

COMMONWEALTH OF PENNSYLVANIA

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WEDNESDAY, NOVEMBER 30, 2022

SESSION OF 2022 206TH OF THE GENERAL ASSEMBLY

No. 46

SENATE

WEDNESDAY, November 30, 2022

The Senate met at 10 a.m., Eastern Standard Time.

The PRESIDENT pro tempore (Senator Jacob D. Corman III) in the Chair.

PRAYER

The Chaplain, Reverend DR. DANIEL R. MOORE, of Guinston Presbyterian Church, Airville, offered the following prayer:

Will you pray with me?

Heavenly Father, our legislators are gathered here today to serve the Commonwealth of Pennsylvania. The questions they deal with on a regular basis are complicated and nuanced, and today's questions undoubtedly are equally so. Our society is largely divided into camps of polar opposite opinions on many subjects. In that context, finding a unified consensus across the aisle sometimes approaches the impossible. But this is their duty, to find meaningful resolutions to multifaceted questions and to give those answers to a public who is often ready to criticize them for their actions. Father, this must be burdensome. It has got to be stressful and discouraging at times. Today I want You to bless our Senators. I ask You to do this; cheer them; strengthen them; and encourage and watch over their families as well, for they certainly share these burdens.

While they likely get strong support and accolades from those who agree with them, they no doubt face harsh criticism and opposition from those who do not. This must be disheartening. So, today, I am asking You to lift their hearts with the hope that comes from Your son. Father, enable them to do the hard work of finding compromise where they can. Grant them discernment in making decisions that serve their constituents on both the left and the right. Help them to sort through mountains of bureaucracy and find meaningful solutions to our State's issues. Give them wisdom to see avenues forward. Give them courage to speak out when needed. Give them grace to speak the truth in love as Your word tells us in Ephesians 4:15. It can be easy to speak truth in hurtful and hateful ways. It can be equally easy to keep silent when someone is wrong or misguided. But You call us to do neither of those easy things. You expect us to take the hard road, the high road, of speaking out against falsehood and to do that with love toward our neighbor and even, and especially, when they do not agree with us. In the tricky discussions they have ahead of them, please grant them all they need to speak truth in love so that they can make decisions that honor You, and that serve the best

interests of the people of Pennsylvania. We pray all these things in the powerful name of Jesus Christ. Amen.

The PRESIDENT pro tempore. The Chair thanks Reverend Dr. Moore, who is the guest today of Senator Phillips-Hill.

Will the Senate please give our usual warm welcome to our Reverend for today.

(Applause.)

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

LEGISLATIVE LEAVES

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, I request a temporary Capitol leave for Senator Browne.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I request a legislative leave for Senator Anthony Williams.

The PRESIDENT pro tempore. Senator Kim Ward requests a temporary Capitol leave for Senator Browne.

Senator Costa requests a legislative leave for Senator Anthony Williams.

Without objection, the leaves will be granted.

CALENDAR OVER IN ORDER

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, as a special order of business, I call up today's calendar and move that Senate Bill No. 492 and all of the remaining bills on today's Calendar go over in their order.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator K. WARD and were as follows, viz:

YEA-50

Argall	Dillon	Laughlin	Schwank
Aument	DiSanto	Martin	Stefano
Baker	Dush	Mastriano	Street
Bartolotta	Flynn	Mensch	Tartaglione
Boscola	Fontana	Muth	Tomlinson
Brewster	Gebhard	Phillips-Hill	Vogel
Brooks	Gordner	Pittman	Ward, Judy

Browne	Haywood	Regan	Ward, Kim
Cappelletti	Hughes	Robinson	Williams, Anthony H.
Collett	Hutchinson	Santarsiero	Williams, Lindsey
Comitta	Kane	Saval	Yaw
Corman	Kearney	Scavello	Yudichak
Costa	Langerhole		

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

GENERAL COMMUNICATION

RESIGNATION OF SENATOR JOHN R. GORDNER

The PRESIDENT pro tempore laid before the Senate the following communication, which was read by the Clerk as follows:

SENATE OF PENNSYLVANIA

November 30, 2022

Honorable Jake Corman
President Pro Tempore
Senate of Pennsylvania
350 Main Capitol Building
Harrisburg, PA 17120

Dear Senator Corman:

For thirty years, I have served as a State Representative and State Senator in this great commonwealth. It has been an "honor of a lifetime."

I am now looking forward to serve the Pennsylvania State Senate in a new capacity.

Therefore, I hereby tender my resignation as State Senator of the 27th senatorial district effective at 11:59 pm on Wednesday, November 30, 2022.

Very truly yours,

JOHN R. GORDNER

[Applause.]

