislation have died, including Senate Resolutions 386, 387, and 388.⁵ The next General Assembly’s Senate – formed on December 1, 2022 in the 207th General Assembly – cannot take them up and conduct an impeachment trial.

49. Because matters pending before the General Assembly do not “remain pending” after the expiration of the second regular session, the impeachment proceedings of District Attorney Krasner have ended and do not carry over to the

⁵ Resolution No. 240 was introduced and referred to the House Judiciary Committee on October 26, 2022. The resolution was reported as committed by the Judiciary Committee on November 15, 2022. The House of Representatives amended and adopted Resolution No. 240 on November 16, 2022. *See* H.R. No. 240, Pa. 206th General Assembly - 2021-2022, available at <https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syear=2021&sind=0&body=H&type=R&bn=240>.

207th General Assembly (*i.e.*, the 2023-2024 term). *See* 101 Pa. Code § 7.21(b); *accord* Pa. Senate R. 12(j); Pa. House of Representatives R. 45(A); *Brown v. Brancato*, 184 A. 89 (Pa. 1936); *Commonwealth v. Costello*, 1912 WL 3913 (Pa. Quar. Sess. 1912). *See also* Robert E. Woodside, PENNSYLVANIA CONSTITUTIONAL LAW 274-75 (1985) (“If the legislature adjourns *sine die* during the second annual session that terminates all business pending before it.”) (underlining added).

50. Accordingly, District Attorney Krasner respectfully requests that the Court enter an Order declaring that (a) the Amended Articles and all related legislation, including Senate Resolutions 386, 387, and 388, terminated on November 30, 2022, upon the adjournment *sine die* of the 206th General Assembly legislative session; and (b) the Respondents have no authority to take up the Amended Articles and any such efforts would be unlawful.

CLAIM II

Declaratory Judgment

(District Attorney Krasner Is Not Subject to Impeachment Because the Pennsylvania Constitution Does Not Authorize the General Assembly to Impeach a Locally Elected Official Like the Philadelphia District Attorney)

51. District Attorney Krasner incorporates herein the preceding allegations.

52. The General Assembly’s impeachment power comes from Article VI, Section 6 of the Pennsylvania Constitution, titled “Officers liable to impeachment,” which states that “[t]he Governor and all other civil officers shall

be liable to impeachment for any misbehavior in office...” That provision does not apply to a locally elected official like the Philadelphia District Attorney.

53. First, as a local official, District Attorney Krasner is not subject to impeachment because the District Attorney of Philadelphia is not a “civil officer” within the meaning of Article VI, Section 6 of the Pennsylvania Constitution.

54. The Pennsylvania Constitution’s Article VI, Section 6 impeachment powers do not apply to locally-elected officials like District Attorney Krasner. In *Burger v. School Board of McGuffey School District*, former Chief Justice Saylor concluded that Article VI does not apply to local officials, and that “state-level officials were almost exclusively in view when then-Section 4 of Article VI was framed.” 923 A.2d 1155, 1167 (Pa. 2007) (Saylor, J., concurring).

55. Consistent with former Chief Justice Saylor’s opinion, Article VI, Section 6 states: “judgment in [impeachment] cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit *under this Commonwealth*.” Pa. Const., Art. VI, s.6 (emphasis added).

56. Thus, the consequences of a “civil officer[’s]” impeachment is his removal and disqualification from holding *state-wide office*, demonstrating that only state-wide office holders are subject to impeachment. *Cf.* Pa. Const. Art. IX, § 13(f) (referencing “officers of the City of Philadelphia”); Pa. Const. Art. VII, § 3 (referencing “county, city, ward, borough, and township officers”); *see also*

Commonwealth ex rel. Woodruff v. Joyce, 139 A. 742, 742-43 (Pa. 1927) (local office not an office “under this Commonwealth”)); *Emhardt v. Wilson*, 20 Pa. D. & C. 608, 609 (Com. Pl. 1934) (local office is not an office “under the Commonwealth” under art. II, § 6).

57. Second, the process for impeachment of the Philadelphia District Attorney is governed by statute, namely, the First Class Cities Government Law, 53 P.S. § 12199, *et seq.* See Pa. Const. Art. VI, s.1; *id.* Art. IX, s.13(a), (f).

58. Pursuant to these provisions, the General Assembly has exercised its power to establish by statute the conditions for the Philadelphia District Attorney’s impeachment and removal. See 53 Pa. C.S. §§ 12199-12205; *see also Weiss v. Ziegler*, 193 A. 642, 644 (Pa. 1937); *In re Marshall*, 62 A.2d 30, 32 (Pa. 1948); *Marshall Impeachment Case*, 69 A.2d 619, 625 (Pa. 1949) (“The method of removing the Receiver of Taxes of Philadelphia from office *is provided for by statute*, and this method was not abrogated by the Constitution of Pennsylvania of 1873.”) (emphases added)); *Watson v. Pennsylvania Tpk. Comm’n*, 125 A.2d 354, 356 (Pa. 1956); *Burger*, 923 A.2d at 1163-64. See generally Robert E. Woodside, PENNSYLVANIA CONSTITUTIONAL LAW 360 (1985) (“The power to impeach a municipal official may be given to local officials by statute . . .”).

59. The City of Philadelphia – not the Pennsylvania House and Senate – has the oversight over any impeachment and removal of a Philadelphia District

Attorney, who is unquestionably a local, and not a statewide, officer. *See Chalfin v. Specter*, 233 A.2d 562, 565 (Pa. 1967) (Bell, C.J., concurring); *McMenamin v. Tartaglione*, 1991 WL 1011018 (Pa. Com. Pl. Mar. 26, 1991), *aff'd*, 590 A.2d 802 (Pa. Commw. 1991), *aff'd without opinion*, 590 A.2d 753 (mem.) (Pa. 1991); *accord Carter v. City of Philadelphia*, 181 F.3d 339, 350 (3d Cir. 1999) (“Consistent with its constitutional and statutory law, Pennsylvania’s case law defines district attorneys—Philadelphia District Attorneys in particular—as local, and expressly not state, officials.”).

60. The law in Pennsylvania – that locally-elected officials like the Philadelphia District Attorney are not subject to impeachment by the General Assembly – is also consistent with a fundamental principal of democracy: public officials elected by voters outside of Philadelphia should not and cannot impeach public officials elected by voters inside of Philadelphia.

61. Accordingly, District Attorney Krasner respectfully requests that the Court enter an Order declaring that (a) Article VI, Section 6 of the Pennsylvania Constitution does not authorize impeachment of the Philadelphia District Attorney by the General Assembly; and (b) the Respondents have no authority to take up the Amended Articles and any such efforts would be unlawful.

CLAIM III

Declaratory Judgment

(District Attorney Krasner Is Not Subject to Impeachment Because He Is Not Alleged to Have Engaged in “Any Misbehavior in Office”)

62. District Attorney Krasner incorporates herein the preceding allegations.

63. A “civil officer” may be impeached only for “any misbehavior in office.” Art. VI, sec. 6. The Amended Articles, however, do not allege anything close to what the courts have defined as “misbehavior in office”.

A. “Misbehavior in Office” Means Criminal Conduct, Including a Failure to Perform a Positive Ministerial Duty or the Performance of a Discretionary Duty with an Improper Motive

64. The Pennsylvania Supreme Court has interpreted “misbehavior in office” to mean conduct that would amount to the common law criminal offense of “misbehavior in office.” *In re Braig*, 590 A.2d 284, 286 (Pa. 1991); *see also Commonwealth ex rel. Woods v. Davis*, 149 A. 176, 178 (Pa. 1930); *Commonwealth v. Shaver*, 3 W. & S. 338 (Pa. 1842).

65. Misbehavior in office requires a very high showing: a public official has engaged in “misbehavior in office” only if he “fail[ed] to perform a positive ministerial duty of the office or the performance of a discretionary duty with an improper or corrupt motive.” *Braig*, 590 A.2d at 286; *Commonwealth v. Peoples*,

28 A.2d 792, 794 (Pa. 1942); *Commonwealth v. Green*, 211 A.2d 5, 9 (Pa. Super. 1965).⁶

66. Where, as here, “the nature of the duty is such as to permit the exercise of discretion, there must be present the additional element of an evil or corrupt design to warrant conviction [for misbehavior in office].” *Commonwealth v. Hubbs*, 8 A.2d 618, 620 (Pa. Super. 1939); *accord Braig*, 590 A.2d at 286; *Commonwealth v. Steinberg*, 362 A.2d 379, 386 (Pa. Super. 1976).⁷

67. The bar is especially high when it is applied to the actions of a district attorney because, as the Pennsylvania Supreme Court has held, the District Attorney is vested with “tremendous” “discretion” to make and implement his or her own policies and priorities. *See Commonwealth v. Clancy*, 192 A.3d 44, 53 (Pa. 2018) (a district attorney’s “discretion is tremendous,” and he “is afforded such great deference that this Court and the Supreme Court of the United States seldom interfere with a prosecutor’s charging decision”); *Com. ex rel. Specter v. Martin*, 232 A.2d 729, 736 (Pa. 1967) (“[I]n the performance of his duties, the law

⁶ “Misbehavior in office” is not defined in the Pennsylvania Constitution, and there is no judicial precedent defining that term specifically for purposes of the impeachment provision, *see Larsen v. Senate of Pennsylvania*, 646 A.2d 694, 702 (Pa. Commw. 1994).

⁷ Following the Supreme Court’s decision in *Braig*, Pennsylvania courts regularly hold that “misbehavior in office” under the Pennsylvania Constitution means the common law crime of that name. *See, e.g., In re Dalessandro*, 596 A.2d 798, 798 (Pa. 1991); *In re Ballentine*, 86 A.3d 958, 971 (Pa. Ct. Jud. Disc. 2013); *In re Berkheimer*, 877 A.2d 579, 591 (Pa. Ct. Jud. Disc. 2005).

grants to the district attorney wide discretion in the exercise of which he acts in a judicial capacity.”). And, as a matter of law, the legislature may not interfere with District Attorney Krasner’s lawful exercise of those discretionary duties: a district attorney “must be allowed to carry out [his discretionary powers] without hind[er]ance from any source.” *See Mummau v. Ranck*, 531 F. Supp. 402, 405 (E.D. Pa. 1982), *aff’d*, 687 F.2d 9 (3d Cir. 1982) (citing *Commonwealth ex rel. Spector v. Bauer*, 261 A.2d 573 (Pa. 1970)).

B. The Amended Articles of Impeachment Do Not Allege Any “Misbehavior in Office”

68. None of the Amended Articles allege conduct by District Attorney Krasner that meets the high bar of “misbehavior in office.” The Amended Articles do not accuse District Attorney Krasner of committing any criminal offense or of using the power of his office for pecuniary or personal gain.

69. Three of the Articles (Articles I, VII, and VI) simply attack District Attorney Krasner’s prosecution policies, approach to criminal justice, and management of the DAO. Specifically, Article I criticizes District Attorney Krasner for implementing “progressive” trainings and prosecutorial policies as they relate to cash bail, immigration, cannabis, plea offers, and prostitution. Article VII similarly criticizes District Attorney Krasner policies as they relate to the DAO’s prosecution of minor offenses, including prostitution, theft, and minor drug offenses. Article VI criticizes District Attorney Krasner for allegedly “failing

to timely contact victims, deliberately misleading victims and or [sic] disregarding victim input and treating victims with contempt and disrespect.” *See* Ex. B, Amended Articles, at 16.

70. Each of these Articles consists of criticism of how District Attorney Krasner exercised his prosecutorial discretion, advanced his priorities, and managed the office. But, as discussed above, that *criticism* is not grounds for impeachment because District Attorney Krasner’s exercise of prosecutorial discretion and advancement of his priorities cannot, as a matter of law, amount to “any misbehavior in office.” *See Clancy*, 192 A.3d at 53; *Martin*, 232 A.2d at 736; *Mummau*, 531 F. Supp. at 405 (citing *Bauer*, 261 A.2d 573).

71. Article II is also legally deficient. It accuses District Attorney Krasner of “Obstruction” of a House Select Committee Investigation due to his alleged non-compliance with a subpoena duces tecum. *See* Ex. B, Am. Articles, at 8. That plainly fails, because a district attorney’s compliance or noncompliance with a subpoena arising out of a House investigation is not part of a district attorney’s positive duties or discretionary authority.⁸

72. Also, as Article II acknowledges, District Attorney Krasner responded to the subpoena by first communicating his objections to the subpoena to the Select

⁸ Similarly, testifying before a special master is not a positive duty of the office of the district attorney, and therefore the Amended Articles’ allegations that District Attorney Krasner omitted facts while giving testimony is not actionable. *See* Ex. B, Am. Articles, at Art. V.

Committee’s counsel and then by filing an action in Commonwealth Court on September 2, 2022, to quash the subpoena. This is no obstruction; it is what the Pennsylvania Supreme Court has advised. The Supreme Court has squarely held that a recipient of a legislative subpoena may seek relief in court. *See Commonwealth ex rel. Carcaci v. Brandamore*, 327 A.2d 1, 5 n.4 (Pa. 1974) (“Had [the relator] wished to challenge the constitutionality of the committee’s investigation without risking a contempt citation before the bar of the House, judicial recourse would have been available to him. Injunctive relief from the activities of the committee could have been sought in a court of equity.”).

73. Articles III and IV fail as a matter of law because they hinge on the alleged misconduct of other lawyers in the DAO, not on the conduct of District Attorney Krasner. *See* Ex. B, Am. Articles, at 10-15. A public official may be found guilty of the common law crime of misbehavior in office only if the officer personally engaged in the wrongful conduct. *See Commonwealth v. Bready*, 286 A.2d 654, 657 & n.4 (Pa. Sup. Ct. 1971). It is not enough to allege that an official’s subordinates committed misbehavior in office. As the court in *Bready* explained, there is no liability for misconduct that “was the product of mistake or

inadvertence” by the officer, even for “*intentional* or inadvertent acts of his employees.” *See id.* (emphasis added).⁹

74. Articles III, IV, and V also fail as a matter of law because (legislative) impeachment may not be used to regulate or punish the conduct of lawyers alleged to have violated the rules of professional responsibility. *See* Ex. B, Am. Articles, at 11, 14, 15. The Pennsylvania Supreme Court has “exclusive and inherent authority” to “govern the conduct of attorneys practicing law within the Commonwealth.” *Beyers v. Richmond*, 937 A.2d 1082, 1089 (Pa. 2007) (citing *Lloyd v. Fishinger*, 605 A.2d 1193, 1196 (Pa. 1992)) (“Any legislative enactment encroaching upon this Court’s exclusive power to regulate attorney conduct would be unconstitutional.”). The Supreme Court has observed that such an “encroachment upon the judicial power by the legislature is offensive to the fundamental scheme of our government.” *Beyers*, 937 A.2d at 1090-91 (citing *Commonwealth v. Sutley*, 378 A.2d 780, 783 (Pa. 1977)). As the Court has explained, its “exclusive authority in this area is founded on the separation of powers of our Commonwealth’s government,” and “[t]he General Assembly has no authority under the Pennsylvania Constitution to regulate the conduct of lawyers in the practice of law.” *Id.*

⁹ The DAO employs hundreds of employees who are responsible for tens of thousands of criminal cases each year. Issues relating to the Rules of Professional conduct inevitably arise on occasion.

75. Additionally, the Canons of Judicial Conduct are not applicable to the conduct alleged in Articles III, IV, and V. First, 16 P.S. 1401(o) – the statute cited in the Amended Articles, Ex. B at 2 – does not apply to district attorneys in counties of the first class like the county of Philadelphia. Section 1401 is contained in Pennsylvania Statutes Title 16, “Counties,” at Chapter 1, which is titled “The County Code.” The County Code states that “Except incidentally, as in sections 108, 201, 210, 211, 401 and 1401 or as provided in section 1770.12, Article XII-B and Article XXX, this act does not apply to counties of the first or second classes.” 16 P.S. § 102(a). Thus, only where the County Code “incidentally” applies to counties of the first class would it apply to the Philadelphia District Attorney, a district attorney in a city and county of the first class. Critically, Section 1401(o) does not “incidentally” apply to counties of the first class and thus does not apply to the District Attorney of Philadelphia.

76. Second, although the Code of Judicial Conduct applies to a district attorney’s conduct “insofar as such canons apply to salaries, full-time duties and conflicts of interest” (16 P.S. § 1401(o)), Articles III and IV do not concern “salaries, full-time duties and conflicts of interest.” Instead, they involve the duty of candor (R.P.C. 3.3), unsubstantiated and generalized professional misconduct allegations (R.P.C. 8.4), and vague allegations of impropriety or the appearance of

impropriety (Pa. Code Judicial Conduct, Canon 2) (stating, “A judge shall perform the duties of judicial office impartially, competently, and diligently”).

77. Third, the exclusive remedy for a violation of the Canons of Judicial Conduct is discipline by the Disciplinary Board of the Supreme Court, not impeachment. Section 1401(o) states: “[a]ny complaint by a citizen of the county that a full-time district attorney may be in violation of this section shall be made to the Disciplinary Board of the Supreme Court of Pennsylvania.” *Id.* Only upon a determination by the Supreme Court, which has not occurred, could the matter be referred to the House. *See id.*¹⁰

78. Finally, Article VI of the Amended Articles also fails as a matter of law because it is hopelessly conclusory and vague. It alleges, without identifying any supporting facts, that District Attorney Krasner violated federal and state victims’ rights statutes by “failing to timely contact victims, deliberately misleading victims and or disregarding victims input and treating victims with contempt and disrespect.” Ex. B, Am. Articles at 15-16. Such vague and conclusory assertions are plainly inadequate. To satisfy Due Process, the Articles must allege a sufficient basis for impeachment. *See In re Scott*, 596 A.2d 150, 151

¹⁰ The Supreme Court’s holding in *Commonwealth v. Robinson*, 204 A.3d 326, 349 (Pa. 2018), limits the application of judicial canons to cases of “actual impropriety [of representation] of sufficient severity to have tainted the proceedings” or “a personal interest in the outcome of the case,” neither of which is alleged in the Amended Articles.

(Pa. 1991) (“The sparse record presented to this Court [*i.e.*, an information] is inadequate to sustain a determination that the Respondent has been convicted of misbehavior in office by a court.”); *see also Hubbs*, 8 A.2d 618, 620 (Pa. Super. 1939) (indictment for misbehavior in office properly quashed because it failed to sufficiently allege the basis for the crime).

79. In sum, the Amended Articles fail because they do not allege that District Attorney Krasner committed “any misbehavior in office.” Accordingly, District Attorney Krasner respectfully requests that the Court enter an Order declaring that (a) the Amended Articles fail to allege that District Attorney Krasner engaged in any “misbehavior in office” within the meaning of Article VI, Section 6; and (b) the Respondents have no authority to take up the Amended Articles and any such efforts would be unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court order the following relief:

- (A) Declare that the Amended Articles and related legislative business, including Senate Resolutions 386, 387, and 388, became null and void on November 30, 2022, upon the adjournment *sine die* of the 206th General Assembly legislative session.
- (B) Declare that Article VI, Section 6 of the Pennsylvania Constitution does not authorize impeachment of District Attorney Krasner by the General Assembly.
- (C) Declare that the Amended Articles against District Attorney Krasner do not allege conduct that constitutes “any misbehavior in office” within the meaning of Article VI, Section 6 of the Pennsylvania Constitution.
- (D) Declare that the Respondents have no authority to take up the Amended Articles and any such efforts would be unlawful.
- (E) Declare that any effort by the Respondents, House of Representatives or Senate to take up the Amended Articles or related legislation, including Senate Resolutions 386, 387, or 388, is unlawful.

(F) Grant such other relief as is just and proper.

Respectfully submitted,

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER



Dated: December 2, 2022

By: _____

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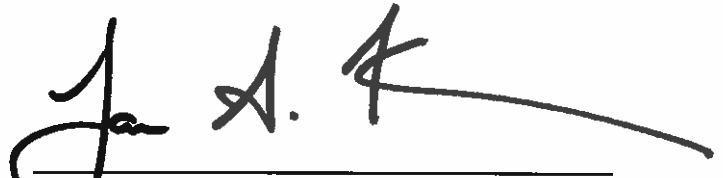
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*Counsel for Petitioner working in close association
with counsel admitted to practice law in Pennsylvania*

VERIFICATION

I hereby verify that the statements made in the foregoing Petition for Review are true and correct based upon my personal knowledge or information and belief. I understand that false statements therein are subject to penalties of 18 Pa. Cons. Stat. § 4904, relating to unsworn falsification to authorities.

Dated: December 2, 2022



Larry Krasner
District Attorney of Philadelphia

CERTIFICATION REGARDING PUBLIC ACCESS POLICY

In compliance with Pennsylvania Rule of Appellate Procedure 127, I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Dated: December 2, 2022

A handwritten signature in blue ink, appearing to read "John S. Summers", is written above a horizontal line.

John S. Summers

CERTIFICATE OF SERVICE

I, John S. Summers, hereby certify that on this 2nd day of December, 2022, I am serving the foregoing Petition for Review in the Nature of a Complaint for Declaratory Judgment upon the following persons by certified mail, which service satisfies the requirements of Pa. R. App. P. 121:

Senator Kim Ward
Senate Box 203039
Harrisburg, PA 17120-3039
Room: 292 Main Capitol

Respondent

Representative Craig Williams
4 East Wing
P.O. Box 202160
Harrisburg, PA 17120-2160

Respondent

Representative Timothy R. Bonner
150A East Wing
P.O. Box 202008
Harrisburg, PA 17120-2008

Respondent

Representative Jared G. Solomon
104A East Wing
P.O. Box 202202
Harrisburg, PA 17120-2202

Respondent



John S. Summers

EXHIBIT A

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 240 Session of
2022

INTRODUCED BY WHITE, OCTOBER 26, 2022

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 26, 2022

A RESOLUTION

1 Impeaching Lawrence Samuel Krasner, District Attorney of
2 Philadelphia, for misbehavior in office; and providing for
3 the appointment of trial managers.

4 WHEREAS, Lawrence Samuel Krasner was elected to the position
5 of District Attorney of Philadelphia on November 7, 2017, and
6 re-elected to the position on November 2, 2021, pursuant to
7 section 4 of Article IX of the Constitution of Pennsylvania; and

8 WHEREAS, Upon assuming office, District Attorney Krasner
9 terminated more than 30 assistant district attorneys (ADA) from
10 employment with the Philadelphia District Attorney's Office; and

11 WHEREAS, Many of these terminated assistant district
12 attorneys were senior-level staffers in supervisory roles who
13 possessed significant prosecutorial experience and knowledge of
14 criminal procedure; and

15 WHEREAS, District Attorney Krasner replaced this vast
16 institutional knowledge in the Philadelphia District Attorney's
17 Office with attorneys who lacked any meaningful experience in
18 prosecuting criminal cases, some of whom only recently graduated
19 from law school; and

1 WHEREAS, District Attorney Krasner subsequently withdrew the
2 office from membership in the Pennsylvania District Attorneys
3 Association (PDAA) because, he asserted, PDAA supported
4 regressive and punitive policies; and

5 WHEREAS, In withdrawing from PDAA, District Attorney Krasner
6 denied the attorneys in his office the ability to participate in
7 the various professional development and training programs
8 provided by PDAA through its educational institute; and

9 WHEREAS, Rather than offering traditional prosecutorial
10 training on such subjects as prosecutorial ethics, human
11 trafficking, witness examination, trial advocacy, trial
12 management and achieving justice for domestic violence and
13 sexual assault victims, District Attorney Krasner offered
14 attorneys seminars, including "A New Vision for Criminal Justice
15 in Philadelphia," "Deportation: The Unforeseen Consequences of
16 Prosecution in our Immigrant Community," and "Philadelphia and
17 Safe Injection: Harm Reduction as Public Policy"; and

18 WHEREAS, The Philadelphia District Attorney's Office
19 eventually returned to more traditional prosecutorial training,
20 however, the office continued to focus on issues that promote
21 District Attorney Krasner's progressive philosophies rather than
22 how to effectively prosecute a criminal case; and

23 WHEREAS, Upon being elected to office, District Attorney
24 Krasner established a series of office policies with the
25 purported purpose to "end mass incarceration and bring balance
26 back to sentencing," and later adopted a series of policies
27 related to certain crimes or classes of people; and

28 WHEREAS, These policies include directives not to charge sex
29 workers or individuals for certain classes of crimes such as
30 prostitution or possession of marijuana and marijuana-related

1 drug paraphernalia; and

2 WHEREAS, These new policies identified a series of offenses
3 for which the gradation may be reduced with the purpose of
4 "reduc[ing] pre-trial incarceration rates as no bail is required
5 and the shorter time required for hearings expedites Municipal
6 Court and Common Pleas dockets," and requiring disposition of
7 retail theft cases unless the value of the item stolen exceeds
8 \$500 or where the defendant has an extensive history of theft
9 convictions; and

10 WHEREAS, District Attorney Krasner instituted policies to
11 make plea offers below the bottom end of the mitigated range
12 under the Sentencing Guidelines from the Pennsylvania Sentencing
13 Commission and seek greater use of house arrest, probation and
14 alternative sentencing when the sentencing guidelines indicate a
15 range of incarceration below 24 months; and

16 WHEREAS, In February 2018, District Attorney Krasner
17 established a policy that his office "will ordinarily no longer
18 ask for cash bail for . . . misdemeanors and felonies" listed in
19 the policy, because "The cash bail system is rife with injustice
20 and exacerbates socio-economic and racial inequalities,
21 disproportionately penalizing the poor and people of color"; and

22 WHEREAS, In November 2018, District Attorney Krasner adopted
23 a policy in which a criminal defendant's immigration status
24 should be considered in the plea-bargaining process, effectively
25 providing that where an immigration consequence is detected pre-
26 trial or with respect to a sentencing recommendation, counsel
27 will advise if an offer can be made to avoid the consequence;
28 and

29 WHEREAS, Other policies that District Attorney Krasner
30 directed were as follows:

1 (1) Assistant district attorneys may not proceed in
2 cases against defendants driving under the influence of
3 cannabis when the defendants blood "contains inactive
4 metabolite (11-Nor-9-Carboxy-Delta-9-THC) or 4 or fewer
5 ng/mls of psycho-active THC" and that "if the defense
6 presents evidence that calls impairment into question, an ADA
7 may consider dropping the charges against the defendant."

8 (2) The District Attorney's Office "will only oppose
9 motions for redactions or expungements in limited
10 circumstances" and sets forth various scenarios in which the
11 Office will agree to, seek or not oppose the expungement of a
12 defendant's criminal history.

13 (3) The District Attorney's Office directed plea offers
14 and sentencing recommendations:

15 (i) for felonies, "aimed at an office-wide average
16 period of total supervision among cases of around 18
17 months or less of total supervision, with a ceiling of 3
18 years of total supervision or less on each case";

19 (ii) for misdemeanors, aimed at an office-wide
20 average of "6 months or less of total supervision, with a
21 ceiling of 1 year";

22 (iii) for all matters, for "concurrent sentences";

23 and

24 (iv) for cases involving incarceration, "for a
25 period of parole that is no longer than the period of
26 incarceration";

27 and

28 WHEREAS, Nearly all of District Attorney Krasner's policies
29 "create a presumption" for ADAs to follow and require approval
30 from Krasner himself or a first assistant district attorney for

1 deviations from the policies; and

2 WHEREAS, District Attorney Krasner, in an April 2021 report
3 published by the DAO titled "Ending Mass Supervision: Evaluating
4 Reforms," wrote in his opening letter: "I am proud of the work
5 this office has done to make Philadelphians, particularly
6 Philadelphians of Color, freer from unnecessary government
7 intrusion, while keeping our communities safe"; and

8 WHEREAS, In reality, the policies and practices of the
9 Philadelphia District Attorney's Office instituted under the
10 direction of District Attorney Krasner have led to catastrophic
11 consequences for the people of the City of Philadelphia; and

12 WHEREAS, According to the City Controller, spikes in gun
13 violence and homicides have dramatically impacted historically
14 disadvantaged neighborhoods, and those neighborhoods are
15 "primarily low-income with predominately black or African
16 American residents"; and

17 WHEREAS, The Philadelphia Police Department (PPD) reports
18 that the number of homicide victims has increased every year
19 since 2016, more than doubling from 2016 to 2021, with a year-
20 over-year increase of 40% between 2019 and 2020; and

21 WHEREAS, As of October 16, 2022, there have already been 430
22 homicides in the City of Philadelphia in 2022; and

23 WHEREAS, As of October 17, 2022, reported trends gathered
24 from the PPD's "incident" data, which tracks the reporting of
25 all crimes in addition to homicides, shows a 12% increase in all
26 reported offenses, a 6% increase in violent offenses and a 21%
27 increase in property offenses; and

28 WHEREAS, While incidents of violent crime are increasing,
29 prosecution of crime by the Philadelphia District Attorney's
30 Office has decreased during this same period; and

1 WHEREAS, In 2016, the Philadelphia District Attorney's Office
2 reported that only 30% of "all offenses" resulted in a dismissal
3 or withdrawal, but that number spiked to 50% in 2019, 54% in
4 2020, 67% in 2021 and 65% to date in 2022; and

5 WHEREAS, A similar trend is evident when filtering the data
6 for violent crimes, where, in 2016, the withdrawal and dismissed
7 violent crime cases accounted for 48% of all violent crime case
8 outcomes, but that percentage increased to 60% in 2019, to 68%
9 in 2020, to 70% in 2021 and to 66% in 2022 to date; and

10 WHEREAS, Data from the Pennsylvania Sentencing Commission
11 relating to violations of the Uniform Firearms Act (VUFA)
12 evidences a similar jarring trend; and

13 WHEREAS, The Sentencing Commission reports that guilty
14 dispositions in the City of Philadelphia declined from 88% in
15 2015 to 66% in 2020, compared to a decline from 84% to 72% in
16 counties of the second class, with the driver of the decrease
17 being nolle pros dispositions; and

18 WHEREAS, As compared to the Statewide data and other county
19 classes, the percent of guilty verdicts has decreased
20 significantly, while the percent of nolle prossed cases has
21 increased in the City of Philadelphia; and

22 WHEREAS, Studies by the Delaware Valley Intelligence Center
23 (DVIC) attempted to provide "an explanation for the increase in
24 homicides and shootings in an effort to begin a conversation to
25 address the challenge at a strategic level," significantly, the
26 report notes:

27 "The rate of prosecution dismissal and withdrawal has been
28 increase [sic] substantially since 2015 under DA [Seth]
29 Williams, and has continued to increase after DA Krasner took
30 office. Furthermore, a closer examination of these dropped cases

1 indicates that more cases are dismissed/withdrawn at the
2 preliminary hearing state [sic] under DA Krasner than the actual
3 trial state []. This implies that, even when criminals are
4 caught with a gun, they are swiftly finding out they may not
5 receive as significant a consequence as they had historically.
6 Notably, the likelihood of being arrested is low to begin with.
7 This means that, criminals know that their likelihood of getting
8 caught with a gun is slim and, even if they get caught, they
9 feel that they can leave without severe (or any) consequences.";
10 and

11 WHEREAS, The DVIC conducted a "cursory examination" of
12 dismissed/withdrawn cases in 2018/2019 and "found 6 offenders
13 whose cases were dismissed (VUFA former convict charge) and got
14 later involved in shootings . . . 2 of these shootings were
15 fatal and 4 out of these 6 offenders were gang members"; and

16 WHEREAS, The DVIC studied the prosecution declination for
17 narcotics, retail theft and prostitution arrests from 2016 to
18 2018, and concluded in its key findings that the percentage of
19 all declinations, not just narcotics, prostitution and retail
20 theft, increased "especially in 2018" to more than 7%, when it
21 had been just 2% or less between 2007 and 2015; and

22 WHEREAS, In September 2020, the Philadelphia City Council
23 authorized the Committee on Public Safety and the Special
24 Committee on Gun Violence Prevention to study gun violence in
25 the city. This study involved a collaboration between the
26 Controller's Office, Defender Association, Department of Public
27 Health, District Attorney's Office, First Judicial District,
28 Managing Director's Office, Pennsylvania Attorney General and
29 PPD. The published results, called the "100 Shooting Review
30 Committee Report," discusses trends and general findings

1 regarding shootings in the City of Philadelphia; and

2 WHEREAS, The published results showed the following:

3 (1) The clearance rate (i.e., when an arrest was made or
4 a suspect that could not be arrested was identified) for
5 fatal shootings in 2020 was 37% and the rate for nonfatal
6 shootings was 18%.

7 (2) There has been a "marked increase" in the number of
8 people arrested for illegal gun possession without the
9 accusation of an additional offense, including a doubling in
10 arrests for illegal possession of a firearm without a license
11 since 2018.

12 (3) The initial and final bail amounts set by courts in
13 illegal possession of firearms cases declined between 2015
14 and 2019 and increased in 2020 and 2021.

15 (4) Conviction rates in shooting cases declined between
16 2016 and 2020 from 96% to 80% in fatal shootings and from 69%
17 to 64% in nonfatal shootings.

