

**LETTER RESUBMITTED TO THE PHILADELPHIA DISTRICT ATTORNEY
LARRY KRASNER AND MEMBERS OF THE DEATH PENALTY REVIEW
COMMITTEE (Version 2)**

Wednesday April 30, 2024

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Subject: Commonwealth of Pennsylvania vs. Miles Pfeffer
Docket Number: MC-51-CR-0003118-2023

Mr. Krasner and appointed members of the Death Penalty Review Committee:

As the elected district attorney (D.A.), the decision whether or not to seek the death penalty is potentially the most critical decision you are charged with making as a part of the justice system. If imposed, the death penalty may result in a state sanctioned execution that is irremediable. It carries with it grave implications allowing for a large amount of autonomy, and arbitrariness. When the decision to pursue death is sought, there are no requirements or guidelines placed upon your office that prescribe how you reach the decision to pursue death. In layperson's terms, an elected district attorney has tremendous latitude when making a decision to charge an adult with death, including considering policies that may delineate the decision process, and establishing your own particular guidelines for how they will be processed and made. You should however consider the variables present in the case under review, for example, to what extent if any, does race, class, gender, political and other subjective influences affect that decision.

Many of your colleagues, fellow elected district attorneys, convene ad-hoc Death Penalty Review Committees, an *optional practice* that included your predecessor, a devout catholic, who used the process in similar cases to help validate his decision to allow the jury to consider the *death penalty option*. When those decisions were made by the former district attorney there was no secrecy regarding who served as committee members, nor did he attempt to abdicate himself of responsibility for the decision. That's a good example of one D.A. who made a practice of erring on the side of discretion when charging, using the process to elicit a recommendation from a select group of legal pundits, yet he never absolved himself of the responsibility of being the person who ultimately made the decision to pursue a death penalty case. In short, despite the prolific adoption of the use of ad-hoc committees, a punishment of death should only be pursued when appropriate. A committee should review the case and only introduce the death penalty as a punishment consideration for select cases, even when a D.A. remains morally conflicted regarding its effectiveness.

Each capital murder scenario can be troubling, and most are imperfect, but you knowingly decided to accept this burden and were duly elected and sworn district attorney in this commonwealth. You are no longer a defense attorney, but you must be reminded of your charge, balancing the demands created by the victim and the accused, evaluating whatever societal expectations, social norms, and political priorities govern the day. Our family understands your burden, both morally and politically, and have a unique understanding of the machinations within the criminal justice system. As you will read throughout this letter, **we expect for you to evaluate this case on its merits and not your personal beliefs by unnecessarily continuing to delay making the decision as to whether you will empower the jury to pursue death in this case.** Unless this case is adopted by federal prosecutors, you alone possess exclusive and unilateral prosecutorial discretion; the

same level of flexibility in critical decision-making you have already exercised in this case to prolong it. In executive leadership the most effective and successful among leaders are those who use a similar process when contemplating decisions; it is a principle universally accepted by those making critical life or death decisions in our military, or even those who make life and death decisions daily for people who are not admitted murderers in boardrooms of hospitals, insurance companies, and pharmaceutical firms.

As you “carefully” consider other’s opinions, when convening such an important committee, why not apply that vast discretion and appoint persons affected by homicides or who support the death penalty. Although you have absolutely no duty to do so, what can be lost by making your review process transparent (or public)? If you are confident that a review committee is a fair, moreover, legitimate and unimpeachable exercise that you use to guide your decision-making in death penalty eligible cases, why not appoint and empower a diverse pool of persons to serve and to render that decision? As a reformer, you must have some confidence that even those persons from economically disadvantaged communities who have been disproportionately represented in the criminal justice system, people who you claim to represent and to help, or others, who may not unilaterally agree with you soft on crime policies or rote anti-death penalty stance, could possibly possess the aptitude to provide you with sage advice?

The real exercise of power is having the strength of character to not cower behind the façade of allowing a family that suffers extreme grief to perform before your kangaroo court. It is painfully obvious that you have made group of experienced litigators who were emotionally moved by our presentation feckless. How can any committee of persons currently working under your direction be expected to countermand the opinions of a megalomaniac who would allow a family to emotionally, yet professionally, present valid reasons for death penalty consideration and continue to avoid providing us with a decision. You can only imagine the degree of humility that it takes to expose oneself as vulnerable, to admit the existence of opinions outside of your own may have tremendous power and commensurate value, especially from what you likely perceive as lowly law enforcement officers. But to soften your professional stance would be a foreign practice, one that might lead to actual arrests of violent offenders and contribute to restoring Philadelphia to a state of normalcy. You would have to be willing to accept and embrace the fact that opinions outside of your own have meaning. If you were to shift your beliefs as proposed (even slightly) to an inclusive approach and were transparent about who was selected and when they met, you would gain valuable input from persons offering a wide range of differing opinions, and the board’s function may have helped to legitimize your decision as *politically just*; you may actually achieve similar results. But if you never give yourself the opportunity to evaluate the opinions of others, or to be above board with a grieving family for something as serious as death penalty consideration, simply because your voice is the only one in the room that you listen to, how can we trust you to handle lower level crime, much less the capital murder of a police officer? Your inflexibility and lack of candor (even when asked if this committee has ever met before?) makes it very hard to believe that we will ever know, and that certainly does not project that we should have any confidence that your office can be seen as legitimate partners in the city’s attempt to further reduce the prolific violent crime that affects Philadelphia.

