

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~~

~~1 Office with attorneys who lacked any meaningful experience in
2 prosecuting criminal cases, some of whom only recently graduated
3 from law school; and~~

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

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

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

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

~~26 WHEREAS, Upon being elected to office, District Attorney
27 Krasner established a series of office policies with the
28 purported purpose to "end mass incarceration and bring balance
29 back to sentencing," and later adopted a series of policies
30 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~~

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

4 ~~WHEREAS, In 2016, the Philadelphia District Attorney's Office~~
5 ~~reported that only 30% of "all offenses" resulted in a dismissal~~
6 ~~or withdrawal, but that number spiked to 50% in 2019, 54% in~~
7 ~~2020, 67% in 2021 and 65% to date in 2022; and~~

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

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

16 ~~WHEREAS, The Sentencing Commission reports that guilty~~
17 ~~dispositions in the City of Philadelphia declined from 88% in~~
18 ~~2015 to 66% in 2020, compared to a decline from 84% to 72% in~~
19 ~~counties of the second class, with the driver of the decrease~~
20 ~~being nolle pros dispositions; and~~

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

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

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

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

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

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

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

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

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

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

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

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

18 ~~(4) Conviction rates in shooting cases declined between~~
19 ~~2016 and 2020 from 96% to 80% in fatal shootings and from 69%~~
20 ~~to 64% in nonfatal shootings.~~

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

24 ~~and~~

25 ~~WHEREAS, In August 2022, the Philadelphia Police Commissioner~~
26 ~~indicated that her department is short staffed by approximately~~
27 ~~20%, or 1,300 officers, due to low morale, politics, increased~~
28 ~~scrutiny and "uniquely stringent hiring requirements" during a~~
29 ~~nationwide shortage; and~~

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

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

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

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

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

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

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

29 ~~We are long past 'enough is enough'.";~~
30 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~~

~~1 combined with the other tactics highlighted throughout this
2 concurrence," could lead to the conclusion that the decision to
3 take "an unauthorized interlocutory appeal was intended to
4 deprive [Mr. Pownall] of a fair and speedy trial."; and~~

~~5 WHEREAS, Justice Dougherty went on to say:~~

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

~~18 and~~

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

~~28 WHEREAS, On remand, Common Pleas Court Judge McDermott said
29 that there were "so many things wrong" with the District
30 Attorney's Office's instructions to the investigating grand jury~~

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

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

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

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

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

24 ~~* * *~~

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

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

3 and

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

7 and

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

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

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

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

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

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

27 ~~WHEREAS, In 2019, District Attorney Krasner's administration~~
28 ~~filed a "Notice of Concession of Penalty Phase Relief," stating~~
29 ~~that it would not seek a new death sentence, and, based on that~~
30 ~~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~~

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

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

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

13 and

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

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

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

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

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

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

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

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

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

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

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

24 and

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

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

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

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

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

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

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

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

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

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

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

28 and

29 WHEREAS, District Attorney Krasner and his Office refused to
30 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~~

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

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

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

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

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

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

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

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

24 ~~ARTICLE I~~

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

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

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

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

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

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

29 ~~WHEREFORE, District Attorney Lawrence Samuel Krasner is~~
30 ~~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

1 PENNSYLVANIA:

2 ARTICLE I:

3 MISBEHAVIOR IN OFFICE IN THE NATURE OF DERELICTION

4 OF DUTY AND REFUSAL TO ENFORCE THE LAW

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

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

24 RATHER THAN OFFERING TRADITIONAL PROSECUTORIAL TRAINING ON
25 SUCH SUBJECTS AS PROSECUTORIAL ETHICS, HUMAN TRAFFICKING,
26 WITNESS EXAMINATION, TRIAL ADVOCACY, TRIAL MANAGEMENT AND
27 ACHIEVING JUSTICE FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT
28 VICTIMS, DISTRICT ATTORNEY KRASNER OFFERED ATTORNEYS SEMINARS,
29 INCLUDING "A NEW VISION FOR CRIMINAL JUSTICE IN PHILADELPHIA,"
30 "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

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

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

7 ARTICLE IV:

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

25 DURING TRIAL, THE PROSECUTOR FILED A MOTION IN LIMINE TO
26 PRECLUDE THE STANDARD PEACE OFFICER JUSTIFICATION DEFENSE
27 INSTRUCTION, BASED ON THE ASSERTION THAT THE INSTRUCTION, WHICH
28 LARGELY TRACKED LANGUAGE OF STATUTE, VIOLATED FOURTH AMENDMENT
29 PROHIBITION AGAINST UNREASONABLE SEARCH AND SEIZURE. THE MOTION
30 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.