18 (5) There is a long-term trend of a reduction in
19 conviction rates for illegal gun possession cases, dropping
20 from 65% in 2015 to 45% in 2020;

21 and

22 WHEREAS, In August 2022, the Philadelphia Police Commissioner
23 indicated that her department is short-staffed by approximately
24 20%, or 1,300 officers, due to low morale, politics, increased
25 scrutiny and "uniquely stringent hiring requirements" during a
26 nationwide shortage; and

27 WHEREAS, Commissioner Danielle Outlaw stated, "The truth is
28 the homicides are not happening in a vacuum - there are those
29 who are determined to attack and kill their victims. While we
30 are making constant adjustments to mitigate this sickening

1 reality, our officers, simply put, just can't keep up by being
2 everywhere at all times."; and

3 WHEREAS, While the PPD may arrest a suspect for the
4 commission of a crime, the Philadelphia District Attorney's
5 Office is one of the few district attorney's offices in this
6 Commonwealth that reserves unto itself the authority to charge a
7 person for a criminal act; and

8 WHEREAS, In October 2022, following yet another act of
9 violence against police in the City of Philadelphia, Police
10 Commissioner Danielle Outlaw issued the following statement:

11 "We are tired of arresting the same suspects over and over
12 again, only to see them right back out on the street to continue
13 and sometimes escalate their criminal ways. We are tired of
14 having to send our officers into harm's way to serve warrants on
15 suspects who have no business being on the street in the first
16 place.

17 No - not everyone needs to be in jail. But when we repeatedly
18 see the extensive criminal histories of those we arrest for
19 violent crime, the question needs to be asked as to why they
20 were yet again back on the street and terrorizing our
21 communities.

22 I am beyond disgusted by this violence. Our entire department
23 is sickened by what is happening to the people that live, work,
24 and visit our city. Residents are tired of it. Business owners
25 are tired of it. Our children are tired of it.

26 We are long past 'enough is enough.'";
27 and

28 WHEREAS, Acts of violence, and particularly violent crimes
29 committed with firearms, have exacted a heavy toll on victims
30 and their families, with countless lives unnecessarily lost or

1 irretrievably broken, due to the increase of violent crime in
2 the City of Philadelphia; and

3 WHEREAS, In his special concurrence in *Commonwealth v.*
4 *Pownall*, Justice Dougherty highlighted what he feared to be an
5 effort by the District Attorney's Office to deprive certain
6 defendants of a fair and speedy trial; and

7 WHEREAS, Following the June 2017 incident in which former
8 Philadelphia police officer Ryan Pownall shot and killed David
9 Jones, the District Attorney's Office submitted the matter to an
10 investigative grand jury; and

11 WHEREAS, The investigating grand jury issued a presentment
12 recommending that Pownall be charged with criminal homicide,
13 possession of an instrument of crime and recklessly endangering
14 another person; and

15 WHEREAS, During trial, the prosecutor filed a motion in
16 limine to preclude the standard peace officer justification
17 defense instruction, based on the assertion that the
18 instruction, which largely tracked language of statute, violated
19 Fourth Amendment prohibition against unreasonable search and
20 seizure; and

21 WHEREAS, The motion was denied and the prosecution appealed
22 to the Superior Court, which quashed the appeal as unauthorized.
23 The Supreme Court granted the prosecutor's request for allowance
24 of appeal; and

25 WHEREAS, The Supreme Court ultimately denied the appeal, but
26 the special concurrence filed by Justice Dougherty illuminated
27 startling behavior by the District Attorney's Office; and

28 WHEREAS, Justice Dougherty held that the District Attorney's
29 Office's actions during grand jury process "implicate[] a
30 potential abuse" and stated that "the presentment in this case

1 is perhaps best characterized as a 'foul blow.'" He referred to
2 the grand jury presentment, authored by the District Attorney's
3 Office, as a "gratuitous narrative"; and

4 WHEREAS, Justice Dougherty also recognized that any abuse of
5 the grand jury could have been remedied by "Statutory safeguards
6 embedded in the process," such as a preliminary hearing. He went
7 on to say "What is troubling is the DAO's effort to ensure that
8 would not occur," i.e., their filing of a motion to bypass the
9 preliminary hearing; and

10 WHEREAS, Justice Dougherty found it "inexplicable" that, in
11 presenting a bypass motion to the Court of Common Pleas, the
12 District Attorney's Office failed to highlight the Investigating
13 Grand Jury Act Section 4551(e), which directs that a defendant
14 "shall" be entitled to a preliminary hearing. He emphasized that
15 the District Attorney's Office "appear[ed] to have known [about
16 that requirement] at the time it filed its motion."; and

17 WHEREAS, As it related to the prosecutor's motion in limine
18 and interlocutory appeal, Justice Dougherty observed that the
19 District Attorney's Office's motion "presented only half the
20 relevant picture." He went on to say that "this type of advocacy
21 would be worrisome coming from any litigant," but coming from a
22 prosecutor, "is even more concerning, particularly in light of
23 the motion's timing . . .". He cited directly to Pennsylvania
24 Rule of Professional Conduct 3.3 regarding candor to the
25 tribunal; and

26 WHEREAS, Further referencing ethical concerns, Justice
27 Dougherty found that the timing of the motion in limine, "[w]hen
28 combined with the other tactics highlighted throughout this
29 concurrence," could lead to the conclusion that the decision to
30 take "an unauthorized interlocutory appeal was intended to

1 deprive [Mr. Pownall] of a fair and speedy trial."; and

2 WHEREAS, Justice Dougherty went on to say:

3 Now, for the first time before this Court, the DAO finally
4 admits its true intent in all this was simply to use Pownall's
5 case as a vehicle to force judicial determination on 'whether
6 Section 508(a)(1) is facially unconstitutional.' DAO's Reply
7 Brief at 1; see *id.* at 6 (asserting Section 508's applicability
8 to [Pownall] is not the subject of this appeal"). What's more,
9 despite having assured the trial court it was not trying 'to bar
10 [Pownall] from a defense[.]' N.T. 11/25/2019 at 8, the DAO now
11 boldly asserts it would be appropriate for this Court to rewrite
12 the law and retroactively apply it to Pownall's case because he
13 supposedly 'had fair notice of his inability to rely on this
14 unconstitutional defense[.]' DAO's Brief at 10.;
15 and

16 WHEREAS, Justice Dougherty concluded, "Little that has
17 happened in this case up to this point reflects procedural
18 justice. On the contrary, the DAO's prosecution of Pownall
19 appears to be "driven by a win-at-all-cost office culture" that
20 treats police officers differently than other criminal
21 defendants. DAO CONVICTION INTEGRITY UNIT REPORT, OVERTURNING
22 CONVICTIONS - AND AN ERA 2 (June 15, 2021) available at
23 [tinyurl.com/CIU report](https://tinyurl.com/CIU-report) (last visited July 19, 2022). This is the
24 antithesis of what the law expects of a prosecutor."; and

25 WHEREAS, On remand, Common Pleas Court Judge McDermott said
26 that there were "so many things wrong" with the District
27 Attorney's Office's instructions to the investigating grand jury
28 that it warranted dismissing all charges against Mr. Pownall;
29 and

30 WHEREAS, After hearing testimony from the assistant district

1 attorneys who handled the grand jury and preparation of the
2 presentment, Judge McDermott concluded that the District
3 Attorney's Office failed to provide the legal instructions to
4 the grand jurors on the definitions for homicide and information
5 regarding the use-of-force defense; and

6 WHEREAS, In her October 17, 2022, Statement of Findings of
7 Fact and Conclusions of Law, Judge McDermott stated, "The
8 Commonwealth made an intentional, deliberate choice not to
9 inform the grand jurors about the justification defense under
10 Section 508. While [the ADA] was aware of Section 508 and its
11 applicability to the Defendant's case at the time of the Grand
12 Jury proceedings, she decided not to advise the Grand Jury about
13 Section 508 after consulting with other, more senior Assistant
14 District Attorneys."; and

15 WHEREAS, As it related to Pownall's right to a preliminary
16 hearing, Judge McDermott wrote:

17 In its Motion to bypass the preliminary hearing, the
18 Commonwealth demonstrated a lack of candor to the Court by
19 misstating the law and providing Judge Coleman with incorrect
20 case law.

21 * * *

22 The Commonwealth was also disingenuous with the Court
23 when it asserted that it had good cause to bypass the
24 preliminary hearing under Pa.R.Crim.P. 565(a) because of the
25 complexity of the case, the large number of witnesses the
26 Commonwealth would have to call, the expense, and the delay
27 caused by a preliminary hearing. As a preliminary hearing was
28 not held in this case, the Defendant's due process rights
29 were violated and the Defendant suffered prejudice.;

30 and

1 WHEREAS, Judge McDermott told the District Attorney's Office
2 that if defense counsel had made the decisions that the District
3 Attorney's Office made, she would "declare them incompetent.";
4 and

5 WHEREAS, The District Attorney's Office's own expert report
6 from Gregory A. Warren, Ed.D., of American Law Enforcement
7 Training and Consulting concluded that, given all the facts
8 presented to him, Officer Pownall's "use of deadly force in this
9 case was justified."; and

10 WHEREAS, This expert report was withheld from Pownall by the
11 District Attorney's Office; and

12 WHEREAS, In the Federal habeas corpus proceeding in *Robert*
13 *Wharton v. Donald T. Vaughn*, Federal District Court Judge
14 Goldberg issued a memorandum order admonishing and sanctioning
15 the District Attorney's Office; and

16 WHEREAS, Robert Wharton was convicted of murdering the
17 parents of survivor Lisa Hart-Newman, who was seven months old
18 at the time and was left to freeze to death with her deceased
19 parents by Mr. Wharton; and

20 WHEREAS, After his conviction, Wharton pursued a death
21 penalty habeas petition in the Federal district court; and

22 WHEREAS, The District Attorney's Office under prior
23 administrations had opposed this petition; and

24 WHEREAS, In 2019, District Attorney Krasner's administration
25 filed a "Notice of Concession of Penalty Phase Relief," stating
26 that it would not seek a new death sentence, and, based on that
27 sentencing relief, the litigation and appeals could end; and

28 WHEREAS, The concession noted only that the decision to
29 concede was made "[f]ollowing review of this case by the Capital
30 Case Review Committee of the Philadelphia [District Attorney's

Office], communication with the victims' family, and notice to [Wharton's] counsel."; and

WHEREAS, Judge Goldberg undertook an independent analysis of the merits of the claim and invited the Pennsylvania Office Attorney General (OAG) to file an amicus brief in the case; and

WHEREAS, In its amicus, the OAG submitted additional facts that the District Attorney's Office had not disclosed, including evidence of prison misconducts, attempted escapes and Department of Corrections concerns regarding "assaultiveness" and "escape" by Mr. Wharton; and

WHEREAS, The OAG concluded that "given the facts of this investigation and aggravating sentencing factors present in this case, Wharton could not establish a reasonable probability that the outcome of his penalty phase death sentence would have been different if the jury had heard evidence of his alleged 'positive' prison adjustment."; and

WHEREAS, The OAG further determined that members of the family, including victim Ms. Hart-Newman, were not contacted and that they opposed the concession by the District Attorney's Office; and

WHEREAS, After an evidentiary hearing, Judge Goldberg held as follows:

(1) The District Attorney's Office failed to advise the court of significant anti-mitigation evidence, including that Mr. Wharton had made an escape attempt at a court appearance.

(2) Two of the office's supervisors violated Federal Rule of Civil Procedure 11(b)(3) "based upon that Office's representations to this Court that lacked evidentiary support and were not in any way formed after 'an inquiry reasonable under the circumstances.'"

1 (3) Representations of communication with the victims'
2 family were "misleading," "false," and "yet another
3 representation to the Court made after an inquiry that was
4 not reasonable under the circumstances."

5 (4) The Law Division Supervisor, Assistant Supervisor
6 and District Attorney's Office violated Rule 11(b)(1), and
7 concluding that the violation was "sufficiently 'egregious'
8 and 'exceptional' under the circumstances to warrant
9 sanctions,";

10 and

11 WHEREAS, Judge Goldberg imposed nonmonetary sanctions on the
12 District Attorney's Office, requiring that separate written
13 apologies be sent to the victim, Lisa Hart-Newman, and the
14 victim's family members; and

15 WHEREAS, Given the testimony of the two Law Division
16 supervisors that District Attorney Krasner approved and
17 implemented internal procedures that created the need for this
18 sanction, and that the District Attorney had the sole, ultimate
19 authority to direct that the misleading Notice of Concession be
20 filed, therefore "the apologies shall come from the District
21 Attorney, Lawrence Krasner, personally."; and

22 WHEREAS, House Resolution 216 of 2022 established the House
23 Select Committee to Restore Law and Order pursuant to Rule 51 of
24 the General Operating Rules of the House; and

25 WHEREAS, The select committee is authorized and empowered "to
26 investigate, review and make finding and recommendations
27 concerning risking rates of crime, law enforcement and the
28 enforcement of crime victim rights," in the City of
29 Philadelphia; and

30 WHEREAS, House Resolution 216 further charges the select

1 committee to make findings and recommendations, including, but
2 not limited to, the following:

3 (1) Determinations regarding the performance of public
4 officials empowered to enforce the law in the City of
5 Philadelphia, including the district attorney, and
6 recommendations for removal from office or other appropriate
7 discipline, including impeachment.

8 (2) Legislation or other legislative action relating to
9 policing, prosecution, sentencing and any other aspect of law
10 enforcement.

11 (3) Legislation or other legislative action relating to
12 ensuring the protection, enforcement and delivery of
13 appropriate services and compensation to crime victims.

14 (4) Legislation or other legislative action relating to
15 ensuring the appropriate expenditure of public funds intended
16 for the purpose of law enforcement, prosecutions or to
17 benefit crime victims.

18 (5) Other legislative action as the select committee
19 finds necessary to ensure appropriate enforcement of law and
20 order in the City of Philadelphia;

21 and

22 WHEREAS, In pursuit of these obligations, the resolution
23 empowers the select committee chair to, among other things,
24 "send for individuals and papers and subpoena witnesses,
25 documents, including electronically stored information, and any
26 other materials under the hand and seal of the chair."; and

27 WHEREAS, The chair issued subpoenas to a number of
28 Philadelphia municipal offices, including the Controller, the
29 Mayor, the Police Department, the Sheriff's Office, the
30 Treasurer and the District Attorney's Office; and

1 WHEREAS, The subpoenas sought nonprivileged records necessary
2 to fulfill the select committee's obligations to the House of
3 Representatives pursuant to House Resolution 216; and

4 WHEREAS, While other municipal offices worked cooperatively
5 with the select committee to respond to the subpoenas issued to
6 them, District Attorney Krasner and his office chose instead to
7 obstruct the select committee's work at every turn; and

8 WHEREAS, District Attorney Krasner and his office asserted
9 that the select committee was illegitimate and that its
10 subpoenas served "no valid legislative purpose, violating the
11 separation of powers, invading legal privileges, and seeking to
12 deny the constitutional rights of Philadelphia's citizens,
13 especially their democratic right to vote and choose their local
14 leaders"; and

15 WHEREAS, District Attorney Krasner asserted various claims
16 that held no basis in fact or law, including the following:

17 (1) District Attorneys are not subject to impeachment.

18 (2) Impeaching the District Attorney violates the
19 constitutional rights of the people who voted for him.

20 (3) The District Attorney committed no wrong, and
21 therefore was not required to comply with the committee
22 chair's subpoena.

23 (4) Impeachment of a public official requires a
24 conviction for a criminal act;

25 and

26 WHEREAS, District Attorney Krasner and his Office refused to
27 search for or produce any documents in response to the subpoena;
28 and

29 WHEREAS, Despite multiple attempts by counsel to the select
30 committee chair to bring District Attorney Krasner and his

1 office into compliance with the subpoenas, explaining on
2 multiple occasions that the select committee was seeking
3 nonprivileged records and, as it related to any record for which
4 the District Attorney believed were privileged, the District
5 Attorney should follow common practice in responding to a
6 subpoena by providing a privilege log to identify those records
7 for which the District Attorney asserts a privilege; and

8 WHEREAS, On September 12, 2022, after multiple exchanges
9 between counsel and a Request to Show Cause why the District
10 Attorney should not be held in contempt by the House, the select
11 committee issued an interim report pursuant to Rule 51 of the
12 General Operating Rules of the House of Representatives,
13 notifying the House of District Attorney Krasner's refusal to
14 comply with the subpoena and recommending that the House
15 consider contempt proceedings; and

16 WHEREAS, The House of Representatives adopted House
17 Resolution 227 on September 13, 2022, resolving that the House
18 hold District Attorney Krasner in contempt; and

19 WHEREAS, House Resolution 227 was adopted by a bipartisan
20 vote of 162 to 38; and

21 WHEREAS, District Attorney Krasner filed an action in
22 Commonwealth Court on September 2, 2022, in which he raised the
23 same arguments that fail to have any meaningful basis in law or
24 fact; and

25 WHEREAS, District Attorney Krasner and his office have since
26 feigned partial compliance with the subpoena, providing several
27 public-facing records obtained without the need to engage in any
28 legitimate effort to search for the records; and

29 WHEREAS, The select committee chair invited District Attorney
30 Krasner to testify before the select committee in executive

1 session on October 21, 2022; and

2 WHEREAS, District Attorney Krasner refused to testify in
3 executive session, demanding a public hearing instead; and

4 WHEREAS, District Attorney Krasner then published a press
5 release which was misleading at best, mischaracterizing the
6 invitation to Krasner to testify in yet another moment of
7 grandstanding; and

8 WHEREAS, Given the District Attorney's rejection of the
9 invitation to testify in executive session, the select committee
10 was compelled to cancel the hearing; and

11 WHEREAS, Throughout the select committee's efforts to satisfy
12 its charge under House Resolution 216, District Attorney Krasner
13 steadfastly insisted that the select committee somehow had the
14 power to impeach him; and

15 WHEREAS, Only the House of Representatives, as a body, has
16 the power of impeachment; therefore be it

17 RESOLVED, That Lawrence Samuel Krasner, District Attorney of
18 Philadelphia, be impeached for misbehavior in office and that
19 the following Articles of Impeachment be exhibited to the
20 Senate:

21 ARTICLE I

22 In its 1994 opinion in *Larsen v. Senate of Pennsylvania*, the
23 Commonwealth Court spoke to the meaning of the current language
24 "any misbehavior in office."

25 Justice Larsen argued that the applicable standard of
26 "misbehavior in office" was nothing more than a codification of
27 the common law offense of misconduct in office, meaning "the
28 breach of a positive statutory duty or the performance by a
29 public official of a discretionary act with an improper or
30 corrupt motive."

1 In its opinion, the Commonwealth Court held that even if the
2 strict definition espoused by Larsen were the appropriate rule,
3 Larsen's conduct still met that heavy burden. More importantly,
4 however, the court said that this "strict definition . . . finds
5 no support in judicial precedents." In other words, there is no
6 precedent that the current language is so constrained. The use
7 of the word "any" necessarily implied a broad construction.

8 The Philadelphia District Attorney's Office's stated mission
9 is to provide a voice for victims of crime and protect the
10 community through zealous, ethical and effective investigations
11 and prosecutions. District Attorney Krasner, by and through his
12 failed policies and procedures, and throughout the discharge of
13 his duties as Philadelphia's chief law enforcement officer, has
14 been derelict in his obligations to the victims of crime, the
15 people of the City of Philadelphia and of this Commonwealth.

16 Under District Attorney Krasner's administration, and as
17 detailed herein, his lack of proper leadership serves as a
18 direct and proximate cause of the crisis currently facing the
19 City of Philadelphia. These policies have eviscerated the
20 District Attorney's Office's ability to adequately enforce the
21 laws of this Commonwealth; endangered the health, welfare and
22 safety of more than 1.5 million Pennsylvanians that reside in
23 Philadelphia and the tens of millions of Americans who visit the
24 City every year; and, have brought the Office of District
25 Attorney into disrepute.

26 WHEREFORE, District Attorney Lawrence Samuel Krasner is
27 guilty of an impeachable offense warranting removal from office
28 and disqualification to hold any office of trust or profit under
29 this Commonwealth.

30 ARTICLE II

1 District Attorney Krasner has, at every turn, obstructed the
2 efforts of the House Select Committee on Restoring Law and
3 Order. He has consistently raised specious claims without a good
4 faith basis in law or fact. Even after the House of
5 Representatives resolved to hold him in contempt, District
6 Attorney Krasner's efforts to comply with subpoenas issued by
7 the select committee chair fall far short of what could be
8 described as a reasonable good faith effort.

9 WHEREFORE, District Attorney Lawrence Samuel Krasner is
10 guilty of an impeachable offense warranting removal from office
11 and disqualification to hold any office of trust or profit under
12 this Commonwealth.

13 The House of Representatives hereby reserves to itself the
14 right and ability to exhibit at any time after adoption of this
15 resolution further or more detailed Articles of Impeachment
16 against District Attorney Lawrence Samuel Krasner, to reply to
17 any answers that District Attorney Lawrence Samuel Krasner may
18 make to any Articles of Impeachment which are exhibited and to
19 offer proof at trial in the Senate in support of each and every
20 Article of Impeachment which shall be exhibited by them.

21 Upon the articles of impeachment against Lawrence Samuel
22 Krasner, Philadelphia District Attorney, being signed by the
23 Speaker of the House of Representatives, the Speaker shall
24 appoint a committee of three members, two from the majority
25 party and one from the minority party to exhibit the same to the
26 Senate, and on behalf of the House of Representatives to manage
27 the trial thereof.

EXHIBIT B

AMENDMENTS TO HOUSE RESOLUTION NO. 240

Sponsor: REPRESENTATIVE ECKER

Printer's No. 3607

1 Amend Resolution, page 1, lines 4 through 19; pages 2 through
2 21, lines 1 through 30; page 22, lines 1 through 27; by striking
3 out all of said lines on said pages and inserting

4 WHEREAS, Lawrence Samuel Krasner was elected to the position
5 of District Attorney of Philadelphia on November 7, 2017, and
6 re-elected to the position on November 2, 2021, pursuant to
7 section 4 of Article IX of the Constitution of Pennsylvania; and

8 WHEREAS, Pursuant to section 4 of Article VI of the
9 Constitution of Pennsylvania, only the House of Representatives,
10 as a body, has the power of impeachment; and

11 WHEREAS, Pursuant to section 6 of Article VI of the
12 Constitution of Pennsylvania, civil officers like District
13 Attorney Krasner may be subject to impeachment by the House of
14 Representatives for "any misbehavior in office"; and

15 WHEREAS, In its 1994 opinion in *Larsen v. Senate of*
16 *Pennsylvania*, the Commonwealth Court spoke to the meaning of the
17 language "any misbehavior in office" in section 6 of Article VI
18 of the Constitution of Pennsylvania; and

19 WHEREAS, Justice Larsen argued that the applicable standard
20 of "misbehavior in office" was nothing more than a codification
21 of the common law offense of misconduct in office, meaning "the
22 breach of a positive statutory duty or the performance by a
23 public official of a discretionary act with an improper or
24 corrupt motive"; and

25 WHEREAS, In its opinion, the Commonwealth Court held that
26 even if the strict definition espoused by Larsen were the
27 appropriate rule, Larsen's conduct still met that heavy burden.
28 More importantly, however, the court said that this "strict
29 definition...finds no support in judicial precedents." Stated
30 differently, there is no precedent that the current language is
31 so constrained; and

32 WHEREAS, The Philadelphia District Attorney's Office's stated
33 mission and statutory purpose is, among other things, to provide
34 a voice for victims of crime, protect the community through
35 zealous, ethical and effective investigations and prosecutions,
36 and to uphold and prosecute violations of the laws of this
37 Commonwealth and the provisions of Philadelphia's Home Rule

1 Charter; and

2 WHEREAS, District Attorney Krasner, by and through his failed
3 policies and procedures, and throughout the discharge of his
4 duties as Philadelphia's chief law enforcement officer, has been
5 derelict in his obligations to the victims of crime, the people
6 of the City of Philadelphia and of this Commonwealth and has
7 failed to uphold his oath of office; and

8 WHEREAS, District Attorney Krasner is bound by the Rules of
9 Professional Conduct adopted by the Supreme Court, which set
10 forth the minimal ethical requirements for all attorneys
11 licensed to practice law in this Commonwealth, as well as the
12 Code of Judicial Conduct, which is applicable to all district
13 attorneys in this Commonwealth. 16 Pa. Stat. Ann. § 1401(o) ("A
14 district attorney shall be subject to the Rules of Professional
15 Conduct and the canons of ethics as applied to judges in the
16 courts of common pleas of this Commonwealth ..."); and

17 WHEREAS, There have been multiple incidents of District
18 Attorney Krasner exhibiting unethical conduct by lacking candor
19 to the Courts of this Commonwealth in violation of Rule of
20 Professional Conduct 3.3, committing professional misconduct in
21 violation of Rule of Professional Conduct 8.4 and engaging in
22 impropriety and or appearances of impropriety in violation of
23 Canon 2 of the Code of Judicial Conduct; and

24 WHEREAS, District Attorney Krasner has been in office since
25 January 2018. Under District Attorney Krasner's administration,
26 and as detailed herein, the city has descended into an
27 unprecedented crisis of lawlessness. By way of example only,
28 there were 562 murders in 2021, the most in the 340-year history
29 of the city. Under District Attorney Krasner, murders and
30 violence occur in every part of the city at every hour of the
31 day. Shootings on public transportation, in populated
32 neighborhoods with families and children, near schools and in
33 the center city business district have now become frequent and
34 routine. Open air drug markets have become ubiquitous. He has
35 decriminalized prostitution effectively destroying programs
36 designed to rescue women from addiction and human trafficking.
37 District Attorney Krasner has decriminalized retail theft
38 resulting in numerous businesses leaving the city. He has
39 released criminals back on to the street who go on to commit
40 even more heinous crimes of murder, rape and robbery against the
41 people of Philadelphia, the overwhelming majority of whom are
42 African American. This crisis of crime and violence is a direct
43 result of District Attorney Krasner's incompetence, ideological
44 rigidity and refusal to perform the duties he swore to carry out
45 when he became District Attorney. He has deliberately
46 eviscerated the District Attorney's Office's ability to
47 adequately enforce the laws of this Commonwealth; endangered the
48 health, welfare and safety of more than 1.5 million
49 Pennsylvanians that reside in Philadelphia and the tens of
50 millions of Americans who visit the city every year; and, his
51 conduct has brought the Office of District Attorney and the

1 justice system itself into disrepute; therefore be it
2 RESOLVED, That Lawrence Samuel Krasner, District Attorney of
3 Philadelphia, be impeached for misbehavior in office and that
4 the following Articles of Impeachment be exhibited to the Senate
5 pursuant to section 5 of Article VI of the Constitution of
6 Pennsylvania:

7 ARTICLE I:

8 Misbehavior in Office In the Nature of Dereliction
9 of Duty and Refusal to Enforce the Law

10 Upon assuming office, District Attorney Krasner terminated
11 more than 30 assistant district attorneys (ADA) from employment
12 with the Philadelphia District Attorney's Office. Many of these
13 terminated assistant district attorneys were senior-level
14 staffers in supervisory roles who possessed significant
15 prosecutorial experience and knowledge of criminal procedure.
16 District Attorney Krasner replaced this vast institutional
17 knowledge in the Philadelphia District Attorney's Office with
18 attorneys who lacked any meaningful experience in prosecuting
19 criminal cases, some of whom only recently graduated from law
20 school.

21 District Attorney Krasner subsequently withdrew the office
22 from membership in the Pennsylvania District Attorneys
23 Association (PDAA) because, he asserted, PDAA supported
24 regressive and punitive policies. In withdrawing from PDAA,
25 District Attorney Krasner denied the attorneys in his office the
26 ability to participate in the various professional development
27 and training programs provided by PDAA through its educational
28 institute.

29 Rather than offering traditional prosecutorial training on
30 such subjects as prosecutorial ethics, human trafficking,
31 witness examination, trial advocacy, trial management and
32 achieving justice for domestic violence and sexual assault
33 victims, District Attorney Krasner offered attorneys seminars,
34 including "A New Vision for Criminal Justice in Philadelphia,"
35 "Deportation: The Unforeseen Consequences of Prosecution in our
36 Immigrant Community," and "Philadelphia and Safe Injection: Harm
37 Reduction as Public Policy." The Philadelphia District
38 Attorney's Office eventually returned to more traditional
39 prosecutorial training, however, the office continued to focus
40 on issues that promote District Attorney Krasner's radically
41 progressive philosophies rather than how to effectively
42 prosecute a criminal case.

43 Upon being elected to office, District Attorney Krasner
44 established a series of office policies with the purported
45 purpose to "end mass incarceration and bring balance back to
46 sentencing," and later adopted a series of policies related to
47 certain crimes or classes of people. These policies include
48 directives not to charge sex workers or individuals for certain
49 classes of crimes such as prostitution or possession of
50 marijuana and marijuana-related drug paraphernalia.

51 These new policies identified a series of offenses for which

1 the gradation may be reduced with the purpose of "reduc[ing]
2 pre-trial incarceration rates as no bail is required and the
3 shorter time required for hearings expedites Municipal Court and
4 Common Pleas dockets," and requiring disposition of retail theft
5 cases unless the value of the item stolen exceeds \$500 or where
6 the defendant has an extensive history of theft convictions.

7 District Attorney Krasner instituted policies to make plea
8 offers below the bottom end of the mitigated range under the
9 Sentencing Guidelines from the Pennsylvania Sentencing
10 Commission and seek greater use of house arrest, probation and
11 alternative sentencing when the sentencing guidelines indicate a
12 range of incarceration of less than 24 months.

13 In February 2018, District Attorney Krasner established a
14 policy that his office "will ordinarily no longer ask for cash
15 bail for...misdemeanors and felonies" listed in the policy,
16 because "[T]he cash bail system is rife with injustice and
17 exacerbates socio-economic and racial inequalities,
18 disproportionately penalizing the poor and people of color."

19 In November 2018, District Attorney Krasner adopted a policy
20 in which a criminal defendant's immigration status should be
21 considered in the plea-bargaining process, effectively providing
22 that if an immigration consequence is detected pre-trial or with
23 respect to a sentencing recommendation, counsel will advise if
24 an offer can be made to avoid the consequence.

25 Other policies that District Attorney Krasner directed were
26 as follows:

27 (1) Assistant district attorneys may not proceed in
28 cases against defendants driving under the influence of
29 cannabis when the defendants' blood "contains inactive
30 metabolite (11-Nor-9-Carboxy-Delta-9-THC) or 4 or fewer
31 ng/mls of psycho-active THC" and that "if the defense
32 presents evidence that calls impairment into question, an ADA
33 may consider dropping the charges against the defendant."

34 (2) The District Attorney's Office "will only oppose
35 motions for redactions or expungements in limited
36 circumstances" and sets forth various scenarios in which the
37 office will agree to, seek or not oppose the expungement of a
38 defendant's criminal history.

39 (3) The District Attorney's Office directed plea offers
40 and sentencing recommendations:

41 (i) for felonies, "aimed at an office-wide average
42 period of total supervision among cases of around 18
43 months or less of total supervision, with a ceiling of 3
44 years of total supervision or less on each case";

45 (ii) for misdemeanors, aimed at an office-wide
46 average of "6 months or less of total supervision, with a
47 ceiling of 1 year";

48 (iii) for all matters, for "concurrent sentences";
49 and

50 (iv) for cases involving incarceration, "for a
51 period of parole that is no longer than the period of

incarceration."

Nearly all of District Attorney Krasner's policies "create a presumption" for ADAs to follow and require approval from District Attorney Krasner himself or a first assistant district attorney for deviations from the policies.

District Attorney Krasner, in an April 2021 report published by the District Attorney's Office (DAO) titled "Ending Mass Supervision: Evaluating Reforms," wrote in his opening letter: "I am proud of the work this office has done to make Philadelphians, particularly Philadelphians of Color, freer from unnecessary government intrusion, while keeping our communities safe." In reality, the policies and practices of the Philadelphia District Attorney's Office instituted under the direction of District Attorney Krasner have led to catastrophic consequences for the people of the City of Philadelphia.

According to the City Controller, spikes in gun violence and homicides have dramatically impacted historically disadvantaged neighborhoods, and those neighborhoods are "primarily low-income with predominately black or African American residents." The Philadelphia Police Department (PPD) reports that the number of homicide victims has increased every year since 2016, more than doubling from 2016 to 2021, with a year-over-year increase of 40% between 2019 and 2020. As of October 16, 2022, there have already been 430 homicides in the City of Philadelphia in 2022. As of October 17, 2022, reported trends gathered from the PPD's "incident" data, which tracks the reporting of all crimes in addition to homicides, shows a 12% increase in all reported offenses, a 6% increase in violent offenses and a 21% increase in property offenses.

While incidents of violent crime are increasing, prosecution of crime by the Philadelphia District Attorney's Office has decreased during this same period. In 2016, the Philadelphia District Attorney's Office reported that only 30% of "all offenses" resulted in a dismissal or withdrawal, but that number spiked to 50% in 2019, 54% in 2020, 67% in 2021 and 65% to date in 2022.

