

## **The Philadelphia DA's Office Response to the PA GOP House Select Committee Impeachment Proceedings**

**The DA's Office did not ignore the subpoena. We filed a challenge in Court, the proper procedure laid out by the Pennsylvania Supreme Court.**

- While the DAO thinks this entire impeachment process is an undemocratic attempt to overturn the will of Philadelphia voters in a high-stakes election year, the Philly DA's office is proud of its policies. It is, for this reason, the most transparent office in the country about its work.
- Indeed, nearly all of the office's policies are already available on-line, as is the office's data about prosecutions and charging.
- **But the Select Committee's subpoena, among other things, asks that the District Attorney's Office break the law.** The office cannot and will not break the law, and so the DAO did what the Supreme Court of Pennsylvania instructs parties to do to challenge an invalid and illegal subpoena— file a pleading in Court.
- The DAO did this on September 2. The House Select Committee has not responded to that pleading yet- it has 30 days from service.
- The House Committee nonetheless initiated an unusual and highly improper process for holding DA Larry Krasner in contempt.

**The Subpoena, issued by the Select Committee on Law and Order, asked the DAO to break the law.**

- The Select Committee's subpoena improperly demanded "the transcript of all grand jury materials" in a murder case against a police officer *that is scheduled to go to trial this fall*.
- Turning over that material is a crime. The District Attorney could go to jail for providing that material.
- Indeed, former-Attorney General Kathleen Kane was prosecuted in an investigation that began because she leaked grand jury material.
- Counties and municipalities in PA have been sued for millions of dollars for breaking criminal records disclosure laws.

**Nonetheless, the House held the DAO in contempt without waiting for the Court to weigh in on the validity of the Select Committee's subpoena, and without giving the DAO a meaningful opportunity to respond to the allegations.**

- If the District Attorney had been given the opportunity to appear and argue the case— as occurs in every valid contempt proceeding— he could have explained that the DAO has responded to the subpoena by challenging it in Court.
- He could have explained that the subpoena asked the office to break the law.
- He could have explained that we requested that the Select Committee's lawyers give us an extension to submit materials until that Court proceeding concluded— but that they refused and would grant an extension only if we would withdraw any legal challenge.

- He could have explained that he could not, under any circumstances, give up the office's legal rights, and that it is outrageous for a Committee on Law and Order to request the office to give up a legal challenge to an unlawful subpoena.
- But the House Select Committee, and then Republican leadership, gave the District Attorney no opportunity to participate in those proceedings.
- He tried. Counsel, on behalf of the District Attorney, sent a fax in the middle of these rushed proceedings asking to be heard, and reminding the body of the DA's due process rights that the Committee was violating.
- Counsel did not receive a response until after the House voted to hold the DAO in contempt.

**The DAO will continue this fight in Court—where it belongs— but the office is also turning over its policy material. It is now clear the Select Committee will not follow the law and wait for a court to rule on our pleadings.**

- The DAO wants to get back to the important work of prosecuting cases and holding people accountable.
- As a result, the DAO is turning over requested material unless it would violate the law to do so— like with grand jury transcripts – or if the material is privileged.
- To be clear, all the material is also available already on the DAO's website, because the office has always believed in transparency.
- If the Select Committee does not amend its subpoena to remove its request for material that is illegal to turnover, the DAO will be forced to file another motion in Court asking that the entire thing be quashed.

**In the history of Pennsylvania, no one has been impeached over disagreements over policy— indeed, this process is almost never used.**

- In 1811, the legislature removed County Judge Thomas Cooper because of “inducious conduct.”
- In 1685, the legislature impeached Nicholas More- also a judge.
- Supreme Court Justice Rolf Larsenn was impeached after being criminally convicted for having his doctor write prescriptions in names of four court employees— he was impeached for then improperly meeting with an attorney and deciding whether to accept or reject appeals based on his recommendations.
- We are— quite clearly- very far from that situation, highlighting the extraordinary political motivation behind this impeachment effort.