RECESS

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, I request a short recess of the Senate for the purpose of a Republican caucus around the podium.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, Senate Democrats will meet around the podium for a brief caucus as well.

The PRESIDENT pro tempore. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT pro tempore. The time of recess having expired, the Senate will come to order.

STATEMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDENT pro tempore. Pursuant to Senate Rule 21, permission has been granted for the photographer from the Associated Press to take pictures during the impeachment Session today.

POINT OF ORDER

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Philadelphia [Montgomery], Senator Haywood.

Senator HAYWOOD. Mr. President, I rise for a point of order.

The PRESIDENT pro tempore. Gentleman will state his point.

Senator HAYWOOD. I ask whether Senate Resolution No. 386 and Senate Resolution No. 387, which the Senate adopted yesterday, as well as future resolutions that we may adopt today, whether they will survive the expiration of the current Session of the General Assembly that expires later today at midnight per Article II, Sections 2 and 4?

The PRESIDENT pro tempore. The Chair thanks the gentleman for his point. Through Senate precedent, the Chair cannot rule on actual points of order raised in a hypothetical way, and since we are still in the legislative Session of '21-'22, the gentleman's question would be premature. And so, I would rule his question out of order at this point in time.

Senator HAYWOOD. Thank you, Mr. President.

SPECIAL ORDER OF BUSINESS

COMMITTEE OF MANAGERS ON THE PART OF THE HOUSE OF REPRESENTATIVES PRESENTED TO THE SENATE

The PRESIDENT pro tempore. The Chair recognizes the Sergeant-at-Arms.

The SERGEANT-AT-ARMS. Mr. President and Members of the Senate, I have the honor to present a committee on behalf of the House of Representatives.

The PRESIDENT pro tempore. Will you please bring the committee forth.

The SERGEANT-AT-ARMS. Mr. President and Members of the Senate, I have the honor to introduce the Members of the House committee who are the Managers of an impeachment: chairman of the committee, Representative Craig Williams; Representative Timothy Bonner; and Representative Jared Solomon.

The PRESIDENT pro tempore. Managers on behalf of the House of Representatives, are you prepared and ready to exhibit Articles of Impeachment against any person?

Representative WILLIAMS. Mr. President and Members of the Senate, we have been appointed by the Speaker, pursuant to House Resolution No. 240, to prefer to the Senate Articles of Impeachment against Lawrence Samuel Krasner, District Attorney of Philadelphia.

The PRESIDENT pro tempore. Members of the Senate, all staff, and guests will please come to order.

IMPEACHMENT SESSION

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, I move that the Senate resolve itself into Impeachment Session for the purpose of hearing, accepting, and commencing consideration of Articles of Impeachment against Lawrence Samuel Krasner, District Attorney of Philadelphia.

The PRESIDENT pro tempore. It has been moved by Senator Kim Ward that the Senate do now resolve itself into Impeachment Session for the purpose of hearing, accepting, and commencing consideration of Articles of Impeachment against Lawrence Samuel Krasner, District Attorney of Philadelphia. For the information of the Members, this is a nondebatable motion.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator K. WARD and were as follows, viz:

YEA-30

Argall	DiSanto	Mastriano	Stefano
Aument	Dush	Mensch	Tomlinson
Baker	Gebhard	Phillips-Hill	Vogel
Bartolotta	Gordner	Pittman	Ward, Judy
Brooks	Hutchinson	Regan	Ward, Kim
Browne	Langerholc	Robinson	Yaw
Corman	Laughlin	Scavello	Yudichak
Dillon	Martin		

NAY-20

Boscola	Costa	Kane	Schwank
Brewster	Flynn	Kearney	Street
Cappelletti	Fontana	Muth	Tartaglione
Collett	Haywood	Santarsiero	Williams, Anthony H.
Comitta	Hughes	Saval	Williams, Lindsey

A majority of the Senators having voted "aye," the question was determined in the affirmative.

ARTICLES OF IMPEACHMENT EXHIBITED

The PRESIDENT pro tempore. The Sergeant-at-Arms will now make the proclamation.

The SERGEANT-AT-ARMS. Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives exhibits to the Senate of Pennsylvania Articles of Impeachment against Lawrence Samuel Krasner, District Attorney of Philadelphia.

The PRESIDENT pro tempore. The Chair now recognizes the chair of the Managers on behalf of the House of Representatives, the Honorable Representative Craig Williams.

Manager WILLIAMS read the following Articles of Impeachment.

