



Senate of Pennsylvania

**COMMITTEE REPORT
OF THE
SPECIAL COMMITTEE ON SENATE ADDRESS**

**EXAMINING PENNSYLVANIA ATTORNEY GENERAL KATHLEEN KANE'S ABILITY
TO PERFORM THE DUTIES OF HER OFFICE WITH A SUSPENDED LAW LICENSE**

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**ON THE QUESTION WHETHER THE SENATE BODY SHOULD
CONSIDER THE REMOVAL OF ATTORNEY GENERAL KATHLEEN G.
KANE**

On behalf of the Special Committee on Senate Address, Senator John R. Gordner, Chairman of the Committee, submits to the Senate, through the President Pro Tempore Joseph B. Scarnati, III and the Secretary of the Senate Megan Martin, this report fulfilling its charge to determine whether the Senate body should consider the removal of Kathleen G. Kane, the Attorney General for the Commonwealth of Pennsylvania, under Article VI, Section 7 of the Pennsylvania Constitution.

REPORT

FINDINGS AND RECOMMENDATION

1. After careful consideration and deliberation of the testimony presented and evidence received, including the Legislative Reference Bureau memorandum dated November 17, 2015 and the testimony of the Constitutional and Legal Ethics panel on November 17, 2015, the Special Committee on Senate Address finds that the Senate has jurisdiction over a removal action against the Attorney General under Article VI, Section 7 of the Pennsylvania Constitution.
2. After careful consideration and deliberation of the testimony presented and evidence received, the Special Committee on Senate Address, while making no specific finding on direct removal, finds a sufficient basis for the Senate to move forward with due notice to Pennsylvania Attorney General Kathleen Kane and a full hearing pursuant to Article VI, Section 7 of the Pennsylvania Constitution.
3. The Special Committee on Senate Address recommends that the Senate accept this report and, within 15 days of the acceptance, the Special Committee shall submit a proposed resolution outlining the procedures for providing the required due notice and full hearing before removal that would be considered by the full Senate.

PURPOSE

On October 26, 2015, under Senate Rule 5(a)(2), Senate Rule 26, and Mason's Manual of Legislative Procedure Section 640-1, President Pro Tempore Senator Joseph B. Scarnati, III, following the Senate's unanimous approval of a motion, established the Special Committee on Senate Address ("Special

Committee”). The bipartisan Special Committee consisted of three Democratic and three Republican members, with the President Pro Tempore serving as the *ex officio* member. The President Pro Tempore charged the Special Committee with examining Attorney General Kathleen Kane’s (“Attorney General”) ability to fulfill her official duties with an indefinitely suspended law license. The President Pro Tempore assigned two preliminary responsibilities and duties to the Special Committee:

1. Within 30 days, the Special Committee was tasked with determining if there is sufficient evidence that warrants due notice to Attorney General Kathleen Kane and a full hearing as required under the Pennsylvania Constitution.
2. Within the same period of time following the appointment of Committee members, the Committee shall issue a written report to the full Senate with preliminary findings of the Committee.

BACKGROUND FACTS

On December 7, 1993, the Attorney General earned her license to practice law in the Commonwealth of Pennsylvania, becoming a member of the Pennsylvania bar.

On November 6, 2012, the Attorney General was elected as Attorney General for the Commonwealth of Pennsylvania.

On January 15, 2013, the Attorney General was inaugurated as the Attorney General.

I. The Duties of the Attorney General

The Pennsylvania Attorney General is the Chief Law Officer of the Commonwealth, under Art. IV, Section 4.1 of the Pennsylvania Constitution.

On October 15, 1980, the Pennsylvania Legislature enacted the Commonwealth Attorneys Act. *See* Act of Oct. 15, 1980 (P.L.950, No. 164) known as the Commonwealth Attorneys Act. This act tasks the Attorney General with representing the Commonwealth, the agencies of the Commonwealth, and the citizens of the Commonwealth. *See Id. at* §§ 201-207 (“*The Attorney General shall represent the Commonwealth and all Commonwealth agencies . . . in any action brought by or against the Commonwealth or its agencies The Attorney General shall represent the Commonwealth and its citizens in any action brought for violation of the antitrust laws of the United States and the Commonwealth.*”).