Facilitating change is difficult, and allowing persons you believe to be less attune to to the nuances of your profession to make decisions takes courage and tremendous amounts of political will. If the history of our country offers us any solace, perhaps it can also provide you more enlightened perspectives. Some thought that Blacks and women shouldn’t have the right to vote, but it took the courage of citizens like Alexander Clark, an African American and Civil War veteran from Iowa to make changes reality at the state level. Clark pushed less enlightened lawmakers to listen to their constituencies and to embrace change in 1868, when he was able to convince Iowa voters (all white) to vote for a constitutional amendment striking down the prohibition against nonwhites attempting to exercise the right to vote. At the same time the 15th Amendment to the U.S. Constitution already forbade any state from denying the ability to vote to anyone on the basis of race, color or previous condition of servitude (slavery). Another example includes the difficult path women in our country experienced while fighting for equal access to vote. In 1868, a former teacher from New York State, and co-editor of a newspaper, *The Revolution*, “Men, their rights and nothing more; Women their rights and nothing less.” That woman, Susan B. Anthony, would courageously become one of the most prominent symbols for

women's rights in the history of the U.S. and would become the first non-fictional woman depicted on U.S. currency.

In lieu of assembling a Death Penalty Review Committee constrained by your illogical stances on crime and punishment, your inconsistent decision making in sentencing, selective and inequitable prosecution efforts, and equal propensity for terminating tenured staff who may not agree with your misguided approach to reversing past injustices, consider employing courage similar to those who actually facilitated positive changes in our country. Initiate a process for the selection and appointment of a Death Penalty Review Committee that can validate your decision to allow the jury to consider the penalty of death. Include attorneys, but also weigh the opinions of those most affected by homicides and other violent crimes in Philadelphia as potential committee members. You may be just as surprised as those who introduced, supported, and suffered, while changing the face of civil rights in our country, that leading change can be difficult yet eventually fulfilling. It also takes a very *thick skin* to face some of the unique criticisms that comes with a proposed decision or the application of new approaches that may become catalysts for change. But by your own admission, your reliance upon an experience while attending University of Chicago Law School while serving on a jury that allegedly betrayed your trust in the juror system as it relates to the death penalty is wrong. It is at minimum short sighted, and quite frankly a *cop-out*. If we accept your story as factual, we challenge you to develop an approach that evaluates the death penalty decision before it is give to the jury, a jury that prosecutors share responsibility in empaneling, that is transparent, involves a group that convenes regularly to evaluate any case that meet death penalty aggravators, and to no longer misinform the city of Philadelphia about how the decision to empower a jury to consider death is made. Be entirely forthright and explain publicly that only you have the discretion to make that decision, but that your intention is to develop a solution to eliminate the mistrust you have in a legal system that you swore to serve.

UNIMPEACHABLE VIDEO EVIDENCE

On February 18, 2023, our son, Sgt. Chris Fitzgerald of the Temple University Police Department was on routine patrol in a marked police patrol vehicle and was engaged in a Bluetooth telephone call with his friend Steve, before taking notice of the defendant (and his two cohorts). Chris devoted his focus to Pfeffer, one of the three males he saw who was wearing a facial mask and attempted to conduct a Terry stop or pedestrian investigation. It should be noted that Chris was wearing a full police bicycle officer uniform, consisting of a two-toned, neon, reflective yellow Temple University Police Department bike uniform shirt, with patches on the sleeve with the word "Police," clearly identifying him as a law enforcement officer.

Seconds later Chris transmits to his colleagues using his police radio that **he is involved in a foot pursuit**, before moments later, catching the Pfeffer who, as you will observe in a video entered as evidence, fled on foot. **Chris can also be seen (and overheard) providing clear, articulate, and lawful verbal commands to the male to, "Get the fuck on the ground!" What you are unable to see in the video is Chris using his training and the minimal amount of force necessary in his attempt to bring the subject under his control and effect a lawful arrest.**

At this point in the video evidence, you also see and hear the subject actively resisting arrest, and even an unreasonable person would conclude that **he made the conscious decision to refuse to surrender peacefully**. In fact, you overhear Chris saying to Pfeffer, "Come on bro!" This phrase reinforces that Chris was using the minimal amount of force, and verbal escalation in an effort to obtain voluntary compliance from the defendant. In devoting additional attention to the audible portion of the video evidence, Pfeffer can be overheard saying, "Why?" This is the moment immediately preceding **his decision to discharge the first of six gunshots that struck our son, a uniformed police officer in the middle of a busy Philadelphia Street**. Chris neither beat on the Pfeffer, nor utilized inappropriate force; our collective professional opinion, garnered in over 60 plus years of collective law enforcement experience in four U.S. states, is the subject used this moment as an apparent and calculated ruse, to distract and mentally disarm Chris by feigning compliance and

making believe that he lawfully surrendered, before viciously firing striking him in the head/face six (6) times in a densely populated neighborhood in front of stunned witnesses.