A similar trend is evident when filtering the data for violent crimes, where, in 2016, the withdrawal and dismissed violent crime cases accounted for 48% of all violent crime case outcomes, but that percentage increased to 60% in 2019, to 68% in 2020, to 70% in 2021 and to 66% in 2022 to date. Data from the Pennsylvania Sentencing Commission relating to violations of the Uniform Firearms Act (VUFA) evidences a similar jarring trend. The Sentencing Commission reports that guilty dispositions in the City of Philadelphia declined from 88% in 2015 to 66% in 2020, compared to a decline from 84% to 72% in counties of the second class, with the driver of the decrease being nolle pros dispositions. As compared to the Statewide data and other county classes, in the City of Philadelphia the percent of guilty verdicts has decreased significantly, while the percent of nolle prossed cases has increased.

1 Studies by the Delaware Valley Intelligence Center (DVIC)
2 attempted to provide "an explanation for the increase in
3 homicides and shootings in an effort to begin a conversation to
4 address the challenge at a strategic level," and, significantly,
5 the report notes:

6 "The rate of prosecution dismissal and withdrawal has been
7 increase [sic] substantially since 2015 under DA [Seth]
8 Williams, and has continued to increase after DA Krasner took
9 office. Furthermore, a closer examination of these dropped cases
10 indicates that more cases are dismissed/withdrawn at the
11 preliminary hearing state [sic] under DA Krasner than the actual
12 trial state []. This implies that, even when criminals are
13 caught with a gun, they are swiftly finding out they may not
14 receive as significant a consequence as they had historically.
15 Notably, the likelihood of being arrested is low to begin with.
16 This means that, criminals know that their likelihood of getting
17 caught with a gun is slim and, even if they get caught, they
18 feel that they can leave without severe (or any) consequences."

19 The DVIC conducted a "cursory examination" of
20 dismissed/withdrawn cases in 2018/2019 and "found 6 offenders
21 whose cases were dismissed (VUFA former convict charge) and got
22 later involved in shootings...2 of these shootings were fatal
23 and 4 out of these 6 offenders were gang members."

24 The DVIC studied the prosecution declination for narcotics,
25 retail theft and prostitution arrests from 2016 to 2018, and
26 concluded in its key findings that the percentage of all
27 declinations, not just narcotics, prostitution and retail theft,
28 increased "especially in 2018" to more than 7%, when it had been
29 just 2% or less between 2007 and 2015.

30 In September 2020, the Philadelphia City Council authorized
31 the Committee on Public Safety and the Special Committee on Gun
32 Violence Prevention to study gun violence in the city. This
33 study involved a collaboration between the Controller's Office,
34 Defender Association, Department of Public Health, District
35 Attorney's Office, First Judicial District, Managing Director's
36 Office, Pennsylvania Attorney General and PPD. The published
37 results, called the "100 Shooting Review Committee Report,"
38 discusses trends and general findings regarding shootings in the
39 City of Philadelphia. The published results showed the
40 following:

41 (1) The clearance rate (*i.e.*, when an arrest was made or
42 a suspect that could not be arrested was identified) for
43 fatal shootings in 2020 was 37% and the rate for nonfatal
44 shootings was 18%.

45 (2) There has been a "marked increase" in the number of
46 people arrested for illegal gun possession without the
47 accusation of an additional offense, including a doubling in
48 arrests for illegal possession of a firearm without a license
49 since 2018.

50 (3) The initial and final bail amounts set by courts in
51 illegal possession of firearms cases declined between 2015

1 and 2019 and increased in 2020 and 2021.

2 (4) Conviction rates in shooting cases declined between
3 2016 and 2020 from 96% to 80% in fatal shootings and from 69%
4 to 64% in nonfatal shootings.

5 (5) There is a long-term trend of a reduction in
6 conviction rates for illegal gun possession cases, dropping
7 from 65% in 2015 to 45% in 2020.

8 In August 2022, the Philadelphia Police Commissioner
9 indicated that her department is short-staffed by approximately
10 20%, or 1,300 officers, due to low morale, politics, increased
11 scrutiny and "uniquely stringent hiring requirements" during a
12 nationwide shortage.

13 Police Commissioner Danielle Outlaw stated, "The truth is the
14 homicides are not happening in a vacuum - there are those who
15 are determined to attack and kill their victims. While we are
16 making constant adjustments to mitigate this sickening reality,
17 our officers, simply put, just can't keep up by being everywhere
18 at all times." While the PPD may arrest a suspect for the
19 commission of a crime, the Philadelphia District Attorney's
20 Office is one of the few district attorney's offices in this
21 Commonwealth that reserves unto itself the authority to charge a
22 person for a criminal act.

23 In October 2022, following yet another act of violence
24 against police in the City of Philadelphia, Police Commissioner
25 Danielle Outlaw issued the following statement:

26 "We are tired of arresting the same suspects over and over
27 again, only to see them right back out on the street to continue
28 and sometimes escalate their criminal ways. We are tired of
29 having to send our officers into harm's way to serve warrants on
30 suspects who have no business being on the street in the first
31 place.

32 No - not everyone needs to be in jail. But when we repeatedly
33 see the extensive criminal histories of those we arrest for
34 violent crime, the question needs to be asked as to why they
35 were yet again back on the street and terrorizing our
36 communities.

37 I am beyond disgusted by this violence. Our entire department
38 is sickened by what is happening to the people that live, work,
39 and visit our city. Residents are tired of it. Business owners
40 are tired of it. Our children are tired of it.
41 We are long past 'enough is enough'."

42 Acts of violence, and particularly violent crimes committed
43 with firearms, have exacted a heavy toll on victims and their
44 families, with countless lives unnecessarily lost or
45 irretrievably broken, due to the increase of violent crime in
46 the City of Philadelphia. The foregoing acts constitute
47 "misbehavior in office" by District Attorney Krasner in that
48 such acts have substantially contributed to the increase in
49 crime in the City of Philadelphia, undermined confidence in the
50 criminal justice system, and betrayed the trust of the citizens
51 of Philadelphia and the Commonwealth.

1 WHEREFORE, District Attorney Lawrence Samuel Krasner is
2 guilty of an impeachable offense warranting removal from office
3 and disqualification to hold any office of trust or profit under
4 this Commonwealth.

5 ARTICLE II:

6 Misbehavior In Office In the Nature of Obstruction
7 of House Select Committee Investigation

8 House Resolution 216 of 2022 established the House Select
9 Committee to Restore Law and Order pursuant to Rule 51 of the
10 General Operating Rules of the House. The select committee is
11 authorized and empowered "to investigate, review and make
12 finding and recommendations concerning risking rates of crime,
13 law enforcement and the enforcement of crime victim rights," in
14 the City of Philadelphia.

15 House Resolution 216 further charges the select committee to
16 make findings and recommendations, including, but not limited
17 to, the following:

18 (1) Determinations regarding the performance of public
19 officials empowered to enforce the law in the City of
20 Philadelphia, including the district attorney, and
21 recommendations for removal from office or other appropriate
22 discipline, including impeachment.

23 (2) Legislation or other legislative action relating to
24 policing, prosecution, sentencing and any other aspect of law
25 enforcement.

26 (3) Legislation or other legislative action relating to
27 ensuring the protection, enforcement and delivery of
28 appropriate services and compensation to crime victims.

29 (4) Legislation or other legislative action relating to
30 ensuring the appropriate expenditure of public funds intended
31 for the purpose of law enforcement, prosecutions or to
32 benefit crime victims.

33 (5) Other legislative action as the select committee
34 finds necessary to ensure appropriate enforcement of law and
35 order in the City of Philadelphia.

36 In pursuit of these obligations, the resolution empowers the
37 select committee chair to, among other things, "send for
38 individuals and papers and subpoena witnesses, documents,
39 including electronically stored information, and any other
40 materials under the hand and seal of the chair." The chair
41 issued subpoenas to a number of Philadelphia municipal offices,
42 including the Controller, the Mayor, the Police Department, the
43 Sheriff's Office, the Treasurer and the District Attorney's
44 Office. The subpoenas sought nonprivileged records necessary to
45 fulfill the select committee's obligations to the House of
46 Representatives pursuant to House Resolution 216.

47 While other municipal offices worked cooperatively with the
48 select committee to respond to the subpoenas issued to them,
49 District Attorney Krasner and his office chose instead to
50 obstruct the select committee's work at every turn. District
51 Attorney Krasner and his office asserted that the select

1 committee was illegitimate and that its subpoenas served "no
2 valid legislative purpose, violating the separation of powers,
3 invading legal privileges, and seeking to deny the
4 constitutional rights of Philadelphia's citizens, especially
5 their democratic right to vote and choose their local leaders."

6 District Attorney Krasner asserted various claims that held
7 no basis in fact or law, including the following:

8 (1) District Attorneys are not subject to impeachment.

9 (2) Impeaching the District Attorney violates the
10 constitutional rights of the people who voted for him.

11 (3) The District Attorney committed no wrong, and
12 therefore was not required to comply with the committee
13 chair's subpoena.

14 (4) Impeachment of a public official requires a
15 conviction for a criminal act; and

16 District Attorney Krasner and his office refused to search
17 for or produce any documents in response to the subpoena.
18 Despite multiple attempts by counsel to the select committee
19 chair to bring District Attorney Krasner and his office into
20 compliance with the subpoenas, explaining on multiple occasions
21 that the select committee was seeking nonprivileged records and,
22 as it related to any record for which the District Attorney
23 believed were privileged, the District Attorney should follow
24 common practice in responding to a subpoena by providing a
25 privilege log to identify those records for which the District
26 Attorney asserts a privilege.

27 On September 12, 2022, after multiple exchanges between
28 counsel and a Request to Show Cause why the District Attorney
29 should not be held in contempt by the House, the select
30 committee issued an interim report pursuant to Rule 51 of the
31 General Operating Rules of the House of Representatives,
32 notifying the House of District Attorney Krasner's refusal to
33 comply with the subpoena and recommending that the House
34 consider contempt proceedings.

35 The House of Representatives adopted House Resolution 227 on
36 September 13, 2022, resolving that the House hold District
37 Attorney Krasner in contempt. House Resolution 227 was adopted
38 by a bipartisan vote of 162 to 38.

39 District Attorney Krasner filed an action in Commonwealth
40 Court on September 2, 2022, in which he raised the same
41 arguments that fail to have any meaningful basis in law or fact.
42 District Attorney Krasner and his office have since feigned
43 partial compliance with the subpoena, providing several public-
44 facing records obtained without the need to engage in any
45 legitimate effort to search for the records.

46 The select committee chair invited District Attorney Krasner
47 to testify before the select committee in executive session on
48 October 21, 2022. District Attorney Krasner refused to testify
49 in executive session, demanding a public hearing instead.
50 District Attorney Krasner then published a press release which
51 was misleading at best, mischaracterizing the invitation to

1 District Attorney Krasner to testify in yet another moment of
2 grandstanding.

3 Given the District Attorney's rejection of the invitation to
4 testify in executive session, the select committee was compelled
5 to cancel the hearing.

6 District Attorney Krasner has, at every turn, obstructed the
7 efforts of the House Select Committee on Restoring Law and
8 Order. He has consistently raised specious claims without a good
9 faith basis in law or fact. Even after the House of
10 Representatives resolved to hold him in contempt, District
11 Attorney Krasner's efforts to comply with subpoenas issued by
12 the select committee chair fall far short of what can be
13 considered a reasonable good faith effort.

14 WHEREFORE, District Attorney Lawrence Samuel Krasner is
15 guilty of an impeachable offense warranting removal from office
16 and disqualification to hold any office of trust or profit under
17 this Commonwealth.

18 Article III:

19 Misbehavior In Office In the Nature of Violation of
20 the Rules of Professional Conduct and Code of
21 Judicial Conduct; specifically Rule 3.3 Candor Toward
22 the Tribunal, Rule 8.4 Professional Misconduct, and
23 Canon 2 of the Code of Judicial Conduct Impropriety
24 and Appearance of Impropriety in the Matter
25 of *Robert Wharton v. Donald T. Vaughn*

26 In the Federal habeas corpus proceeding in *Robert Wharton v.*
27 *Donald T. Vaughn*, Federal District Court Judge Goldberg issued a
28 memorandum order admonishing and sanctioning the District
29 Attorney's Office. Robert Wharton was convicted of murdering the
30 parents of survivor Lisa Hart-Newman, who was seven months old
31 at the time and was left to freeze to death with her deceased
32 parents by Mr. Wharton.

33 After his conviction, Wharton pursued a death penalty habeas
34 petition in the Federal district court. The District Attorney's
35 Office under prior administrations had opposed this petition.

36 In 2019, District Attorney Krasner's administration filed a
37 "Notice of Concession of Penalty Phase Relief," stating that it
38 would not seek a new death sentence, and, based on that
39 sentencing relief, the litigation and appeals could end. The
40 concession noted only that the decision to concede was made
41 "[f]ollowing review of this case by the Capital Case Review
42 Committee of the Philadelphia [District Attorney's Office],
43 communication with the victims' family, and notice to
44 [Wharton's] counsel."

45 Judge Goldberg undertook an independent analysis of the
46 merits of the claim and invited the Pennsylvania Office Attorney
47 General (OAG) to file an amicus brief in the case. In its
48 amicus, the OAG submitted additional facts that the District
49 Attorney's Office had not disclosed, including evidence of
50 prison misconducts, attempted escapes and Department of
51 Corrections concerns regarding "assaultiveness" and "escape" by

1 Mr. Wharton.

2 The OAG concluded that "given the facts of this investigation
3 and aggravating sentencing factors present in this case, Wharton
4 could not establish a reasonable probability that the outcome of
5 his penalty phase death sentence would have been different if
6 the jury had heard evidence of his alleged 'positive' prison
7 adjustment."

8 The OAG further determined that members of the family,
9 including victim Ms. Hart-Newman, were not contacted and that
10 they opposed the concession by the District Attorney's Office.

11 After an evidentiary hearing, Judge Goldberg held as follows:

12 (1) The District Attorney's Office failed to advise the
13 court of significant anti-mitigation evidence, including that
14 Mr. Wharton had made an escape attempt at a court appearance.

15 (2) Two of the office's supervisors violated Federal
16 Rule of Civil Procedure 11(b)(3) "based upon that Office's
17 representations to this Court that lacked evidentiary support
18 and were not in any way formed after 'an inquiry reasonable
19 under the circumstances.'"

20 (3) Representations of communication with the victims'
21 family were "misleading," "false," and "yet another
22 representation to the Court made after an inquiry that was
23 not reasonable under the circumstances."

24 (4) The Law Division Supervisor, Assistant Supervisor
25 and District Attorney's Office violated Rule 11(b)(1), and
26 concluding that the violation was "sufficiently 'egregious'
27 and 'exceptional' under the circumstances to warrant
28 sanctions."

29 Judge Goldberg imposed nonmonetary sanctions on the District
30 Attorney's Office, requiring that separate written apologies be
31 sent to the victim, Lisa Hart-Newman, and the victim's family
32 members. Given the testimony of the two Law Division supervisors
33 that District Attorney Krasner approved and implemented internal
34 procedures that created the need for this sanction, and that the
35 District Attorney had the sole, ultimate authority to direct
36 that the misleading Notice of Concession be filed, therefore
37 "the apologies shall come from the District Attorney, Lawrence
38 Krasner, personally."

39 District Attorney Krasner has the sole authority to approve
40 court filings on behalf of Philadelphia District Attorney's
41 office. While in office, District Attorney Krasner directed,
42 approved and or permitted the filing of a "Notice of
43 Concession" and presentation of other pleadings and statements
44 in Federal court which contained materially false and or
45 misleading affirmative statements and purposeful omissions of
46 fact in violation of the Rules of Professional Conduct, Rule 3.3
47 (Candor Toward the Tribunal) and Rule 8.4 (Professional
48 Misconduct), and Code of Judicial Conduct, Canon 2 (Impropriety
49 and or Appearance of Impropriety).

50 WHEREFORE, District Attorney Lawrence Samuel Krasner is
51 guilty of an impeachable offense warranting removal from office

1 and disqualification to hold any office of trust or profit under
2 this Commonwealth.

3 Article IV:

4 Misbehavior In Office In the Nature of Violation of
5 the Rules of Professional Conduct; specifically
6 Rule 3.3 Candor Toward the Tribunal, Rule 8.4
7 Professional Misconduct, and Canon 2 of the Code
8 of Judicial Conduct Impropriety and Appearance of
9 Impropriety in the matter of *Commonwealth vs. Pownall*

10 In his special concurrence in *Commonwealth v. Pownall*,
11 Supreme Court Justice Dougherty highlighted what he feared to be
12 an effort by the District Attorney's Office to deprive certain
13 defendants of a fair and speedy trial. Following the June 2017
14 incident in which former Philadelphia police officer Ryan
15 Pownall shot and killed David Jones, the District Attorney's
16 Office submitted the matter to an investigative grand jury. The
17 investigating grand jury issued a presentment recommending that
18 Pownall be charged with criminal homicide, possession of an
19 instrument of crime and recklessly endangering another person;
20 and

21 During trial, the prosecutor filed a motion in limine to
22 preclude the standard peace officer justification defense
23 instruction, based on the assertion that the instruction, which
24 largely tracked language of statute, violated Fourth Amendment
25 prohibition against unreasonable search and seizure. The motion
26 was denied and the prosecution appealed to the Superior Court,
27 which quashed the appeal as unauthorized. The Supreme Court
28 granted the prosecutor's request for allowance of appeal.

29 The Supreme Court ultimately denied the appeal, but the
30 special concurrence filed by Justice Dougherty illuminated
31 startling behavior by the District Attorney's Office. Justice
32 Dougherty held that the District Attorney's Office's actions
33 during grand jury process "implicate[s] a potential abuse" and
34 stated that "the presentment in this case is perhaps best
35 characterized as a 'foul blow.'" He referred to the grand jury
36 presentment, authored by the District Attorney's Office, as a
37 "gratuitous narrative."

38 Justice Dougherty also recognized that any abuse of the grand
39 jury could have been remedied by "Statutory safeguards embedded
40 in the process," such as a preliminary hearing. He went on to
41 say "What is troubling is the DAO's effort to ensure that would
42 not occur," i.e., their filing of a motion to bypass the
43 preliminary hearing.

44 Justice Dougherty found it "inexplicable" that, in presenting
45 a bypass motion to the Court of Common Pleas, the District
46 Attorney's Office failed to highlight the Investigating Grand
47 Jury Act section 4551(e), which directs that a defendant "shall"
48 be entitled to a preliminary hearing. He emphasized that the
49 District Attorney's Office "appear[ed] to have known [about that
50 requirement] at the time it filed its motion."

51 As it related to the prosecutor's motion in limine and

1 interlocutory appeal, Justice Dougherty observed that the
2 District Attorney's Office's motion "presented only half the
3 relevant picture." He went on to say that "this type of advocacy
4 would be worrisome coming from any litigant," but coming from a
5 prosecutor, "is even more concerning, particularly in light of
6 the motion's timing...." He cited directly to Pennsylvania Rule
7 of Professional Conduct 3.3 regarding candor to the tribunal.

8 Further referencing ethical concerns, Justice Dougherty found
9 that the timing of the motion in limine, "[w]hen combined with
10 the other tactics highlighted throughout this concurrence,"
11 could lead to the conclusion that the decision to take "an
12 unauthorized interlocutory appeal was intended to deprive [Mr.
13 Pownall] of a fair and speedy trial." Justice Dougherty went on
14 to say:

15 Now, for the first time before this Court, the DAO finally
16 admits its true intent in all this was simply to use
17 Pownall's case as a vehicle to force judicial determination
18 on 'whether Section 508(a)(1) is facially unconstitutional.'
19 DAO's Reply Brief at 1; see id. at 6 (asserting Section 508's
20 applicability to [Pownall] is not the subject of this
21 appeal"). What's more, despite having assured the trial court
22 it was not trying 'to bar [Pownall] from a defense[.]' N.T.
23 11/25/2019 at 8, the DAO now boldly asserts it would be
24 appropriate for this Court to rewrite the law and
25 retroactively apply it to Pownall's case because he
26 supposedly 'had fair notice of his inability to rely on this
27 unconstitutional defense[.]' DAO's Brief at 10.

28 Justice Dougherty concluded, "Little that has happened in
29 this case up to this point reflects procedural justice. On the
30 contrary, the DAO's prosecution of Pownall appears to be "driven
31 by a win-at-all-cost office culture" that treats police officers
32 differently than other criminal defendants. DAO CONVICTION
33 INTEGRITY UNIT REPORT, OVERTURNING CONVICTIONS - AND AN ERA 2
34 (June 15, 2021) available at [tinyurl.com/CIU report](https://tinyurl.com/CIU-report) (last
35 visited July 19, 2022). This is the antithesis of what the law
36 expects of a prosecutor."

37 On remand, Common Pleas Court Judge McDermott said that there
38 were "so many things wrong" with the District Attorney's
39 Office's instructions to the investigating grand jury that it
40 warranted dismissing all charges against Mr. Pownall. After
41 hearing testimony from the assistant district attorneys who
42 handled the grand jury and preparation of the presentment, Judge
43 McDermott concluded that the District Attorney's Office failed
44 to provide the legal instructions to the grand jurors on the
45 definitions for homicide and information regarding the use-of-
46 force defense.

47 In her October 17, 2022, Statement of Findings of Fact and
48 Conclusions of Law, Judge McDermott stated, "The Commonwealth
49 made an intentional, deliberate choice not to inform the grand
50 jurors about the justification defense under Section 508. While
51 [the ADA] was aware of Section 508 and its applicability to the

1 Defendant's case at the time of the Grand Jury proceedings, she
2 decided not to advise the Grand Jury about Section 508 after
3 consulting with other, more senior Assistant District
4 Attorneys."

5 As it related to Pownall's right to a preliminary hearing,
6 Judge McDermott wrote:

7 In its Motion to bypass the preliminary hearing, the
8 Commonwealth demonstrated a lack of candor to the Court by
9 misstating the law and providing Judge Coleman with incorrect
10 case law.

11 * * *

12 The Commonwealth was also disingenuous with the Court
13 when it asserted that it had good cause to bypass the
14 preliminary hearing under Pa.R.Crim.P. 565(a) because of the
15 complexity of the case, the large number of witnesses the
16 Commonwealth would have to call, the expense, and the delay
17 caused by a preliminary hearing. As a preliminary hearing was
18 not held in this case, the Defendant's due process rights
19 were violated and the Defendant suffered prejudice.

20 Judge McDermott told the District Attorney's Office that if
21 defense counsel had made the decisions that the District
22 Attorney's Office made, she would "declare them incompetent."
23 The District Attorney's Office's own expert report from Gregory
24 A. Warren, Ed.D., of American Law Enforcement Training and
25 Consulting concluded that, given all the facts presented to him,
26 Officer Pownall's "use of deadly force in this case was
27 justified." This expert report was withheld from Pownall by the
28 District Attorney's Office.

29 District Attorney Krasner has the sole authority to approve
30 court filings on behalf of Philadelphia District Attorney's
31 office. While in office District Attorney Krasner directed,
32 approved and or permitted the filing of motions, presentations
33 of other pleadings and statements to the Grand Jury and the
34 Court which intentionally omitted, concealed and or withheld
35 material facts and legal authority relevant to the judicial
36 proceedings in violation of the Rules of Professional Conduct,
37 Rule 3.3 (Candor Toward the Tribunal), Rule 8.4 (Professional
38 Misconduct) and Code of Judicial Conduct, Canon 2 (Impropriety
39 and or Appearance of Impropriety).

40 WHEREFORE, District Attorney Lawrence Samuel Krasner is
41 guilty of an impeachable offense warranting removal from office
42 and disqualification to hold any office of trust or profit under
43 this Commonwealth.

44 Article V:

45 Misbehavior In Office In the Nature of Violation of
46 the Rules of Professional Conduct and Code of
47 Judicial Conduct; specifically Rule 3.3 Candor to
48 Tribunal, Rule 8.4 Professional Misconduct, and Canon
49 2 of the Code of Judicial Conduct Impropriety and
50 Appearance of Impropriety in the matter In
51 re: Conflicts of Interest of Philadelphia District

Attorney's Office

During sworn testimony, District Attorney Krasner withheld material facts from the Supreme Court when he testified under oath before the Supreme Court's Special Master. The Special Master was appointed by the Supreme Court pursuant to its King's Bench jurisdiction to investigate whether District Attorney Krasner had a conflict of interest favoring the defendant and appellant, Mumia Abu-Jamal, who had been convicted of first-degree murder of Officer Daniel Faulkner. District Attorney Krasner testified that he "never represented any advocacy organization for Mumia Abu-Jamal."

While affirmatively stating he never represented an "organization" which advocated for Mumia Abu-Jamal, District Attorney Krasner omitted the fact that he had, in fact, represented at least one pro-Mumia activist who was arrested for seeking to intimidate the judge deciding Abu-Jamal's Post Conviction Relief Act ("PCRA") Petition. That activist, who at the time was the "Director" of the "Youth Action Coalition," was arrested along-side local leaders of The International Concerned Family and Friends of Mumia Abu-Jamal, all of whom were protesting outside the home of Abu-Jamal's PCRA judge in an effort to illegally influence the very proceedings at issue in Mumia Abu-Jamal's nunc pro tunc appeal.

District Attorney Krasner represented this "Director," and potentially other pro-Mumia activists, against charges for violating a criminal statute that prohibits protesting outside the homes of judicial officers to influence the outcome of cases pending before the judicial officers. Yet, in testifying that he "never represented any advocacy organization for Mumia Abu-Jamal," District Attorney Krasner omitted these material facts, providing a partial and misleading disclosure regarding his connection to the effort to exonerate and free Mumia Abu-Jamal. District Attorney Krasner's misleading disclosure was directly relevant to the subject matter under investigation by the Supreme Court in that he was concealing material facts concerning his conflicts of interest in the Mumia Abu-Jamal matter, an issue at the very heart of the Supreme Court's review of the King's Bench Petition filed by the widow of Officer Faulkner. District Attorney Krasner therefore violated Rules of Professional Conduct, Rule 3.3 (Candor Toward the Tribunal), Rule 8.4 (Professional Misconduct) and Code of Judicial Conduct, Canon 2 (Impropriety and or Appearance of Impropriety).

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

Article VI:

Misbehavior in Office in Nature of
Violation of Victims Rights

Federal and State law provides for certain rights for victims related to the prosecution and sentencing of the defendants who

1 victimized them or their family members (18 U.S.C. § 3771 (b)(2)
2 (A) and section 201 of the act of November 24, 1998 (P.L.882,
3 No.111), known as the Crime Victims Act). Chief among the rights
4 provided to victims is the right to be kept informed at all
5 stages of the prosecution through clear, respectful and honest
6 communication and to be consulted with regard to sentencing.
7 District Attorney Krasner repeatedly violated, and allowed
8 Assistant District Attorneys under his supervision to violate,
9 the Federal and state victims' rights acts on multiple occasions
10 by specifically failing to timely contact victims, deliberately
11 misleading victims and or disregarding victim input and treating
12 victims with contempt and disrespect.

13 WHEREFORE, District Attorney Lawrence Samuel Krasner is
14 guilty of an impeachable offense warranting removal from office
15 and disqualification to hold any office of trust or profit under
16 this Commonwealth.

17 Article VII:

18 Misbehavior In Office In the Nature of Violation
19 of the Constitution of Pennsylvania By Usurpation
20 of the Legislative Function

21 Pursuant to Article II of the Constitution of Pennsylvania,
22 the legislative power is vested in the General Assembly.
23 District Attorney Krasner as an elected executive in the City of
24 Philadelphia has no authority to create, repeal or amend any
25 state law. Despite this clear separation of powers, District
26 Attorney Krasner has contravened the authority of the
27 legislature by refusing to prosecute specifically prohibited
28 conduct under state law. Rather than exercising his inherent
29 discretionary powers to review and determine charges on a case-
30 by-case basis, District Attorney Krasner, in his capacity as the
31 Commonwealth's Attorney in the City of Philadelphia,
32 unilaterally determined, directed and ensured that certain
33 crimes would no longer be prosecuted and were therefore *de facto*
34 legal.

35 These crimes include prostitution, theft and drug-related
36 offenses, among others. In particular, the *de facto* legalization
37 of prostitution by District Attorney Krasner has had a
38 devastating impact on women who are victims of sex trafficking
39 and the communities where they are trafficked. Refusing to
40 prosecute retail theft of property with less than a value of
41 \$500, District Attorney Krasner has created an atmosphere of
42 lawlessness in Philadelphia, with the direct effect of causing
43 businesses to curtail activity or cease doing business
44 altogether in Philadelphia. District Attorney Krasner's refusal
45 to prosecute those caught driving under the influence of
46 marijuana, aside from contributing to the lawlessness in the
47 city, has created dangerous situations for the health, safety
48 and welfare of the people in Philadelphia. District Attorney
49 Krasner *de facto* legalizing such acts that the General Assembly
50 has determined to be illegal is a clear usurpation of
51 legislative powers in violation of the Constitution of

1 Pennsylvania, and thus constitutes misbehavior in office.

2 WHEREFORE, District Attorney Lawrence Samuel Krasner is
3 guilty of an impeachable offense warranting removal from office
4 and disqualification to hold any office of trust or profit under
5 this Commonwealth.

6 The House of Representatives hereby reserves to itself the
7 right and ability to exhibit at any time after adoption of this
8 resolution further or more detailed Articles of Impeachment
9 against District Attorney Lawrence Samuel Krasner, to reply to
10 any answers that District Attorney Lawrence Samuel Krasner may
11 make to any Articles of Impeachment which are exhibited and to
12 offer proof at trial in the Senate in support of each and every
13 Article of Impeachment which shall be exhibited by them.

14 Upon the articles of impeachment against Lawrence Samuel
15 Krasner, Philadelphia District Attorney, being signed by the
16 Speaker of the House of Representatives, the Speaker shall
17 appoint a committee of three members, two from the majority
18 party and one from the minority party, to exhibit the same to
19 the Senate, and on behalf of the House of Representatives to
20 manage the trial thereof.

21 The expenses of the committee shall be paid by the Chief
22 Clerk from appropriation accounts under the Chief Clerk's
23 exclusive control and jurisdiction upon a written request
24 approved by the Speaker of the House of Representatives, the
25 Majority Leader of the House of Representatives or the Minority
26 Leader of the House of Representatives.

EXHIBIT C

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 240 Session of
2022

INTRODUCED BY WHITE, ROSSI, STAATS, O'NEAL, OWLETT, SONNEY,
GREINER, R. MACKENZIE, E. NELSON, DIAMOND, DUNBAR, TWARDZIK,
GLEIM, KLUNK, RYAN, WARNER, MILLARD, ARMANINI, BENNINGHOFF,
KERWIN, M. MACKENZIE, FEE, HICKERNELL, HEFFLEY, LEWIS
DELROSSO, GREGORY, KAIL, CAUSER AND GILLESPIE,
OCTOBER 26, 2022

AS AMENDED, HOUSE OF REPRESENTATIVES, NOVEMBER 16, 2022

A RESOLUTION

1 Impeaching Lawrence Samuel Krasner, District Attorney of
2 Philadelphia, for misbehavior in office; and providing for
3 the appointment of trial managers.