II. The Office of Disciplinary Counsel Proceedings

On August 21, 2015, the Office of Disciplinary Counsel (“ODC”) filed a Petition for Emergency Temporary Suspension and Related Relief Pursuant to Pa.R.D.E. 208(f)(1) (“Petition”) in the Supreme Court of Pennsylvania, seeking the suspension of the Attorney General’s license to practice law.

On August 28, 2015, upon consideration of the Petition, the Supreme Court issued a Rule to Show Cause as to why the Attorney General should not be placed on temporary suspension.

On September 4, 2015, the Attorney General filed a response to the Petition.

On September 14, 2015, the ODC filed a reply.

On September 21, 2015, the Supreme Court, after considering the responses to its Rule to Show Cause, temporarily suspended the Attorney General's license to practice law in the Commonwealth and issued the following order:

AND NOW, this 21st day of September, 2015, upon consideration of the responses to a Rule to Show Cause why Kathleen Granahan Kane should not be placed on temporary suspension, the Rule is made absolute; Respondent Kathleen Granahan Kane is placed on temporary suspension; and, to the extent applicable, she shall comply with all the provisions of Pa.R.D.E. 217.

Respondent's rights to petition for dissolution or amendment of this order pursuant to Pa.R.D.E. 208(f)(4), and to request accelerated disposition of charges underlying this order pursuant to Pa.R.D.E. 208(f)(6), are specifically preserved.

This order should not be construed as removing Respondent from elected office and is limited to the temporary suspension of her license to practice law.

See Exhibit 1.

In accordance with Pa.R.D.E. 208(f)(3), the Attorney General is considered a "formerly admitted attorney" under Pa.R.D.E. 102, which means that she may not represent clients on new matters from that day forward, but she was allowed to continue to represent existing clients on existing matters for 30 days following the Supreme Court's order of temporary suspension. As of October 22, 2015, the Attorney General could no longer perform any activities of a lawyer in good standing and was specifically prohibited from performing any of the following:

- (i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;
- (ii) performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis;

(iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

(iv) representing himself or herself as a lawyer or person of similar status;

(v) having any contact with clients either in person, by telephone, or in writing, except as provided [in some limited circumstances];

(vi) rendering legal consultation or advice to a client;

(vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer, or any other adjudicative person or body;

(viii) appearing as a representative of a client at a deposition or other discovery matter;

(ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction;

(x) receiving, disbursing, or otherwise handling client funds.

Pa.R.D.E. 217(j)(4)

The Attorney General was required by Pa.R.D.E. 217(a)-(b) to notify “all clients being represented in pending matters” of the suspension and of the “consequent inability of the formerly admitted attorney to act as an attorney after the effective date” of the suspension.

III. The October 22 Memorandum

According to testimony at the November 18, 2015 hearing, the Attorney General’s spokesperson had publicly stated on or about October 21, 2015, that Attorney General Kathleen Kane believed 98% or so of the Attorney General’s duties are administrative or ministerial and only 2% of her duties involved the use of her law license. The spokesperson also suggested that the suspension of the Attorney General’s law license would have minimal impact on the office operations of the Office of Attorney General (“OAG”). Thereafter, on October 22, 2015, the four highest ranking deputies within the OAG, First Deputy Attorney General Bruce R. Beemer, Executive Deputy Attorney General James A. Donahue

III, Executive Deputy Attorney General Robert A. Mulle, and Executive Deputy Attorney General Lawrence Cherba, sent a memorandum to the Attorney General (the “October 22 Memorandum”). The October 22 Memorandum set forth certain concerns in response to the public statements made on behalf of the Attorney General regarding the perceived scope of limitations on her job duties. Specifically, the four deputies stated, “[W]e cannot agree with your assessment that few adjustments to office operations are required during the term of your license suspension.” They further stated, “Numerous issues are raised by your license suspension, including:

1. compliance with Rule 3.8 of the Rules of Professional Conduct;
2. the scope of the suspension;
3. the impact of the suspension on the Office’s decision making process;
4. the notice that must be given to the Office’s clients of your suspension; and
5. the relationship of the attorneys in the office to you.”