Pursuant to the obvious intent of his actions, the result is shocking but not a surprise, the video captures Chris fall to the ground on his back (onto W. Montgomery Avenue) from the forceful impact of Pfeffer's first shot. A plea from our son to the subject to cease his active resistance to gain peaceful compliance in the form of "C'mon Bro," will be the last phrase we will ever hear from our son. What you would see thereafter, is a law enforcement officer, son, husband, and young father, Chris Fitzgerald, who will not be seen moving without external manipulation again.

The next point in the video reveals Pfeffer's malicious and callous depravity. He stands over Chris while incapacitated and inexplicably make the conscious decision to shoot him in that state five (5) additional times. Each of the six (6) total shots are calculated, and fatal, "kill shots" that all strike our son in his neck, face, and head. This subject intentionally ensured Chris' death, and that each of the six (6) total shots "counted," a term used by police to describe clusters of gunshots, that in this case were headshots, all striking Chris above his ballistic body armor. **Those actions make it apparent that the Pfeffer is highly intelligent, and his actions were both purposeful, and calculated;** he knew that ballistic vests failed to cover areas above an officer's neck and capitalized upon that knowledge. These intentional behaviors are compounded when one examines what, in this case should also be considered when evaluating intent. He is an intelligent criminal who proactively engaged in "target practice" shooting on his acreage in Bucks County, PA, and placed himself in the circumstance that he practiced for; a situation where he was able to cajole a police officer to lower their guard after feigning compliance, before intentionally shooting our son multiple times above the coverage of his ballistic vest at close range.

Pfeffer's crimes could have stopped there, but as the video evidence supports, they did not. He proves himself to be even more than a highly sophisticated criminal, because he further diversifies his criminality, distinguishing himself from other dangerous shooters. He did not stop at the cold and calculated murder of a uniformed law enforcement officer, and commits two robberies using the same firearm, doubling down on his already distinct achievement. While Chris lays mortally wounded on his back defenseless with six (6) gunshot wounds to his head, this defendant elevates his level of felonious criminality by brazenly making him the victim of an armed robbery while as he lies defenseless and mortally wounded.

Please consider the level of criminality (or pure evil) required to, after shooting a uniformed police officer who is one of the symbols for anti-violence in our city, lift up his limp arm to facilitate access to his pockets, or to rummage through those pockets in order to rob him of cash before moving on to attempting to steal his continuously holstered firearm. What message did that send to the community who witnessed these events in an area already under siege from crimes of violence? It certainly reinforces to criminals that if you engage in open season on cops, under Krasner, you will see justice delayed. In the portion of the video where these acts are memorialized, you will see just that, an adult male criminal who further aggrieved the Philadelphia community by graduating to murderer with "first honors." Pfeffer does the unthinkable, while exponentially ups the ante by searching our son's motionless body for anything that he can steal. He rifles through his pockets and using extreme force when yanking on his firearm. As someone who comes from *privilege*, why? Did he need money? His attempt to rob Chris of his weapon was performed with such determination that his holster moved from the right side of his belt to almost the center of his body.

In summary, the Pfeffer intended to kill a cop that day, and it was our son, Chris Fitzgerald. While Chris lie mortally wounded, this defendant's criminal mind raced forward as he took the next significant step that aggravates an already heinous list of crimes, after shooting our son six (6) times in the head, he remained on crime scene. **Instead capitalizing upon the opportunity that he created by shooting Chris once, and immediately fleeing the scene, Pfeffer was emboldened. After the first shot...second shot...third**

shot...forth shot... fifth shot... or sixth shot, this murderer ignored every opportunity to stop his criminality there. He stayed to rob a 31-year-old uniformed police officer and father of the contents in his pockets, and moreover, his service weapon. It was obviously not sufficient enough to illegally possess the firearm that already had our son's blood on it, the gun used to ultimately kill him; Pfeffer made the specific choice to remain at the scene of the crime after the first shot disabled Chris, and took the path to augment and diversify his criminality that leads us to conclude he risked forfeiting his own life because of those behaviors. He alone made the conscious decision, as an adult, to apply unprecedented violence that evening. Only Pfeffer, and Pfeffer alone shot and robbed Chris, and an unsuspecting male complainant that night, who he calmly carjacked after ensuring he murdered a cop. Only he can tell us whether he intended to sell the 2nd gun or to use a murdered officer's weapon to commit further crimes of accelerated violence, but those answers are not relevant to decide whether or not he crossed the "tipping point" for death penalty consideration; that answer is obvious.