4 ~~WHEREAS, Lawrence Samuel Krasner was elected to the position <--~~
5 ~~of District Attorney of Philadelphia on November 7, 2017, and~~
6 ~~re-elected to the position on November 2, 2021, pursuant to~~
7 ~~section 4 of Article IX of the Constitution of Pennsylvania; and~~

8 ~~WHEREAS, Upon assuming office, District Attorney Krasner~~
9 ~~terminated more than 30 assistant district attorneys (ADA) from~~
10 ~~employment with the Philadelphia District Attorney's Office; and~~

11 ~~WHEREAS, Many of these terminated assistant district~~
12 ~~attorneys were senior level staffers in supervisory roles who~~
13 ~~possessed significant prosecutorial experience and knowledge of~~
14 ~~criminal procedure; and~~

15 ~~WHEREAS, District Attorney Krasner replaced this vast~~
16 ~~institutional knowledge in the Philadelphia District Attorney's~~

~~Office with attorneys who lacked any meaningful experience in prosecuting criminal cases, some of whom only recently graduated from law school; and~~

~~WHEREAS, District Attorney Krasner subsequently withdrew the office from membership in the Pennsylvania District Attorneys Association (PDAA) because, he asserted, PDAA supported regressive and punitive policies; and~~

~~WHEREAS, In withdrawing from PDAA, District Attorney Krasner denied the attorneys in his office the ability to participate in the various professional development and training programs provided by PDAA through its educational institute; and~~

~~WHEREAS, Rather than offering traditional prosecutorial training on such subjects as prosecutorial ethics, human trafficking, witness examination, trial advocacy, trial management and achieving justice for domestic violence and sexual assault victims, District Attorney Krasner offered attorneys seminars, including "A New Vision for Criminal Justice in Philadelphia," "Deportation: The Unforeseen Consequences of Prosecution in our Immigrant Community," and "Philadelphia and Safe Injection: Harm Reduction as Public Policy"; and~~

~~WHEREAS, The Philadelphia District Attorney's Office eventually returned to more traditional prosecutorial training, however, the office continued to focus on issues that promote District Attorney Krasner's progressive philosophies rather than how to effectively prosecute a criminal case; and~~

~~WHEREAS, Upon being elected to office, District Attorney Krasner established a series of office policies with the purported purpose to "end mass incarceration and bring balance back to sentencing," and later adopted a series of policies related to certain crimes or classes of people; and~~

1 ~~WHEREAS, These policies include directives not to charge sex~~
2 ~~workers or individuals for certain classes of crimes such as~~
3 ~~prostitution or possession of marijuana and marijuana related~~
4 ~~drug paraphernalia; and~~

5 ~~WHEREAS, These new policies identified a series of offenses~~
6 ~~for which the gradation may be reduced with the purpose of~~
7 ~~"reduc[ing] pre trial incarceration rates as no bail is required~~
8 ~~and the shorter time required for hearings expedites Municipal~~
9 ~~Court and Common Pleas dockets," and requiring disposition of~~
10 ~~retail theft cases unless the value of the item stolen exceeds~~
11 ~~\$500 or where the defendant has an extensive history of theft~~
12 ~~convictions; and~~

13 ~~WHEREAS, District Attorney Krasner instituted policies to~~
14 ~~make plea offers below the bottom end of the mitigated range~~
15 ~~under the Sentencing Guidelines from the Pennsylvania Sentencing~~
16 ~~Commission and seek greater use of house arrest, probation and~~
17 ~~alternative sentencing when the sentencing guidelines indicate a~~
18 ~~range of incarceration below 24 months; and~~

19 ~~WHEREAS, In February 2018, District Attorney Krasner~~
20 ~~established a policy that his office "will ordinarily no longer~~
21 ~~ask for cash bail for . . . misdemeanors and felonies" listed in~~
22 ~~the policy, because "The cash bail system is rife with injustice~~
23 ~~and exacerbates socio economic and racial inequalities,~~

24 ~~disproportionately penalizing the poor and people of color"; and~~

25 ~~WHEREAS, In November 2018, District Attorney Krasner adopted~~
26 ~~a policy in which a criminal defendant's immigration status~~
27 ~~should be considered in the plea bargaining process, effectively~~
28 ~~providing that where an immigration consequence is detected pre~~
29 ~~trial or with respect to a sentencing recommendation, counsel~~
30 ~~will advise if an offer can be made to avoid the consequence;~~

1 and

2 ~~WHEREAS, Other policies that District Attorney Krasner~~
3 ~~directed were as follows:~~

4 ~~(1) Assistant district attorneys may not proceed in~~
5 ~~cases against defendants driving under the influence of~~
6 ~~cannabis when the defendants blood "contains inactive~~
7 ~~metabolite (11 Nor 9 Carboxy Delta 9 THC) or 4 or fewer~~
8 ~~ng/mls of psycho active THC" and that "if the defense~~
9 ~~presents evidence that calls impairment into question, an ADA~~
10 ~~may consider dropping the charges against the defendant."~~

11 ~~(2) The District Attorney's Office "will only oppose~~
12 ~~motions for redactions or expungements in limited~~
13 ~~circumstances" and sets forth various scenarios in which the~~
14 ~~Office will agree to, seek or not oppose the expungement of a~~
15 ~~defendant's criminal history.~~

16 ~~(3) The District Attorney's Office directed plea offers~~
17 ~~and sentencing recommendations:~~

18 ~~(i) for felonies, "aimed at an office wide average~~
19 ~~period of total supervision among cases of around 18~~
20 ~~months or less of total supervision, with a ceiling of 3~~
21 ~~years of total supervision or less on each case";~~

22 ~~(ii) for misdemeanors, aimed at an office wide~~
23 ~~average of "6 months or less of total supervision, with a~~
24 ~~ceiling of 1 year";~~

25 ~~(iii) for all matters, for "concurrent sentences";~~
26 and

27 ~~(iv) for cases involving incarceration, "for a~~
28 ~~period of parole that is no longer than the period of~~
29 ~~incarceration";~~

30 and

1 ~~WHEREAS, Nearly all of District Attorney Krasner's policies~~
2 ~~"create a presumption" for ADAs to follow and require approval~~
3 ~~from Krasner himself or a first assistant district attorney for~~
4 ~~deviations from the policies; and~~

5 ~~WHEREAS, District Attorney Krasner, in an April 2021 report~~
6 ~~published by the DAO titled "Ending Mass Supervision: Evaluating~~
7 ~~Reforms," wrote in his opening letter: "I am proud of the work~~
8 ~~this office has done to make Philadelphians, particularly~~
9 ~~Philadelphians of Color, freer from unnecessary government~~
10 ~~intrusion, while keeping our communities safe"; and~~

11 ~~WHEREAS, In reality, the policies and practices of the~~
12 ~~Philadelphia District Attorney's Office instituted under the~~
13 ~~direction of District Attorney Krasner have led to catastrophic~~
14 ~~consequences for the people of the City of Philadelphia; and~~

15 ~~WHEREAS, According to the City Controller, spikes in gun~~
16 ~~violence and homicides have dramatically impacted historically~~
17 ~~disadvantaged neighborhoods, and those neighborhoods are~~
18 ~~"primarily low income with predominately black or African-~~
19 ~~American residents"; and~~

20 ~~WHEREAS, The Philadelphia Police Department (PPD) reports~~
21 ~~that the number of homicide victims has increased every year~~
22 ~~since 2016, more than doubling from 2016 to 2021, with a year-~~
23 ~~over year increase of 40% between 2019 and 2020; and~~

24 ~~WHEREAS, As of October 16, 2022, there have already been 430-~~
25 ~~homicides in the City of Philadelphia in 2022; and~~

26 ~~WHEREAS, As of October 17, 2022, reported trends gathered~~
27 ~~from the PPD's "incident" data, which tracks the reporting of~~
28 ~~all crimes in addition to homicides, shows a 12% increase in all-~~
29 ~~reported offenses, a 6% increase in violent offenses and a 21%~~
30 ~~increase in property offenses; and~~

~~WHEREAS, While incidents of violent crime are increasing,
prosecution of crime by the Philadelphia District Attorney's
Office has decreased during this same period; and~~

~~WHEREAS, In 2016, the Philadelphia District Attorney's Office
reported that only 30% of "all offenses" resulted in a dismissal
or withdrawal, but that number spiked to 50% in 2019, 54% in
2020, 67% in 2021 and 65% to date in 2022; and~~

~~WHEREAS, A similar trend is evident when filtering the data
for violent crimes, where, in 2016, the withdrawal and dismissed
violent crime cases accounted for 48% of all violent crime case
outcomes, but that percentage increased to 60% in 2019, to 68%
in 2020, to 70% in 2021 and to 66% in 2022 to date; and~~

~~WHEREAS, Data from the Pennsylvania Sentencing Commission
relating to violations of the Uniform Firearms Act (VUFA)
evidences a similar jarring trend; and~~

~~WHEREAS, The Sentencing Commission reports that guilty
dispositions in the City of Philadelphia declined from 88% in
2015 to 66% in 2020, compared to a decline from 84% to 72% in
counties of the second class, with the driver of the decrease
being nolle pros dispositions; and~~

~~WHEREAS, As compared to the Statewide data and other county
classes, the percent of guilty verdicts has decreased
significantly, while the percent of nolle prossed cases has
increased in the City of Philadelphia; and~~

~~WHEREAS, Studies by the Delaware Valley Intelligence Center
(DVIC) attempted to provide "an explanation for the increase in
homicides and shootings in an effort to begin a conversation to
address the challenge at a strategic level," significantly, the
report notes:~~

~~"The rate of prosecution dismissal and withdrawal has been~~

~~increase [sic] substantially since 2015 under DA [Seth] Williams, and has continued to increase after DA Krasner took office. Furthermore, a closer examination of these dropped cases indicates that more cases are dismissed/withdrawn at the preliminary hearing state [sic] under DA Krasner than the actual trial state []. This implies that, even when criminals are caught with a gun, they are swiftly finding out they may not receive as significant a consequence as they had historically. Notably, the likelihood of being arrested is low to begin with. This means that, criminals know that their likelihood of getting caught with a gun is slim and, even if they get caught, they feel that they can leave without severe (or any) consequences.";~~
and

~~WHEREAS, The DVIC conducted a "cursory examination" of dismissed/withdrawn cases in 2018/2019 and "found 6 offenders whose cases were dismissed (VUFA former convict charge) and got later involved in shootings . . . 2 of these shootings were fatal and 4 out of these 6 offenders were gang members"; and~~

~~WHEREAS, The DVIC studied the prosecution declination for narcotics, retail theft and prostitution arrests from 2016 to 2018, and concluded in its key findings that the percentage of all declinations, not just narcotics, prostitution and retail theft, increased "especially in 2018" to more than 7%, when it had been just 2% or less between 2007 and 2015; and~~

~~WHEREAS, In September 2020, the Philadelphia City Council authorized the Committee on Public Safety and the Special Committee on Gun Violence Prevention to study gun violence in the city. This study involved a collaboration between the Controller's Office, Defender Association, Department of Public Health, District Attorney's Office, First Judicial District,~~

~~Managing Director's Office, Pennsylvania Attorney General and PPD. The published results, called the "100 Shooting Review Committee Report," discusses trends and general findings regarding shootings in the City of Philadelphia; and~~

~~WHEREAS, The published results showed the following:~~

~~(1) The clearance rate (i.e., when an arrest was made or a suspect that could not be arrested was identified) for fatal shootings in 2020 was 37% and the rate for nonfatal shootings was 18%.~~

~~(2) There has been a "marked increase" in the number of people arrested for illegal gun possession without the accusation of an additional offense, including a doubling in arrests for illegal possession of a firearm without a license since 2018.~~

~~(3) The initial and final bail amounts set by courts in illegal possession of firearms cases declined between 2015 and 2019 and increased in 2020 and 2021.~~

~~(4) Conviction rates in shooting cases declined between 2016 and 2020 from 96% to 80% in fatal shootings and from 69% to 64% in nonfatal shootings.~~

~~(5) There is a long term trend of a reduction in conviction rates for illegal gun possession cases, dropping from 65% in 2015 to 45% in 2020;~~

~~and~~

~~WHEREAS, In August 2022, the Philadelphia Police Commissioner indicated that her department is short staffed by approximately 20%, or 1,300 officers, due to low morale, politics, increased scrutiny and "uniquely stringent hiring requirements" during a nationwide shortage; and~~

~~WHEREAS, Commissioner Danielle Outlaw stated, "The truth is~~

~~the homicides are not happening in a vacuum — there are those who are determined to attack and kill their victims. While we are making constant adjustments to mitigate this sickening reality, our officers, simply put, just can't keep up by being everywhere at all times."~~; and

~~WHEREAS, While the PPD may arrest a suspect for the commission of a crime, the Philadelphia District Attorney's Office is one of the few district attorney's offices in this Commonwealth that reserves unto itself the authority to charge a person for a criminal act; and~~

~~WHEREAS, In October 2022, following yet another act of violence against police in the City of Philadelphia, Police Commissioner Danielle Outlaw issued the following statement:~~

~~"We are tired of arresting the same suspects over and over again, only to see them right back out on the street to continue and sometimes escalate their criminal ways. We are tired of having to send our officers into harm's way to serve warrants on suspects who have no business being on the street in the first place.~~

~~No — not everyone needs to be in jail. But when we repeatedly see the extensive criminal histories of those we arrest for violent crime, the question needs to be asked as to why they were yet again back on the street and terrorizing our communities.~~

~~I am beyond disgusted by this violence. Our entire department is sickened by what is happening to the people that live, work, and visit our city. Residents are tired of it. Business owners are tired of it. Our children are tired of it.~~

~~We are long past 'enough is enough'."~~; and

1 ~~WHEREAS, Acts of violence, and particularly violent crimes~~
2 ~~committed with firearms, have exacted a heavy toll on victims~~
3 ~~and their families, with countless lives unnecessarily lost or~~
4 ~~irretrievably broken, due to the increase of violent crime in~~
5 ~~the City of Philadelphia; and~~

6 ~~WHEREAS, In his special concurrence in *Commonwealth v.*~~
7 ~~*Pownall*, Justice Dougherty highlighted what he feared to be an~~
8 ~~effort by the District Attorney's Office to deprive certain~~
9 ~~defendants of a fair and speedy trial; and~~

10 ~~WHEREAS, Following the June 2017 incident in which former~~
11 ~~Philadelphia police officer Ryan Pownall shot and killed David~~
12 ~~Jones, the District Attorney's Office submitted the matter to an~~
13 ~~investigative grand jury; and~~

14 ~~WHEREAS, The investigating grand jury issued a presentment~~
15 ~~recommending that Pownall be charged with criminal homicide,~~
16 ~~possession of an instrument of crime and recklessly endangering~~
17 ~~another person; and~~

18 ~~WHEREAS, During trial, the prosecutor filed a motion in~~
19 ~~limine to preclude the standard peace officer justification~~
20 ~~defense instruction, based on the assertion that the~~
21 ~~instruction, which largely tracked language of statute, violated~~
22 ~~Fourth Amendment prohibition against unreasonable search and~~
23 ~~seizure; and~~

24 ~~WHEREAS, The motion was denied and the prosecution appealed~~
25 ~~to the Superior Court, which quashed the appeal as unauthorized.~~
26 ~~The Supreme Court granted the prosecutor's request for allowance~~
27 ~~of appeal; and~~

28 ~~WHEREAS, The Supreme Court ultimately denied the appeal, but~~
29 ~~the special concurrence filed by Justice Dougherty illuminated~~
30 ~~startling behavior by the District Attorney's Office; and~~

1 ~~WHEREAS, Justice Dougherty held that the District Attorney's~~
2 ~~Office's actions during grand jury process "implicate[] a~~
3 ~~potential abuse" and stated that "the presentment in this case~~
4 ~~is perhaps best characterized as a 'foul blow.'" He referred to~~
5 ~~the grand jury presentment, authored by the District Attorney's~~
6 ~~Office, as a "gratuitous narrative"; and~~

7 ~~WHEREAS, Justice Dougherty also recognized that any abuse of~~
8 ~~the grand jury could have been remedied by "Statutory safeguards~~
9 ~~embedded in the process," such as a preliminary hearing. He went~~
10 ~~on to say "What is troubling is the DAO's effort to ensure that~~
11 ~~would not occur," i.e., their filing of a motion to bypass the~~
12 ~~preliminary hearing; and~~

13 ~~WHEREAS, Justice Dougherty found it "inexplicable" that, in~~
14 ~~presenting a bypass motion to the Court of Common Pleas, the~~
15 ~~District Attorney's Office failed to highlight the Investigating~~
16 ~~Grand Jury Act Section 4551(e), which directs that a defendant~~
17 ~~"shall" be entitled to a preliminary hearing. He emphasized that~~
18 ~~the District Attorney's Office "appear[ed] to have known [about~~
19 ~~that requirement] at the time it filed its motion."; and~~

20 ~~WHEREAS, As it related to the prosecutor's motion in limine~~
21 ~~and interlocutory appeal, Justice Dougherty observed that the~~
22 ~~District Attorney's Office's motion "presented only half the~~
23 ~~relevant picture." He went on to say that "this type of advocacy~~
24 ~~would be worrisome coming from any litigant," but coming from a~~
25 ~~prosecutor, "is even more concerning, particularly in light of~~
26 ~~the motion's timing . . .". He cited directly to Pennsylvania~~
27 ~~Rule of Professional Conduct 3.3 regarding candor to the~~
28 ~~tribunal; and~~

29 ~~WHEREAS, Further referencing ethical concerns, Justice~~
30 ~~Dougherty found that the timing of the motion in limine, "[w]hen~~

~~combined with the other tactics highlighted throughout this
concurrence," could lead to the conclusion that the decision to
take "an unauthorized interlocutory appeal was intended to
deprive [Mr. Pownall] of a fair and speedy trial."; and~~

~~WHEREAS, Justice Dougherty went on to say:~~

~~Now, for the first time before this Court, the DAO finally
admits its true intent in all this was simply to use Pownall's
case as a vehicle to force judicial determination on 'whether
Section 508(a)(1) is facially unconstitutional.' DAO's Reply
Brief at 1; see id. at 6 (asserting Section 508's applicability
to [Pownall] is not the subject of this appeal"). What's more,
despite having assured the trial court it was not trying 'to bar
[Pownall] from a defense[.]' N.T. 11/25/2019 at 8, the DAO now
boldly asserts it would be appropriate for this Court to rewrite
the law and retroactively apply it to Pownall's case because he
supposedly 'had fair notice of his inability to rely on this
unconstitutional defense[.]' DAO's Brief at 10.;~~

~~and~~

~~WHEREAS, Justice Dougherty concluded, "Little that has
happened in this case up to this point reflects procedural
justice. On the contrary, the DAO's prosecution of Pownall
appears to be "driven by a win at all cost office culture" that
treats police officers differently than other criminal
defendants. DAO CONVICTION INTEGRITY UNIT REPORT, OVERTURNING
CONVICTIONS — AND AN ERA 2 (June 15, 2021) available at
tinyurl.com/CIU-report (last visited July 19, 2022). This is the
antithesis of what the law expects of a prosecutor."; and~~

~~WHEREAS, On remand, Common Pleas Court Judge McDermott said
that there were "so many things wrong" with the District
Attorney's Office's instructions to the investigating grand jury~~

~~that it warranted dismissing all charges against Mr. Pownall;~~
~~and~~

~~WHEREAS, After hearing testimony from the assistant district attorneys who handled the grand jury and preparation of the presentment, Judge McDermott concluded that the District Attorney's Office failed to provide the legal instructions to the grand jurors on the definitions for homicide and information regarding the use of force defense; and~~

~~WHEREAS, In her October 17, 2022, Statement of Findings of Fact and Conclusions of Law, Judge McDermott stated, "The Commonwealth made an intentional, deliberate choice not to inform the grand jurors about the justification defense under Section 508. While [the ADA] was aware of Section 508 and its applicability to the Defendant's case at the time of the Grand Jury proceedings, she decided not to advise the Grand Jury about Section 508 after consulting with other, more senior Assistant District Attorneys."; and~~

~~WHEREAS, As it related to Pownall's right to a preliminary hearing, Judge McDermott wrote:~~

~~In its Motion to bypass the preliminary hearing, the Commonwealth demonstrated a lack of candor to the Court by misstating the law and providing Judge Coleman with incorrect case law.~~

~~* * *~~

~~The Commonwealth was also disingenuous with the Court when it asserted that it had good cause to bypass the preliminary hearing under Pa.R.Crim.P. 565(a) because of the complexity of the case, the large number of witnesses the Commonwealth would have to call, the expense, and the delay caused by a preliminary hearing. As a preliminary hearing was~~

~~not held in this case, the Defendant's due process rights were violated and the Defendant suffered prejudice.;~~

~~and~~

~~WHEREAS, Judge McDermott told the District Attorney's Office that if defense counsel had made the decisions that the District Attorney's Office made, she would "declare them incompetent.";~~

~~and~~

~~WHEREAS, The District Attorney's Office's own expert report from Gregory A. Warren, Ed.D., of American Law Enforcement Training and Consulting concluded that, given all the facts presented to him, Officer Pownall's "use of deadly force in this case was justified."; and~~

~~WHEREAS, This expert report was withheld from Pownall by the District Attorney's Office; and~~

~~WHEREAS, In the Federal habeas corpus proceeding in *Robert Wharton v. Donald T. Vaughn*, Federal District Court Judge Goldberg issued a memorandum order admonishing and sanctioning the District Attorney's Office; and~~

~~WHEREAS, Robert Wharton was convicted of murdering the parents of survivor Lisa Hart Newman, who was seven months old at the time and was left to freeze to death with her deceased parents by Mr. Wharton; and~~

~~WHEREAS, After his conviction, Wharton pursued a death penalty habeas petition in the Federal district court; and~~

~~WHEREAS, The District Attorney's Office under prior administrations had opposed this petition; and~~

~~WHEREAS, In 2019, District Attorney Krasner's administration filed a "Notice of Concession of Penalty Phase Relief," stating that it would not seek a new death sentence, and, based on that sentencing relief, the litigation and appeals could end; and~~

1 ~~WHEREAS, The concession noted only that the decision to~~
2 ~~concede was made "[f]ollowing review of this case by the Capital~~
3 ~~Case Review Committee of the Philadelphia [District Attorney's~~
4 ~~Office], communication with the victims' family, and notice to~~
5 ~~{Wharton's} counsel.";~~ and

6 ~~WHEREAS, Judge Goldberg undertook an independent analysis of~~
7 ~~the merits of the claim and invited the Pennsylvania Office~~
8 ~~Attorney General (OAG) to file an amicus brief in the case; and~~

9 ~~WHEREAS, In its amicus, the OAG submitted additional facts~~
10 ~~that the District Attorney's Office had not disclosed, including~~
11 ~~evidence of prison misconducts, attempted escapes and Department~~
12 ~~of Corrections concerns regarding "assaultiveness" and "escape"~~
13 ~~by Mr. Wharton; and~~

14 ~~WHEREAS, The OAG concluded that "given the facts of this~~
15 ~~investigation and aggravating sentencing factors present in this~~
16 ~~case, Wharton could not establish a reasonable probability that~~
17 ~~the outcome of his penalty phase death sentence would have been~~
18 ~~different if the jury had heard evidence of his alleged~~
19 ~~'positive' prison adjustment.";~~ and

20 ~~WHEREAS, The OAG further determined that members of the~~
21 ~~family, including victim Ms. Hart Newman, were not contacted and~~
22 ~~that they opposed the concession by the District Attorney's~~
23 ~~Office; and~~

24 ~~WHEREAS, After an evidentiary hearing, Judge Goldberg held as~~
25 ~~follows:~~

26 ~~(1) The District Attorney's Office failed to advise the~~
27 ~~court of significant anti mitigation evidence, including that~~
28 ~~Mr. Wharton had made an escape attempt at a court appearance.~~

29 ~~(2) Two of the office's supervisors violated Federal~~
30 ~~Rule of Civil Procedure 11(b)(3) "based upon that Office's~~

~~representations to this Court that lacked evidentiary support and were not in any way formed after 'an inquiry reasonable under the circumstances.'~~"

~~(3) Representations of communication with the victims' family were "misleading," "false," and "yet another representation to the Court made after an inquiry that was not reasonable under the circumstances."~~

~~(4) The Law Division Supervisor, Assistant Supervisor and District Attorney's Office violated Rule 11(b) (1), and concluding that the violation was "sufficiently 'egregious' and 'exceptional' under the circumstances to warrant sanctions,"~~

and

~~WHEREAS, Judge Goldberg imposed nonmonetary sanctions on the District Attorney's Office, requiring that separate written apologies be sent to the victim, Lisa Hart Newman, and the victim's family members; and~~

~~WHEREAS, Given the testimony of the two Law Division supervisors that District Attorney Krasner approved and implemented internal procedures that created the need for this sanction, and that the District Attorney had the sole, ultimate authority to direct that the misleading Notice of Concession be filed, therefore "the apologies shall come from the District Attorney, Lawrence Krasner, personally."; and~~

~~WHEREAS, House Resolution 216 of 2022 established the House Select Committee to Restore Law and Order pursuant to Rule 51 of the General Operating Rules of the House; and~~

~~WHEREAS, The select committee is authorized and empowered "to investigate, review and make finding and recommendations concerning risking rates of crime, law enforcement and the~~

~~enforcement of crime victim rights," in the City of Philadelphia; and~~

~~WHEREAS, House Resolution 216 further charges the select committee to make findings and recommendations, including, but not limited to, the following:~~

~~(1) Determinations regarding the performance of public officials empowered to enforce the law in the City of Philadelphia, including the district attorney, and recommendations for removal from office or other appropriate discipline, including impeachment.~~

~~(2) Legislation or other legislative action relating to policing, prosecution, sentencing and any other aspect of law enforcement.~~

~~(3) Legislation or other legislative action relating to ensuring the protection, enforcement and delivery of appropriate services and compensation to crime victims.~~

~~(4) Legislation or other legislative action relating to ensuring the appropriate expenditure of public funds intended for the purpose of law enforcement, prosecutions or to benefit crime victims.~~

~~(5) Other legislative action as the select committee finds necessary to ensure appropriate enforcement of law and order in the City of Philadelphia;~~

~~and~~

~~WHEREAS, In pursuit of these obligations, the resolution empowers the select committee chair to, among other things, "send for individuals and papers and subpoena witnesses, documents, including electronically stored information, and any other materials under the hand and seal of the chair."; and~~

~~WHEREAS, The chair issued subpoenas to a number of~~

~~Philadelphia municipal offices, including the Controller, the Mayor, the Police Department, the Sheriff's Office, the Treasurer and the District Attorney's Office; and~~

~~WHEREAS, The subpoenas sought nonprivileged records necessary to fulfill the select committee's obligations to the House of Representatives pursuant to House Resolution 216; and~~

~~WHEREAS, While other municipal offices worked cooperatively with the select committee to respond to the subpoenas issued to them, District Attorney Krasner and his office chose instead to obstruct the select committee's work at every turn; and~~

~~WHEREAS, District Attorney Krasner and his office asserted that the select committee was illegitimate and that its subpoenas served "no valid legislative purpose, violating the separation of powers, invading legal privileges, and seeking to deny the constitutional rights of Philadelphia's citizens, especially their democratic right to vote and choose their local leaders"; and~~

~~WHEREAS, District Attorney Krasner asserted various claims that held no basis in fact or law, including the following:~~

~~(1) District Attorneys are not subject to impeachment.~~

~~(2) Impeaching the District Attorney violates the constitutional rights of the people who voted for him.~~

~~(3) The District Attorney committed no wrong, and therefore was not required to comply with the committee chair's subpoena.~~

~~(4) Impeachment of a public official requires a conviction for a criminal act;~~

~~and~~

~~WHEREAS, District Attorney Krasner and his Office refused to search for or produce any documents in response to the subpoena;~~

1 and

2 ~~WHEREAS, Despite multiple attempts by counsel to the select~~
3 ~~committee chair to bring District Attorney Krasner and his~~
4 ~~office into compliance with the subpoenas, explaining on~~
5 ~~multiple occasions that the select committee was seeking~~
6 ~~nonprivileged records and, as it related to any record for which~~
7 ~~the District Attorney believed were privileged, the District~~
8 ~~Attorney should follow common practice in responding to a~~
9 ~~subpoena by providing a privilege log to identify those records~~
10 ~~for which the District Attorney asserts a privilege; and~~

11 ~~WHEREAS, On September 12, 2022, after multiple exchanges~~
12 ~~between counsel and a Request to Show Cause why the District~~
13 ~~Attorney should not be held in contempt by the House, the select~~
14 ~~committee issued an interim report pursuant to Rule 51 of the~~
15 ~~General Operating Rules of the House of Representatives,~~
16 ~~notifying the House of District Attorney Krasner's refusal to~~
17 ~~comply with the subpoena and recommending that the House~~
18 ~~consider contempt proceedings; and~~

19 ~~WHEREAS, The House of Representatives adopted House~~
20 ~~Resolution 227 on September 13, 2022, resolving that the House~~
21 ~~hold District Attorney Krasner in contempt; and~~

22 ~~WHEREAS, House Resolution 227 was adopted by a bipartisan~~
23 ~~vote of 162 to 38; and~~

24 ~~WHEREAS, District Attorney Krasner filed an action in~~
25 ~~Commonwealth Court on September 2, 2022, in which he raised the~~
26 ~~same arguments that fail to have any meaningful basis in law or~~
27 ~~fact; and~~

28 ~~WHEREAS, District Attorney Krasner and his office have since~~
29 ~~feigned partial compliance with the subpoena, providing several~~
30 ~~public facing records obtained without the need to engage in any~~

~~legitimate effort to search for the records; and~~

~~WHEREAS, The select committee chair invited District Attorney Krasner to testify before the select committee in executive session on October 21, 2022; and~~

~~WHEREAS, District Attorney Krasner refused to testify in executive session, demanding a public hearing instead; and~~

~~WHEREAS, District Attorney Krasner then published a press release which was misleading at best, mischaracterizing the invitation to Krasner to testify in yet another moment of grandstanding; and~~

~~WHEREAS, Given the District Attorney's rejection of the invitation to testify in executive session, the select committee was compelled to cancel the hearing; and~~

~~WHEREAS, Throughout the select committee's efforts to satisfy its charge under House Resolution 216, District Attorney Krasner steadfastly insisted that the select committee somehow had the power to impeach him; and~~

~~WHEREAS, Only the House of Representatives, as a body, has the power of impeachment; therefore be it~~

~~RESOLVED, That Lawrence Samuel Krasner, District Attorney of Philadelphia, be impeached for misbehavior in office and that the following Articles of Impeachment be exhibited to the Senate:~~

~~ARTICLE I~~

~~In its 1994 opinion in *Larsen v. Senate of Pennsylvania*, the Commonwealth Court spoke to the meaning of the current language "any misbehavior in office."~~

~~Justice Larsen argued that the applicable standard of "misbehavior in office" was nothing more than a codification of the common law offense of misconduct in office, meaning "the~~

~~breach of a positive statutory duty or the performance by a public official of a discretionary act with an improper or corrupt motive."~~

~~In its opinion, the Commonwealth Court held that even if the strict definition espoused by Larsen were the appropriate rule, Larsen's conduct still met that heavy burden. More importantly, however, the court said that this "strict definition . . . finds no support in judicial precedents." In other words, there is no precedent that the current language is so constrained. The use of the word "any" necessarily implied a broad construction.~~

~~The Philadelphia District Attorney's Office's stated mission is to provide a voice for victims of crime and protect the community through zealous, ethical and effective investigations and prosecutions. District Attorney Krasner, by and through his failed policies and procedures, and throughout the discharge of his duties as Philadelphia's chief law enforcement officer, has been derelict in his obligations to the victims of crime, the people of the City of Philadelphia and of this Commonwealth.~~

~~Under District Attorney Krasner's administration, and as detailed herein, his lack of proper leadership serves as a direct and proximate cause of the crisis currently facing the City of Philadelphia. These policies have eviscerated the District Attorney's Office's ability to adequately enforce the laws of this Commonwealth; endangered the health, welfare and safety of more than 1.5 million Pennsylvanians that reside in Philadelphia and the tens of millions of Americans who visit the City every year; and, have brought the Office of District Attorney into disrepute.~~

~~WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office~~

~~1 and disqualification to hold any office of trust or profit under
2 this Commonwealth.~~

~~3 ARTICLE II~~

~~4 District Attorney Krasner has, at every turn, obstructed the
5 efforts of the House Select Committee on Restoring Law and
6 Order. He has consistently raised specious claims without a good
7 faith basis in law or fact. Even after the House of
8 Representatives resolved to hold him in contempt, District
9 Attorney Krasner's efforts to comply with subpoenas issued by
10 the select committee chair fall far short of what could be
11 described as a reasonable good faith effort.~~

~~12 WHEREFORE, District Attorney Lawrence Samuel Krasner is
13 guilty of an impeachable offense warranting removal from office
14 and disqualification to hold any office of trust or profit under
15 this Commonwealth.~~

~~16 The House of Representatives hereby reserves to itself the
17 right and ability to exhibit at any time after adoption of this
18 resolution further or more detailed Articles of Impeachment
19 against District Attorney Lawrence Samuel Krasner, to reply to
20 any answers that District Attorney Lawrence Samuel Krasner may
21 make to any Articles of Impeachment which are exhibited and to
22 offer proof at trial in the Senate in support of each and every
23 Article of Impeachment which shall be exhibited by them.~~

~~24 Upon the articles of impeachment against Lawrence Samuel
25 Krasner, Philadelphia District Attorney, being signed by the
26 Speaker of the House of Representatives, the Speaker shall
27 appoint a committee of three members, two from the majority
28 party and one from the minority party to exhibit the same to the
29 Senate, and on behalf of the House of Representatives to manage
30 the trial thereof.~~

1 WHEREAS, LAWRENCE SAMUEL KRASNER WAS ELECTED TO THE POSITION <--
2 OF DISTRICT ATTORNEY OF PHILADELPHIA ON NOVEMBER 7, 2017, AND
3 RE-ELECTED TO THE POSITION ON NOVEMBER 2, 2021, PURSUANT TO
4 SECTION 4 OF ARTICLE IX OF THE CONSTITUTION OF PENNSYLVANIA; AND

5 WHEREAS, PURSUANT TO SECTION 4 OF ARTICLE VI OF THE
6 CONSTITUTION OF PENNSYLVANIA, ONLY THE HOUSE OF REPRESENTATIVES,
7 AS A BODY, HAS THE POWER OF IMPEACHMENT; AND

8 WHEREAS, PURSUANT TO SECTION 6 OF ARTICLE VI OF THE
9 CONSTITUTION OF PENNSYLVANIA, CIVIL OFFICERS LIKE DISTRICT
10 ATTORNEY KRASNER MAY BE SUBJECT TO IMPEACHMENT BY THE HOUSE OF
11 REPRESENTATIVES FOR "ANY MISBEHAVIOR IN OFFICE"; AND

12 WHEREAS, IN ITS 1994 OPINION IN *LARSEN V. SENATE OF*
13 *PENNSYLVANIA*, THE COMMONWEALTH COURT SPOKE TO THE MEANING OF THE
14 LANGUAGE "ANY MISBEHAVIOR IN OFFICE" IN SECTION 6 OF ARTICLE VI
15 OF THE CONSTITUTION OF PENNSYLVANIA; AND