IV. The Special Committee’s Investigation

On October 23, 2015, the President Pro Tempore announced his intentions to convene the Special Committee to pursue possible address under Article VI, Section 7 of the Pennsylvania Constitution related to the Attorney General.

On October 26, 2015, the Senate unanimously authorized the President Pro Tempore to form the Special Committee under Senate Rule 5(a)(2), Senate Rule 26, and Mason’s Manual of Legislative Procedure Section 640-1. On that same day, the President Pro Tempore appointed six Senators to the Special Committee and named himself a member *ex officio*.

On October 28, 2015, the Special Committee established a website at <http://senateaddress.pasen.gov/> to keep the citizenry informed of the Special Committee’s activities and to accept public comment.

Document Requests

On October 29, 2015, the Special Committee sent a document request to the Attorney General asking for:

- Any and all documents, including electronic communications, detailing or describing the operation of the Office of Attorney General

following the suspension of the Attorney General's law license which became effective on October 22, 2015.

- Any and all communications from the Attorney General to the employees of the Office of Attorney General related to the suspension of the Attorney General's law license.
- Any and all communications sent to the Attorney General from or produced by employees of the Office of Attorney General related to the suspension of the Attorney General's law license.
- A description of any duties or functions the Attorney General has delegated to other employees of the Office of Attorney General which cannot be performed or effectuated due to the suspension of the Attorney General's law license.
- Any opinion or explanation of the legal authority of the Attorney General to delegate any duties or functions to her First Deputy since there has not been a "vacancy in the position of Attorney General" as required under Section 202 of the Commonwealth Attorneys Act.
- All filings and documentation required under Section 217 of the Pennsylvania Rules of Disciplinary Enforcement related to formerly admitted attorneys.

See Exhibit 2.

On October 30, 2015, the Special Committee sent a document request to the Office of Disciplinary Counsel ("ODC") "requesting all filings and documentation submitted by Kathleen Kane to comply with Section 217 of the Pennsylvania Rules of Disciplinary Enforcement related to formerly admitted attorneys. *See Exhibit 3.* In response, the ODC provided the statement that the Attorney General sent to comply with Pa.R.D.E. 217(e)(1). *See Exhibit 4.*

On November 6, 2015, the Attorney General responded to the Special Committee's October 29, 2015 document request. The Attorney General stated that the Special Committee had no legal authority "to make such a request pursuant to a quest for direct removal." *See Exhibit 5.*

Thus, on November 6, 2015, the Special Committee served a subpoena on the Attorney General compelling the production of the following documents:

- Any and all documents, including electronic communications, detailing or describing the operation of the Office of Attorney General

following the suspension of the Attorney General's law license which became effective on October 22, 2015.

- Any and all communications from the Attorney General to the employees of the Office of Attorney General related to the suspension of the Attorney General's law license.
- Any and all communications sent to the Attorney General from or produced by employees of the Office of Attorney General related to the suspension of the Attorney General's law license.
- A description of any duties or functions the Attorney General has delegated to other employees of the Office of Attorney General which cannot be performed or effectuated due to the suspension of the Attorney General's law license.
- Any opinion or explanation of the legal authority of the Attorney General to delegate any duties or functions to her First Deputy since there has not been a "vacancy in the position of Attorney General" as required under Section 202 of the Commonwealth Attorneys Act.
- All filings and documentation required under Section 217 of the Pennsylvania Rules of Disciplinary Enforcement related to formerly admitted attorneys.

See Exhibit 6.

On November 13, 2015, the Attorney General replied to the November 6, 2015 subpoena. *See Exhibit 7.* While preserving her objection to the Senate's jurisdiction to consider her removal, the Attorney General stated that she was responding to the subpoena "to maintain the respect and decorum of our government." The Attorney General provided the October 22 Memorandum, two letters written to First Deputy Bruce Beemer and Executive Deputy Lawrence Cherba designating to them the "authority to make written applications to any Superior Court judge for orders authorizing the interception of wire, electronic or oral communications," and six OAG press releases issued between November 10, 2015 and November 13, 2015.