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

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

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

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

Whereas, 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 of [by] a public official of a discretionary act with an improper or corrupt motive"; and

Whereas, 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--the--judicial precedents." Stated differently, there is no precedent that the current language is so constrained; and

Whereas, The Philadelphia District Attorney's Office's stated mission and statutory purpose is, among other things, to provide [a] voice for victims of crime, protect the community through zealous, ethical and effective investigations and prosecutions, and to uphold and prosecute violations of the laws of the [this] Commonwealth and the provisions of Philadelphia's Home Rule Charter; and

Whereas, 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 and has failed to uphold his oath of office; and

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

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

Whereas, District Attorney Krasner has been in office since January 2018. Under District Attorney Krasner's administration, and as detailed herein, the city has descended into an unprecedented crisis of lawlessness. By way of example [only], there were 562 murders in 2021, the most in the 340-year history of the city. Under District Attorney Krasner, murders and violence occur in every part of the city at every hour of the day. Shootings on public transportation, in populated neighborhoods with families and children, near schools and in the center city business district have now become frequent and routine. Open air drug markets have become ubiquitous. He has decriminalized prostitution effectively destroying programs designed to rescue women from addiction and human trafficking. District Attorney Krasner [has] decriminalized retail theft resulting in numerous businesses leaving the city. He has released criminals back [on] to the street who go on to commit even more heinous crimes of murder, rape and robbery against the people of Philadelphia, the overwhelming majority of whom are African American. This crisis of crime and violence is a direct result of District Attorney Krasner's incompetence, ideological rigidity and refusal to perform the duties he swore to carry out when he became District Attorney. He has deliberately 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, his conduct has brought the Office of District Attorney and the justice system itself into disrepute; 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 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 (ADAs [sic]) 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 the [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 support[ed]—a—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 Prosecuting [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 graduation may be reduced for [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, the [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 deviation[s] from his [the] policies.

District Attorney Krasner, in an April 2021 report published by the District Attorney's Office (DAO) titled "End[ing] 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 practice[s] 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 predominantly 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 by [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 the [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 that [out] they may not receive a [as] significant a consequence as they had historically. Notably, the likelihood of being arrested is low to begin with. This means that, criminals—**now**—know that their likelihood of getting caught with a gun is slim and, even if they are [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/—**to**—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 the [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—**of**—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 findings [sic] 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 or [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 is [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 occasion[s] 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 the [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.

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*

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 the [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--of--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 the [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--the--Philadelphia District Attorney's Office. While in office, District Attorney Krasner directed, approved [and] or permitted the filing of the [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--regarding--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--the--Appearance of Impropriety in the matter of *Commonwealth vs. Pownall*

In his special concurrence in *Commonwealth v. Pownall*, Supreme Court Justice Dougherty highlighted that [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--the--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 [concurrency] 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—~~it~~—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 the [that] requirement] at the—~~that~~—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 a [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 this [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 an [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, ~~—court of—~~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 ~~—the—~~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 so [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 ~~—the—~~Philadelphia District Attorney's 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 to [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 ~~—the—~~ Tribunal, Rule 8.4 Professional Misconduct, and Canon 2 of the Code of Judicial Conduct Impropriety and ~~—the—~~ Appearance of Impropriety in the matter In re: Conflicts of Interest in the [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—~~the~~—Appearance of Impropriety).

Wherefore, District Attorney Lawrence Samuel Krasner is guilty of an impeachable offense warranting removal from office and—~~the~~—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 families [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 included [sic] 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 to [by] them.

Representative WILLIAMS. We are ready on the part of the House of Representatives to support the charges exhibited at such time and place as the Senate may appoint.

Mr. President, I have the articles to present.

The PRESIDENT pro tempore. The Chair thanks Representative Williams and the Managers on behalf of the House of Representatives.

The Senate accepts custody and possession of these articles. The Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

The Sergeant-at-Arms is directed to escort the Managers on behalf of the House of Representatives from the Hall of the Senate.

The Senate will be at ease.

[The Senate was at ease.]

LEAVES CHANGED

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, I request that Senator Browne's leave be changed from a temporary Capitol leave to a personal leave.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I request that Senator Anthony Williams' leave be changed from a legislative leave to a personal leave.

The PRESIDENT pro tempore. Senator Kim Ward requests that Senator Browne's leave be changed from a temporary Capitol leave to a personal leave.

Senator Costa requests Senator Anthony Williams' leave be changed from a legislative leave to a personal leave.

Without objection, the leaves will be changed.

ADMINISTRATION OF OATH TO IMPEACHMENT TRIAL MEMBERS

The PRESIDENT pro tempore. Before proceeding with any further consideration of these articles, an oath will now be administered to the Members of the Senate sitting on the impeachment trial.

Will all of the Members of the Senate please rise at your desks.
[Members stood en masse.]

The PRESIDENT pro tempore. Please raise your right hand and repeat after me:

I solemnly swear or affirm that in all things appertaining to the trial of the impeachment of Lawrence Samuel Krasner, District Attorney of Philadelphia, now pending, I will do impartial justice according to the Constitution and laws, so help me, God.