16 WHEREAS, JUSTICE LARSEN ARGUED THAT THE APPLICABLE STANDARD
17 OF "MISBEHAVIOR IN OFFICE" WAS NOTHING MORE THAN A CODIFICATION
18 OF THE COMMON LAW OFFENSE OF MISCONDUCT IN OFFICE, MEANING "THE
19 BREACH OF A POSITIVE STATUTORY DUTY OR THE PERFORMANCE BY A
20 PUBLIC OFFICIAL OF A DISCRETIONARY ACT WITH AN IMPROPER OR
21 CORRUPT MOTIVE"; AND

22 WHEREAS, IN ITS OPINION, THE COMMONWEALTH COURT HELD THAT
23 EVEN IF THE STRICT DEFINITION ESPOUSED BY LARSEN WERE THE
24 APPROPRIATE RULE, LARSEN'S CONDUCT STILL MET THAT HEAVY BURDEN.
25 MORE IMPORTANTLY, HOWEVER, THE COURT SAID THAT THIS "STRICT
26 DEFINITION...FINDS NO SUPPORT IN JUDICIAL PRECEDENTS." STATED
27 DIFFERENTLY, THERE IS NO PRECEDENT THAT THE CURRENT LANGUAGE IS
28 SO CONSTRAINED; AND

29 WHEREAS, THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE'S STATED
30 MISSION AND STATUTORY PURPOSE IS, AMONG OTHER THINGS, TO PROVIDE

1 A VOICE FOR VICTIMS OF CRIME, PROTECT THE COMMUNITY THROUGH
2 ZEALOUS, ETHICAL AND EFFECTIVE INVESTIGATIONS AND PROSECUTIONS,
3 AND TO UPHOLD AND PROSECUTE VIOLATIONS OF THE LAWS OF THIS
4 COMMONWEALTH AND THE PROVISIONS OF PHILADELPHIA'S HOME RULE
5 CHARTER; AND

6 WHEREAS, DISTRICT ATTORNEY KRASNER, BY AND THROUGH HIS FAILED
7 POLICIES AND PROCEDURES, AND THROUGHOUT THE DISCHARGE OF HIS
8 DUTIES AS PHILADELPHIA'S CHIEF LAW ENFORCEMENT OFFICER, HAS BEEN
9 DERELICT IN HIS OBLIGATIONS TO THE VICTIMS OF CRIME, THE PEOPLE
10 OF THE CITY OF PHILADELPHIA AND OF THIS COMMONWEALTH AND HAS
11 FAILED TO UPHOLD HIS OATH OF OFFICE; AND

12 WHEREAS, DISTRICT ATTORNEY KRASNER IS BOUND BY THE RULES OF
13 PROFESSIONAL CONDUCT ADOPTED BY THE SUPREME COURT, WHICH SET
14 FORTH THE MINIMAL ETHICAL REQUIREMENTS FOR ALL ATTORNEYS
15 LICENSED TO PRACTICE LAW IN THIS COMMONWEALTH, AS WELL AS THE
16 CODE OF JUDICIAL CONDUCT, WHICH IS APPLICABLE TO ALL DISTRICT
17 ATTORNEYS IN THIS COMMONWEALTH. 16 PA. STAT. ANN. § 1401(O) ("A
18 DISTRICT ATTORNEY SHALL BE SUBJECT TO THE RULES OF PROFESSIONAL
19 CONDUCT AND THE CANONS OF ETHICS AS APPLIED TO JUDGES IN THE
20 COURTS OF COMMON PLEAS OF THIS COMMONWEALTH ..."); AND

21 WHEREAS, THERE HAVE BEEN MULTIPLE INCIDENTS OF DISTRICT
22 ATTORNEY KRASNER EXHIBITING UNETHICAL CONDUCT BY LACKING CANDOR
23 TO THE COURTS OF THIS COMMONWEALTH IN VIOLATION OF RULE OF
24 PROFESSIONAL CONDUCT 3.3, COMMITTING PROFESSIONAL MISCONDUCT IN
25 VIOLATION OF RULE OF PROFESSIONAL CONDUCT 8.4 AND ENGAGING IN
26 IMPROPRIETY AND OR APPEARANCES OF IMPROPRIETY IN VIOLATION OF
27 CANON 2 OF THE CODE OF JUDICIAL CONDUCT; AND

28 WHEREAS, DISTRICT ATTORNEY KRASNER HAS BEEN IN OFFICE SINCE
29 JANUARY 2018. UNDER DISTRICT ATTORNEY KRASNER'S ADMINISTRATION,
30 AND AS DETAILED HEREIN, THE CITY HAS DESCENDED INTO AN

1 UNPRECEDENTED CRISIS OF LAWLESSNESS. BY WAY OF EXAMPLE ONLY,
2 THERE WERE 562 MURDERS IN 2021, THE MOST IN THE 340-YEAR HISTORY
3 OF THE CITY. UNDER DISTRICT ATTORNEY KRASNER, MURDERS AND
4 VIOLENCE OCCUR IN EVERY PART OF THE CITY AT EVERY HOUR OF THE
5 DAY. SHOOTINGS ON PUBLIC TRANSPORTATION, IN POPULATED
6 NEIGHBORHOODS WITH FAMILIES AND CHILDREN, NEAR SCHOOLS AND IN
7 THE CENTER CITY BUSINESS DISTRICT HAVE NOW BECOME FREQUENT AND
8 ROUTINE. OPEN AIR DRUG MARKETS HAVE BECOME UBIQUITOUS. HE HAS
9 DECRIMINALIZED PROSTITUTION EFFECTIVELY DESTROYING PROGRAMS
10 DESIGNED TO RESCUE WOMEN FROM ADDICTION AND HUMAN TRAFFICKING.
11 DISTRICT ATTORNEY KRASNER HAS DECRIMINALIZED RETAIL THEFT
12 RESULTING IN NUMEROUS BUSINESSES LEAVING THE CITY. HE HAS
13 RELEASED CRIMINALS BACK ON TO THE STREET WHO GO ON TO COMMIT
14 EVEN MORE HEINOUS CRIMES OF MURDER, RAPE AND ROBBERY AGAINST THE
15 PEOPLE OF PHILADELPHIA, THE OVERWHELMING MAJORITY OF WHOM ARE
16 AFRICAN AMERICAN. THIS CRISIS OF CRIME AND VIOLENCE IS A DIRECT
17 RESULT OF DISTRICT ATTORNEY KRASNER'S INCOMPETENCE, IDEOLOGICAL
18 RIGIDITY AND REFUSAL TO PERFORM THE DUTIES HE SWORE TO CARRY OUT
19 WHEN HE BECAME DISTRICT ATTORNEY. HE HAS DELIBERATELY
20 EVISCERATED THE DISTRICT ATTORNEY'S OFFICE'S ABILITY TO
21 ADEQUATELY ENFORCE THE LAWS OF THIS COMMONWEALTH; ENDANGERED THE
22 HEALTH, WELFARE AND SAFETY OF MORE THAN 1.5 MILLION
23 PENNSYLVANIANS THAT RESIDE IN PHILADELPHIA AND THE TENS OF
24 MILLIONS OF AMERICANS WHO VISIT THE CITY EVERY YEAR; AND, HIS
25 CONDUCT HAS BROUGHT THE OFFICE OF DISTRICT ATTORNEY AND THE
26 JUSTICE SYSTEM ITSELF INTO DISREPUTE; THEREFORE BE IT
27 RESOLVED, THAT LAWRENCE SAMUEL KRASNER, DISTRICT ATTORNEY OF
28 PHILADELPHIA, BE IMPEACHED FOR MISBEHAVIOR IN OFFICE AND THAT
29 THE FOLLOWING ARTICLES OF IMPEACHMENT BE EXHIBITED TO THE SENATE
30 PURSUANT TO SECTION 5 OF ARTICLE VI OF THE CONSTITUTION OF

PENNSYLVANIA:

ARTICLE I:

MISBEHAVIOR IN OFFICE IN THE NATURE OF DERELICTION
OF DUTY AND REFUSAL TO ENFORCE THE LAW

UPON ASSUMING OFFICE, DISTRICT ATTORNEY KRASNER TERMINATED MORE THAN 30 ASSISTANT DISTRICT ATTORNEYS (ADA) FROM EMPLOYMENT WITH THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE. MANY OF THESE TERMINATED ASSISTANT DISTRICT ATTORNEYS WERE SENIOR-LEVEL STAFFERS IN SUPERVISORY ROLES WHO POSSESSED SIGNIFICANT PROSECUTORIAL EXPERIENCE AND KNOWLEDGE OF CRIMINAL PROCEDURE. DISTRICT ATTORNEY KRASNER REPLACED THIS VAST INSTITUTIONAL KNOWLEDGE IN THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE WITH ATTORNEYS WHO LACKED ANY MEANINGFUL EXPERIENCE IN PROSECUTING CRIMINAL CASES, SOME OF WHOM ONLY RECENTLY GRADUATED FROM LAW SCHOOL.

DISTRICT ATTORNEY KRASNER SUBSEQUENTLY WITHDREW THE OFFICE FROM MEMBERSHIP IN THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION (PDAA) BECAUSE, HE ASSERTED, PDAA SUPPORTED REGRESSIVE AND PUNITIVE POLICIES. IN WITHDRAWING FROM PDAA, DISTRICT ATTORNEY KRASNER DENIED THE ATTORNEYS IN HIS OFFICE THE ABILITY TO PARTICIPATE IN THE VARIOUS PROFESSIONAL DEVELOPMENT AND TRAINING PROGRAMS PROVIDED BY PDAA THROUGH ITS EDUCATIONAL INSTITUTE.

RATHER THAN OFFERING TRADITIONAL PROSECUTORIAL TRAINING ON SUCH SUBJECTS AS PROSECUTORIAL ETHICS, HUMAN TRAFFICKING, WITNESS EXAMINATION, TRIAL ADVOCACY, TRIAL MANAGEMENT AND ACHIEVING JUSTICE FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT VICTIMS, DISTRICT ATTORNEY KRASNER OFFERED ATTORNEYS SEMINARS, INCLUDING "A NEW VISION FOR CRIMINAL JUSTICE IN PHILADELPHIA," "DEPORTATION: THE UNFORESEEN CONSEQUENCES OF PROSECUTION IN OUR

1 IMMIGRANT COMMUNITY," AND "PHILADELPHIA AND SAFE INJECTION: HARM
2 REDUCTION AS PUBLIC POLICY." THE PHILADELPHIA DISTRICT
3 ATTORNEY'S OFFICE EVENTUALLY RETURNED TO MORE TRADITIONAL
4 PROSECUTORIAL TRAINING, HOWEVER, THE OFFICE CONTINUED TO FOCUS
5 ON ISSUES THAT PROMOTE DISTRICT ATTORNEY KRASNER'S RADICALLY
6 PROGRESSIVE PHILOSOPHIES RATHER THAN HOW TO EFFECTIVELY
7 PROSECUTE A CRIMINAL CASE.

8 UPON BEING ELECTED TO OFFICE, DISTRICT ATTORNEY KRASNER
9 ESTABLISHED A SERIES OF OFFICE POLICIES WITH THE PURPORTED
10 PURPOSE TO "END MASS INCARCERATION AND BRING BALANCE BACK TO
11 SENTENCING," AND LATER ADOPTED A SERIES OF POLICIES RELATED TO
12 CERTAIN CRIMES OR CLASSES OF PEOPLE. THESE POLICIES INCLUDE
13 DIRECTIVES NOT TO CHARGE SEX WORKERS OR INDIVIDUALS FOR CERTAIN
14 CLASSES OF CRIMES SUCH AS PROSTITUTION OR POSSESSION OF
15 MARIJUANA AND MARIJUANA-RELATED DRUG PARAPHERNALIA.

16 THESE NEW POLICIES IDENTIFIED A SERIES OF OFFENSES FOR WHICH
17 THE GRADATION MAY BE REDUCED WITH THE PURPOSE OF "REDUC[ING]
18 PRE-TRIAL INCARCERATION RATES AS NO BAIL IS REQUIRED AND THE
19 SHORTER TIME REQUIRED FOR HEARINGS EXPEDITES MUNICIPAL COURT AND
20 COMMON PLEAS DOCKETS," AND REQUIRING DISPOSITION OF RETAIL THEFT
21 CASES UNLESS THE VALUE OF THE ITEM STOLEN EXCEEDS \$500 OR WHERE
22 THE DEFENDANT HAS AN EXTENSIVE HISTORY OF THEFT CONVICTIONS.

23 DISTRICT ATTORNEY KRASNER INSTITUTED POLICIES TO MAKE PLEA
24 OFFERS BELOW THE BOTTOM END OF THE MITIGATED RANGE UNDER THE
25 SENTENCING GUIDELINES FROM THE PENNSYLVANIA SENTENCING
26 COMMISSION AND SEEK GREATER USE OF HOUSE ARREST, PROBATION AND
27 ALTERNATIVE SENTENCING WHEN THE SENTENCING GUIDELINES INDICATE A
28 RANGE OF INCARCERATION OF LESS THAN 24 MONTHS.

29 IN FEBRUARY 2018, DISTRICT ATTORNEY KRASNER ESTABLISHED A
30 POLICY THAT HIS OFFICE "WILL ORDINARILY NO LONGER ASK FOR CASH

1 BAIL FOR...MISDEMEANORS AND FELONIES" LISTED IN THE POLICY,
2 BECAUSE "[T]HE CASH BAIL SYSTEM IS RIFE WITH INJUSTICE AND
3 EXACERBATES SOCIO-ECONOMIC AND RACIAL INEQUALITIES,
4 DISPROPORTIONATELY PENALIZING THE POOR AND PEOPLE OF COLOR."

5 IN NOVEMBER 2018, DISTRICT ATTORNEY KRASNER ADOPTED A POLICY
6 IN WHICH A CRIMINAL DEFENDANT'S IMMIGRATION STATUS SHOULD BE
7 CONSIDERED IN THE PLEA-BARGAINING PROCESS, EFFECTIVELY PROVIDING
8 THAT IF AN IMMIGRATION CONSEQUENCE IS DETECTED PRE-TRIAL OR WITH
9 RESPECT TO A SENTENCING RECOMMENDATION, COUNSEL WILL ADVISE IF
10 AN OFFER CAN BE MADE TO AVOID THE CONSEQUENCE.

11 OTHER POLICIES THAT DISTRICT ATTORNEY KRASNER DIRECTED WERE
12 AS FOLLOWS:

13 (1) ASSISTANT DISTRICT ATTORNEYS MAY NOT PROCEED IN
14 CASES AGAINST DEFENDANTS DRIVING UNDER THE INFLUENCE OF
15 CANNABIS WHEN THE DEFENDANTS' BLOOD "CONTAINS INACTIVE
16 METABOLITE (11-NOR-9-CARBOXY-DELTA-9-THC) OR 4 OR FEWER
17 NG/MLS OF PSYCHO-ACTIVE THC" AND THAT "IF THE DEFENSE
18 PRESENTS EVIDENCE THAT CALLS IMPAIRMENT INTO QUESTION, AN ADA
19 MAY CONSIDER DROPPING THE CHARGES AGAINST THE DEFENDANT."

20 (2) THE DISTRICT ATTORNEY'S OFFICE "WILL ONLY OPPOSE
21 MOTIONS FOR REDACTIONS OR EXPUNGEMENTS IN LIMITED
22 CIRCUMSTANCES" AND SETS FORTH VARIOUS SCENARIOS IN WHICH THE
23 OFFICE WILL AGREE TO, SEEK OR NOT OPPOSE THE EXPUNGEMENT OF A
24 DEFENDANT'S CRIMINAL HISTORY.

25 (3) THE DISTRICT ATTORNEY'S OFFICE DIRECTED PLEA OFFERS
26 AND SENTENCING RECOMMENDATIONS:

27 (I) FOR FELONIES, "AIMED AT AN OFFICE-WIDE AVERAGE
28 PERIOD OF TOTAL SUPERVISION AMONG CASES OF AROUND 18
29 MONTHS OR LESS OF TOTAL SUPERVISION, WITH A CEILING OF 3
30 YEARS OF TOTAL SUPERVISION OR LESS ON EACH CASE";

1 (II) FOR MISDEMEANORS, AIMED AT AN OFFICE-WIDE
2 AVERAGE OF "6 MONTHS OR LESS OF TOTAL SUPERVISION, WITH A
3 CEILING OF 1 YEAR";

4 (III) FOR ALL MATTERS, FOR "CONCURRENT SENTENCES";
5 AND

6 (IV) FOR CASES INVOLVING INCARCERATION, "FOR A
7 PERIOD OF PAROLE THAT IS NO LONGER THAN THE PERIOD OF
8 INCARCERATION."

9 NEARLY ALL OF DISTRICT ATTORNEY KRASNER'S POLICIES "CREATE A
10 PRESUMPTION" FOR ADAS TO FOLLOW AND REQUIRE APPROVAL FROM
11 DISTRICT ATTORNEY KRASNER HIMSELF OR A FIRST ASSISTANT DISTRICT
12 ATTORNEY FOR DEVIATIONS FROM THE POLICIES.

13 DISTRICT ATTORNEY KRASNER, IN AN APRIL 2021 REPORT PUBLISHED
14 BY THE DISTRICT ATTORNEY'S OFFICE (DAO) TITLED "ENDING MASS
15 SUPERVISION: EVALUATING REFORMS," WROTE IN HIS OPENING LETTER:
16 "I AM PROUD OF THE WORK THIS OFFICE HAS DONE TO MAKE
17 PHILADELPHIANS, PARTICULARLY PHILADELPHIANS OF COLOR, FREER FROM
18 UNNECESSARY GOVERNMENT INTRUSION, WHILE KEEPING OUR COMMUNITIES
19 SAFE." IN REALITY, THE POLICIES AND PRACTICES OF THE
20 PHILADELPHIA DISTRICT ATTORNEY'S OFFICE INSTITUTED UNDER THE
21 DIRECTION OF DISTRICT ATTORNEY KRASNER HAVE LED TO CATASTROPHIC
22 CONSEQUENCES FOR THE PEOPLE OF THE CITY OF PHILADELPHIA.

23 ACCORDING TO THE CITY CONTROLLER, SPIKES IN GUN VIOLENCE AND
24 HOMICIDES HAVE DRAMATICALLY IMPACTED HISTORICALLY DISADVANTAGED
25 NEIGHBORHOODS, AND THOSE NEIGHBORHOODS ARE "PRIMARILY LOW-INCOME
26 WITH PREDOMINATELY BLACK OR AFRICAN AMERICAN RESIDENTS." THE
27 PHILADELPHIA POLICE DEPARTMENT (PPD) REPORTS THAT THE NUMBER OF
28 HOMICIDE VICTIMS HAS INCREASED EVERY YEAR SINCE 2016, MORE THAN
29 DOUBLING FROM 2016 TO 2021, WITH A YEAR-OVER-YEAR INCREASE OF
30 40% BETWEEN 2019 AND 2020. AS OF OCTOBER 16, 2022, THERE HAVE

1 ALREADY BEEN 430 HOMICIDES IN THE CITY OF PHILADELPHIA IN 2022.
2 AS OF OCTOBER 17, 2022, REPORTED TRENDS GATHERED FROM THE PPD'S
3 "INCIDENT" DATA, WHICH TRACKS THE REPORTING OF ALL CRIMES IN
4 ADDITION TO HOMICIDES, SHOWS A 12% INCREASE IN ALL REPORTED
5 OFFENSES, A 6% INCREASE IN VIOLENT OFFENSES AND A 21% INCREASE
6 IN PROPERTY OFFENSES.

7 WHILE INCIDENTS OF VIOLENT CRIME ARE INCREASING, PROSECUTION
8 OF CRIME BY THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE HAS
9 DECREASED DURING THIS SAME PERIOD. IN 2016, THE PHILADELPHIA
10 DISTRICT ATTORNEY'S OFFICE REPORTED THAT ONLY 30% OF "ALL
11 OFFENSES" RESULTED IN A DISMISSAL OR WITHDRAWAL, BUT THAT NUMBER
12 SPIKED TO 50% IN 2019, 54% IN 2020, 67% IN 2021 AND 65% TO DATE
13 IN 2022.

14 A SIMILAR TREND IS EVIDENT WHEN FILTERING THE DATA FOR
15 VIOLENT CRIMES, WHERE, IN 2016, THE WITHDRAWAL AND DISMISSED
16 VIOLENT CRIME CASES ACCOUNTED FOR 48% OF ALL VIOLENT CRIME CASE
17 OUTCOMES, BUT THAT PERCENTAGE INCREASED TO 60% IN 2019, TO 68%
18 IN 2020, TO 70% IN 2021 AND TO 66% IN 2022 TO DATE. DATA FROM
19 THE PENNSYLVANIA SENTENCING COMMISSION RELATING TO VIOLATIONS OF
20 THE UNIFORM FIREARMS ACT (VUFA) EVIDENCES A SIMILAR JARRING
21 TREND. THE SENTENCING COMMISSION REPORTS THAT GUILTY
22 DISPOSITIONS IN THE CITY OF PHILADELPHIA DECLINED FROM 88% IN
23 2015 TO 66% IN 2020, COMPARED TO A DECLINE FROM 84% TO 72% IN
24 COUNTIES OF THE SECOND CLASS, WITH THE DRIVER OF THE DECREASE
25 BEING NOLLE PROS DISPOSITIONS. AS COMPARED TO THE STATEWIDE DATA
26 AND OTHER COUNTY CLASSES, IN THE CITY OF PHILADELPHIA THE
27 PERCENT OF GUILTY VERDICTS HAS DECREASED SIGNIFICANTLY, WHILE
28 THE PERCENT OF NOLLE PROSSED CASES HAS INCREASED.

29 STUDIES BY THE DELAWARE VALLEY INTELLIGENCE CENTER (DVIC)
30 ATTEMPTED TO PROVIDE "AN EXPLANATION FOR THE INCREASE IN

1 HOMICIDES AND SHOOTINGS IN AN EFFORT TO BEGIN A CONVERSATION TO
2 ADDRESS THE CHALLENGE AT A STRATEGIC LEVEL," AND, SIGNIFICANTLY,
3 THE REPORT NOTES:

4 "THE RATE OF PROSECUTION DISMISSAL AND WITHDRAWAL HAS BEEN
5 INCREASE [SIC] SUBSTANTIALLY SINCE 2015 UNDER DA [SETH]
6 WILLIAMS, AND HAS CONTINUED TO INCREASE AFTER DA KRASNER TOOK
7 OFFICE. FURTHERMORE, A CLOSER EXAMINATION OF THESE DROPPED CASES
8 INDICATES THAT MORE CASES ARE DISMISSED/WITHDRAWN AT THE
9 PRELIMINARY HEARING STATE [SIC] UNDER DA KRASNER THAN THE ACTUAL
10 TRIAL STATE []. THIS IMPLIES THAT, EVEN WHEN CRIMINALS ARE
11 CAUGHT WITH A GUN, THEY ARE SWIFTLY FINDING OUT THEY MAY NOT
12 RECEIVE AS SIGNIFICANT A CONSEQUENCE AS THEY HAD HISTORICALLY.
13 NOTABLY, THE LIKELIHOOD OF BEING ARRESTED IS LOW TO BEGIN WITH.
14 THIS MEANS THAT, CRIMINALS KNOW THAT THEIR LIKELIHOOD OF GETTING
15 CAUGHT WITH A GUN IS SLIM AND, EVEN IF THEY GET CAUGHT, THEY
16 FEEL THAT THEY CAN LEAVE WITHOUT SEVERE (OR ANY) CONSEQUENCES."

17 THE DVIC CONDUCTED A "CURSORY EXAMINATION" OF
18 DISMISSED/WITHDRAWN CASES IN 2018/2019 AND "FOUND 6 OFFENDERS
19 WHOSE CASES WERE DISMISSED (VUFA FORMER CONVICT CHARGE) AND GOT
20 LATER INVOLVED IN SHOOTINGS...2 OF THESE SHOOTINGS WERE FATAL
21 AND 4 OUT OF THESE 6 OFFENDERS WERE GANG MEMBERS."

22 THE DVIC STUDIED THE PROSECUTION DECLINATION FOR NARCOTICS,
23 RETAIL THEFT AND PROSTITUTION ARRESTS FROM 2016 TO 2018, AND
24 CONCLUDED IN ITS KEY FINDINGS THAT THE PERCENTAGE OF ALL
25 DECLINATIONS, NOT JUST NARCOTICS, PROSTITUTION AND RETAIL THEFT,
26 INCREASED "ESPECIALLY IN 2018" TO MORE THAN 7%, WHEN IT HAD BEEN
27 JUST 2% OR LESS BETWEEN 2007 AND 2015.

28 IN SEPTEMBER 2020, THE PHILADELPHIA CITY COUNCIL AUTHORIZED
29 THE COMMITTEE ON PUBLIC SAFETY AND THE SPECIAL COMMITTEE ON GUN
30 VIOLENCE PREVENTION TO STUDY GUN VIOLENCE IN THE CITY. THIS

1 STUDY INVOLVED A COLLABORATION BETWEEN THE CONTROLLER'S OFFICE,
2 DEFENDER ASSOCIATION, DEPARTMENT OF PUBLIC HEALTH, DISTRICT
3 ATTORNEY'S OFFICE, FIRST JUDICIAL DISTRICT, MANAGING DIRECTOR'S
4 OFFICE, PENNSYLVANIA ATTORNEY GENERAL AND PPD. THE PUBLISHED
5 RESULTS, CALLED THE "100 SHOOTING REVIEW COMMITTEE REPORT,"
6 DISCUSSES TRENDS AND GENERAL FINDINGS REGARDING SHOOTINGS IN THE
7 CITY OF PHILADELPHIA. THE PUBLISHED RESULTS SHOWED THE
8 FOLLOWING:

9 (1) THE CLEARANCE RATE (*I.E.*, WHEN AN ARREST WAS MADE OR
10 A SUSPECT THAT COULD NOT BE ARRESTED WAS IDENTIFIED) FOR
11 FATAL SHOOTINGS IN 2020 WAS 37% AND THE RATE FOR NONFATAL
12 SHOOTINGS WAS 18%.

13 (2) THERE HAS BEEN A "MARKED INCREASE" IN THE NUMBER OF
14 PEOPLE ARRESTED FOR ILLEGAL GUN POSSESSION WITHOUT THE
15 ACCUSATION OF AN ADDITIONAL OFFENSE, INCLUDING A DOUBLING IN
16 ARRESTS FOR ILLEGAL POSSESSION OF A FIREARM WITHOUT A LICENSE
17 SINCE 2018.

18 (3) THE INITIAL AND FINAL BAIL AMOUNTS SET BY COURTS IN
19 ILLEGAL POSSESSION OF FIREARMS CASES DECLINED BETWEEN 2015
20 AND 2019 AND INCREASED IN 2020 AND 2021.

21 (4) CONVICTION RATES IN SHOOTING CASES DECLINED BETWEEN
22 2016 AND 2020 FROM 96% TO 80% IN FATAL SHOOTINGS AND FROM 69%
23 TO 64% IN NONFATAL SHOOTINGS.

24 (5) THERE IS A LONG-TERM TREND OF A REDUCTION IN
25 CONVICTION RATES FOR ILLEGAL GUN POSSESSION CASES, DROPPING
26 FROM 65% IN 2015 TO 45% IN 2020.

27 IN AUGUST 2022, THE PHILADELPHIA POLICE COMMISSIONER
28 INDICATED THAT HER DEPARTMENT IS SHORT-STAFFED BY APPROXIMATELY
29 20%, OR 1,300 OFFICERS, DUE TO LOW MORALE, POLITICS, INCREASED
30 SCRUTINY AND "UNIQUELY STRINGENT HIRING REQUIREMENTS" DURING A

1 NATIONWIDE SHORTAGE.

2 POLICE COMMISSIONER DANIELLE OUTLAW STATED, "THE TRUTH IS THE
3 HOMICIDES ARE NOT HAPPENING IN A VACUUM - THERE ARE THOSE WHO
4 ARE DETERMINED TO ATTACK AND KILL THEIR VICTIMS. WHILE WE ARE
5 MAKING CONSTANT ADJUSTMENTS TO MITIGATE THIS SICKENING REALITY,
6 OUR OFFICERS, SIMPLY PUT, JUST CAN'T KEEP UP BY BEING EVERYWHERE
7 AT ALL TIMES." WHILE THE PPD MAY ARREST A SUSPECT FOR THE
8 COMMISSION OF A CRIME, THE PHILADELPHIA DISTRICT ATTORNEY'S
9 OFFICE IS ONE OF THE FEW DISTRICT ATTORNEY'S OFFICES IN THIS
10 COMMONWEALTH THAT RESERVES UNTO ITSELF THE AUTHORITY TO CHARGE A
11 PERSON FOR A CRIMINAL ACT.

12 IN OCTOBER 2022, FOLLOWING YET ANOTHER ACT OF VIOLENCE
13 AGAINST POLICE IN THE CITY OF PHILADELPHIA, POLICE COMMISSIONER
14 DANIELLE OUTLAW ISSUED THE FOLLOWING STATEMENT:

15 "WE ARE TIRED OF ARRESTING THE SAME SUSPECTS OVER AND OVER
16 AGAIN, ONLY TO SEE THEM RIGHT BACK OUT ON THE STREET TO CONTINUE
17 AND SOMETIMES ESCALATE THEIR CRIMINAL WAYS. WE ARE TIRED OF
18 HAVING TO SEND OUR OFFICERS INTO HARM'S WAY TO SERVE WARRANTS ON
19 SUSPECTS WHO HAVE NO BUSINESS BEING ON THE STREET IN THE FIRST
20 PLACE.

21 NO - NOT EVERYONE NEEDS TO BE IN JAIL. BUT WHEN WE REPEATEDLY
22 SEE THE EXTENSIVE CRIMINAL HISTORIES OF THOSE WE ARREST FOR
23 VIOLENT CRIME, THE QUESTION NEEDS TO BE ASKED AS TO WHY THEY
24 WERE YET AGAIN BACK ON THE STREET AND TERRORIZING OUR
25 COMMUNITIES.

26 I AM BEYOND DISGUSTED BY THIS VIOLENCE. OUR ENTIRE DEPARTMENT
27 IS SICKENED BY WHAT IS HAPPENING TO THE PEOPLE THAT LIVE, WORK,
28 AND VISIT OUR CITY. RESIDENTS ARE TIRED OF IT. BUSINESS OWNERS
29 ARE TIRED OF IT. OUR CHILDREN ARE TIRED OF IT.
30 WE ARE LONG PAST 'ENOUGH IS ENOUGH'."

1 ACTS OF VIOLENCE, AND PARTICULARLY VIOLENT CRIMES COMMITTED
2 WITH FIREARMS, HAVE EXACTED A HEAVY TOLL ON VICTIMS AND THEIR
3 FAMILIES, WITH COUNTLESS LIVES UNNECESSARILY LOST OR
4 IRRETRIEVABLY BROKEN, DUE TO THE INCREASE OF VIOLENT CRIME IN
5 THE CITY OF PHILADELPHIA. THE FOREGOING ACTS CONSTITUTE
6 "MISBEHAVIOR IN OFFICE" BY DISTRICT ATTORNEY KRASNER IN THAT
7 SUCH ACTS HAVE SUBSTANTIALLY CONTRIBUTED TO THE INCREASE IN
8 CRIME IN THE CITY OF PHILADELPHIA, UNDERMINED CONFIDENCE IN THE
9 CRIMINAL JUSTICE SYSTEM, AND BETRAYED THE TRUST OF THE CITIZENS
10 OF PHILADELPHIA AND THE COMMONWEALTH.

11 WHEREFORE, DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER IS
12 GUILTY OF AN IMPEACHABLE OFFENSE WARRANTING REMOVAL FROM OFFICE
13 AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER
14 THIS COMMONWEALTH.

15 ARTICLE II:

16 MISBEHAVIOR IN OFFICE IN THE NATURE OF OBSTRUCTION
17 OF HOUSE SELECT COMMITTEE INVESTIGATION

18 HOUSE RESOLUTION 216 OF 2022 ESTABLISHED THE HOUSE SELECT
19 COMMITTEE TO RESTORE LAW AND ORDER PURSUANT TO RULE 51 OF THE
20 GENERAL OPERATING RULES OF THE HOUSE. THE SELECT COMMITTEE IS
21 AUTHORIZED AND EMPOWERED "TO INVESTIGATE, REVIEW AND MAKE
22 FINDING AND RECOMMENDATIONS CONCERNING RISKING RATES OF CRIME,
23 LAW ENFORCEMENT AND THE ENFORCEMENT OF CRIME VICTIM RIGHTS," IN
24 THE CITY OF PHILADELPHIA.

25 HOUSE RESOLUTION 216 FURTHER CHARGES THE SELECT COMMITTEE TO
26 MAKE FINDINGS AND RECOMMENDATIONS, INCLUDING, BUT NOT LIMITED
27 TO, THE FOLLOWING:

- 28 (1) DETERMINATIONS REGARDING THE PERFORMANCE OF PUBLIC
29 OFFICIALS EMPOWERED TO ENFORCE THE LAW IN THE CITY OF
30 PHILADELPHIA, INCLUDING THE DISTRICT ATTORNEY, AND

1 RECOMMENDATIONS FOR REMOVAL FROM OFFICE OR OTHER APPROPRIATE
2 DISCIPLINE, INCLUDING IMPEACHMENT.

3 (2) LEGISLATION OR OTHER LEGISLATIVE ACTION RELATING TO
4 POLICING, PROSECUTION, SENTENCING AND ANY OTHER ASPECT OF LAW
5 ENFORCEMENT.