On November 16, 2015, the Attorney General sent a supplemental response to her November 13, 2015 response. *See Exhibit 8.* The Attorney General attached the Suspension Order. She drew attention to language contained therein saying, "This order should not be construed as removing Respondent [Attorney

General Kane] from elected office and is limited to the temporary suspension of her license to practice law.”

A. Testimony

In furtherance of fulfilling its duties, the Special Committee organized three public hearings to take sworn testimony on the substantive issues charged by the President Pro Tempore. As set forth below, the panels of witnesses consisted of a group of elected District Attorneys from across the Commonwealth, a group of Constitutional and Legal Ethics experts, and four Deputy Attorneys General.

On November 9, 2015, Bucks County District Attorney David Heckler, Berks County District Attorney John Adams, and Somerset County District Attorney Lisa Lazzari-Strasler testified before the Special Committee. The three district attorneys testified, generally, as to the process by which they refer cases to or work with the Attorney General’s Office and as to what elected district attorneys do professionally that, in their determination, requires a law license.

On November 17, 2015, Bruce Antkowiak, Professor at Saint Vincent College; Beth L. Weisser, Partner at Fox Rothschild LLP; and Robert H. Davis, Jr., Professor at Widener University’s Commonwealth Law School testified before the Special Committee. This panel testified, generally, as to constitutional and ethical issues raised by the Supreme Court’s suspension of the Attorney General’s license to practice law.

On November 18, 2015, in accordance with subpoenas compelling testimony, First Deputy Attorney General Bruce R. Beemer, Executive Deputy Attorney General James A. Donahue III, Executive Deputy Attorney General Robert A. Mulle, and Executive Deputy Attorney General Lawrence Cherba testified before the Special Committee. *See* Exhibit 9. These four deputies testified about the circumstances surrounding the October 22 Memorandum and, generally, on the ongoing functions of the OAG following the suspension of the Attorney General’s law license.

RELEVANT LAW AND EVIDENCE

1. **The Special Committee finds that the Senate has jurisdiction over a removal action against Attorney General Kane under Article VI, Section 7 of the Pennsylvania Constitution.**

Pennsylvania Constitution Article VI, Section 7, provides as follows:

All civil officers shall hold their offices on the condition that they behave themselves well while in office, and shall be removed on conviction of misbehavior in office or of any infamous crime. Appointed civil officers, other than judges of the courts of record, may be removed at the pleasure of the power by which they shall have been appointed. *All civil officers elected by the people, except the Governor, the Lieutenant Governor, members of the General Assembly and judges of the courts of record, shall be removed by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate.*

(emphasis added).

A plain reading of Article VI, Section 7 demonstrates that the Senate is vested with constitutional authority to consider removal of any elected official for reasonable cause not otherwise enumerated therein. Further, removal power was given solely to the Senate after “deliberate consideration” by the framers of this constitutional provision. 3 Debates of Convention to Amend Pa. Const. 225 (1873). A member of the Constitutional Convention explained that:

[i]t was discussed first whether the right of address should be given to the House of Representatives, the more popular body, or the Senate, and **it was finally thought that it would be better to leave it to the Senate**, which is the body elected for the longer term of years, and a smaller body, and which would, therefore, presumably, be better able to give more consideration to such applications.

Id. (emphasis added).

On November 13, 2015, the Special Committee posed the following question to the Legislative Reference Bureau: “Does Article VI, § 7 of the

Constitution of Pennsylvania confer upon the Senate the authority to consider the removal of the elected Attorney General?”

On November 17, 2015, the Legislative Reference Bureau answered the Special Committee’s question in the affirmative and issued a legal opinion concluding that “Article VI, § 7 of the Constitution of Pennsylvania allows for the removal of certain elected civil officers from office for reasonable cause, including the Attorney General, by the Governor on address of two-thirds of the Senate of Pennsylvania.” *See* Exhibit 10.