Pfeffer's wanton disregard for the law, law enforcement, and indifference to the value of human life is apparent. All of his aforementioned behaviors occurred in a densely populated area and in the presence of witnesses who, like our son, were recklessly placed in danger of death or serious bodily injury **because of his continuing and escalating course of criminal conduct. He commits capital murder of a police officer while resisting arrest and violently assaulting him, commits an armed carjacking, multiple counts of aggravated robbery, recklessly endangering another person, possession of instruments of crime, prohibited offensive weapons, violations of the uniform firearms code, theft, terroristic threats, and a plethora of associated charges.** All of his criminal acts occur in a heavily populated neighborhood beset by violent crime, while helpless on-lookers who can never unsee the psychological trauma he inflicted, and physical jeopardy that he placed them in, are frozen in their homes and vehicles. When all circumstances relating to his crimes are considered the aggravators for capital murder and death penalty consideration are met. Not even the most creative of attorneys can make reasonable people believe that mitigators exists.

INTENTIONAL MESSAGING

Over the past year the Philadelphia District Attorney has heard several consistent messages from our family. We stated that life-or-death decisions in cases meeting that high-level threshold should go to a jury, since it is an option that can be considered in similar cases and is provided within the laws of the Commonwealth of Pennsylvania. We questioned **why, unlike other homicide cases involving suspects and victims sharing opposite demographic characteristics, did this case take such an extremely long time to get to a preliminary hearing? We posited that since the shooter is from a privileged demographic, that every Philadelphian should question why this particular defendant's publicly funded defense team, working on behalf of an adult who admitted to killing a police officer, would receive more courtesy than any person from any part of Philadelphia of another demographic who committed the same crime under similar circumstances. We have yet to receive those answers presented in a coherent, intelligent manner, or formal manner, and are forced to believe that unless this committee (at minimum) allows a jury of Philadelphians to decide whether the murderer receives death or another commensurate punishment, that you overtly infer to all in our city that this defendant's life is of more value than that of our black/brown son's life.** The District Attorney was elected by the same community our son represents, and they are waiting with bated breath for a decision in this matter. **Is rectifying the disparate outcomes of crime and punishment only applicable when certain a demographic of criminal preys upon this city? We went so far as to research the instances where police officers and people of color are murdered and found vastly inequitable sentencing disparities received by their killers. We know you are aware of these facts, but some people of color are not, and their lack of information on this is why people keep dying in this city. Much like the "blanket policies" rhetoric that you echoed in response to our statements regarding this case, inescapable facts exist that you are unable to dodge because they are created by your own "blanket policies" that free violent repeat offenders. People of all colors, those who elected you and trusted you to facilitate change, and those who just want you to be a D.A. who**

applies the law to prosecute violent criminals to the fullest extent in this city are dying, and innocent blood is on your hands.

In fact, this matter has garnered national attention. In just a matter of few days we will provide live testimony to our federal leaders about these issues before the U.S. House Judiciary Committee on why people are dying all over in the city of Philadelphia, and what **misguided policies enable offenders to perpetrate those crimes. We will ask for their help because we lack the confidence in you or other city leaders who misdirected efforts to help the black and brown communities backfire, create *latch key neighborhoods*, and only empower further criminality.** We will discuss how met we with you a year ago and asserted that our son endangered himself by handling this defendant *differently*, because of your *blanket policies* of repeatedly prosecuting and retrying police officers, when you are inequitably lenient towards the criminal element of this city. This was evidenced by an appearance you made in 2017 at the Philadelphia Police Academy where you advised recruit officers in summary, to refrain from shooting, or to shoot offenders in the leg. It makes us question whether you weigh the safety of officers' lives and of those we serve more (or less) than those terrorizing our communities? That statement or advice, if it can be categorized as such, creates unnecessary hesitation like that displayed in this case; making a cop and father like Chris, potentially consider your imbalanced propensity for prosecuting police officers who defend themselves and others, over protecting himself and the community from Pfeffer, and being able to return to his family that evening.

Is it your intent to force the gentrification of Philadelphia neighborhoods, making them temporarily unlivable by undercharging and rereleasing violent criminals while redirecting a large portion of your prosecutorial efforts towards those who valiantly attempt to protect our communities? **Ironically, your statistical history demonstrates at least the latter. There has been an utter lack of effectiveness in prosecutions contributing to the same, in particular any that can be tied to a decrease in firearms related violence, but inexplicably some of our current politicians' plan to engage you to be an active part of targeting and convicting the same repeat offenders who you are likely responsible for releasing back into our communities. Their plan is a folly and is destined for failure unless you are prepared to acknowledge your mistakes (even in silence) and *course correct*.** Your bail reform policies and charging mistakes have been effective in a major way. They created and facilitated the current a climate of abject lawlessness that enable criminals to perpetrate crimes, force hard-working Philadelphians to shutter businesses that were once Philadelphia institutions. They were successful in making our city's financial hub (Downtown) a place where major corporations and their employees avoid, making once proud neighborhoods unlivable, and makes the city we love a *target rich area* for criminals, even those who venture here from Bucks County empowered enough to shoot, kill, and rob a uniformed police officer steps away from the Temple University campus. We publicly offer you the congratulations that you deserve for demoralizing good law enforcement officers, chasing away competent prosecutors, negating great investigative policing, all under the false narrative that you perpetuate as the best alternative to what you project as an epidemic of wrongful convictions and police misbehavior. Is the new environment of emboldened, undeterred, and rampant criminality that you facilitated better or worse for the city?