6 (3) LEGISLATION OR OTHER LEGISLATIVE ACTION RELATING TO
7 ENSURING THE PROTECTION, ENFORCEMENT AND DELIVERY OF
8 APPROPRIATE SERVICES AND COMPENSATION TO CRIME VICTIMS.

9 (4) LEGISLATION OR OTHER LEGISLATIVE ACTION RELATING TO
10 ENSURING THE APPROPRIATE EXPENDITURE OF PUBLIC FUNDS INTENDED
11 FOR THE PURPOSE OF LAW ENFORCEMENT, PROSECUTIONS OR TO
12 BENEFIT CRIME VICTIMS.

13 (5) OTHER LEGISLATIVE ACTION AS THE SELECT COMMITTEE
14 FINDS NECESSARY TO ENSURE APPROPRIATE ENFORCEMENT OF LAW AND
15 ORDER IN THE CITY OF PHILADELPHIA.

16 IN PURSUIT OF THESE OBLIGATIONS, THE RESOLUTION EMPOWERS THE
17 SELECT COMMITTEE CHAIR TO, AMONG OTHER THINGS, "SEND FOR
18 INDIVIDUALS AND PAPERS AND SUBPOENA WITNESSES, DOCUMENTS,
19 INCLUDING ELECTRONICALLY STORED INFORMATION, AND ANY OTHER
20 MATERIALS UNDER THE HAND AND SEAL OF THE CHAIR." THE CHAIR
21 ISSUED SUBPOENAS TO A NUMBER OF PHILADELPHIA MUNICIPAL OFFICES,
22 INCLUDING THE CONTROLLER, THE MAYOR, THE POLICE DEPARTMENT, THE
23 SHERIFF'S OFFICE, THE TREASURER AND THE DISTRICT ATTORNEY'S
24 OFFICE. THE SUBPOENAS SOUGHT NONPRIVILEGED RECORDS NECESSARY TO
25 FULFILL THE SELECT COMMITTEE'S OBLIGATIONS TO THE HOUSE OF
26 REPRESENTATIVES PURSUANT TO HOUSE RESOLUTION 216.

27 WHILE OTHER MUNICIPAL OFFICES WORKED COOPERATIVELY WITH THE
28 SELECT COMMITTEE TO RESPOND TO THE SUBPOENAS ISSUED TO THEM,
29 DISTRICT ATTORNEY KRASNER AND HIS OFFICE CHOSE INSTEAD TO
30 OBSTRUCT THE SELECT COMMITTEE'S WORK AT EVERY TURN. DISTRICT

1 ATTORNEY KRASNER AND HIS OFFICE ASSERTED THAT THE SELECT
2 COMMITTEE WAS ILLEGITIMATE AND THAT ITS SUBPOENAS SERVED "NO
3 VALID LEGISLATIVE PURPOSE, VIOLATING THE SEPARATION OF POWERS,
4 INVADING LEGAL PRIVILEGES, AND SEEKING TO DENY THE
5 CONSTITUTIONAL RIGHTS OF PHILADELPHIA'S CITIZENS, ESPECIALLY
6 THEIR DEMOCRATIC RIGHT TO VOTE AND CHOOSE THEIR LOCAL LEADERS."

7 DISTRICT ATTORNEY KRASNER ASSERTED VARIOUS CLAIMS THAT HELD
8 NO BASIS IN FACT OR LAW, INCLUDING THE FOLLOWING:

9 (1) DISTRICT ATTORNEYS ARE NOT SUBJECT TO IMPEACHMENT.

10 (2) IMPEACHING THE DISTRICT ATTORNEY VIOLATES THE
11 CONSTITUTIONAL RIGHTS OF THE PEOPLE WHO VOTED FOR HIM.

12 (3) THE DISTRICT ATTORNEY COMMITTED NO WRONG, AND
13 THEREFORE WAS NOT REQUIRED TO COMPLY WITH THE COMMITTEE
14 CHAIR'S SUBPOENA.

15 (4) IMPEACHMENT OF A PUBLIC OFFICIAL REQUIRES A
16 CONVICTION FOR A CRIMINAL ACT; AND

17 DISTRICT ATTORNEY KRASNER AND HIS OFFICE REFUSED TO SEARCH
18 FOR OR PRODUCE ANY DOCUMENTS IN RESPONSE TO THE SUBPOENA.
19 DESPITE MULTIPLE ATTEMPTS BY COUNSEL TO THE SELECT COMMITTEE
20 CHAIR TO BRING DISTRICT ATTORNEY KRASNER AND HIS OFFICE INTO
21 COMPLIANCE WITH THE SUBPOENAS, EXPLAINING ON MULTIPLE OCCASIONS
22 THAT THE SELECT COMMITTEE WAS SEEKING NONPRIVILEGED RECORDS AND,
23 AS IT RELATED TO ANY RECORD FOR WHICH THE DISTRICT ATTORNEY
24 BELIEVED WERE PRIVILEGED, THE DISTRICT ATTORNEY SHOULD FOLLOW
25 COMMON PRACTICE IN RESPONDING TO A SUBPOENA BY PROVIDING A
26 PRIVILEGE LOG TO IDENTIFY THOSE RECORDS FOR WHICH THE DISTRICT
27 ATTORNEY ASSERTS A PRIVILEGE.

28 ON SEPTEMBER 12, 2022, AFTER MULTIPLE EXCHANGES BETWEEN
29 COUNSEL AND A REQUEST TO SHOW CAUSE WHY THE DISTRICT ATTORNEY
30 SHOULD NOT BE HELD IN CONTEMPT BY THE HOUSE, THE SELECT

1 COMMITTEE ISSUED AN INTERIM REPORT PURSUANT TO RULE 51 OF THE
2 GENERAL OPERATING RULES OF THE HOUSE OF REPRESENTATIVES,
3 NOTIFYING THE HOUSE OF DISTRICT ATTORNEY KRASNER'S REFUSAL TO
4 COMPLY WITH THE SUBPOENA AND RECOMMENDING THAT THE HOUSE
5 CONSIDER CONTEMPT PROCEEDINGS.

6 THE HOUSE OF REPRESENTATIVES ADOPTED HOUSE RESOLUTION 227 ON
7 SEPTEMBER 13, 2022, RESOLVING THAT THE HOUSE HOLD DISTRICT
8 ATTORNEY KRASNER IN CONTEMPT. HOUSE RESOLUTION 227 WAS ADOPTED
9 BY A BIPARTISAN VOTE OF 162 TO 38.

10 DISTRICT ATTORNEY KRASNER FILED AN ACTION IN COMMONWEALTH
11 COURT ON SEPTEMBER 2, 2022, IN WHICH HE RAISED THE SAME
12 ARGUMENTS THAT FAIL TO HAVE ANY MEANINGFUL BASIS IN LAW OR FACT.
13 DISTRICT ATTORNEY KRASNER AND HIS OFFICE HAVE SINCE FEIGNED
14 PARTIAL COMPLIANCE WITH THE SUBPOENA, PROVIDING SEVERAL PUBLIC-
15 FACING RECORDS OBTAINED WITHOUT THE NEED TO ENGAGE IN ANY
16 LEGITIMATE EFFORT TO SEARCH FOR THE RECORDS.

17 THE SELECT COMMITTEE CHAIR INVITED DISTRICT ATTORNEY KRASNER
18 TO TESTIFY BEFORE THE SELECT COMMITTEE IN EXECUTIVE SESSION ON
19 OCTOBER 21, 2022. DISTRICT ATTORNEY KRASNER REFUSED TO TESTIFY
20 IN EXECUTIVE SESSION, DEMANDING A PUBLIC HEARING INSTEAD.
21 DISTRICT ATTORNEY KRASNER THEN PUBLISHED A PRESS RELEASE WHICH
22 WAS MISLEADING AT BEST, MISCHARACTERIZING THE INVITATION TO
23 DISTRICT ATTORNEY KRASNER TO TESTIFY IN YET ANOTHER MOMENT OF
24 GRANDSTANDING.

25 GIVEN THE DISTRICT ATTORNEY'S REJECTION OF THE INVITATION TO
26 TESTIFY IN EXECUTIVE SESSION, THE SELECT COMMITTEE WAS COMPELLED
27 TO CANCEL THE HEARING.

28 DISTRICT ATTORNEY KRASNER HAS, AT EVERY TURN, OBSTRUCTED THE
29 EFFORTS OF THE HOUSE SELECT COMMITTEE ON RESTORING LAW AND
30 ORDER. HE HAS CONSISTENTLY RAISED SPECIOUS CLAIMS WITHOUT A GOOD

1 FAITH BASIS IN LAW OR FACT. EVEN AFTER THE HOUSE OF
2 REPRESENTATIVES RESOLVED TO HOLD HIM IN CONTEMPT, DISTRICT
3 ATTORNEY KRASNER'S EFFORTS TO COMPLY WITH SUBPOENAS ISSUED BY
4 THE SELECT COMMITTEE CHAIR FALL FAR SHORT OF WHAT CAN BE
5 CONSIDERED A REASONABLE GOOD FAITH EFFORT.

6 WHEREFORE, DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER IS
7 GUILTY OF AN IMPEACHABLE OFFENSE WARRANTING REMOVAL FROM OFFICE
8 AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER
9 THIS COMMONWEALTH.

10 ARTICLE III:

11 MISBEHAVIOR IN OFFICE IN THE NATURE OF VIOLATION OF
12 THE RULES OF PROFESSIONAL CONDUCT AND CODE OF
13 JUDICIAL CONDUCT; SPECIFICALLY RULE 3.3 CANDOR TOWARD
14 THE TRIBUNAL, RULE 8.4 PROFESSIONAL MISCONDUCT, AND
15 CANON 2 OF THE CODE OF JUDICIAL CONDUCT IMPROPRIETY
16 AND APPEARANCE OF IMPROPRIETY IN THE MATTER
17 OF *ROBERT WHARTON V. DONALD T. VAUGHN*

18 IN THE FEDERAL HABEAS CORPUS PROCEEDING IN *ROBERT WHARTON V.*
19 *DONALD T. VAUGHN*, FEDERAL DISTRICT COURT JUDGE GOLDBERG ISSUED A
20 MEMORANDUM ORDER ADMONISHING AND SANCTIONING THE DISTRICT
21 ATTORNEY'S OFFICE. ROBERT WHARTON WAS CONVICTED OF MURDERING THE
22 PARENTS OF SURVIVOR LISA HART-NEWMAN, WHO WAS SEVEN MONTHS OLD
23 AT THE TIME AND WAS LEFT TO FREEZE TO DEATH WITH HER DECEASED
24 PARENTS BY MR. WHARTON.

25 AFTER HIS CONVICTION, WHARTON PURSUED A DEATH PENALTY HABEAS
26 PETITION IN THE FEDERAL DISTRICT COURT. THE DISTRICT ATTORNEY'S
27 OFFICE UNDER PRIOR ADMINISTRATIONS HAD OPPOSED THIS PETITION.

28 IN 2019, DISTRICT ATTORNEY KRASNER'S ADMINISTRATION FILED A
29 "NOTICE OF CONCESSION OF PENALTY PHASE RELIEF," STATING THAT IT
30 WOULD NOT SEEK A NEW DEATH SENTENCE, AND, BASED ON THAT

1 SENTENCING RELIEF, THE LITIGATION AND APPEALS COULD END. THE
2 CONCESSION NOTED ONLY THAT THE DECISION TO CONCEDE WAS MADE
3 "[F]OLLOWING REVIEW OF THIS CASE BY THE CAPITAL CASE REVIEW
4 COMMITTEE OF THE PHILADELPHIA [DISTRICT ATTORNEY'S OFFICE],
5 COMMUNICATION WITH THE VICTIMS' FAMILY, AND NOTICE TO
6 [WHARTON'S] COUNSEL."

7 JUDGE GOLDBERG UNDERTOOK AN INDEPENDENT ANALYSIS OF THE
8 MERITS OF THE CLAIM AND INVITED THE PENNSYLVANIA OFFICE ATTORNEY
9 GENERAL (OAG) TO FILE AN AMICUS BRIEF IN THE CASE. IN ITS
10 AMICUS, THE OAG SUBMITTED ADDITIONAL FACTS THAT THE DISTRICT
11 ATTORNEY'S OFFICE HAD NOT DISCLOSED, INCLUDING EVIDENCE OF
12 PRISON MISCONDUCTS, ATTEMPTED ESCAPES AND DEPARTMENT OF
13 CORRECTIONS CONCERNS REGARDING "ASSAULTIVENESS" AND "ESCAPE" BY
14 MR. WHARTON.

15 THE OAG CONCLUDED THAT "GIVEN THE FACTS OF THIS INVESTIGATION
16 AND AGGRAVATING SENTENCING FACTORS PRESENT IN THIS CASE, WHARTON
17 COULD NOT ESTABLISH A REASONABLE PROBABILITY THAT THE OUTCOME OF
18 HIS PENALTY PHASE DEATH SENTENCE WOULD HAVE BEEN DIFFERENT IF
19 THE JURY HAD HEARD EVIDENCE OF HIS ALLEGED 'POSITIVE' PRISON
20 ADJUSTMENT."

21 THE OAG FURTHER DETERMINED THAT MEMBERS OF THE FAMILY,
22 INCLUDING VICTIM MS. HART-NEWMAN, WERE NOT CONTACTED AND THAT
23 THEY OPPOSED THE CONCESSION BY THE DISTRICT ATTORNEY'S OFFICE.

24 AFTER AN EVIDENTIARY HEARING, JUDGE GOLDBERG HELD AS FOLLOWS:

25 (1) THE DISTRICT ATTORNEY'S OFFICE FAILED TO ADVISE THE
26 COURT OF SIGNIFICANT ANTI-MITIGATION EVIDENCE, INCLUDING THAT
27 MR. WHARTON HAD MADE AN ESCAPE ATTEMPT AT A COURT APPEARANCE.

28 (2) TWO OF THE OFFICE'S SUPERVISORS VIOLATED FEDERAL
29 RULE OF CIVIL PROCEDURE 11(B)(3) "BASED UPON THAT OFFICE'S
30 REPRESENTATIONS TO THIS COURT THAT LACKED EVIDENTIARY SUPPORT

1 AND WERE NOT IN ANY WAY FORMED AFTER 'AN INQUIRY REASONABLE
2 UNDER THE CIRCUMSTANCES.'"

3 (3) REPRESENTATIONS OF COMMUNICATION WITH THE VICTIMS'
4 FAMILY WERE "MISLEADING," "FALSE," AND "YET ANOTHER
5 REPRESENTATION TO THE COURT MADE AFTER AN INQUIRY THAT WAS
6 NOT REASONABLE UNDER THE CIRCUMSTANCES."

7 (4) THE LAW DIVISION SUPERVISOR, ASSISTANT SUPERVISOR
8 AND DISTRICT ATTORNEY'S OFFICE VIOLATED RULE 11(B)(1), AND
9 CONCLUDING THAT THE VIOLATION WAS "SUFFICIENTLY 'EGREGIOUS'
10 AND 'EXCEPTIONAL' UNDER THE CIRCUMSTANCES TO WARRANT
11 SANCTIONS."

12 JUDGE GOLDBERG IMPOSED NONMONETARY SANCTIONS ON THE DISTRICT
13 ATTORNEY'S OFFICE, REQUIRING THAT SEPARATE WRITTEN APOLOGIES BE
14 SENT TO THE VICTIM, LISA HART-NEWMAN, AND THE VICTIM'S FAMILY
15 MEMBERS. GIVEN THE TESTIMONY OF THE TWO LAW DIVISION SUPERVISORS
16 THAT DISTRICT ATTORNEY KRASNER APPROVED AND IMPLEMENTED INTERNAL
17 PROCEDURES THAT CREATED THE NEED FOR THIS SANCTION, AND THAT THE
18 DISTRICT ATTORNEY HAD THE SOLE, ULTIMATE AUTHORITY TO DIRECT
19 THAT THE MISLEADING NOTICE OF CONCESSION BE FILED, THEREFORE
20 "THE APOLOGIES SHALL COME FROM THE DISTRICT ATTORNEY, LAWRENCE
21 KRASNER, PERSONALLY."

22 DISTRICT ATTORNEY KRASNER HAS THE SOLE AUTHORITY TO APPROVE
23 COURT FILINGS ON BEHALF OF PHILADELPHIA DISTRICT ATTORNEY'S
24 OFFICE. WHILE IN OFFICE, DISTRICT ATTORNEY KRASNER DIRECTED,
25 APPROVED AND OR PERMITTED THE FILING OF A "NOTICE OF
26 CONCESSION" AND PRESENTATION OF OTHER PLEADINGS AND STATEMENTS
27 IN FEDERAL COURT WHICH CONTAINED MATERIALLY FALSE AND OR
28 MISLEADING AFFIRMATIVE STATEMENTS AND PURPOSEFUL OMISSIONS OF
29 FACT IN VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT, RULE 3.3
30 (CANDOR TOWARD THE TRIBUNAL) AND RULE 8.4 (PROFESSIONAL

MISCONDUCT), AND CODE OF JUDICIAL CONDUCT, CANON 2 (IMPROPRIETY AND OR APPEARANCE OF IMPROPRIETY).

WHEREFORE, DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER IS GUILTY OF AN IMPEACHABLE OFFENSE WARRANTING REMOVAL FROM OFFICE AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER THIS COMMONWEALTH.

ARTICLE IV:

MISBEHAVIOR IN OFFICE IN THE NATURE OF VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT; SPECIFICALLY RULE 3.3 CANDOR TOWARD THE TRIBUNAL, RULE 8.4 PROFESSIONAL MISCONDUCT, AND CANON 2 OF THE CODE OF JUDICIAL CONDUCT IMPROPRIETY AND APPEARANCE OF IMPROPRIETY IN THE MATTER OF *COMMONWEALTH VS. POWNALL* IN HIS SPECIAL CONCURRENCE IN *COMMONWEALTH V. POWNALL*, SUPREME COURT JUSTICE DOUGHERTY HIGHLIGHTED WHAT HE FEARED TO BE AN EFFORT BY THE DISTRICT ATTORNEY'S OFFICE TO DEPRIVE CERTAIN DEFENDANTS OF A FAIR AND SPEEDY TRIAL. FOLLOWING THE JUNE 2017 INCIDENT IN WHICH FORMER PHILADELPHIA POLICE OFFICER RYAN POWNALL SHOT AND KILLED DAVID JONES, THE DISTRICT ATTORNEY'S OFFICE SUBMITTED THE MATTER TO AN INVESTIGATIVE GRAND JURY. THE INVESTIGATING GRAND JURY ISSUED A PRESENTMENT RECOMMENDING THAT POWNALL BE CHARGED WITH CRIMINAL HOMICIDE, POSSESSION OF AN INSTRUMENT OF CRIME AND RECKLESSLY ENDANGERING ANOTHER PERSON; AND

DURING TRIAL, THE PROSECUTOR FILED A MOTION IN LIMINE TO PRECLUDE THE STANDARD PEACE OFFICER JUSTIFICATION DEFENSE INSTRUCTION, BASED ON THE ASSERTION THAT THE INSTRUCTION, WHICH LARGELY TRACKED LANGUAGE OF STATUTE, VIOLATED FOURTH AMENDMENT PROHIBITION AGAINST UNREASONABLE SEARCH AND SEIZURE. THE MOTION WAS DENIED AND THE PROSECUTION APPEALED TO THE SUPERIOR COURT,

1 WHICH QUASHED THE APPEAL AS UNAUTHORIZED. THE SUPREME COURT
2 GRANTED THE PROSECUTOR'S REQUEST FOR ALLOWANCE OF APPEAL.

3 THE SUPREME COURT ULTIMATELY DENIED THE APPEAL, BUT THE
4 SPECIAL CONCURRENCE FILED BY JUSTICE DOUGHERTY ILLUMINATED
5 STARTLING BEHAVIOR BY THE DISTRICT ATTORNEY'S OFFICE. JUSTICE
6 DOUGHERTY HELD THAT THE DISTRICT ATTORNEY'S OFFICE'S ACTIONS
7 DURING GRAND JURY PROCESS "IMPLICATE[S] A POTENTIAL ABUSE" AND
8 STATED THAT "THE PRESENTMENT IN THIS CASE IS PERHAPS BEST
9 CHARACTERIZED AS A 'FOUL BLOW.'" HE REFERRED TO THE GRAND JURY
10 PRESENTMENT, AUTHORED BY THE DISTRICT ATTORNEY'S OFFICE, AS A
11 "GRATUITOUS NARRATIVE."

12 JUSTICE DOUGHERTY ALSO RECOGNIZED THAT ANY ABUSE OF THE GRAND
13 JURY COULD HAVE BEEN REMEDIED BY "STATUTORY SAFEGUARDS EMBEDDED
14 IN THE PROCESS," SUCH AS A PRELIMINARY HEARING. HE WENT ON TO
15 SAY "WHAT IS TROUBLING IS THE DAO'S EFFORT TO ENSURE THAT WOULD
16 NOT OCCUR," *I.E.*, THEIR FILING OF A MOTION TO BYPASS THE
17 PRELIMINARY HEARING.

18 JUSTICE DOUGHERTY FOUND IT "INEXPLICABLE" THAT, IN PRESENTING
19 A BYPASS MOTION TO THE COURT OF COMMON PLEAS, THE DISTRICT
20 ATTORNEY'S OFFICE FAILED TO HIGHLIGHT THE INVESTIGATING GRAND
21 JURY ACT SECTION 4551(E), WHICH DIRECTS THAT A DEFENDANT "SHALL"
22 BE ENTITLED TO A PRELIMINARY HEARING. HE EMPHASIZED THAT THE
23 DISTRICT ATTORNEY'S OFFICE "APPEAR[ED] TO HAVE KNOWN [ABOUT THAT
24 REQUIREMENT] AT THE TIME IT FILED ITS MOTION."

25 AS IT RELATED TO THE PROSECUTOR'S MOTION IN LIMINE AND
26 INTERLOCUTORY APPEAL, JUSTICE DOUGHERTY OBSERVED THAT THE
27 DISTRICT ATTORNEY'S OFFICE'S MOTION "PRESENTED ONLY HALF THE
28 RELEVANT PICTURE." HE WENT ON TO SAY THAT "THIS TYPE OF ADVOCACY
29 WOULD BE WORRISOME COMING FROM ANY LITIGANT," BUT COMING FROM A
30 PROSECUTOR, "IS EVEN MORE CONCERNING, PARTICULARLY IN LIGHT OF

1 THE MOTION'S TIMING...." HE CITED DIRECTLY TO PENNSYLVANIA RULE
2 OF PROFESSIONAL CONDUCT 3.3 REGARDING CANDOR TO THE TRIBUNAL.

3 FURTHER REFERENCING ETHICAL CONCERNS, JUSTICE DOUGHERTY FOUND
4 THAT THE TIMING OF THE MOTION IN LIMINE, "[W]HEN COMBINED WITH
5 THE OTHER TACTICS HIGHLIGHTED THROUGHOUT THIS CONCURRENCE,"
6 COULD LEAD TO THE CONCLUSION THAT THE DECISION TO TAKE "AN
7 UNAUTHORIZED INTERLOCUTORY APPEAL WAS INTENDED TO DEPRIVE [MR.
8 POWNALL] OF A FAIR AND SPEEDY TRIAL." JUSTICE DOUGHERTY WENT ON
9 TO SAY:

10 NOW, FOR THE FIRST TIME BEFORE THIS COURT, THE DAO FINALLY
11 ADMITS ITS TRUE INTENT IN ALL THIS WAS SIMPLY TO USE
12 POWNALL'S CASE AS A VEHICLE TO FORCE JUDICIAL DETERMINATION
13 ON 'WHETHER SECTION 508(A) (1) IS FACIALLY UNCONSTITUTIONAL.'
14 DAO'S REPLY BRIEF AT 1; SEE ID. AT 6 (ASSERTING SECTION 508'S
15 APPLICABILITY TO [POWNALL] IS NOT THE SUBJECT OF THIS
16 APPEAL"). WHAT'S MORE, DESPITE HAVING ASSURED THE TRIAL COURT
17 IT WAS NOT TRYING 'TO BAR [POWNALL] FROM A DEFENSE[.]' N.T.
18 11/25/2019 AT 8, THE DAO NOW BOLDLY ASSERTS IT WOULD BE
19 APPROPRIATE FOR THIS COURT TO REWRITE THE LAW AND
20 RETROACTIVELY APPLY IT TO POWNALL'S CASE BECAUSE HE
21 SUPPOSEDLY 'HAD FAIR NOTICE OF HIS INABILITY TO RELY ON THIS
22 UNCONSTITUTIONAL DEFENSE[.]' DAO'S BRIEF AT 10.

23 JUSTICE DOUGHERTY CONCLUDED, "LITTLE THAT HAS HAPPENED IN
24 THIS CASE UP TO THIS POINT REFLECTS PROCEDURAL JUSTICE. ON THE
25 CONTRARY, THE DAO'S PROSECUTION OF POWNALL APPEARS TO BE "DRIVEN
26 BY A WIN-AT-ALL-COST OFFICE CULTURE" THAT TREATS POLICE OFFICERS
27 DIFFERENTLY THAN OTHER CRIMINAL DEFENDANTS. DAO CONVICTION
28 INTEGRITY UNIT REPORT, OVERTURNING CONVICTIONS - AND AN ERA 2
29 (JUNE 15, 2021) AVAILABLE AT TINYURL.COM/CIU REPORT (LAST
30 VISITED JULY 19, 2022). THIS IS THE ANTITHESIS OF WHAT THE LAW

1 EXPECTS OF A PROSECUTOR."

2 ON REMAND, COMMON PLEAS COURT JUDGE MCDERMOTT SAID THAT THERE
3 WERE "SO MANY THINGS WRONG" WITH THE DISTRICT ATTORNEY'S
4 OFFICE'S INSTRUCTIONS TO THE INVESTIGATING GRAND JURY THAT IT
5 WARRANTED DISMISSING ALL CHARGES AGAINST MR. POWNALL. AFTER
6 HEARING TESTIMONY FROM THE ASSISTANT DISTRICT ATTORNEYS WHO
7 HANDLED THE GRAND JURY AND PREPARATION OF THE PRESENTMENT, JUDGE
8 MCDERMOTT CONCLUDED THAT THE DISTRICT ATTORNEY'S OFFICE FAILED
9 TO PROVIDE THE LEGAL INSTRUCTIONS TO THE GRAND JURORS ON THE
10 DEFINITIONS FOR HOMICIDE AND INFORMATION REGARDING THE USE-OF-
11 FORCE DEFENSE.

12 IN HER OCTOBER 17, 2022, STATEMENT OF FINDINGS OF FACT AND
13 CONCLUSIONS OF LAW, JUDGE MCDERMOTT STATED, "THE COMMONWEALTH
14 MADE AN INTENTIONAL, DELIBERATE CHOICE NOT TO INFORM THE GRAND
15 JURORS ABOUT THE JUSTIFICATION DEFENSE UNDER SECTION 508. WHILE
16 [THE ADA] WAS AWARE OF SECTION 508 AND ITS APPLICABILITY TO THE
17 DEFENDANT'S CASE AT THE TIME OF THE GRAND JURY PROCEEDINGS, SHE
18 DECIDED NOT TO ADVISE THE GRAND JURY ABOUT SECTION 508 AFTER
19 CONSULTING WITH OTHER, MORE SENIOR ASSISTANT DISTRICT
20 ATTORNEYS."

21 AS IT RELATED TO POWNALL'S RIGHT TO A PRELIMINARY HEARING,
22 JUDGE MCDERMOTT WROTE:

23 IN ITS MOTION TO BYPASS THE PRELIMINARY HEARING, THE
24 COMMONWEALTH DEMONSTRATED A LACK OF CANDOR TO THE COURT BY
25 MISSTATING THE LAW AND PROVIDING JUDGE COLEMAN WITH INCORRECT
26 CASE LAW.

27 * * *

28 THE COMMONWEALTH WAS ALSO DISINGENUOUS WITH THE COURT
29 WHEN IT ASSERTED THAT IT HAD GOOD CAUSE TO BYPASS THE
30 PRELIMINARY HEARING UNDER PA.R.CRIM.P. 565(A) BECAUSE OF THE

1 COMPLEXITY OF THE CASE, THE LARGE NUMBER OF WITNESSES THE
2 COMMONWEALTH WOULD HAVE TO CALL, THE EXPENSE, AND THE DELAY
3 CAUSED BY A PRELIMINARY HEARING. AS A PRELIMINARY HEARING WAS
4 NOT HELD IN THIS CASE, THE DEFENDANT'S DUE PROCESS RIGHTS
5 WERE VIOLATED AND THE DEFENDANT SUFFERED PREJUDICE.

6 JUDGE MCDERMOTT TOLD THE DISTRICT ATTORNEY'S OFFICE THAT IF
7 DEFENSE COUNSEL HAD MADE THE DECISIONS THAT THE DISTRICT
8 ATTORNEY'S OFFICE MADE, SHE WOULD "DECLARE THEM INCOMPETENT."
9 THE DISTRICT ATTORNEY'S OFFICE'S OWN EXPERT REPORT FROM GREGORY
10 A. WARREN, ED.D., OF AMERICAN LAW ENFORCEMENT TRAINING AND
11 CONSULTING CONCLUDED THAT, GIVEN ALL THE FACTS PRESENTED TO HIM,
12 OFFICER POWNALL'S "USE OF DEADLY FORCE IN THIS CASE WAS
13 JUSTIFIED." THIS EXPERT REPORT WAS WITHHELD FROM POWNALL BY THE
14 DISTRICT ATTORNEY'S OFFICE.

15 DISTRICT ATTORNEY KRASNER HAS THE SOLE AUTHORITY TO APPROVE
16 COURT FILINGS ON BEHALF OF PHILADELPHIA DISTRICT ATTORNEY'S
17 OFFICE. WHILE IN OFFICE DISTRICT ATTORNEY KRASNER DIRECTED,
18 APPROVED AND OR PERMITTED THE FILING OF MOTIONS, PRESENTATIONS
19 OF OTHER PLEADINGS AND STATEMENTS TO THE GRAND JURY AND THE
20 COURT WHICH INTENTIONALLY OMITTED, CONCEALED AND OR WITHHELD
21 MATERIAL FACTS AND LEGAL AUTHORITY RELEVANT TO THE JUDICIAL
22 PROCEEDINGS IN VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT,
23 RULE 3.3 (CANDOR TOWARD THE TRIBUNAL), RULE 8.4 (PROFESSIONAL
24 MISCONDUCT) AND CODE OF JUDICIAL CONDUCT, CANON 2 (IMPROPRIETY
25 AND OR APPEARANCE OF IMPROPRIETY).

26 WHEREFORE, DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER IS
27 GUILTY OF AN IMPEACHABLE OFFENSE WARRANTING REMOVAL FROM OFFICE
28 AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER
29 THIS COMMONWEALTH.

30 ARTICLE V:

1 MISBEHAVIOR IN OFFICE IN THE NATURE OF VIOLATION OF
2 THE RULES OF PROFESSIONAL CONDUCT AND CODE OF
3 JUDICIAL CONDUCT; SPECIFICALLY RULE 3.3 CANDOR TO
4 TRIBUNAL, RULE 8.4 PROFESSIONAL MISCONDUCT, AND CANON
5 2 OF THE CODE OF JUDICIAL CONDUCT IMPROPRIETY AND
6 APPEARANCE OF IMPROPRIETY IN THE MATTER IN
7 RE: CONFLICTS OF INTEREST OF PHILADELPHIA DISTRICT
8 ATTORNEY'S OFFICE

9 DURING SWORN TESTIMONY, DISTRICT ATTORNEY KRASNER WITHHELD
10 MATERIAL FACTS FROM THE SUPREME COURT WHEN HE TESTIFIED UNDER
11 OATH BEFORE THE SUPREME COURT'S SPECIAL MASTER. THE SPECIAL
12 MASTER WAS APPOINTED BY THE SUPREME COURT PURSUANT TO ITS KING'S
13 BENCH JURISDICTION TO INVESTIGATE WHETHER DISTRICT ATTORNEY
14 KRASNER HAD A CONFLICT OF INTEREST FAVORING THE DEFENDANT AND
15 APPELLANT, MUMIA ABU-JAMAL, WHO HAD BEEN CONVICTED OF FIRST-
16 DEGREE MURDER OF OFFICER DANIEL FAULKNER. DISTRICT ATTORNEY
17 KRASNER TESTIFIED THAT HE "NEVER REPRESENTED ANY ADVOCACY
18 ORGANIZATION FOR MUMIA ABU-JAMAL."