Accordingly, after due consideration and investigation, the Special Committee finds that the Senate body has constitutional authority to consider removal of the Attorney General for reasonable cause, after due notice and full hearing.

2. The Special Committee on Senate Address, while making no specific findings on direct removal, finds a sufficient basis for the Senate to move forward with providing due notice and a full hearing under Article VI, Section 7 of the Pennsylvania Constitution.

The Special Committee subpoenaed four Deputy Attorneys General (“DAGs”) who testified under oath regarding the Attorney General’s job responsibilities as they exist in law, as they existed in practice before the suspension of her law license, and as they presently are performed. The Special Committee also received testimony from three District Attorneys (“DAs”), who—like the Attorney General—are the highest law enforcement officers in their jurisdictions and have familiarity with the legal and practical requirements of overseeing prosecutors/agents, referring conflict cases to the Office of Attorney General (“OAG”), and conducting legal business on behalf of the Commonwealth.

The Special Committee obtained this testimony to determine whether a sufficient basis exists for the Senate to consider the removal of the Attorney General for reasonable cause. While the Special Committee indeed finds that such a sufficient basis exists for a referral to the Senate to take further action, it presently makes no finding regarding whether reasonable cause itself ultimately exists for the removal of the Attorney General, as that question must be decided by two-thirds of the entire Senate.

Many of the Attorney General’s job responsibilities are legal in nature.

The OAG is “an independent department and shall be headed by the Attorney General.” Commonwealth Attorneys Act § 201. The Commonwealth Attorneys Act provides the scope of the Attorney General’s powers and duties. *Id.* The Pennsylvania Attorney General (among other things):

- Represents, under certain circumstances, the Commonwealth, Commonwealth agencies, and the citizens of the Commonwealth;
- Prosecutes certain criminal matters;
- Convenes and conducts investigating grand juries; and
- Upholds and defends the constitutionality of all statutes.

Commonwealth Attorneys Act § 201 *et seq.*

Further, according to the October 22 Memorandum from the DAGs and their supporting testimony received by the Special Committee, there are at least six (and likely more) legal decisions that the Attorney General previously made that now must be made by the First Deputy Attorney General. These decisions include:

- 1) whether to bring a civil or criminal action;
- 2) whether to settle civil actions;
- 3) whether to offer or accept a plea bargain;
- 4) any decision involving grand juries;
- 5) whether to join amicus briefs, and
- 6) whether to use particular defenses in the cases the OAG is defending.

Significant additional legal responsibilities normally undertaken by the Attorney General continue to be identified and executed by DAGs during the course of the Attorney General’s suspension. For instance, Deputy Attorney General Mulle explained that “general obligation bonds, which are a significant funding source for Commonwealth operations, require the major State officers to sign them. And, in the past, the Attorney General has, in most cases, done that himself or herself.” Vol. III, p. 133. Indeed, Deputy Attorney General Donahue noted that “the vast majority of the [Attorney General’s normal] work is to make legal decisions.” *Id.* at 158.

According to sworn testimony by Deputy Attorney General Donahue, the OAG’s press officer made a public statement that 98% of the Attorney General’s duties were unaffected by her law license suspension. Vol. III, p. 148. Donahue believed this percentage was a “gross overstatement[,]” and it was “one of the reasons that prompted [the DAGs] to write the [October 22 Memorandum].” *Id.*

Being a District Attorney in the Commonwealth is, in some ways, similar to being the Pennsylvania Attorney General. Both positions are elected. Both positions involve administrative and legal responsibilities. Both positions are bound by the Pennsylvania Rules of Professional Conduct. Notably, the

Commonwealth Attorneys Act compares both positions in the same sentence: “The Attorney General shall be the chief law enforcement officer of the Commonwealth; the district attorney shall be the chief law enforcement officer for the county in which he is elected.” Commonwealth Attorneys Act § 206(a). To be eligible for the position of District Attorney, similar to the Attorney General, the person “shall have been admitted to practice as an attorney before the Supreme Court of this Commonwealth[.]” Act of Aug. 9, 1955 (P.L.323, No.130) known as The County Code § 1401(a). Therefore, testimony provided by the DAs provides insight into the Attorney General’s responsibilities.