We can and will say what our new mayor has not, you've misplaced your priorities by providing third and fourth chances for criminal actors to victimize families while empowering them to reoffend with impunity. Your overt mission appears to be to tip the scales of justice one way; to free criminals (as a prosecutor) apparently became more important than creating an atmosphere of partnership with law enforcement in defense of all persons who face violent thuggery. Traditionally justice is depicted as scales in balance held by Justitia, and symbolizes fair and objective consideration, so how can any politician in the city remain silent on the point that the scales in your office, at least for some crimes are inherently imbalanced? If the leader of our city is completely honest, she might even say that although your intentions "may" have emanated from a pure place, they have been perverted. The new city leadership is trying their best to work alongside the person who expanded the city's violent crime

problem. I warned her of the dichotomy of this issue when interviewing for Philadelphia Police Commissioner, even going so far to suggest that police officers detailed to your office be reassigned back to the department instead of having their competent investigative efforts wasted in an office that keeps moving the goal posts for those (prosecutors and cops) who pursue even the most righteous of criminal convictions.

Our appeal to you and to this committees is with the hope that you now reflect upon the new reality that you created and rely upon common sense as a means to potentially rectify a culture of crime. Even the most well-intended decisions deserve reconsideration when they result in damage to the community; particularly one that you are allegedly trying to protect. In this murder case you can begin to reverse the systematic historical wrongs that you are overly committed to addressing in a manner that is productive for all stakeholders. We neither believe that our request of you and the committee is anything outside of the law, nor do we believe that our family is special or in any way different than the thousands of Philadelphians affected by your harmful policies. We do however recognize our strengths, and we will capitalize upon those strengths to ensure Chris, Marissa, and our grandchildren obtain justice. We are fortunate to have earned and maintain both the *follower-ship* and momentum necessary to facilitate the changes that must happen relating to your office; and we will continue to enlighten those who shared the misguided beliefs that you help this city. Philadelphians are wise and it will not take much.

A critical part of changing the narrative here in Philadelphia entails moving away from the inherently stubborn *blanket policy* decision of not pursuing the death penalty, to the most reasonable alternative, applying it only in the most special circumstances. This is a change that a majority of your constituents (from our communities) wish to see. Expect to be absolutely judged on how you handle the murder of Chris Fitzgerald. Every barbershop and beauty salon in our city is wondering how a well-liked cop who cared enough for this city to sacrifice time away from his own young family; prioritizing livability and anti-violence efforts over almost everything, could be slaughtered on our streets by a person of privilege and they may not at very least face the proposition of the *ultimate punishment*. We speak with and identify with voting age Philadelphians who will rectify the mistakes previously made at the ballot-boxes. When the younger voting base is asking why this is justice delayed for Christopher Fitzgerald, it should force you take a hard look at your ineffective *blanket policies*, and what outcomes matters to Philadelphians; if you do not, we are absolutely certain they will remove your discretionary power.

Your intentional delay of this decision (and trial) will not make Philadelphia forget that a police officer who treated people with decency and respect; who ran throughout the most violent areas of the city preaching anti-violence; a man who volunteered himself to provide free meals to people at the Crossroads Community Center in the one of the poorest zip codes in the country, has been delayed justice because of your apparent fear for the life of a admitted murderer. Chris identified with all demographics in this city and your base; he personified a spirit of service and integrity that the belated decision to pursue justice in this case has lacked. Our family will not forget him, but rest assured, voters will not forget this ridiculous process.

Undoubtedly, there have already been anti death penalty advocates who have told you, “This one feels different, or “...this may be the one that should make you reconsider your position.” As a family, we have definitely heard from some who echo that sentiment. So do not be so firmly entrenched in your position that you refuse to “*see the (proverbial) forrest for the trees*” and allow yourself to vacillate, however slightly. Make this your bellwether case; if there was ever a death penalty case that allows for you to gracefully acknowledge that there are no absolutes in life, this is it.

