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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

June 2, 2021

Stephen A. Zappala, Jr.
District Attorney, Allegheny County
Allegheny County Courthouse
436 Grant Street, Room 303
Pittsburgh, PA 15219

District Attorney Zappala,

Let us begin by saying that we condemn, in the strongest possible terms, your decision to put personal animus over professional duty. Your policy to unfairly target attorney Milton Raiford's clients for harsher treatment because of statements that he made to the court about the state of the entire criminal justice system is not only abhorrent and unethical policy, but flies in the face of your role as a minister of justice and upends the fundamental right to free speech enshrined in the First Amendment. It further raises questions about how your office has treated clients of other attorneys with whom you have personally disagreed.

Though we individually differ on the severity of punishment warranted by your actions, we, as elected leaders representing residents across Allegheny County, are calling on you to: 1) immediately rescind this policy and publicly commit to enacting policies in your office that seek justice fairly and impartially; 2) formally apologize to Attorney Raiford and apologize to the residents of Allegheny County for using the position that they entrusted to you to pursue vengeance and not justice; and 3) open your office to review by a special prosecutor of cases of Raiford and other attorneys, like Frank Walker, who may have agreed with Raiford's statements regarding how defendants were treated.

The Pennsylvania Rules of Professional Conduct (Rule 3.8), the American Bar Association's Standards Relating to the Administration of Criminal Justice, and the basic tenets of justice and fair play within our criminal justice system all clearly establish that a prosecutor is a minister of justice, not a simple advocate. The responsibility of a public prosecutor rises above ordinary advocacy. Such an attorney is a representative of a sovereignty whose obligation is to govern impartially; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.

Myriad studies have demonstrated systemic and systematic racism within our criminal justice system – including policing and profiling, prosecution of petty crimes, the war on drugs, juries

and jury selection, sentencing and death penalty application, school suspension and the school-to-prison pipeline, bail, pretrial detention, commutations and pardons, incarceration and solitary confinement, in addition to judicial and prosecutorial discretion (see Balko, Radley, There's overwhelming evidence that the criminal justice system is racist. Here's the proof., *The Washington Post*, June 10, 2020,

<https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system>). As Mr. Balko states, "There are problems here that are inextricable from race. And there are problems that aren't directly related to race. But even the latter set of problems tend to be exacerbated when you factor race into the equation."

Your unethical policy has already resulted in Judge David R. Cashman halting the administration of plea agreements, calling your policy "fundamentally wrong." We agree with Judge Cashman that treating a defendant not "for his crime but based on who he selects as his lawyer [is] not the way it's supposed to be done. It has nothing to do with guilt or innocence." Its only relation to justice is to deny it.

District attorneys are among the most powerful actors in the criminal justice system. That power can be used to pursue justice or to deny it. Your policy and your actions have put you squarely in the latter category. We demand that you take corrective action immediately.

Sincerely,



Emily Kinkead
State Representative
20th District



Austin Davis
State Representative
35th District



Lindsey Williams
State Senator
38th Senate District



Sara Innamorato
State Representative
21st District



Summer Lee
State Representative
34th District



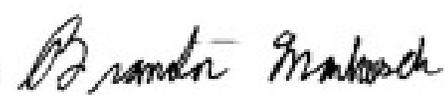
Dan Deasy
State Representative
27th District



Jessica Benham
State Representative
36th District



Nick Pisciotano
State Representative
38th District



Brandon Markosek
State Representative
25th District



Ed Gainey
State Representative
24th District



Jake Wheatley
State Representative
19th District