[Members sworn.]

The PRESIDENT pro tempore. Please be seated.

ADMINISTRATION OF OATH TO PRESIDENT PRO TEMPORE

The PRESIDENT pro tempore. I would now call on the Honorable Kim Ward, Majority Leader, to come to the rostrum to

administer the same oath to me, in my capacity as President pro tempore of the Senate. Please rise.

The PRESIDING OFFICER (Senator Kim L. Ward) in the Chair.

The PRESIDING OFFICER. Please raise your right hand and repeat after me:

I solemnly swear or affirm that in all things appertaining to the trial of the impeachment of Lawrence Samuel Krasner, District Attorney of Philadelphia, now pending, I will do impartial justice according to the Constitution and laws, so help me, God.

[President pro tempore sworn.]

The PRESIDENT pro tempore (Senator Jacob D. Corman III) in the Chair.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

MOTION NOTWITHSTANDING SENATE RULE 29

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, I call up Senate Supplemental Calendar No. 1 and move to consider Senate Resolution No. 388, notwithstanding the provisions of Senate Rule 29.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator K. WARD and were as follows, viz:

YEA-28

Argall	Dush	Mastriano	Stefano
Aument	Gebhard	Mensch	Tomlinson
Baker	Gordner	Phillips-Hill	Vogel
Bartolotta	Hutchinson	Pittman	Ward, Judy
Brooks	Langerholc	Regan	Ward, Kim
Corman	Laughlin	Robinson	Yaw
DiSanto	Martin	Scavello	Yudichak

NAY-20

Boscola	Costa	Hughes	Saval
Brewster	Dillon	Kane	Schwank
Cappelletti	Flynn	Kearney	Street
Collett	Fontana	Muth	Tartaglione
Comitta	Haywood	Santarsiero	Williams, Lindsey

A majority of the Senators having voted "aye," the question was determined in the affirmative.

SENATE RESOLUTION No. 388, ADOPTED

Senator K. WARD called up and moved for immediate adoption **Senate Resolution No. 388**, entitled:

DIRECTING A WRIT OF IMPEACHMENT SUMMONS TO BE ISSUED TO THE HONORABLE LAWRENCE SAMUEL KRASNER, DISTRICT ATTORNEY OF PHILADELPHIA

A RESOLUTION

Directing a Writ of Impeachment Summons to be issued to the Honorable Lawrence Samuel Krasner, District Attorney of Philadelphia.

WHEREAS, On November 30, 2022, the House of Representatives exhibited Articles of Impeachment against the Honorable Lawrence Samuel Krasner, District Attorney of Philadelphia, to the Senate; therefore be it

RESOLVED, That a Writ of Impeachment Summons, including a copy of the Articles of Impeachment as exhibited to the Senate on November 30, 2022, be issued immediately from the Senate to the Honorable Lawrence Samuel Krasner, District Attorney of Philadelphia; and be it further

RESOLVED, That the Writ of Impeachment Summons order and command Lawrence Samuel Krasner to file one and only one Answer and any related pleading, personally or by counsel, to the Articles of Impeachment with Michael C. Gerdes, Interim Secretary and Parliamentarian of the Senate, by 12 noon on December 21, 2022, at his office located at 462 Main Capitol Building, 501 North Third Street, Harrisburg, Pennsylvania 17120; and be it further

RESOLVED, That the Writ of Impeachment Summons order and command Lawrence Samuel Krasner to be and appear before the Senate of Pennsylvania, at their Chamber in the city of Harrisburg, on January 18, 2023, at 11:30 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; and be it further

RESOLVED, That Daniel Billings, Sergeant-at-Arms of the Senate, be ordered and commanded to deliver and leave with 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 Writ of Impeachment Summons; and be it further

RESOLVED, That delivery and service of the Writ of Impeachment Summons occur and be done by December 7, 2022, if possible; and be it further

RESOLVED, That the Return of Impeachment Summons by Daniel Billings occur at the beginning of the next actual session day of the Senate after service and delivery of said Summons; and be it further

RESOLVED, That the Interim Secretary of the Senate notify the House of Representatives of the filing of any Answer and provide a copy of the Answer to the House; and be it further

RESOLVED, That the Interim Secretary of the Senate provide the Answer to the Presiding Officer of the Senate on the first day the Senate is in session after the Interim Secretary receives it and the Presiding Officer cause the Answer to be printed in the Legislative Journal; and be it further

RESOLVED, That, if a timely Answer has not been filed, the Presiding Officer cause a plea of not guilty to be entered; and be it further