19 WHILE AFFIRMATIVELY STATING HE NEVER REPRESENTED AN
20 "ORGANIZATION" WHICH ADVOCATED FOR MUMIA ABU-JAMAL, DISTRICT
21 ATTORNEY KRASNER OMITTED THE FACT THAT HE HAD, IN FACT,
22 REPRESENTED AT LEAST ONE PRO-MUMIA ACTIVIST WHO WAS ARRESTED FOR
23 SEEKING TO INTIMIDATE THE JUDGE DECIDING ABU-JAMAL'S POST
24 CONVICTION RELIEF ACT ("PCRA") PETITION. THAT ACTIVIST, WHO AT
25 THE TIME WAS THE "DIRECTOR" OF THE "YOUTH ACTION COALITION," WAS
26 ARRESTED ALONG-SIDE LOCAL LEADERS OF THE INTERNATIONAL CONCERNED
27 FAMILY AND FRIENDS OF MUMIA ABU-JAMAL, ALL OF WHOM WERE
28 PROTESTING OUTSIDE THE HOME OF ABU-JAMAL'S PCRA JUDGE IN AN
29 EFFORT TO ILLEGALLY INFLUENCE THE VERY PROCEEDINGS AT ISSUE IN
30 MUMIA ABU-JAMAL'S NUNC PRO TUNC APPEAL.

1 DISTRICT ATTORNEY KRASNER REPRESENTED THIS "DIRECTOR," AND
2 POTENTIALLY OTHER PRO-MUMIA ACTIVISTS, AGAINST CHARGES FOR
3 VIOLATING A CRIMINAL STATUTE THAT PROHIBITS PROTESTING OUTSIDE
4 THE HOMES OF JUDICIAL OFFICERS TO INFLUENCE THE OUTCOME OF CASES
5 PENDING BEFORE THE JUDICIAL OFFICERS. YET, IN TESTIFYING THAT HE
6 "NEVER REPRESENTED ANY ADVOCACY ORGANIZATION FOR MUMIA ABU-
7 JAMAL," DISTRICT ATTORNEY KRASNER OMITTED THESE MATERIAL FACTS,
8 PROVIDING A PARTIAL AND MISLEADING DISCLOSURE REGARDING HIS
9 CONNECTION TO THE EFFORT TO EXONERATE AND FREE MUMIA ABU-JAMAL.
10 DISTRICT ATTORNEY KRASNER'S MISLEADING DISCLOSURE WAS DIRECTLY
11 RELEVANT TO THE SUBJECT MATTER UNDER INVESTIGATION BY THE
12 SUPREME COURT IN THAT HE WAS CONCEALING MATERIAL FACTS
13 CONCERNING HIS CONFLICTS OF INTEREST IN THE MUMIA ABU-JAMAL
14 MATTER, AN ISSUE AT THE VERY HEART OF THE SUPREME COURT'S REVIEW
15 OF THE KING'S BENCH PETITION FILED BY THE WIDOW OF OFFICER
16 FAULKNER. DISTRICT ATTORNEY KRASNER THEREFORE VIOLATED RULES OF
17 PROFESSIONAL CONDUCT, RULE 3.3 (CANDOR TOWARD THE TRIBUNAL),
18 RULE 8.4 (PROFESSIONAL MISCONDUCT) AND CODE OF JUDICIAL CONDUCT,
19 CANON 2 (IMPROPRIETY AND OR APPEARANCE OF IMPROPRIETY).

20 WHEREFORE, DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER IS
21 GUILTY OF AN IMPEACHABLE OFFENSE WARRANTING REMOVAL FROM OFFICE
22 AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER
23 THIS COMMONWEALTH.

24 ARTICLE VI:

25 MISBEHAVIOR IN OFFICE IN NATURE OF

26 VIOLATION OF VICTIMS RIGHTS

27 FEDERAL AND STATE LAW PROVIDES FOR CERTAIN RIGHTS FOR VICTIMS
28 RELATED TO THE PROSECUTION AND SENTENCING OF THE DEFENDANTS WHO
29 VICTIMIZED THEM OR THEIR FAMILY MEMBERS (18 U.S.C. § 3771 (B) (2)
30 (A) AND SECTION 201 OF THE ACT OF NOVEMBER 24, 1998 (P.L.882,

1 NO.111), KNOWN AS THE CRIME VICTIMS ACT). CHIEF AMONG THE RIGHTS
2 PROVIDED TO VICTIMS IS THE RIGHT TO BE KEPT INFORMED AT ALL
3 STAGES OF THE PROSECUTION THROUGH CLEAR, RESPECTFUL AND HONEST
4 COMMUNICATION AND TO BE CONSULTED WITH REGARD TO SENTENCING.
5 DISTRICT ATTORNEY KRASNER REPEATEDLY VIOLATED, AND ALLOWED
6 ASSISTANT DISTRICT ATTORNEYS UNDER HIS SUPERVISION TO VIOLATE,
7 THE FEDERAL AND STATE VICTIMS' RIGHTS ACTS ON MULTIPLE OCCASIONS
8 BY SPECIFICALLY FAILING TO TIMELY CONTACT VICTIMS, DELIBERATELY
9 MISLEADING VICTIMS AND OR DISREGARDING VICTIM INPUT AND TREATING
10 VICTIMS WITH CONTEMPT AND DISRESPECT.

11 WHEREFORE, DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER IS
12 GUILTY OF AN IMPEACHABLE OFFENSE WARRANTING REMOVAL FROM OFFICE
13 AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER
14 THIS COMMONWEALTH.

15 ARTICLE VII:

16 MISBEHAVIOR IN OFFICE IN THE NATURE OF VIOLATION
17 OF THE CONSTITUTION OF PENNSYLVANIA BY USURPATION
18 OF THE LEGISLATIVE FUNCTION

19 PURSUANT TO ARTICLE II OF THE CONSTITUTION OF PENNSYLVANIA,
20 THE LEGISLATIVE POWER IS VESTED IN THE GENERAL ASSEMBLY.
21 DISTRICT ATTORNEY KRASNER AS AN ELECTED EXECUTIVE IN THE CITY OF
22 PHILADELPHIA HAS NO AUTHORITY TO CREATE, REPEAL OR AMEND ANY
23 STATE LAW. DESPITE THIS CLEAR SEPARATION OF POWERS, DISTRICT
24 ATTORNEY KRASNER HAS CONTRAVENED THE AUTHORITY OF THE
25 LEGISLATURE BY REFUSING TO PROSECUTE SPECIFICALLY PROHIBITED
26 CONDUCT UNDER STATE LAW. RATHER THAN EXERCISING HIS INHERENT
27 DISCRETIONARY POWERS TO REVIEW AND DETERMINE CHARGES ON A CASE-
28 BY-CASE BASIS, DISTRICT ATTORNEY KRASNER, IN HIS CAPACITY AS THE
29 COMMONWEALTH'S ATTORNEY IN THE CITY OF PHILADELPHIA,
30 UNILATERALLY DETERMINED, DIRECTED AND ENSURED THAT CERTAIN

1 CRIMES WOULD NO LONGER BE PROSECUTED AND WERE THEREFORE DE FACTO
2 LEGAL.

3 THESE CRIMES INCLUDE PROSTITUTION, THEFT AND DRUG-RELATED
4 OFFENSES, AMONG OTHERS. IN PARTICULAR, THE *DE FACTO* LEGALIZATION
5 OF PROSTITUTION BY DISTRICT ATTORNEY KRASNER HAS HAD A
6 DEVASTATING IMPACT ON WOMEN WHO ARE VICTIMS OF SEX TRAFFICKING
7 AND THE COMMUNITIES WHERE THEY ARE TRAFFICKED. REFUSING TO
8 PROSECUTE RETAIL THEFT OF PROPERTY WITH LESS THAN A VALUE OF
9 \$500, DISTRICT ATTORNEY KRASNER HAS CREATED AN ATMOSPHERE OF
10 LAWLESSNESS IN PHILADELPHIA, WITH THE DIRECT EFFECT OF CAUSING
11 BUSINESSES TO CURTAIL ACTIVITY OR CEASE DOING BUSINESS
12 ALTOGETHER IN PHILADELPHIA. DISTRICT ATTORNEY KRASNER'S REFUSAL
13 TO PROSECUTE THOSE CAUGHT DRIVING UNDER THE INFLUENCE OF
14 MARIJUANA, ASIDE FROM CONTRIBUTING TO THE LAWLESSNESS IN THE
15 CITY, HAS CREATED DANGEROUS SITUATIONS FOR THE HEALTH, SAFETY
16 AND WELFARE OF THE PEOPLE IN PHILADELPHIA. DISTRICT ATTORNEY
17 KRASNER *DE FACTO* LEGALIZING SUCH ACTS THAT THE GENERAL ASSEMBLY
18 HAS DETERMINED TO BE ILLEGAL IS A CLEAR USURPATION OF
19 LEGISLATIVE POWERS IN VIOLATION OF THE CONSTITUTION OF
20 PENNSYLVANIA, AND THUS CONSTITUTES MISBEHAVIOR IN OFFICE.

21 WHEREFORE, DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER IS
22 GUILTY OF AN IMPEACHABLE OFFENSE WARRANTING REMOVAL FROM OFFICE
23 AND DISQUALIFICATION TO HOLD ANY OFFICE OF TRUST OR PROFIT UNDER
24 THIS COMMONWEALTH.

25 THE HOUSE OF REPRESENTATIVES HEREBY RESERVES TO ITSELF THE
26 RIGHT AND ABILITY TO EXHIBIT AT ANY TIME AFTER ADOPTION OF THIS
27 RESOLUTION FURTHER OR MORE DETAILED ARTICLES OF IMPEACHMENT
28 AGAINST DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER, TO REPLY TO
29 ANY ANSWERS THAT DISTRICT ATTORNEY LAWRENCE SAMUEL KRASNER MAY
30 MAKE TO ANY ARTICLES OF IMPEACHMENT WHICH ARE EXHIBITED AND TO

1 OFFER PROOF AT TRIAL IN THE SENATE IN SUPPORT OF EACH AND EVERY
2 ARTICLE OF IMPEACHMENT WHICH SHALL BE EXHIBITED BY THEM.

3 UPON THE ARTICLES OF IMPEACHMENT AGAINST LAWRENCE SAMUEL
4 KRASNER, PHILADELPHIA DISTRICT ATTORNEY, BEING SIGNED BY THE
5 SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE SPEAKER SHALL
6 APPOINT A COMMITTEE OF THREE MEMBERS, TWO FROM THE MAJORITY
7 PARTY AND ONE FROM THE MINORITY PARTY, TO EXHIBIT THE SAME TO
8 THE SENATE, AND ON BEHALF OF THE HOUSE OF REPRESENTATIVES TO
9 MANAGE THE TRIAL THEREOF.

10 THE EXPENSES OF THE COMMITTEE SHALL BE PAID BY THE CHIEF
11 CLERK FROM APPROPRIATION ACCOUNTS UNDER THE CHIEF CLERK'S
12 EXCLUSIVE CONTROL AND JURISDICTION UPON A WRITTEN REQUEST
13 APPROVED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
14 MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES OR THE MINORITY
15 LEADER OF THE HOUSE OF REPRESENTATIVES.

EXHIBIT D

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 386 Session of
2022

INTRODUCED BY PITTMAN AND BAKER, NOVEMBER 29, 2022

INTRODUCED, NOVEMBER 29, 2022

A RESOLUTION

1 Proposing special rules of practice and procedure in the Senate
2 when sitting on impeachment trials.

3 RESOLVED, That the Senate of Pennsylvania adopt special rules
4 as follows:

5 Rules of Practice and Procedure
6 in the Senate When Sitting On
7 Impeachment Trials

8 Section 1. Reception of managers.

9 (a) Subject to subsection (b), when the Senate receives
10 notice from the House of Representatives that it has appointed
11 managers to conduct and prosecute an impeachment against an
12 individual and has directed the managers to carry articles of
13 impeachment to the Senate, the Secretary of the Senate shall
14 immediately inform the House of Representatives that the Senate
15 is ready to receive the managers for the purpose of exhibiting
16 such articles of impeachment, agreeably to such notice.

17 (b) If notice under subsection (a) is received when the
18 Senate has adjourned for at least ten days, the President pro

1 they shall appear on the floor. A Senator has the duty to take
2 the oath or make the affirmation. The oath or affirmation must
3 be in the form set forth in section 25(c).

4 Section 4. Issuance of orders, etc.

5 The presiding officer may issue orders, writs and precepts
6 authorized by these rules or by the Senate, and may make and
7 enforce other rules and orders in the Senate Chamber as the
8 Senate authorizes.

9 Section 5. Enforcement.

10 (a) The Senate has the following powers:

11 (1) To compel the attendance of witnesses.

12 (2) To enforce obedience to its orders, mandates, writs,
13 precepts and judgments.

14 (3) To preserve order and to punish in a summary way
15 contempts of, and disobedience to, its authority, orders,
16 mandates, writs, precepts or judgments.

17 (4) To issue lawful orders and rules which it deems
18 essential or conducive to the ends of justice.

19 (b) The Sergeant at Arms, under the directions of the
20 Senate, may employ aid and assistance necessary to execute and
21 enforce the lawful orders, mandates, writs and precepts of the
22 Senate.

23 Section 6. Preparation and form of proceedings.

24 (a) The President pro tempore shall direct:

25 (1) necessary preparations in the Senate Chamber; and

26 (2) the form of proceedings.

27 (b) The presiding officer shall rule on all questions of
28 evidence, including relevance, materiality and redundancy of
29 evidence and incidental questions. Except as set forth in
30 subsection (c), a ruling under this subsection shall stand as

1 the judgment of the Senate.

2 (c) On a ruling under subsection (b), a vote may be taken as
3 follows:

4 (1) A Senator may request a formal vote on the ruling.

5 (2) The presiding officer may submit the ruling for a
6 vote.

7 (3) Upon request under paragraph (1) or submission under
8 paragraph (2), the vote shall be taken under the Rules of the
9 Senate immediately. Debate is not permitted.

10 (4) The result of the vote shall stand as the judgment
11 of the Senate.

12 Section 7. Writ of summons.

13 (a) Upon presentation of articles of impeachment and the
14 organization for consideration under these rules, a writ of
15 summons shall issue to the individual impeached.

16 (b) The writ must contain all of the following:

17 (1) A recitation of the articles.

18 (2) Notice to the individual to:

19 (i) appear, personally or by counsel, before the
20 Senate at a specified time, on a specified date and at a
21 specified location;

22 (ii) file an answer to the articles; and

23 (iii) stand to and abide the orders and judgments of
24 the Senate on the articles.

25 (c) All of the following apply to service of the writ:

26 (1) The officer or individual named in the precept of
27 the writ shall execute service.

28 (2) Service must be executed within the advance notice
29 specified in the precept.

30 (3) Service must be executed in one of the following

1 manners:

2 (i) By delivery of an attested copy of the writ to
3 the individual impeached.

4 (ii) If delivery under subparagraph (i) cannot
5 conveniently be done, by leaving an attested copy of the
6 writ in a conspicuous place at the last known place of
7 residence or the usual place of business of the
8 individual impeached.

9 (iii) If the Senate determines that compliance with
10 subparagraphs (i) or (ii) is impracticable, in a manner
11 the Senate deems just.

12 (d) Upon compliance with subsection (b)(2), the individual
13 impeached may:

14 (1) Plead guilty. Upon entry of the plea, judgment shall
15 be rendered.

16 (2) Plead not guilty. Upon entry of the plea, trial
17 shall commence.

18 (e) Upon noncompliance with subsection (b)(2)(i) or (ii), a
19 plea of not guilty shall be entered. Upon entry of the plea,
20 trial shall commence.

21 Section 8. Return of summons.

22 At 12:30 p.m. on the day appointed for the return of the
23 summons against the individual impeached:

24 (1) The legislative and executive business of the Senate
25 shall be suspended.

26 (2) The Secretary of the Senate shall administer an oath
27 or affirmation to the returning officer in the following
28 form:

29 I, , do solemnly swear or affirm that the
30 return made by me upon the process issued on the day

1 of , by the Senate of Pennsylvania, against ,
2 is truly made, and that I have performed such
3 service as therein described: (So help me God).

4 (3) The oath or affirmation shall be entered on the
5 record.

6 Section 9. Appearances.

7 The appearance or nonappearance of the individual impeached,
8 either personally or by counsel shall be recorded on the record.

9 Section 10. Committee.

10 (a) In an impeachment trial, unless otherwise ordered by the
11 Senate, the President pro tempore may appoint a committee of
12 Senators, no more than half of whom must be members of the same
13 political party. The President pro tempore shall be an ex
14 officio member and may vote in case of a tie on any question
15 before the committee.

16 (b) The functions of the committee are to receive evidence
17 and take testimony at times and places determined by the
18 committee. To discharge these functions, unless otherwise
19 ordered by the Senate, the committee and its chairperson have
20 the powers and duties conferred upon the Senate and the
21 President pro tempore or the President of the Senate,
22 respectively, under these rules.

23 (c) Upon appointment, the President pro tempore shall be
24 responsible for setting the first meeting of the committee.
25 Thereafter, the committee shall meet on such days as the
26 committee chair may decide until the committee has determined
27 that all relevant testimony and evidence has been presented.

28 (d) A ruling regarding the admissibility of evidence shall
29 be made by the committee chair subject to a right of appeal to
30 the committee. In an appeal, the committee shall vote on the

1 admissibility of the contested evidence.

2 (e) Unless otherwise ordered by the Senate, these rules
3 shall govern the procedure and practice of the committee so
4 appointed.

5 (f) The committee shall report to the Senate in writing that
6 it has completed receiving evidence and taking testimony, and
7 the committee shall provide a summary of the evidence and
8 testimony and a certified copy of the transcript of the
9 proceedings and testimony had and given before such committee.

10 (g) The report under subsection (f) shall be received by the
11 Senate and the evidence received and the testimony taken shall
12 be considered, subject to the right of the Senate to determine
13 competency, relevancy and materiality, as having been received
14 and taken before the Senate.

15 (h) Nothing in this section shall prevent the Senate from
16 sending for a witness and hearing the witness's testimony in
17 open Senate. The Senate may receive additional evidence and
18 testimony before making its final judgment on the articles of
19 impeachment.

20 Section 11. Commencement of trial.

21 Unless otherwise ordered by the Senate, at 12:30 p.m. on the
22 day appointed for the trial of an impeachment:

23 (1) the legislative and executive business of the Senate
24 shall be suspended; and

25 (2) the Secretary of the Senate shall give notice to the
26 House of Representatives that the Senate is ready to proceed
27 upon the impeachment in the Senate Chamber.

28 Section 12. Time of trial.

29 Unless the Senate orders otherwise, trial of an impeachment
30 shall begin each day at 12 noon. At that time, a proclamation

1 shall be made; and the trial shall proceed. Adjournment of the
2 trial does not operate as an adjournment of the Senate.

3 Section 13. Record.

4 The Secretary of the Senate shall record the proceedings in
5 cases of impeachment as in the case of legislative proceedings,
6 and the proceedings shall be reported in the same manner as the
7 legislative proceedings of the Senate.

8 Section 14. Counsel.

9 Counsel for the parties shall be admitted to appear and be
10 heard on impeachment. Counsel must be admitted to practice law
11 by a court of record of this Commonwealth.

12 Section 15. Presentation of questions, etc.

13 A motion, objection, request or application, whether relating
14 to the procedure of the Senate or relating immediately to the
15 trial, including questions with respect to admission of evidence
16 or other questions arising during the trial, made by the parties
17 or their counsel shall be addressed to the presiding officer
18 only. The presiding officer or a Senator may require a written
19 submission and reading by the Secretary of the Senate.

20 Section 16. Witnesses.

21 Witnesses shall be examined by one individual on behalf of
22 the party producing them, and then cross-examined by one
23 individual on the opposing side.

24 Section 17. Senator as witness.

25 If a Senator is called as a witness before the full Senate,
26 the Senator shall testify at the Senator's desk on the floor of
27 the Senate.

28 Section 18. Actions by individual Senators.

29 (a) If a Senator wishes a question to be put to a witness,
30 to a manager or to counsel of the individual impeached, or to

offer a motion or order, except a motion to adjourn, it must be reduced to writing and shall be put by the presiding officer.

(b) The parties or their counsel may interpose objections to a witness answering a question propounded at the request of a Senator. The merits of the objection may be argued by the parties or their counsel. Ruling on the objection shall be made under section 6(b) and (c).

(c) It is not in order for a Senator to engage in colloquy under this section.

Section 19. Session to be open.

(a) Subject to subsection (b), when the Senate is sitting upon the trial of an impeachment, the doors of the Senate shall be kept open.

(b) The Senate may direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection. If an objection is raised to the motion, the motion shall be voted on without debate by roll call vote, entered on the record.

Section 20. Argument time limits.

Unless the Senate otherwise orders, preliminary or interlocutory questions or a motion, or both, shall be argued for not exceeding one hour on each side.

Section 21. Presentation of case.

(a) The case for impeachment shall be opened by a statement of one manager or counsel for the managers.

(b) The case against impeachment shall be opened by a statement of the individual impeached or one counsel representing the individual.

(c) Unless otherwise ordered by the Senate upon application:

(1) The case against impeachment shall be closed by

argument on the merits made by no more than two of the following:

(i) The individual impeached.

(ii) Counsel for the individual impeached.

(2) The case for impeachment shall be closed by argument on the merits made by no more than two individuals in the following categories:

(i) The managers.

(ii) Counsel for the managers.

Section 22. Voting on articles of impeachment.

(a) An article of impeachment is not divisible for the purpose of voting on the article during the trial.

(b) Once voting has commenced on an article of impeachment, voting shall be continued until voting has been completed on all articles of impeachment unless the Senate adjourns for a period not to exceed one day or adjourns sine die.

(c) On the final question whether the impeachment is sustained, the vote shall be taken on each article of impeachment separately.

(d) If impeachment upon an article is not sustained by the votes of two-thirds of the Senators present, a judgment of acquittal on that article shall be entered on the record.

(e) If impeachment upon an article is sustained by the votes of two-thirds of the Senators present, the Senate shall proceed to the consideration of other matters determined to be appropriate; and a judgment of conviction on that article shall be entered on the record. A certified copy of the judgment shall be transmitted to the Secretary of the Commonwealth.

(f) A motion to reconsider the vote by which an article of impeachment is sustained or not sustained is not in order.

(g) To put the question on each article of impeachment:

(1) the presiding officer shall state the question; and

(2) by roll call vote entered on the record, each

Senator shall rise in place and answer guilty or not guilty.

Section 23. Votes on orders or decisions.

(a) An order or decision may be acted upon without objection.

(b) If an objection is raised to an order or decision, subject to subsection (c) and section 6(b) and (c), all of the following apply:

(1) Except as set forth in paragraph (2), the motion or decision shall be voted on without debate by roll call vote.

(2) A motion to adjourn may be decided without a roll call vote unless a roll call vote is demanded by one-fifth of the Senators present.

(3) The vote shall be entered on the record.

(c) When the doors of the Senate are closed for deliberation, all of the following apply to an objection to an order or decision:

(1) Subject to paragraph (2), all of the following apply:

(i) No Senator may speak more than once on one question.

(ii) No Senator may speak for more than ten minutes on a question.

(iii) No Senator may speak for more than 15 minutes on the final question. The 15 minutes allowed under this subparagraph is on the whole deliberation of the final question, and not on the final question on each individual article of impeachment.

(2) A time period under paragraph (1) may be altered if, upon motion and without debate, the Senate consents.

Section 24. Oath or affirmation of witnesses.

(a) A witness must be sworn in the following form:

I, , do swear (or affirm, as the case may be) that the evidence I shall give in the case now pending between the Commonwealth of Pennsylvania and , shall be the truth, the whole truth, and nothing but the truth: (So help me God).

(b) The oath shall be administered by the Secretary of the Senate or another authorized person.

Section 25. Forms.

(a) The following is the form of a subpoena to be issued on the application of a manager or of the individual impeached or the individual's counsel:

To , greeting:

You and each of you are hereby commanded to appear before the Senate of the Commonwealth of Pennsylvania, on the day of , at the Senate Chamber in the city of Harrisburg, then and there to testify your knowledge in the cause which is before the Senate in which the House of Representatives have impeached..... Fail not.

Witness , and (President or President pro tempore) of the Senate, at the city of Harrisburg, this day of , in the year of our Lord .

(President or President pro tempore of the Senate).

(b) The following is the form of direction for the service of a subpoena under subsection (a):

The Senate of the Commonwealth of Pennsylvania to

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, greeting:
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You are hereby commanded to serve and return the within subpoena according to law.

Dated at Harrisburg, this day of , in the year
of our Lord .

Secretary of the Senate.

(c) The following is the form of oath to be administered to the Senators and the President of the Senate sitting in the trial of impeachments:

I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of _____, now pending, I will do impartial justice according to the Constitution and laws: _____ (So help me God).

(d) The following is the form of summons to be issued and served upon the person impeached:

The Commonwealth of Pennsylvania, ss:

The Senate of Pennsylvania to _____, greeting:

Whereas the House of Representatives of the Commonwealth of Pennsylvania, did, on the _____ day of _____, exhibit to the Senate articles of impeachment against you, the said _____, in the words following:

(insert articles here)

And demand that you, the said _____, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

You, the said _____, are therefore hereby

1 summoned to be and appear before the Senate of
2 Pennsylvania, at their Chamber in the city of Harrisburg,
3 on the day of , at o'clock ,
4 then and there to answer to the said articles of
5 impeachment, and then and there to abide by, obey, and
6 perform such orders, directions and judgments as the
7 Senate of Pennsylvania shall make in the premises
8 according to the Constitution and laws of Pennsylvania.
9 Hereof you are not to fail.

10 Witness , and (President or President pro tempore
11 of the said Senate), at the city of Harrisburg, this day
12 of , in the year of our Lord .

13 (President or President pro tempore of the Senate).

14 (e) The following is the form of precept to be indorsed on a
15 writ of summons under subsection (d):

16 The Commonwealth of Pennsylvania, ss:
17 The Senate of Pennsylvania to , greeting:
18 You are hereby commanded to deliver to and leave
19 with , if conveniently to be found, or if not,
20 to leave at his usual place of abode, or at his usual
21 place of business in some conspicuous place, a true and
22 attested copy of the within writ of summons, together
23 with a like copy of this precept; and in whichsoever way
24 you perform the service, let it be done at least days
25 before the appearance day mentioned in the said writ of
26 summons.
27 Fail not, and made return of this writ of summons and
28 precept, with your proceedings thereon indorsed, on or
29 before the appearance day mentioned in the said writ of
30 summons.

1 Witness , and (President or President pro
2 tempore of the Senate), at the city of Harrisburg, this
3 day of , in the year of our Lord .

4 (President or President pro tempore of the Senate).

5 (f) Unless otherwise ordered by the Senate, process shall be
6 served by the Sergeant at Arms of the Senate.

7 Section 26. Other time periods.

8 If the Senate fails to sit for the consideration of articles
9 of impeachment on the day or hour fixed, the Senate may, by an
10 order adopted without debate, fix a day and hour for resuming
11 consideration.

EXHIBIT E

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 387 Session of
2022

INTRODUCED BY PITTMAN AND BAKER, NOVEMBER 29, 2022

INTRODUCED, NOVEMBER 29, 2022

A RESOLUTION

1 Directing the House of Representatives to Exhibit the Articles
2 of Impeachment.

3 WHEREAS, The House of Representatives has presented to the
4 Senate an extract from the Journal of the House which reflects
5 that the House has adopted Articles of Impeachment against
6 Lawrence Samuel Krasner, District Attorney of Philadelphia, has
7 duly appointed managers to conduct and prosecute said
8 impeachment and has directed the managers to exhibit the
9 Articles of Impeachment to the Senate; therefore be it

10 RESOLVED, That the Secretary of the Senate inform the House
11 of Representatives that the Senate will be ready to receive, at
12 10:30 a.m., the 30th day of November, 2022, the managers
13 appointed by the House for the purpose of exhibiting Articles of
14 Impeachment, agreeably to the notice communicated to the Senate.

EXHIBIT F

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 388 Session of
2022

INTRODUCED BY PITTMAN AND BAKER, NOVEMBER 30, 2022

INTRODUCED, NOVEMBER 30, 2022

A RESOLUTION

1 Directing a Writ of Impeachment Summons to be issued to the
2 Honorable Lawrence Samuel Krasner, District Attorney of
3 Philadelphia.

4 WHEREAS, On November 30, 2022, the House of Representatives
5 exhibited Articles of Impeachment against the Honorable Lawrence
6 Samuel Krasner, District Attorney of Philadelphia, to the
7 Senate; therefore be it

8 RESOLVED, That a Writ of Impeachment Summons, including a
9 copy of the Articles of Impeachment as exhibited to the Senate
10 on November 30, 2022, be issued immediately from the Senate to
11 the Honorable Lawrence Samuel Krasner, District Attorney of
12 Philadelphia; and be it further

13 RESOLVED, That the Writ of Impeachment Summons order and
14 command Lawrence Samuel Krasner to file one and only one Answer
15 and any related pleading, personally or by counsel, to the
16 Articles of Impeachment with Michael C. Gerdes, Interim
17 Secretary and Parliamentarian of the Senate, by 12 noon on
18 December 21, 2022, at his office located at 462 Main Capitol
19 Building, 501 North Third Street, Harrisburg, Pennsylvania

1 17120; and be it further

2 RESOLVED, That the Writ of Impeachment Summons order and
3 command Lawrence Samuel Krasner to be and appear before the
4 Senate of Pennsylvania, at their Chamber in the city of
5 Harrisburg, on January 18, 2023, at 11:30 a.m., unless otherwise
6 directed by the Chair of the Impeachment Committee established
7 by section 10 of the Rules of Practice and Procedure in the
8 Senate When Sitting on Impeachment Trials, if any, to answer to
9 the said Articles of Impeachment, and then and there to abide
10 by, obey and perform such other orders, directions and judgments
11 as the Senate of Pennsylvania or the Impeachment Committee shall
12 make according to the Constitution, laws of Pennsylvania or
13 Rules of the Senate; and be it further

14 RESOLVED, That Daniel Billings, Sergeant-at-Arms of the
15 Senate, be ordered and commanded to deliver and leave with
16 Lawrence Samuel Krasner, if conveniently to be found, or if not,
17 to leave at his usual place of abode, or at his usual place of
18 business in some conspicuous place, a true and attested copy of
19 the Writ of Impeachment Summons; and be it further

20 RESOLVED, That delivery and service of the Writ of
21 Impeachment Summons occur and be done by December 7, 2022, if
22 possible; and be it further

23 RESOLVED, That the Return of Impeachment Summons by Daniel
24 Billings occur at the beginning of the next actual session day
25 of the Senate after service and delivery of said Summons; and be
26 it further

27 RESOLVED, That the Interim Secretary of the Senate notify the
28 House of Representatives of the filing of any Answer and provide
29 a copy of the Answer to the House; and be it further

30 RESOLVED, That the Interim Secretary of the Senate provide

1 the Answer to the Presiding Officer of the Senate on the first
2 day the Senate is in session after the Interim Secretary
3 receives it and the Presiding Officer cause the Answer to be
4 printed in the Legislative Journal; and be it further

5 RESOLVED, That, if a timely Answer has not been filed, the
6 Presiding Officer cause a plea of not guilty to be entered; and
7 be it further

8 RESOLVED, That during proceedings of the Impeachment
9 Committee, if one is established, the Chairman of the
10 Impeachment Committee be authorized to waive the requirement,
11 under section 18(a) of the special Rules of Practice and
12 Procedure in the Senate When Sitting on Impeachment Trials, that
13 questions by a Senator to a witness, a manager or counsel be
14 reduced to writing and put by the Presiding Officer; and be it
15 further

16 RESOLVED, That the Senate or Impeachment Committee be
17 authorized to provide for the service of any process under
18 sections 7(c) and 25(b) of the special Rules of Practice and
19 Procedure in the Senate When Sitting on Impeachment Trials in
20 any manner which the Committee deems appropriate, including the
21 use of the Senate Sergeant-at-Arms; and be it further

22 RESOLVED, That the Senate or the Impeachment Committee
23 proceed with consideration of the Articles of Impeachment at
24 dates and times the Senate or the Impeachment Committee shall
25 decide; and be it further

26 RESOLVED, That the Interim Secretary of the Senate notify the
27 House of Representatives and Lawrence Samuel Krasner of this
28 resolution.

EXHIBIT G

Senate of Pennsylvania



HARRISBURG, PA

PRECEPT TO THE SERGEANT-AT-ARMS

The Commonwealth of Pennsylvania,) SS:

The Senate of Pennsylvania
To Daniel Billings, greeting:

You are hereby commanded to deliver and leave with Mr. Lawrence Samuel Krasner, if conveniently to be found, or if not, to leave at his usual place of abode, or at his usual place of business in some conspicuous place, a true and attested copy of the within Writ of Summons, together with a like copy of this Precept; and in whichsoever way you perform the service, let it be done by Wednesday, December 7, 2022 at the latest, if possible.

Fail not, and make return of this Writ of Summons and Precept, with your proceedings thereon endorsed.

Witness Jacob D. Corman, III, and President Pro Tempore of the said Senate, at the City of Harrisburg, this thirtieth day of November, in the year of our Lord 2022.

A handwritten signature in blue ink, reading "Jacob D. Corman, III".