The DAs testified, in their opinions, that most, if not all of the tasks they perform— even if ministerial or administrative—involve the practice of law. District Attorney Heckler stated, “Every decision, everything that [District Attorneys] do is based upon what I consider to be the practice of law.” Vol I, p. 23. Each DA that testified indicated that he or she would not be able to perform the functions of his or her office with a suspended law license. Similarly, each of the DAGs that testified indicated that he would not be able to perform his job functions as currently assigned with a suspended law license. Vol. III, p. 161.

The Attorney General presently is unable to perform the majority of her job responsibilities.

The Pennsylvania Rules of Disciplinary Enforcement regulate the activities that an attorney with a suspended law license may and may not do. Generally, attorneys with suspended law licenses may not participate in law-related activities, particularly at their place of employment before suspension.

Rule 217 of the Pennsylvania Rules of Disciplinary Enforcement applies to all “formerly admitted attorneys.” A “formerly admitted attorney” includes a “suspended” attorney. Pa.R.D.E. 102. Rule 217 heavily regulates the conduct of formerly admitted attorneys. Generally, under Rule 217(j), “a formerly admitted attorney may not engage in any form of law-related activities.”

A formerly admitted attorney is “strictly prohibited” from (among others things):

- performing any law-related activity for a law firm, organization, or lawyer if the formerly admitted attorney was associated with that law firm, organization, or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred . . . ;
- performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

- rendering legal consultation or advice to a client;
- appearing on behalf of a client in any hearing or proceeding or before any judicial officer . . . court . . . or any other adjudicative person or body; or
- negotiating or transacting any matter for or on behalf of a client with third parties . . .

See Pa.R.D.E. 217(j)(4).

Addressing the Attorney General’s current status with the Pennsylvania Bar, Ms. Weisser stated, “I do not believe that a person with a suspended law license would be permitted under Rule 217 to engage in any of those enumerated activities [listed by the DAGs in the October 22 Memorandum].” Vol. II, pp. 74-75. Indeed, First Deputy Attorney General Beemer stated, “I don’t think there’s any question that the head of the office is legally disabled from performing a variety of functions[.]” Vol. III, p. 175.

The Attorney General’s inability to perform the law-related functions of her office is having a significant adverse impact on the public.

The Attorney General’s legal status has required the DAGs to expend significant resources to change “the way the office functions and operates...in a way that is unprecedented” and plan for legal challenges to all aspects of the OAG’s operations. Vol. III, p. 175. For instance, Deputy Attorney General Donahue’s testimony revealed that “in a case that’s under seal, [the OAG] received a motion challenging [its] authority to proceed in that case basically on the grounds that the Commonwealth Attorneys Act requires the Attorney General to make a lot of the decisions personally.” Vol. III, pp. 141-42. Deputy Attorney General Donahue explained that “there’s an impact that cases, especially complex cases, get further dragged out because of” the Attorney General’s suspension. *Id.* at 142.

A similar motion challenging the Attorney General’s authority has been threatened in a second case. *Id.* In yet another case, the question was raised, as “in a criminal matter a judge from the bench asked the defense attorney if he was going to challenge the authority of the Attorney General to act.” *Id.* at 168.

In addition to the present harm being caused, the potential for future harm may substantially exist. First Deputy Attorney General Beemer explained that the number of external legal challenges “is only going to be additive. I mean as time goes on, the volume of things that we have to deal with is going to go up, up, up like this [*indicating*]. [N]one of us like to think about where that crescendo is going to top off.” *Id.* at 179. Indeed, Senator Haywood asked how a worst-case scenario may arise and be managed. *Id.* at 181. The response demonstrates that

the harm may be irreparable and impossible for the OAG to manage, given the separate powers of the judiciary:

If [the OAG] had a criminal case in a county involving a serious violent offender and [the OAG] charged that individual . . . because they would be a danger to the community if they were released, and a defense attorney filed a motion to dismiss the case based on the lack of jurisdiction of the Attorney General's Office to investigate and/or prosecute the matter, and one of the many hundreds of Common Pleas judges we have in this Commonwealth found that that motion was valid and dismissed the case, that person would be released[.]