RESOLVED, That during proceedings of the Impeachment Committee, if one is established, the Chairman of the Impeachment Committee be authorized to waive the requirement, under section 18(a) of the special Rules of Practice and Procedure in the Senate When Sitting on Impeachment Trials, that questions by a Senator to a witness, a manager or counsel be reduced to writing and put by the Presiding Officer; and be it further

RESOLVED, That the Senate or Impeachment Committee be authorized to provide for the service of any process under sections 7(c) and 25(b) of the special Rules of Practice and Procedure in the Senate When Sitting on Impeachment Trials in any manner which the Committee deems appropriate, including the use of the Senate Sergeant-at-Arms; and be it further

RESOLVED, That the Senate or the Impeachment Committee proceed with consideration of the Articles of Impeachment at dates and

times the Senate or the Impeachment Committee shall decide; and be it further

RESOLVED, That the Interim Secretary of the Senate notify the House of Representatives and Lawrence Samuel Krasner of this resolution.

On the question,
Will the Senate adopt the resolution?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Indiana, Senator Pittman.

Senator PITTMAN. Mr. President, I rise in support of Senate Resolution No. 388. Following the House impeachment manager's exhibition of the Articles of Impeachment, I have introduced Senate Resolution No. 388 to direct the issuance of a Writ of Impeachment Summons upon Lawrence Samuel Krasner in accordance with Section 7 of the Senate's impeachment rules. The Writ of Impeachment Summons will command Mr. Krasner to file an answer to the Articles of Impeachment with Michael Gerdes, Interim Secretary and Parliamentarian of the Senate, by 12 noon on December 21, 2022. Further, Mr. Krasner will be commanded to appear before the Senate on January 18, 2023, at 11:30 a.m., to answer to the Articles of Impeachment and to abide by any orders, directions, and judgements made by the Senate or an impeachment committee formed under Section 10 of the Senate's impeachment rules. The Sergeant-at-Arms of the Senate shall be ordered to deliver and leave with Mr. Krasner the Writ of Impeachment Summons and copies of the Articles of Impeachment against him. The delivery of which shall occur before December 7, 2022, if possible.

Mr. President, I would like to remind my colleagues that Senate Resolution No. 388 is only a procedural matter required for this body to fulfill its constitutional obligations. And I would further remind the Members of what our Constitution says about the obligations of both the House and the Senate. Power of impeachment: the House of Representatives shall have the sole power of impeachment. Trial of impeachments: all impeachments shall be tried by the Senate; all impeachments shall be tried by the Senate. Senate Resolution No. 388 does not touch upon the merits of the Articles of Impeachment. As such, I ask for an affirmative vote.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I rise today to ask for a "no" vote on the Writ of Impeachment Summons that is before us here today, the last day of Session for the 2021-22 Session of the General Assembly. Today again, as I indicated yesterday, the Majority party is attempting to set an extraordinary and dangerous precedent by continuing to process an impeachment across two legislative Sessions on constitutionally illegitimate grounds. Tonight, November 30, at midnight, marks the end of our 2021-22 legislative Session. The Constitution of our Commonwealth and prior practice of this body are very clear that any business before the Senate and the House that has not been fully completed ceases to exist. The terms of the entire House of Representatives and half of this body will end this evening at midnight. No bill and no resolution of any nature survives past midnight of this evening. We take these actions of the House seriously, and if they had been done in a timely fashion, we would not be here before you today making this argument about the constitutionality and the

procedure followed. However, here we are--again, on November 30--faced with the attempt to do an end run around our Constitution, which many in the Chamber hold very dear. The courts of our Commonwealth have ruled multiple cases that the General Assembly's uncompleted legislative business dies at the expiration of the second regular Session on November 30 in even-numbered years. The writ of summons that we are talking about voting on today relies on three resolutions that, in our opinion, will die this evening. Only half of the body seated in this time period the subject of the impeachment will receive and be required to respond to the summons. The Chamber will elect and bring into the Chamber six new Members in the Session in which the Majority desires the impeachment trial to be held. The House will have a new party in the Majority in the next Session, and may I remind my colleagues, as I stated yesterday, there is no impeachment exception to the Pennsylvania Constitution that pending matters carry over from one General Assembly to the next. As far as we are concerned, the whole matter will cease to exist in the mere hours at midnight.