NATIONAL OPINIONS

A significant part of our preparation for this appeal to the you and the Committee involved consulting elected district attorney's, at least one former judge who presided over numerous death penalty cases, tenured death penalty prosecutors, and high-profile defense attorneys all with vast experience in the litigation of death penalty cases. They shared the following insights:

An elected two term District Attorney who formerly worked as a prosecutor and who approved the death penalty to be considered in several cases in which convictions were obtained questioned, **“How anyone in the criminal legal profession could think the aggravators in this case don't far outweigh any mitigators.”** In that person's opinion the **“combination of behaviors that define this case are the murder of a law enforcement officer, the robbery, aggravated assault charges, and the danger this individual created for the community and is likely to create in the future.”** They stated, **“This defendant has the potential for future dangerous and deadly behavior,”** and **as such, the jury should be allowed to decide his penalty, and in this case, whether death is appropriate.”**

A prosecutor with over 40 years of experience in litigation, who has either prosecuted or defended a total of 14 death penalty cases and teaches attorneys how to prosecute death penalty cases said, **“This murderer epitomizes a person who displays a depraved indifference for human life. He obviously has an increased likelihood to reoffend and has already killed a law enforcement officer in the line of duty knowing he was a member of law enforcement.”**

A two-term elected D.A. with over 40 years of experience in a county of over 2.5 million people who presided over seven (7) death penalty cases as a judge shared that, **“Right and wrong decisions in cases like this, that meet the prongs for death penalty consideration should be decided by jurors...the people that live in that community should be allowed to decide his fate.”** The D.A./judge also said, **“An elected District Attorney should not deny the jury the opportunity to make a decision for fear they might get it wrong; that thought process in and of itself is just as wrong!”**

One former prosecutor with over 40-years of private defense attorney experience including defense of nationally prominent high-profile clients, also supported our position, stating, **“The law recognizes certain protections for police officers, specifically when they are in the performance of their duties. That is precisely why the penalty is higher when the victim is a police officer, and death is pursued.”**

Another major city homicide prosecutor with over 40 years of prosecutorial experience including numerous death penalty cases posed questions for Mr. Krasner and the Committee, asking, “If you don't intend to pursue the death penalty, is the District Attorney's Office going to offer/ or is defendant going to plead to life w/o parole? Are you considering a plea of anything less than a 3rd degree? And finally, based upon his (Krasner's) national reputation, strongly encouraged us to ask, “Have you discussed any plea bargains with the defense?”

PRIVILEGE OR JUSTICE

Our son's murderer was raised with privileges and advantages that most Philadelphians living in areas that he chose to target will never enjoy. He did not have to live with the challenges faced by victims that he targets or even remotely identify with Philadelphia struggles. We worked to provide more for Chris, from living in apartments, to our first home on 17th & Allegheny, to Pine Rd. In the NE. Unlike this sociopath, Chris didn't have the luxury of calling his mother to come pick him up after a homicide to return him to suburbia. Lord knows that our grandchildren will never have the ability to call their father for anything.

Allow us to inform you about a few things from our perspective that you may not know about Chris. He was raised by a strict and proud working family consisting of parents who dedicated their entire professional lives in the service of our public. Chris was taught by us from a very early age and understood explicitly that anything he wanted to achieve in life could be acquired, but it would take hard work and determination. He watched as I worked on a master's degree and doctorate, and as his mother worked relentlessly wherever police chief jobs took me across the country and back. She never stopped providing all she could to ensure we raised a good citizen.

He had tremendous work ethic and resolve, working from the age of 14 years old, and ironically, he was murdered while working doing exactly what he wanted to do. As we saw in the videos, he was savagely killed in the performance of his official duties, but the irony in his life and death was that he was the biggest supporter of fallen officers that we know and attended Police Week in Washington, DC several times; his first visit was in honor of fallen Philadelphia Police Sergeant Robert Wilson. I lost Ft. Worth, Texas Police Department Cpl. Garret Hull in the line of duty in 2018, he was there with his own family, in 2019. Unfortunately, we (my family) will attend again, this time honoring Christopher later in this month. His goal was to become a police officer, but on his own merit, and definitely not in our shadows. He was affected by the same sense of loss we felt when our friends were murdered in the line of duty. By my count, 24 officers over my 17 ½ years with the Philadelphia Police Department died in the line of duty, eight of whom were friends who visited our home when he was a child.

Chris was a man who worked hard to obtain that goal even when faced with adversity, even pursuing the career when he didn't always have the best experiences with police officers. As a teenager he rode a rusted BMX bicycle that we purchased new that he neglected, leaving it outside in poor weather conditions. He rode that bike to and from our home to his job at a veterinary hospital/kennel in Huntingdon Valley two times a day on workdays. He would feed the animals, let them relieve themselves, get bitten on numerous occasions, and then clean up. In between feedings he would ride his bike back home until it was time for the second feeding. The route to work for him was two miles each way with lots of uphill roads, and he wasn't paid for his time worked in between feedings. Many times, too many times to be a coincidence, during those rides to and from work he was stopped by the Abington Police Department, and was questioned on where he was going and what he was doing? They would routinely check the same rusted bicycle to see if it was stolen. As a police family this interaction was upsetting because the officers who did this chose a kid going to and from work on a bike that he failed to take care of alleging that it might be stolen. That could dampen or pervert any kid's opinion on police, but our son was never deterred. In fact, he continued to work in a veterinary hospital when we moved him to Texas in his senior year of high school; he initially wanted to attend Texas A&M University to become a veterinarian, but instead went to Stephen F. Austin University and later decided to work at Sugar Land PD as a 19 year old jailer, but he would go on to parlay his jailer and correctional officer jobs to become a damn good police officer.

