

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 Impropriety and Appearance of Impropriety in the Matter of Robert Wharton v. Donald T. Vaughn

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

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

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

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

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

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

After an evidentiary hearing, Judge Goldberg held as follows:

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

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

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

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

'exceptional' under the circumstances to warrant sanctions."

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

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

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

Article IV:

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

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

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

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

Justice Dougherty also recognized that any abuse of the grand jury could have been remedied by "Statutory safeguards embedded in the process," such as a preliminary hearing. He went on to say, "What is troubling is the DAO's effort to ensure that would not occur,"

i.e., their filing of a motion to bypass the preliminary hearing.

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

Article V:

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

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

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

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

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

Article VI:

Misbehavior in Office in Nature of
Violation of Victims Rights

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

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

Article VII:

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

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

These crimes include prostitution, theft and drug-related offenses, among others. In particular, the *de facto* legalization of prostitution by District Attorney Krasner has had a devastating impact on women who are victims of sex trafficking and the communities where they are trafficked. Refusing to prosecute retail theft of property with less than a value of

\$500, District Attorney Krasner has created an atmosphere of lawlessness in Philadelphia, with the direct effect of causing businesses to curtail activity or cease doing business altogether in Philadelphia. District Attorney Krasner's refusal to prosecute those caught driving under the influence of marijuana, aside from contributing to the lawlessness in the city, has created dangerous situations for the health, safety and welfare of the people in Philadelphia. District Attorney Krasner *de facto* legalizing such acts that the General Assembly has determined to be illegal is a clear usurpation of legislative powers in violation of the Constitution of Pennsylvania, and thus constitutes misbehavior in office.

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

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

And demand that you, the said Lawrence Samuel Krasner, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

Therefore, the Senate of Pennsylvania directs that you, the said Lawrence Samuel Krasner, be ordered and commanded to file one and only one written Answer and any related Pleading, if any, personally or by counsel, to said Articles of Impeachment, with Michael C. Gerdes, Interim Secretary and Parliamentarian of the Senate on or before 12:00 o'clock Noon the twenty-first (21st) day of December, 2022, at his office located at 462 Main Capitol Building, 501 North Third Street, Harrisburg, Pennsylvania 17120.

You, the said Lawrence Samuel Krasner, are therefore further hereby summoned to be and appear before the Senate of Pennsylvania, at their Chamber in the city of Harrisburg, on the eighteenth (18th) day of January, 2023, at 11:30 o'clock a.m., unless otherwise directed by the Chair of the Impeachment Committee established by Section 10 of the Rules of Practice and Procedure in the Senate When Sitting On Impeachment Trials, if any, to answer to the said articles of impeachment, and then and there to abide by, obey and perform such other orders, directions and judgments as the Senate of Pennsylvania or the Impeachment Committee shall make according to the Constitution, laws of Pennsylvania or Rules of the Senate.

Hereof you are not to fail.

Witness Jacob D. Corman, III, and President Pro Tempore of the said Senate, at the City of Harrisburg, this thirtieth day of November, in the year of our Lord 2022.



A handwritten signature in blue ink, reading "Jacob D. Corman III", written over a horizontal line.

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

Attest:

A handwritten signature in blue ink, reading "Megan L. Martin", written over a horizontal line.

MEGAN L MARTIN
Secretary of the Senate