

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 240 Session of 2022

INTRODUCED BY WHITE, OCTOBER 26, 2022

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 26, 2022

A RESOLUTION

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

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

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

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

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

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

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

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

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

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

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

1 drug paraphernalia; and

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

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

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

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

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

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

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

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

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

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

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

23 and

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

27 and

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

1 deviations from the policies; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 regarding shootings in the City of Philadelphia; and

2 WHEREAS, The published results showed the following:

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

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

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

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

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

21 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 WHEREAS, Justice Dougherty went on to say:

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

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

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

30 WHEREAS, After hearing testimony from the assistant district

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

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

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

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

21 * * *

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

30 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 and

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

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

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

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

30 WHEREAS, House Resolution 216 further charges the select

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

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

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

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

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

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

21 and

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

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

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

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

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

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

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

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

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

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

25 and

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

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

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

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

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

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

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

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

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

1 session on October 21, 2022; and

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

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

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

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

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

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

21 ARTICLE I

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

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

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

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

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

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

30

ARTICLE II

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

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

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

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