JACOB D. CORMAN, III
President Pro Tempore of the Senate

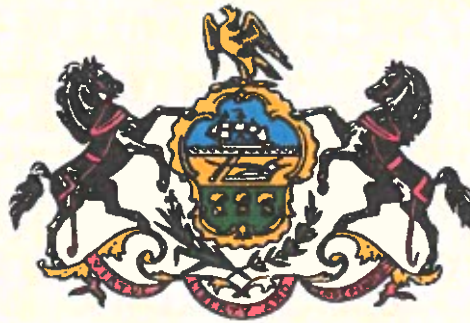


Attest:

A handwritten signature in blue ink, reading "Megan L. Martin".

MEGAN L MARTIN
Secretary of the Senate

Senate of Pennsylvania



HARRISBURG, PA

WRIT OF IMPEACHMENT SUMMONS

The Commonwealth of Pennsylvania,) ss:

The Senate of Pennsylvania

To Mr. Lawrence Samuel Krasner, greeting:

Whereas, the House of Representatives of the Commonwealth of Pennsylvania, did, on the 30th day of November, 2022, exhibit to the Senate Articles of Impeachment against you, the said Lawrence Samuel Krasner, in the words following:

ARTICLE I:

Misbehavior in Office In the Nature of Dereliction of Duty and Refusal to Enforce the Law

Upon assuming office, District Attorney Krasner terminated more than 30 assistant district attorneys (ADA) from employment with the Philadelphia District Attorney's Office. Many of these terminated assistant district attorneys were senior-level staffers in supervisory roles who possessed significant prosecutorial experience and knowledge of criminal procedure. District Attorney Krasner replaced this vast institutional knowledge in the Philadelphia District Attorney's Office with attorneys who lacked any meaningful experience in prosecuting criminal cases, some of whom only recently graduated from law school.

District Attorney Krasner subsequently withdrew the office from membership in the Pennsylvania District Attorneys Association (PDAA) because, he asserted, PDAA supported regressive and punitive policies. In withdrawing from PDAA, District Attorney Krasner denied the attorneys in his office the ability to participate in the various professional development and training programs provided by PDAA through its educational institute.

Rather than offering traditional prosecutorial training on such subjects as prosecutorial ethics, human trafficking, witness examination, trial advocacy, trial management and achieving justice for domestic violence and sexual assault victims, District Attorney Krasner offered attorneys seminars, including "A New Vision for Criminal Justice in Philadelphia," "Deportation: The Unforeseen Consequences of Prosecution in our Immigrant Community," and "Philadelphia and Safe Injection: Harm Reduction as Public Policy." The Philadelphia District Attorney's Office eventually returned to more traditional prosecutorial training, however, the office continued to focus on issues that promote District Attorney Krasner's radically progressive philosophies rather than how to effectively prosecute a criminal case.

Upon being elected to office, District Attorney Krasner established a series of office policies with the purported purpose to "end mass incarceration and bring balance back to

sentencing," and later adopted a series of policies related to certain crimes or classes of people. These policies include directives not to charge sex workers or individuals for certain classes of crimes such as prostitution or possession of marijuana and marijuana-related drug paraphernalia.

These new policies identified a series of offenses for which the gradation may be reduced with the purpose of "reduc[ing] pre-trial incarceration rates as no bail is required and the shorter time required for hearings expedites Municipal Court and Common Pleas dockets," and requiring disposition of retail theft cases unless the value of the item stolen exceeds \$500 or where the defendant has an extensive history of theft convictions.

District Attorney Krasner instituted policies to make plea offers below the bottom end of the mitigated range under the Sentencing Guidelines from the Pennsylvania Sentencing Commission and seek greater use of house arrest, probation and alternative sentencing when the sentencing guidelines indicate a range of incarceration of less than 24 months.

In February 2018, District Attorney Krasner established a policy that his office "will ordinarily no longer ask for cash bail for...misdemeanors and felonies" listed in the policy, because "[T]he cash bail system is rife with injustice and exacerbates socio-economic and racial inequalities, disproportionately penalizing the poor and people of color."

In November 2018, District Attorney Krasner adopted a policy in which a criminal defendant's immigration status should be considered in the plea-bargaining process, effectively providing that if an immigration consequence is detected pre-trial or with respect to a sentencing recommendation, counsel will advise if an offer can be made to avoid the consequence.

Other policies that District Attorney Krasner directed were as follows:

(1) Assistant district attorneys may not proceed in cases against defendants driving under the influence of cannabis when the defendants' blood "contains inactive metabolite (11-Nor-9-Carboxy-Delta-9-THC) or 4 or fewer ng/mls of psycho-active THC" and that "if the defense presents evidence that calls impairment into question, an ADA may consider dropping the charges against the defendant."

(2) The District Attorney's Office "will only oppose motions for redactions or expungements in limited circumstances" and sets forth various scenarios in which the office will agree to, seek or not oppose the expungement of a defendant's criminal history.

(3) The District Attorney's Office directed plea offers and sentencing recommendations:

(i) for felonies, "aimed at an office-wide average period of total supervision among cases of around 18 months or less of total supervision, with a ceiling of 3 years of total supervision or less on each case";

(ii) for misdemeanors, aimed at an office-wide average of "6 months or less of total supervision, with a ceiling of 1 year";

(iii) for all matters, for "concurrent sentences"; and

(iv) for cases involving incarceration, "for a period of parole that is no longer than the period of incarceration."

Nearly all of District Attorney Krasner's policies "create a presumption" for ADAs to follow and require approval from District Attorney Krasner himself or a first assistant district attorney for deviations from the policies.

District Attorney Krasner, in an April 2021 report published by the District Attorney's Office (DAO) titled "Ending Mass Supervision: Evaluating Reforms," wrote in his opening letter: "I am proud of the work this office has done to make Philadelphians, particularly Philadelphians of Color, freer from unnecessary government intrusion, while keeping our communities safe." In reality, the policies and practices of the Philadelphia District Attorney's Office instituted under the direction of District Attorney Krasner have led to catastrophic consequences for the people of the City of Philadelphia.

According to the City Controller, spikes in gun violence and homicides have dramatically impacted historically disadvantaged neighborhoods, and those neighborhoods are "primarily low-income with predominately black or African American residents." The Philadelphia Police Department (PPD) reports that the number of homicide victims has increased every year since 2016, more than doubling from 2016 to 2021, with a year-over-year increase of 40% between 2019 and 2020. As of October 16, 2022, there have already been 430 homicides in the City of Philadelphia in 2022. As of October 17, 2022, reported trends gathered from the PPD's "incident" data, which tracks the reporting of all crimes in addition to homicides, shows a 12% increase in all reported offenses, a 6% increase in violent offenses and a 21% increase in property offenses.

While incidents of violent crime are increasing, prosecution of crime by the Philadelphia District Attorney's Office has decreased during this same period. In 2016, the Philadelphia District Attorney's Office reported that only 30% of "all offenses" resulted in a dismissal or withdrawal, but that number spiked to 50% in 2019, 54% in 2020, 67% in 2021 and 65% to date in 2022.

A similar trend is evident when filtering the data for violent crimes, where, in 2016, the withdrawal and dismissed violent crime cases accounted for 48% of all violent crime case outcomes, but that percentage increased to 60% in 2019, to 68% in 2020, to 70% in 2021 and to 66% in 2022 to date. Data from the Pennsylvania Sentencing Commission relating to violations of the Uniform Firearms Act (VUFA) evidences a similar jarring trend. The Sentencing Commission reports that guilty dispositions in the City of Philadelphia declined from 88% in 2015 to 66% in 2020, compared to a decline from 84% to 72% in counties of the second class, with the driver of the decrease being nolle pros dispositions. As compared to the Statewide data and other county classes, in the City of Philadelphia the percent of guilty verdicts has decreased significantly, while the percent of nolle prossed cases has increased.

Studies by the Delaware Valley Intelligence Center (DVIC) attempted to provide "an explanation for the increase in homicides and shootings in an effort to begin a conversation to address the challenge at a strategic level," and, significantly, the report notes:

"The rate of prosecution dismissal and withdrawal has been increase [sic] substantially since 2015 under DA [Seth] Williams, and has continued to increase after DA Krasner took office. Furthermore, a closer examination of these dropped cases indicates that more cases are dismissed/withdrawn at the preliminary hearing state [sic] under DA Krasner than the actual trial state []. This implies that, even when criminals are caught with a gun, they are swiftly finding out they may not receive as significant a consequence as they had historically. Notably, the likelihood of being arrested is low to begin with. This means that, criminals know that their likelihood of getting caught with a gun is slim and, even if they get caught, they feel that they can leave without severe (or any) consequences."

The DVIC conducted a "cursory examination" of dismissed/withdrawn cases in 2018/2019 and "found 6 offenders whose cases were dismissed (VUFA former convict charge) and got later involved in shootings...2 of these shootings were fatal and 4 out of these 6 offenders were gang members."

The DVIC studied the prosecution declination for narcotics, retail theft and prostitution arrests from 2016 to 2018, and concluded in its key findings that the percentage of all declinations, not just narcotics, prostitution and retail theft, increased "especially in 2018" to

more than 7%, when it had been just 2% or less between 2007 and 2015.

In September 2020, the Philadelphia City Council authorized the Committee on Public Safety and the Special Committee on Gun Violence Prevention to study gun violence in the city. This study involved a collaboration between the Controller's Office, Defender Association, Department of Public Health, District Attorney's Office, First Judicial District, Managing Director's Office, Pennsylvania Attorney General and PPD. The published results, called the "100 Shooting Review Committee Report," discusses trends and general findings regarding shootings in the City of Philadelphia. The published results showed the following:

(1) The clearance rate (*i.e.*, when an arrest was made or a suspect that could not be arrested was identified) for fatal shootings in 2020 was 37% and the rate for nonfatal shootings was 18%.

(2) There has been a "marked increase" in the number of people arrested for illegal gun possession without the accusation of an additional offense, including a doubling in arrests for illegal possession of a firearm without a license since 2018.

(3) The initial and final bail amounts set by courts in illegal possession of firearms cases declined between 2015 and 2019 and increased in 2020 and 2021.

(4) Conviction rates in shooting cases declined between 2016 and 2020 from 96% to 80% in fatal shootings and from 69% to 64% in nonfatal shootings.

(5) There is a long-term trend of a reduction in conviction rates for illegal gun possession cases, dropping from 65% in 2015 to 45% in 2020.

In August 2022, the Philadelphia Police Commissioner indicated that her department is short-staffed by approximately 20%, or 1,300 officers, due to low morale, politics, increased scrutiny and "uniquely stringent hiring requirements" during a nationwide shortage.

Police Commissioner Danielle Outlaw stated, "The truth is the homicides are not happening in a vacuum - there are those who are determined to attack and kill their victims. While we are making constant adjustments to mitigate this sickening reality, our officers, simply put, just can't keep up by being everywhere at all times." While the PPD may arrest a suspect for the commission of a crime, the Philadelphia District Attorney's Office is one of the few district attorney's offices in this Commonwealth that reserves unto itself the authority to charge a person for a criminal act.

In October 2022, following yet another act of violence against police in the City of Philadelphia, Police Commissioner Danielle Outlaw issued the following statement:

"We are tired of arresting the same suspects over and over again, only to see them right back out on the street to continue and sometimes escalate their criminal ways. We are tired of having to send our officers into harm's way to serve warrants on suspects who have no business being on the street in the first place.

No - not everyone needs to be in jail. But when we repeatedly see the extensive criminal histories of those we arrest for violent crime, the question needs to be asked as to why they were yet again back on the street and terrorizing our communities.

I am beyond disgusted by this violence. Our entire department is sickened by what is happening to the people that live, work, and visit our city. Residents are tired of it. Business owners are tired of it. Our children are tired of it. We are long past 'enough is enough'."

Acts of violence, and particularly violent crimes committed with firearms, have exacted a heavy toll on victims and their families, with countless lives unnecessarily lost or irretrievably broken, due to the increase of violent crime in the City of Philadelphia. The foregoing acts

constitute "misbehavior in office" by District Attorney Krasner in that such acts have substantially contributed to the increase in crime in the City of Philadelphia, undermined confidence in the criminal justice system, and betrayed the trust of the citizens of Philadelphia and the Commonwealth.

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

ARTICLE II:

Misbehavior In Office In the Nature of Obstruction of House Select Committee Investigation

House Resolution 216 of 2022 established the House Select Committee to Restore Law and Order pursuant to Rule 51 of the General Operating Rules of the House. The select committee is authorized and empowered "to investigate, review and make finding and recommendations concerning risking rates of crime, law enforcement and the enforcement of crime victim rights," in the City of Philadelphia.

House Resolution 216 further charges the select committee to make findings and recommendations, including, but not limited to, the following:

(1) Determinations regarding the performance of public officials empowered to enforce the law in the City of Philadelphia, including the district attorney, and recommendations for removal from office or other appropriate discipline, including impeachment.

(2) Legislation or other legislative action relating to policing, prosecution, sentencing and any other aspect of law enforcement.

(3) Legislation or other legislative action relating to ensuring the protection, enforcement and delivery of appropriate services and compensation to crime victims.

(4) Legislation or other legislative action relating to ensuring the appropriate expenditure of public funds intended for the purpose of law enforcement, prosecutions or to benefit crime victims.

(5) Other legislative action as the select committee finds necessary to ensure appropriate enforcement of law and order in the City of Philadelphia.

In pursuit of these obligations, the resolution empowers the select committee chair to, among other things, "send for individuals and papers and subpoena witnesses, documents, including electronically stored information, and any other materials under the hand and seal of the chair." The chair issued subpoenas to a number of Philadelphia municipal offices, including the Controller, the Mayor, the Police Department, the Sheriff's Office, the Treasurer and the District Attorney's Office. The subpoenas sought nonprivileged records necessary to fulfill the select committee's obligations to the House of Representatives pursuant to House Resolution 216.

While other municipal offices worked cooperatively with the select committee to respond to the subpoenas issued to them, District Attorney Krasner and his office chose instead to obstruct the select committee's work at every turn. District Attorney Krasner and his office asserted that the select committee was illegitimate and that its subpoenas served "no valid legislative purpose, violating the separation of powers, invading legal privileges, and seeking to deny the constitutional rights of Philadelphia's citizens, especially their democratic right to vote and choose their local leaders."

District Attorney Krasner asserted various claims that held no basis in fact or law, including the following:

- (1) District Attorneys are not subject to impeachment.**
- (2) Impeaching the District Attorney violates the constitutional rights of the people who voted for him.**
- (3) The District Attorney committed no wrong, and therefore was not required to comply with the committee chair's subpoena.**
- (4) Impeachment of a public official requires a conviction for a criminal act; and**

District Attorney Krasner and his office refused to search for or produce any documents in response to the subpoena. Despite multiple attempts by counsel to the select committee chair to bring District Attorney Krasner and his office into compliance with the subpoenas, explaining on multiple occasions that the select committee was seeking nonprivileged records and, as it related to any record for which the District Attorney believed were privileged, the District Attorney should follow common practice in responding to a subpoena by providing a privilege log to identify those records for which the District Attorney asserts a privilege.

On September 12, 2022, after multiple exchanges between counsel and a Request to Show Cause why the District Attorney should not be held in contempt by the House, the select committee issued an interim report pursuant to Rule 51 of the General Operating Rules of the House of Representatives, notifying the House of District Attorney Krasner's refusal to comply with the subpoena and recommending that the House consider contempt proceedings.

The House of Representatives adopted House Resolution 227 on September 13, 2022, resolving that the House hold District Attorney Krasner in contempt. House Resolution 227 was adopted by a bipartisan vote of 162 to 38.

District Attorney Krasner filed an action in Commonwealth Court on September 2, 2022, in which he raised the same arguments that fail to have any meaningful basis in law or fact. District Attorney Krasner and his office have since feigned partial compliance with the subpoena, providing several public-facing records obtained without the need to engage in any legitimate effort to search for the records.

The select committee chair invited District Attorney Krasner to testify before the select committee in executive session on October 21, 2022. District Attorney Krasner refused to testify in executive session, demanding a public hearing instead. District Attorney Krasner then published a press release which was misleading at best, mischaracterizing the invitation to District Attorney Krasner to testify in yet another moment of grandstanding.

Given the District Attorney's rejection of the invitation to testify in executive session, the select committee was compelled to cancel the hearing.

District Attorney Krasner has, at every turn, obstructed the efforts of the House Select Committee on Restoring Law and Order. He has consistently raised specious claims without a good faith basis in law or fact. Even after the House of Representatives resolved to hold him in contempt, District Attorney Krasner's efforts to comply with subpoenas issued by the select committee chair fall far short of what can be considered a reasonable good faith effort.

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

**Misbehavior In Office In the Nature of Violation of
the Rules of Professional Conduct and Code of
Judicial Conduct; specifically Rule 3.3 Candor Toward
the Tribunal, Rule 8.4 Professional Misconduct, and
Canon 2 of the Code of Judicial Conduct Impropriety
and Appearance of Impropriety in the Matter
of Robert Wharton v. Donald T. Vaughn**

In the Federal habeas corpus proceeding in *Robert Wharton v. Donald T. Vaughn*, Federal District Court Judge Goldberg issued a memorandum order admonishing and sanctioning the District Attorney's Office. Robert Wharton was convicted of murdering the parents of survivor Lisa Hart-Newman, who was seven months old at the time and was left to freeze to death with her deceased parents by Mr. Wharton.

After his conviction, Wharton pursued a death penalty habeas petition in the Federal district court. The District Attorney's Office under prior administrations had opposed this petition.

In 2019, District Attorney Krasner's administration filed a "Notice of Concession of Penalty Phase Relief," stating that it would not seek a new death sentence, and, based on that sentencing relief, the litigation and appeals could end. The concession noted only that the decision to concede was made "[f]ollowing review of this case by the Capital Case Review Committee of the Philadelphia [District Attorney's Office], communication with the victims' family, and notice to [Wharton's] counsel."

Judge Goldberg undertook an independent analysis of the merits of the claim and invited the Pennsylvania Office Attorney General (OAG) to file an amicus brief in the case. In its amicus, the OAG submitted additional facts that the District Attorney's Office had not disclosed, including evidence of prison misconducts, attempted escapes and Department of Corrections concerns regarding "assaultiveness" and "escape" by Mr. Wharton.

The OAG concluded that "given the facts of this investigation and aggravating sentencing factors present in this case, Wharton could not establish a reasonable probability that the outcome of his penalty phase death sentence would have been different if the jury had heard evidence of his alleged 'positive' prison adjustment."

The OAG further determined that members of the family, including victim Ms. Hart-Newman, were not contacted and that they opposed the concession by the District Attorney's Office.

After an evidentiary hearing, Judge Goldberg held as follows:

(1) The District Attorney's Office failed to advise the court of significant anti-mitigation evidence, including that Mr. Wharton had made an escape attempt at a court appearance.

(2) Two of the office's supervisors violated Federal Rule of Civil Procedure 11(b)(3) "based upon that Office's representations to this Court that lacked evidentiary support and were not in any way formed after 'an inquiry reasonable under the circumstances.'"

(3) Representations of communication with the victims' family were "misleading," "false," and "yet another representation to the Court made after an inquiry that was not reasonable under the circumstances."

(4) The Law Division Supervisor, Assistant Supervisor and District Attorney's Office violated Rule 11(b)(1), and concluding that the violation was "sufficiently 'egregious' and

'exceptional' under the circumstances to warrant sanctions."

Judge Goldberg imposed nonmonetary sanctions on the District Attorney's Office, requiring that separate written apologies be sent to the victim, Lisa Hart-Newman, and the victim's family members. Given the testimony of the two Law Division supervisors that District Attorney Krasner approved and implemented internal procedures that created the need for this sanction, and that the District Attorney had the sole, ultimate authority to direct that the misleading Notice of Concession be filed, therefore "the apologies shall come from the District Attorney, Lawrence Krasner, personally."

District Attorney Krasner has the sole authority to approve court filings on behalf of Philadelphia District Attorneys office. While in office, District Attorney Krasner directed, approved and or permitted the filing of a "Notice of Concession" and presentation of other pleadings and statements in Federal court which contained materially false and or misleading affirmative statements and purposeful omissions of fact in violation of the Rules of Professional Conduct, Rule 3.3 (Candor Toward the Tribunal) and Rule 8.4 (Professional Misconduct), and Code of Judicial Conduct, Canon 2 (Impropriety and or Appearance of Impropriety).

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

Article IV:

Misbehavior In Office In the Nature of Violation of
the Rules of Professional Conduct; specifically
Rule 3.3 Candor Toward the Tribunal, Rule 8.4
Professional Misconduct, and Canon 2 of the Code
of Judicial Conduct Impropriety and Appearance of
Impropriety in the matter of *Commonwealth vs. Pownall*

In his special concurrence in *Commonwealth v. Pownall*, Supreme Court Justice Dougherty highlighted what he feared to be an effort by the District Attorney's Office to deprive certain defendants of a fair and speedy trial. Following the June 2017 incident in which former Philadelphia police officer Ryan Pownall shot and killed David Jones, the District Attorney's Office submitted the matter to an investigative grand jury. The investigating grand jury issued a presentment recommending that Pownall be charged with criminal homicide, possession of an instrument of crime and recklessly endangering another person; and

During trial, the prosecutor filed a motion in limine to preclude the standard peace officer justification defense instruction, based on the assertion that the instruction, which largely tracked language of statute, violated Fourth Amendment prohibition against unreasonable search and seizure. The motion was denied and the prosecution appealed to the Superior Court, which quashed the appeal as unauthorized. The Supreme Court granted the prosecutor's request for allowance of appeal.

The Supreme Court ultimately denied the appeal, but the special concurrence filed by Justice Dougherty illuminated startling behavior by the District Attorney's Office. Justice Dougherty held that the District Attorney's Office's actions during grand jury process "implicate[s] a potential abuse" and stated that "the presentment in this case is perhaps best characterized as a 'foul blow.'" He referred to the grand jury presentment, authored by the District Attorney's Office, as a "gratuitous narrative."

Justice Dougherty also recognized that any abuse of the grand jury could have been remedied by "Statutory safeguards embedded in the process," such as a preliminary hearing. He went on to say, "What is troubling is the DAO's effort to ensure that would not occur,"

i.e., their filing of a motion to bypass the preliminary hearing.

Justice Dougherty found it "inexplicable" that, in presenting a bypass motion to the Court of Common Pleas, the District Attorney's Office failed to highlight the Investigating Grand Jury Act section 4551(e), which directs that a defendant "shall" be entitled to a preliminary hearing. He emphasized that the District Attorney's Office "appear[ed] to have known [about that requirement] at the time it filed its motion."

As it related to the prosecutor's motion in limine and interlocutory appeal, Justice Dougherty observed that the District Attorney's Office's motion "presented only half the relevant picture." He went on to say that "this type of advocacy would be worrisome coming from any litigant," but coming from a prosecutor, "is even more concerning, particularly in light of the motion's timing...." He cited directly to Pennsylvania Rule of Professional Conduct 3.3 regarding candor to the tribunal.

Further referencing ethical concerns, Justice Dougherty found that the timing of the motion in limine, "[w]hen combined with the other tactics highlighted throughout this concurrence," could lead to the conclusion that the decision to take "an unauthorized interlocutory appeal was intended to deprive [Mr. Pownall] of a fair and speedy trial." Justice Dougherty went on to say:

Now, for the first time before this Court, the DAO finally admits its true intent in all this was simply to use Pownall's case as a vehicle to force judicial determination on 'whether Section 508(a)(1) is facially unconstitutional.' DAO's Reply Brief at 1; see *id.* at 6 (asserting Section 508's applicability to [Pownall] is not the subject of this appeal"). What's more, despite having assured the trial court it was not trying 'to bar [Pownall] from a defense[.]' N.T. 11/25/2019 at 8, the DAO now boldly asserts it would be appropriate for this Court to rewrite the law and retroactively apply it to Pownall's case because he supposedly 'had fair notice of his inability to rely on this unconstitutional defense[.]' DAO's Brief at 10.

Justice Dougherty concluded, "Little that has happened in this case up to this point reflects procedural justice. On the contrary, the DAO's prosecution of Pownall appears to be "driven by a win-at-all-cost office culture" that treats police officers differently than other criminal defendants. DAO CONVICTION INTEGRITY UNIT REPORT, OVERTURNING CONVICTIONS - AND AN ERA 2 (June 15, 2021) available at tinyurl.com/CIU-report (last visited July 19, 2022). This is the antithesis of what the law expects of a prosecutor."

On remand, Common Pleas Court Judge McDermott said that there were "so many things wrong" with the District Attorney's Office's instructions to the investigating grand jury that it warranted dismissing all charges against Mr. Pownall. After hearing testimony from the assistant district attorneys who handled the grand jury and preparation of the presentment, Judge McDermott concluded that the District Attorney's Office failed to provide the legal instructions to the grand jurors on the definitions for homicide and information regarding the use-of-force defense.

In her October 17, 2022, Statement of Findings of Fact and Conclusions of Law, Judge McDermott stated, "The Commonwealth made an intentional, deliberate choice not to inform the grand jurors about the justification defense under Section 508. While [the ADA] was aware of Section 508 and its applicability to the Defendant's case at the time of the Grand Jury proceedings, she decided not to advise the Grand Jury about Section 508 after consulting with other, more senior Assistant District Attorneys."

As it related to Pownall's right to a preliminary hearing, Judge McDermott wrote:

In its Motion to bypass the preliminary hearing, the Commonwealth demonstrated a lack of candor to the Court by misstating the law and providing Judge Coleman with incorrect case law.

* * *

The Commonwealth was also disingenuous with the Court when it asserted that it had good cause to bypass the preliminary hearing under Pa.R.Crim.P. 565(a) because of the complexity of the case, the large number of witnesses the Commonwealth would have to call, the expense, and the delay caused by a preliminary hearing. As a preliminary hearing was not held in this case, the Defendant's due process rights were violated and the Defendant suffered prejudice.

Judge McDermott told the District Attorney's Office that if defense counsel had made the decisions that the District Attorney's Office made, she would "declare them incompetent." The District Attorney's Office's own expert report from Gregory A. Warren, Ed.D., of American Law Enforcement Training and Consulting concluded that, given all the facts presented to him, Officer Pownall's "use of deadly force in this case was justified." This expert report was withheld from Pownall by the District Attorney's Office.

District Attorney Krasner has the sole authority to approve court filings on behalf of Philadelphia District Attorneys office. While in office District Attorney Krasner directed, approved and or permitted the filing of motions, presentations of other pleadings and statements to the Grand Jury and the Court which intentionally omitted, concealed and or withheld material facts and legal authority relevant to the judicial proceedings in violation of the Rules of Professional Conduct, Rule 3.3 (Candor Toward the Tribunal), Rule 8.4 (Professional Misconduct) and Code of Judicial Conduct, Canon 2 (Impropriety and or Appearance of Impropriety).

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

Article V:

Misbehavior In Office In the Nature of Violation of
the Rules of Professional Conduct and Code of
Judicial Conduct; specifically Rule 3.3 Candor to
Tribunal, Rule 8.4 Professional Misconduct, and Canon
2 of the Code of Judicial Conduct Impropriety and
Appearance of Impropriety in the matter In
re: Conflicts of Interest of Philadelphia District
Attorneys Office

During sworn testimony, District Attorney Krasner withheld material facts from the Supreme Court when he testified under oath before the Supreme Court's Special Master. The Special Master was appointed by the Supreme Court pursuant to its Kings Bench jurisdiction to investigate whether District Attorney Krasner had a conflict of interest favoring the defendant and appellant, Mumia Abu-Jamal, who had been convicted of first-degree murder of Officer Daniel Faulkner. District Attorney Krasner testified that he "never represented any advocacy organization for Mumia Abu-Jamal."

While affirmatively stating he never represented an "organization" which advocated for Mumia Abu-Jamal, District Attorney Krasner omitted the fact that he had, in fact, represented at least one pro-Mumia activist who was arrested for seeking to intimidate the judge deciding Abu-Jamal's Post Conviction Relief Act ("PCRA") Petition. That activist, who at the time was the "Director" of the "Youth Action Coalition," was arrested along-side local leaders of The International Concerned Family and Friends of Mumia Abu-Jamal, all of whom were protesting outside the home of Abu-Jamal's PCRA judge in an effort to illegally influence the very proceedings at issue in Mumia Abu-Jamal's nunc pro tunc appeal.

District Attorney Krasner represented this "Director," and potentially other pro-Mumia activists, against charges for violating a criminal statute that prohibits protesting outside the homes of judicial officers to influence the outcome of cases pending before the judicial officers. Yet, in testifying that he "never represented any advocacy organization for Mumia Abu-Jamal," District Attorney Krasner omitted these material facts, providing a partial and misleading disclosure regarding his connection to the effort to exonerate and free Mumia Abu-Jamal. District Attorney Krasner's misleading disclosure was directly relevant to the subject matter under investigation by the Supreme Court in that he was concealing material facts concerning his conflicts of interest in the Mumia Abu-Jamal matter, an issue at the very heart of the Supreme Court's review of the King's Bench Petition filed by the widow of Officer Faulkner. District Attorney Krasner therefore violated Rules of Professional Conduct, Rule 3.3 (Candor Toward the Tribunal), Rule 8.4 (Professional Misconduct) and Code of Judicial Conduct, Canon 2 (Impropriety and or Appearance of Impropriety).

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

Article VI:

Misbehavior in Office in Nature of Violation of Victims Rights

Federal and State law provides for certain rights for victims related to the prosecution and sentencing of the defendants who victimized them or their family members (18 U.S.C. § 3771 (b)(2)(A) and section 201 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act). Chief among the rights provided to victims is the right to be kept informed at all stages of the prosecution through clear, respectful and honest communication and to be consulted with regard to sentencing. District Attorney Krasner repeatedly violated, and allowed Assistant District Attorneys under his supervision to violate, the Federal and state victims' rights acts on multiple occasions by specifically failing to timely contact victims, deliberately misleading victims and or disregarding victim input and treating victims with contempt and disrespect.

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

Article VII:

Misbehavior In Office In the Nature of Violation of the Constitution of Pennsylvania By Usurpation of the Legislative Function

Pursuant to Article II of the Constitution of Pennsylvania, the legislative power is vested in the General Assembly. District Attorney Krasner as an elected executive in the City of Philadelphia has no authority to create, repeal or amend any state law. Despite this clear separation of powers, District Attorney Krasner has contravened the authority of the legislature by refusing to prosecute specifically prohibited conduct under state law. Rather than exercising his inherent discretionary powers to review and determine charges on a case-by-case basis, District Attorney Krasner, in his capacity as the Commonwealth's Attorney in the City of Philadelphia, unilaterally determined, directed and ensured that certain crimes would no longer be prosecuted and were therefore *de facto* legal.

These crimes include prostitution, theft and drug-related offenses, among others. In particular, the *de facto* legalization of prostitution by District Attorney Krasner has had a devastating impact on women who are victims of sex trafficking and the communities where they are trafficked. Refusing to prosecute retail theft of property with less than a value of

\$500, District Attorney Krasner has created an atmosphere of lawlessness in Philadelphia, with the direct effect of causing businesses to curtail activity or cease doing business altogether in Philadelphia. District Attorney Krasner's refusal to prosecute those caught driving under the influence of marijuana, aside from contributing to the lawlessness in the city, has created dangerous situations for the health, safety and welfare of the people in Philadelphia. District Attorney Krasner *de facto* legalizing such acts that the General Assembly has determined to be illegal is a clear usurpation of legislative powers in violation of the Constitution of Pennsylvania, and thus constitutes misbehavior in office.

WHEREFORE, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and disqualification to hold any office of trust or profit under this Commonwealth.

The House of Representatives hereby reserves to itself the right and ability to exhibit at any time after adoption of this resolution further or more detailed Articles of Impeachment against District Attorney Lawrence Samuel Krasner, to reply to any answers that District Attorney Lawrence Samuel Krasner may make to any Articles of Impeachment which are exhibited and to offer proof at trial in the Senate in support of each and every Article of Impeachment which shall be exhibited by them.

And demand that you, the said Lawrence Samuel Krasner, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

Therefore, the Senate of Pennsylvania directs that you, the said Lawrence Samuel Krasner, be ordered and commanded to file one and only one written Answer and any related Pleading, if any, personally or by counsel, to said Articles of Impeachment, with Michael C. Gerdes, Interim Secretary and Parliamentarian of the Senate on or before 12:00 o'clock Noon the twenty-first (21st) day of December, 2022, at his office located at 462 Main Capitol Building, 501 North Third Street, Harrisburg, Pennsylvania 17120.

You, the said Lawrence Samuel Krasner, are therefore further hereby summoned to be and appear before the Senate of Pennsylvania, at their Chamber in the city of Harrisburg, on the eighteenth (18th) day of January, 2023, at 11:30 o'clock a.m., unless otherwise directed by the Chair of the Impeachment Committee established by Section 10 of the Rules of Practice and Procedure in the Senate When Sitting On Impeachment Trials, if any, to answer to the said articles of impeachment, and then and there to abide by, obey and perform such other orders, directions and judgments as the Senate of Pennsylvania or the Impeachment Committee shall make according to the Constitution, laws of Pennsylvania or Rules of the Senate.

Hereof you are not to fail.

Witness Jacob D. Corman, III, and President Pro Tempore of the said Senate, at the City of Harrisburg, this thirtieth day of November, in the year of our Lord 2022.





JACOB D. CORMAN, III
President Pro Tempore of the Senate

Attest:


MEGAN L MARTIN
Secretary of the Senate