The Articles of Impeachment that were read into the record today were adopted by the House of Representatives by a simple resolution. The conclusion that the package of impeachment resolution survive the expiration of the Session, sine die, violates the Constitution and establishes a precedent we will regret in future years. That resolution loses all force and effect of law upon the expiration of the Senate, sine die, on November 30, 2022. I will reiterate my point I made yesterday, which is critical to this case. The Senate of Pennsylvania, unlike the United States Senate, is not a continuing body during the period between sine die, November 30, 2022, and the constitutional date for convening a new General Assembly on January 3, 2023. As I have stated, the United States Senate has at least a quorum of two-thirds of its members present who are elected, sworn, and seated between Sessions at all times. However, the Senate of Pennsylvania will be reduced to less than a quorum tonight, since no more than 25 elected, seated, and sworn Members will be in office tomorrow on December 1, 2022. Based on the clear constitutional language of Article II, Sections 2, 3, and 4, the undisputable conclusion is that the Articles of Impeachment and the rules and resolutions and the writ that were expressed and desired and have passed here today will cease to have any effect after November 30. The writ before us, in particular, is simply another step in an unconstitutional process that will be, over time--over the course of time--will wake up tomorrow morning and be exhausted. I am once again asking my colleagues for a negative vote on the writ.

Mr. President, one other point of order I would like to make very briefly is, as part of the writ that was read into the record as part of Article II--misbehavior in office and the nature of objections of House select committee investigations--it was noted that there was a special select committee established in the House of Representatives who was given the charge "to investigate, review and make findings [sic] and recommendations concerning rising [risking] rates of crime, law enforcement and enforcement of crime victim rights' in the city of Philadelphia." House Resolution No. 216 charged that committee with the following [Reading:]

[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 or [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 of [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, prosecution[s] 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.

Mr. President, that was the charge of the particular committee. I would note that the recommendations that came from that committee did not include a recommendation for impeachment, and to me, is another reason why we should vote "no" on this matter. To that end, Mr. President, I move that we table this motion to have this writ adopted at this point in time and ask for a negative vote. Apologize, sorry about that. I want a negative vote on this writ, but I want an affirmative vote on the motion to table.

MOTION TO TABLE SR 388 DEFEATED

The PRESIDENT pro tempore. Senator Costa moves to table Senate Resolution No. 388. That motion is not debatable.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator COSTA and were as follows, viz:

YEA-20

Boscola	Costa	Hughes	Saval
Brewster	Dillon	Kane	Schwank
Cappelletti	Flynn	Kearney	Street
Collett	Fontana	Muth	Tartaglione
Comitta	Haywood	Santarsiero	Williams, Lindsey

NAY-28

Argall	Dush	Mastriano	Stefano
Aument	Gebhard	Mensch	Tomlinson
Baker	Gordner	Phillips-Hill	Vogel
Bartolotta	Hutchinson	Pittman	Ward, Judy
Brooks	Langerholc	Regan	Ward, Kim
Corman	Laughlin	Robinson	Yaw
DiSanto	Martin	Scavello	Yudichak

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,
Will the Senate adopt Senate Resolution No. 388?

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, prior to proceeding to the vote, for the reasons I stated prior to my tabling motion, I reiterate those comments and ask for a negative vote on this matter. Thank you.

And the question recurring,
Will the Senate adopt the resolution?

The yeas and nays were required by Senator K. WARD and were as follows, viz:

YEA-29

Argall	Dush	Mastriano	Stefano
Aument	Gebhard	Mensch	Tomlinson
Baker	Gordner	Phillips-Hill	Vogel
Bartolotta	Hutchinson	Pittman	Ward, Judy
Brooks	Langerholc	Regan	Ward, Kim
Corman	Laughlin	Robinson	Yaw
Dillon	Martin	Scavello	Yudichak
DiSanto			

NAY-19

Boscola	Costa	Kane	Schwank
Brewster	Flynn	Kearney	Street
Cappelletti	Fontana	Muth	Tartaglione
Collett	Haywood	Santarsiero	Williams, Lindsey
Comitta	Hughes	Saval	

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT pro tempore. The House of Representatives and Lawrence Samuel Krasner will be so advised.

WRIT OF IMPEACHMENT SUMMONS

The PRESIDENT pro tempore. The Chair lays before the Senate the Writ of Impeachment, which the Clerk will read:

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.

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 Impropropriety and Appearance of Impropropriety 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 Attorney's 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 (Impropropriety and or Appearance of Impropropriety).

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 Impropropriety and Appearance of Impropropriety 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 Attorney's 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 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 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

(Seal)

Attest:

MEGAN L MARTIN
Secretary of the Senate

PRECEPT TO THE SERGEANT-AT-ARMS

The PRESIDENT pro tempore. The Chair lays before the Senate the following precept to the Sergeant-at-Arms, which the Clerk will read:

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 whichever 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.

JACOB D. CORMAN, III
President Pro Tempore of the Senate

(Seal)

Attest:

MEGAN L MARTIN
Secretary of the Senate

The PRESIDENT pro tempore. The Senate will be at ease while we sign the Writ and Precept.