Vol. III, pp. 181-82.

Accordingly, after due consideration and investigation, the Special Committee finds a sufficient basis to refer the question of removal of the Attorney General to the Senate pursuant to Article VI, Section 7 of the Pennsylvania Constitution.

In determining the Findings, the Special Committee on Senate Address factored in all of the testimony presented and evidence received. Therefore, this Report should be considered in its entirety, including all of the attached exhibits.

COMMITTEE ROLL CALL VOTES

The record of the roll call vote of the Special Committee on Senate Address on the finding that the Senate has jurisdiction over a removal action against the Attorney General under Article VI, Section 7 of the Pennsylvania Constitution and on the finding that a sufficient basis exists for the Senate to move forward with a removal action providing due notice and a full hearing in accordance with Article VI, Section 7 of the Pennsylvania Constitution was as follows:

After careful consideration and deliberation of the testimony presented and evidence received, including, the Legislative Reference Bureau memorandum dated November 17, 2015 and the testimony of the Constitutional and Legal Ethics panel on November 17, 2015, the Special Committee on Senate Address finds that the Senate has jurisdiction over a removal action against the Pennsylvania Attorney General pursuant to Article VI, Section 7 of the Pennsylvania Constitution.

	AYE	NAY	NV
BAKER	__X__	___	___
GORDNER, <i>Chair</i>	__X__	___	___
HAYWOOD	__X__	___	___
SCARNATI, <i>Ex Officio</i>	__X__	___	___
SCHWANK	__X__	___	___
WILEY	__X__	___	___
YAW	__X__	___	___
AYES	__7__		
NAYS	__0__		
NV	__0__		

After careful consideration and deliberation of the testimony presented and evidence received, the Special Committee on Senate Address, while making no specific finding on direct removal, finds a sufficient basis for the Senate to move forward with due notice to Pennsylvania Attorney General Kathleen Kane and a full hearing pursuant to Article VI, Section 7 of the Pennsylvania Constitution.

	AYE	NAY	NV
BAKER	<u> X </u>	<u> </u>	<u> </u>
GORDNER, <i>Chair</i>	<u> X </u>	<u> </u>	<u> </u>
HAYWOOD	<u> </u>	<u> X </u>	<u> </u>
SCARNATI, <i>Ex Officio</i>	<u> X </u>	<u> </u>	<u> </u>
SCHWANK	<u> </u>	<u> X </u>	<u> </u>
WILEY	<u> X </u>	<u> </u>	<u> </u>
YAW	<u> X </u>	<u> </u>	<u> </u>

AYES 5

NAYS 2

NV 0

LIST OF EXHIBITS

- Exhibit 1: The September 21, 2015 Supreme Court order suspending Attorney General Kane's license to practice law. *Office of Disciplinary Counsel v. Kathleen Granahan Kane*, 2202 DD 3.
- Exhibit 2: The October 29, 2015 document request to the Attorney General
- Exhibit 3: The October 30, 2015 document request to the Office of Disciplinary Counsel ("ODC")
- Exhibit 4: The November 2, 2015 response by the ODC to the Special Committee's document request.
- Exhibit 5: The November 6, 2015 response by the Attorney General to the Special Committee's document request.
- Exhibit 6: The November 6, 2015 subpoena compelling document production to the Attorney General
- Exhibit 7: The November 13, 2015 response by the Attorney General, including the October 22 Memorandum, to the subpoena compelling document production
- Exhibit 8: The November 16, 2015 supplemental response by the Attorney General regarding the subpoena compelling document production
- Exhibit 9: The November 17, 2015 subpoenas compelling testimony issued to the four top OAG deputy attorneys
- Exhibit 10: The November 17, 2015 legal opinion issued by the Legislative Reference Bureau.
- Exhibit 11: Transcripts (Vols. I-III) of testimony before the Special Committee