He was so good to people that even in death he is continuously being honored. The students he served at Temple University recently sponsored a 5k run that they organized (not school administrators) just this past Saturday. Even his grade school instructors from Greenberg Elementary School, a place he attended almost 20 years ago, collected donations on his behalf because of who he was and what he meant to their staff. His Philadelphia high school, Franklin Towne Charter did the same; but what could be more powerful than the shock and visceral reactions that you observed on the video of his death at the Temple University Trauma Center. The amount of grief and shock they felt was palpable. These were hospital staff members who unfortunately see death far too often but experience paralyzing levels of horror. Each example demonstrates why this crime is different, and the punishment should potentially be the most severe. These are testaments to the lasting positive impression a person like Chris can make in what amounts to a relatively short life, and the loss that can not be ignored when created by someone with an indifference for human life.

The aggravators in this case are overwhelming, and work to the converse of the defendant when assessing mitigators. He murdered a police officer, committed concurrent felonies, and did so with such malice, only a fellow sociopath would not be shocked by his behavior. This murderer's decision making and his history demonstrates how a person with economic advantage can wreak havoc on innocent lives. This defendant had every *leg up* and opportunity over those raised in the inner city; he was reared in an ultra safe environment that very few from our city are ever privileged enough to enjoy. Be he made the very real and concerted decision to leave the comforts of Bucks County and chose to prey upon people in our city. When you consider the potential mitigators in this case, please remember these facts:

1. He admitted to killing Chris.
2. He admitted to destroying evidence.
3. Although this murderer lacks a history of prior convictions; how many convicted criminals in this commonwealth hurt people in the commission of felonious acts but do not take the significant step to kill their victims much less a police officer in full uniform? Those same felons certainly do not execute police officers, rob them, and kill them with 6-headshots. Does anyone who engages in that type of escalating heinous behavior deserve a chance to do it again, ever?
4. By his own admission with defense attorney's present, he stated to a judge as he waived his preliminary hearing almost one year after his crime that he was not mentally ill, nor was he treated for mental illness.
5. He does not lack the capacity to understand the criminality of his conduct. In fact, he has a grandiose view of himself as a result of his privileged lifestyle. Who can call their mother to pick them up after committing cold blooded murder with smoking gun in hand, and return to the suburbs to admittedly destroy the evidence? Lest we explore the *privilege* that led to one or both parents also escaping being charged with crimes. Why was his mother not arrested?
6. He was an adult, period. So, there is no room to argue age related excuses for the criminality of persons like this defendant who kill someone who they do not know, for no reason whatsoever, in graphic manner that he chose. This defendant cannot be characterized close to adulthood, he is and was an adult when he killed Chris (a uniformed police officer). The legal definition of adult isn't qualified by, "... (u) nless you commit a horrific murder and could face the death penalty, then we will consider whether the defendant was *enough of an adult* to level death penalty consideration."
7. Neither threat or duress were present, nor does he act in concert with another when he commits his numerous criminal acts. He alone chose to commit capital murder, and to assassinate our son, a uniformed officer via a series of felonious assaults, including robbery.

We raised our black and brown children to be productive members of society, to serve their communities with all of their hearts, and to live among those they serve. Our youngest son, Chris' brother Joel, Jr. or "LJ", became a 19-year-old adult on May 1, and is a mere four months younger than this defendant. He will be completing his 2nd year at Louisiana State University (LSU) next month as a pre-med/neuroscience major after undergoing two emergency brain surgeries within 11 days in 2019. Their sister Dalaney is a 25-year-old adult learner who is completing her master's degree in education. Neither were raised with any advantages remotely close to the level this defendant continues to enjoy. If the term *privilege* makes you uncomfortable, please help us to understand what word better describes why you would allow this murderer and his defense team a year of grace to prepare for the preliminary hearing? What descriptor can be used when you double-down on the already

tortuous amount of decision-making time an experience litigator like yourself needs by an additional 90-days to decide in now what amounts to 1.25 years, whether the jury can consider the death penalty, if not for *privilege*?

AVAILABLE REMEDIES

You have the power to correct this criminal injustice, by allowing the jury to consider the death penalty. We could ask you to answer a question posed by Chris' children in a letter they co-authored to you, Larry. In summary, our grandchildren ask you directly, if their father's life even mattered, and if not, why not? Despite some of the pressure that we are receiving from the national new media to publish their letter, we have refused to do so because we still believe in the criminal justice system and will await your answer. Our hope is that you share our faith in the system and will uphold the laws of the U.S. and the commonwealth, and in this particularly heinous case, you commit to pursuing justice to the fullest extent possible as allowed by the same laws that you swore to uphold. It is 2024, and (on April 24, 2024) we were in your conference room, presenting to a committee that has not ever been used to make this determination in any case outside of Chris' under your tenure, and our goal is to obtain justice. You probably think of this as a nightmare scenario, but we ask that you imagine what type of personal hell that it's been for our family since February 18, 2023.