[The Senate was at ease.]

IMPEACHMENT SESSION RISES

Senator K. WARD. Mr. President, I move that the Impeachment Session do now rise.

The motion was agreed to.

LEAVES CHANGED

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, I request that Senator Browne's leave be changed from a personal leave to a temporary Capitol leave.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Mr. President, I request that Senator Anthony Williams' leave be changed from a personal leave to a legislative leave.

The PRESIDENT pro tempore. Senator Kim Ward requests that Senator Browne's leave be changed from a personal leave to a temporary Capitol leave.

Senator Costa requests that Senator Anthony Williams' leave be changed from a personal leave to a legislative leave.

Without objection, the leaves will be changed.

RECESS

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Westmoreland, Senator Kim Ward.

Senator K. WARD. Mr. President, I request a recess of the Senate for the purpose of a meeting of the Committee on Rules and Executive Nominations.

The PRESIDENT pro tempore. For the purpose of an off-the-floor meeting of the Committee on Rules and Executive Nominations to be held in the Rules room, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT pro tempore. The time of recess having expired, the Senate will come to order.

COMMUNICATIONS FROM THE GOVERNOR REPORTED FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

Senator AUMENT, from the Committee on Rules and Executive Nominations, reported the following nominations made by His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

MEMBER OF THE BOARD OF TRUSTEES OF
THE UNIVERSITY OF PITTSBURGH OF THE
COMMONWEALTH SYSTEM OF HIGHER EDUCATION

November 18, 2022

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John Verbanac, 2330 South Ridge Drive, P.O. Box 4084, Hidden Valley 15502, Somerset County, Thirty-second Senatorial District, for appointment as a member of the Board of Trustees of the University of Pittsburgh of the Commonwealth System of Higher Education, to serve until October 5, 2025, and until the successor is appointed and qualified, vice Sy Holzer, Pittsburgh, whose term expired.

Tom Wolf
Governor

MEMBER OF THE COUNCIL OF TRUSTEES OF
WEST CHESTER UNIVERSITY OF PENNSYLVANIA
OF THE STATE SYSTEM OF HIGHER EDUCATION

November 18, 2022

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Tara Chupka, 325 Jackson Street, Philadelphia 19148, Philadelphia County, First Senatorial District, for appointment as a member of the Council of Trustees of West Chester University of Pennsylvania of the State System of Higher Education, to serve until October 17, 2024, and until the successor is appointed and qualified, vice Christopher Lewis, Philadelphia, resigned.

Tom Wolf
Governor

NOMINATIONS LAID ON THE TABLE

Senator AUMENT. Mr. President, I move that the nominations just read by the Clerk be laid on the table.

The PRESIDENT pro tempore. The nominations will be laid on the table.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator AUMENT,
That the Senate do now resolve itself into Executive Session for the purpose of considering nominations made by the Governor.

Which was agreed to by voice vote.

NOMINATIONS TAKEN FROM THE TABLE

Senator AUMENT. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

MEMBER OF THE BOARD OF TRUSTEES OF
THE UNIVERSITY OF PITTSBURGH OF THE
COMMONWEALTH SYSTEM OF HIGHER EDUCATION

November 18, 2022

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of the Commonwealth of Pennsylvania:

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Tom Wolf
Governor

MEMBER OF THE COUNCIL OF TRUSTEES OF
WEST CHESTER UNIVERSITY OF PENNSYLVANIA
OF THE STATE SYSTEM OF HIGHER EDUCATION

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Tom Wolf
Governor

On the question,
Will the Senate advise and consent to the nominations?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-49

Argall	Dillon	Langerholc	Schwank
Aument	DiSanto	Laughlin	Stefano
Baker	Dush	Martin	Street
Bartolotta	Flynn	Mastriano	Tartaglione
Boscola	Fontana	Mensch	Tomlinson
Brewster	Gebhard	Phillips-Hill	Vogel
Brooks	Gordner	Pittman	Ward, Judy
Browne	Haywood	Regan	Ward, Kim
Cappelletti	Hughes	Robinson	Williams, Anthony H.
Collett	Hutchinson	Santarsiero	Williams, Lindsey
Comitta	Kane	Saval	Yaw
Corman	Kearney	Scavello	Yudichak
Costa			

NAY-1

Muth

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

Senator AUMENT. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to by voice vote.

**UNFINISHED BUSINESS
PETITIONS AND REMONSTRANCES**

The PRESIDENT pro tempore. The Chair recognizes the gentlewoman from Philadelphia, Senator Tartaglione.

Senator TARTAGLIONE. Mr. President, this will probably be--it will be--your last time hearing me talk about minimum wage. Thank you, Mr. President. Mr. President, I rise because today marks 5,988 days since our Commonwealth's legislature last passed an increase in minimum wage. Every Session day, I come up here and I speak about the importance of raising our poverty-

level wage. But today, Mr. President, it is a darker day than normal in Pennsylvania. Today is the last Session day of the '21-'22 legislative Session. Today we close out our Session, and we saw 266 pieces of legislation passed. From Whole Home Repairs to passing historic investments in education, but there is a glaring hole in the legislation that we passed. We failed to move Senate Bill No. 12 or any other minimum wage bill legislation. But, Mr. President, I am sad. Sad because we did not pass my legislation. I do not need a bill signing ceremony or a commemorative pen to make me feel accomplished. I am sad we will not be able to provide relief for the nearly one million low-wage earners across Pennsylvania who are desperate to make ends meet on our poverty-level minimum wage. But while this Session closes today for one final time, just know that we will be back next Session fighting for a raise in our minimum wage again. Pennsylvanians cannot afford to wait any longer. Senate Bill No. 12 may be officially dead, but the goal of raising the minimum wage is more alive than ever. Mr. President, I will be back in January delivering these remarks again and fighting alongside my fellow Senate Democrats to pass meaningful minimum wage legislation. We need to bring Pennsylvania in line, not only with our neighbors, but with what is right.

Thank you, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Jefferson, Senator Dush.

Senator DUSH. Mr. President, a little over a week ago, I had the opportunity to actually hold documents that were in the hand of Thomas Jefferson and Benjamin Franklin. Having those documents and understanding the character of the men involved with the founding of our country and putting us under a covenant relationship called the Constitution was a remarkable experience, and I would like to read a brief excerpt that has some quotes from General Washington and Benjamin Franklin. That as we close this Session--I think--and begin the next, I think we all should take some of these into our hearts. The book is *The American Story* by Tim and David Barton, and I am on page 210. When the convention began, George Washington, chosen by the other delegates to preside over the assembly, addressed them in a brief but powerful speech. He agreed that it was indeed probable that no plan we propose shall be adopted, but warned that if this occurred, America might have to endure another dreadful war. He therefore challenged the delegates to be bold, telling them, quote, if to please the people we offer what we ourselves disapprove, how can we afterward defend our work? He concluded by urging the delegates to raise a standard of the best government they could possibly devise, no matter how much change it required, and then trust in the quote that is right here before us in the Senate: that the event is in the hands of God. They accepted his challenge, but the way forward was neither easy nor smooth. After only a few weeks of deliberations, the Constitutional Convention was on the verge of collapse. For more than a month the delegates were deadlocked on different issues, such as representation of citizens and States in Congress. With this impasse and no real progress, patience was wearing thin and emotions were on edge. At this point, our own Benjamin Franklin was the eldest delegate, 81 years old at the time, when the average lifespan in America is only about 33. On previous occasions he wrote his remarks and had someone else read them. But this time Franklin was stirred to

address the delegates personally. He asked for permission to speak and told them, and I will begin his quote [Reading:]

In this situation of this Assembly, groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we have not hitherto once thought of humbly applying to the Father of lights to illuminate our understanding[s]? In the beginning of the Contest with [Great] Britain, when we were sensible of danger we had daily prayers [sic] in this room for [the] divine protection.--Our prayers, Sir, were heard, and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a Superintending providence in our favor...And have we now forgotten that powerful friend? or do we imagine [that] we no longer need his assistance? I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth--*that God governs in the affairs of men*. [And] if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? We have been assured, Sir, in the sacred writings, that "except the Lord build a [the] House they labour in vain that build it." I firmly believe this; and I also believe that without his concurring aid we shall succeed in this political building no better than the Builders of Babel...and we ourselves shall become a reproach and by word down to future ages...I therefore beg leave to move--that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the Clergy of this City be requested to officiate in that service.

It is amazing that people try to portray him as irreligious. In 11 sentences, he had 13 references to the Bible. As we leave this Session, it is my prayer that--more than just our getting home safely and back to our constituents and to our work--that we would take into consideration and study the works of our Founding Fathers, in their own words, as well as the Holy Scriptures. Because I believe, if we get back to our foundational principles, that we indeed will live up to the standard which Benjamin Franklin, George Washington, James Madison, and others desired for this Commonwealth and for this nation.

Thank you, Mr. President.

RECESS

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Indiana, Senator Pittman.

Senator PITTMAN. Mr. President, I move that the Senate do now recess to the call of the President pro tempore.

The motion was agreed to by voice vote.

The Senate recessed at 12:58 p.m., Eastern Standard Time.

(NOTE: The Senate did not reconvene, but Session constitutionally expired November 30, 2022, at 12 o'clock midnight.)