CLOSING

Our final collective message to you and the Committee should be absolutely clear, the Fitzgerald Family does not argue the legitimacy of your's or any district attorney's fight to prevent and or reverse false convictions, nor do we ignore the harsh reality that there has been disparate application of punishments in the U.S., even for law enforcement victims who rely on you in death to obtain justice like Chris. Historically these inequities have disproportionately affected the less privileged demographics who we represent. Neither is our fight to countermand the progress being made in the criminal justice system to prevent these mistakes from reoccurring. As a chief of police for 14 of my 32 years in policing, married to a Homicide Investigator with over 25 years of experience who specializes in capital offenses, we have both personally demonstrated integrity while standing up for those who could not do it themselves. **As a family, we stand in absolute solidarity with those who want the criminal justice system to work properly, however make no mistake, we believe like most proponents for changing the system believe, that when a crime of extraordinary violence is committed, commensurate punishment is necessary; if not, there would be anarchy.**

A nationally recognized civil rights leader/activist shared with us, "To be clear, people aren't calling for the abolishment of the death penalty because of cases like this." That statement is further bolstered by the aforementioned group of legal experts who weighed in on this case. We agree with their assessments and challenge you to invest any faith that you lost over the years back into the criminal justice system. Perhaps you should also allow others who unilaterally oppose capital punishment to review all tenets of this callous, cold-blooded murder, and glean their revised opinions thereafter. Simply put, this case meets the prerequisites for death penalty consideration, shocked our city to its very core, and may also, in the eyes of members from every voting base in the city, become a referendum on the artificial limits that progressive D.A.'s place upon crimes and their associated punishments. Show us the next person who is falsely accused of a crime or the recipient of bad police work, and we would be the first native Philadelphians to support them and to castigate those responsible for bad behavior. Again, this case is different because of its depravity, lack of empathy, and any other adjectives that could describe what you reviewed on video relating to this case; the videos evidence and admissions alone tell the story.

This is the case you can reflect upon that will define your legacy; not as a progressive who abjectly rejects the notion of the death penalty, but simply as human being who has the innate duty and power to course correct on this issue. Seize this as your opportunity to display empathy, and to send a message that a small minority of violent murderers like this defendant will at minimum have to consider the "risk of death" as a potential outcome for actions they willingly committed as adults. In doing so in this case, you will spare Marissa and our

grandchildren the continuous pain created by this monster; a level of pain that can only be addressed only by you making the death penalty available for the jury's consideration.

More importantly, our grandchildren should never have to question whether their father's life had meaning? We continuously reinforce to them that they can and should inherently trust in our criminal justice system. We also remind them that policing is an honorable and noble profession; some officers make mistakes, as clearly so do a small number of litigators. Despite the potential harm you think that you may expose a murderer to, can you help us to explain to his 8, 10, 12, and 14 year old children why they should extend the same level of trust to you, our sitting Chief Law Enforcement Officer in the City/County of Philadelphia, or to a committee whom you rely so heavily upon for this decision that currently employed members of the District Attorney's Office claim have never met under your tenure?

In response to Chris' murder, before anyone knew who the murderer was, or where he came from, someone said in the media:

"This is a city that is shook, this is a city, that right now is suffering, ...and it's suffering because a really good person is gone."

That someone was you, Larry Krasner!

If you have not already thought this, as odd as it may sound, and as uncomfortable as it may be in your eyes coming from police officers, we will say this it again for the utmost clarity. We come from many generations of deeply rooted families in this city. Our diverse family members who are White, Black, Hispanic, politically connected, and/or just flat out determined, will help us obtain justice for our child. This case is your defining moment, or it will be your Waterloo. It's not just the generations of our Fitzgerald Family watching; **we can and will remind Philadelphia that good people, as you put it, have value; while those who commit abjectly evil acts may expose themselves to and pay the ultimate price. So, in many ways, yes...we agree with your quote, this affected our city differently and we are all *shook*. Chris wasn't just a cop, and he certainly wasn't a bad cop; he treated people with dignity and respect, was universally loved, and came from a respected family of public servants who instilled integrity into the care with which he performed his duties as officer, parent, and human!**

We are also devout and blended Catholic and Christian family who only seek justice, not vengeance. Our son and her (Marissa's) husband is gone, and we understand that nothing will ever bring him back. Despite our inability to ever change that fact, we can ensure that you hold the person responsible for his murder accountable and decrease the likelihood that he will ever pose a similar deadly risk to anyone at anytime in the future. We made a promise to you a year ago and reinforce the same promise today, in a similarly steadfast manner. We will not rest until you relent from your myopic stance against even pursuing the death penalty, because this case was different. We inferred then that the nation would serve as our system of checks and balances on this office, and rest assured, we now promise they are watching intently.

Sincerely,

Dr. Joel & Mrs. Pauline Fitzgerald

Please see the following link for some additional perspective on our son's murderer:

<https://heavy.com/news/miles-pfeffer/>