

IN THE EXECUTIVE COMMITTEE OF THE ASHTABULA COUNTY REPUBLICAN PARTY

May 4, 2023
Ashtabula, Ohio

**RESOLUTION DEMANDING THE IMMEDIATE RESIGNATION OF COLLEEN MARY
O'TOOLE FROM THE OFFICE OF ASHTABULA COUNTY PROSECUTOR**

On the captioned date, at a duly noticed and constituted Executive Committee of the Republican Party of Ashtabula County, exhibited and moved by Todd Fenlason of Geneva on the Lake seconded by Nick Wayman of Sheffield, and adopted by the Executive Committee, to wit:

WHEREAS, Colleen Mary O'Toole (O'Toole) is the Ashtabula County Prosecutor of Republican Party registration, purporting to be an elector of Ashtabula County;

WHEREAS, O'Toole has engaged in conduct harmful to the party and its members and to the general public of Ashtabula County;

WHEREAS, O'Toole has lost the confidence of law enforcement, crime victims, public officials and the citizens of Ashtabula County;

WHEREAS, O'Toole has demonstrated a concerning pattern of administrative and legal incompetence that have imperiled prosecutions and the operations of county and township governments;

WHEREAS, O'Toole has broken and shattered relationships with law enforcement, county officials, township officials, judges, victims of crime and the public, despite the criticality of these relationships to a functioning, effective, and decent government;

WHEREAS, O'Toole is leftist and an advocate of "restorative justice," a concept that she has attempted to bring to Ashtabula County, but has its roots in critical theory and Neo-Marxism, in the traditions of Soros, Gascon, Gardner, Boudin and Krasner, and with no legitimate place in the criminal justice system that serves our community;

WHEREAS, O'Toole, as discussed herein, does not even reside in Ashtabula County, so as to live in and dwell with the disastrous consequences of her conduct;

WHEREAS, O'Toole has made Ashtabula County less safe, less secure, and less unified;

WHEREAS, O'Toole must immediately depart from office.

IN SUPPORT of this motion and resolution, the Executive Committee has investigated the issues herein, has interviewed numerous witnesses and other officeholders of both political

parties, has interviewed law enforcement sources, has examined numerous documents and proceedings in the courts, and makes the following findings and determinations.

The Exhibits to this resolution will be found at: <https://ashtabulagop.com/co1/> as some are digital and generally too large to reproduce.

A. O'Toole has demonstrated reckless indifference if not contempt for crime victims.

The Ashtabula County Republican Party believes that crime victims are entitled to compassion, concern, access to supportive resources, and vindication of their safety, privacy, dignity and personhood.

1. We have received numerous and credible reports from the local judiciary and from law enforcement across Ashtabula County of repeated violations on the part of the prosecutor's office of "Marsy's Law."¹

Marsy's Law is a constitutional² right in Ohio, and states in part that a crime victim is entitled:

- (1) to be treated with fairness and respect for the victim's safety, dignity and privacy;
- (2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;
- (3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;
- (4) to reasonable protection from the accused or any person acting on behalf of the accused;
- (5) upon request, to reasonable notice of any release or escape of the accused;
- (6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;
- (7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;
- (8) to proceedings free from unreasonable delay and a prompt conclusion of the case;
- (9) upon request, to confer with the attorney for the government; and
- (10) to be informed, in writing, of all rights enumerated in this section.

Crime victims in Ashtabula County have not been afforded their rights under Ohio law. Routinely, victims are not consulted as to plea bargains and the disposition of their perpetrator's cases. O'Toole and the prosecutors working for her have, in many instances, disregarded Marsy's Law.

Victims call the courthouse complex to complain they were never consulted on plea deals.

We have worked to compile and continue to compile a list of some of these victims. Their stories and the violations of Marsy's Law are alarming and distressing. We exercise discretion in choosing not to identify them and to respect their privacy.

¹ https://www.marsyslawforoh.com/about_marsys_law

² Article I, Section 10(a), *Ohio Constitution*

We detail only a few instances of the mistreatment of victims in Ashtabula County at the hands of O'Toole. They are deeply troubling.

2. On October 27, 2017, Joshua Gurto was arrested in Pennsylvania in connection to the alleged rape and murder of his girlfriend's 1-year-old daughter earlier that month at an apartment complex in Conneaut. The child was found unresponsive and suffering from cardiac arrest in her bedroom by her mother. Both Gurto and the mother were indicted.³

The cases have a long and tortured history, including numerous continuances, three prosecutorial administrations, and multiple judges. They have been the subject of much controversy and protests in the public square. While our review and examination finds that O'Toole's predecessors overindicted the cases and unduly exacerbated the difficult circumstances, and while the ultimate outcomes of the cases are controversial, our narrow focus is on O'Toole's conduct toward the victims and the family in the case.

Judge Sezon conducted a hearing on a proposed plea arrangement on October 14, 2021 and entered a judgment entry on October 19, 2021 (Exhibit 7). As noted by the judge, the plea bargains "provided for a significant and drastic reduction of the penalties and charges." Judge Sezon further stated:

Given the drastic nature of the reduction, the Court indicated that it would like to hear from the Victims and Investigating Officers, a typical process used by this and other Courts, necessary to evaluate the appropriateness of a plea agreement. The Court informed the parties as follows: "Parties should be fully prepared to disclose information to the Court necessary for its consideration of the Proposed Plea Agreements, as required by law, including but not limited to any statements from the Victims under Marsy's Law."

The judge went on to note the application of Marsy's Law, and how victims are almost always heard by the court in these circumstances. O'Toole represented that the victims were amenable to the pleas, but contrary to Marsy's Law, **objected to the victims being heard in court:**

³ 2017 CR 555, 2020 CR 640.

During the string of objections made by the Prosecutor, occurring before the Court even asked one Victim a single question, the Court attempted to convey that it merely wanted to give those Victims who wanted an opportunity to address the Court with respect to the plea agreement the ability to do so. The Court attempted to make it clear, and consistent with prior plea agreements conducted by this Judge and other Courts, that it was merely attempting to discern if the proposed plea agreement was acceptable to the Victims and that they had input into the process. The Court made it clear that the Victims were free to address the Court or not address the Court. Information regarding the Victims' agreement with the proposed plea resolution would certainly help any Court evaluate a plea agreement and ensure a Victim's constitutionally protected right to provide input into said plea. When the Court asked Defense Counsel if they joined in the State's objection, the Court was informed that the Defense would have to "think" about it, before later joining the State's objections.

Consequently, Judge Sezon rejected the plea bargains:

If it is not apparent by now, the Court is rejecting the proposed Global Plea Agreements as offered by the State and accepted by the Defense, based on the facts and circumstances provided at the hearing, and as addressed throughout this judgment entry. Aside from these being cases where, on their faces, the significant reduction of the charges and penalties is of concern, there is a serious disconnect between what the State has said about the understanding of Victims and Investigating Officers to this Global Resolution and what those persons stated on

In apparent retaliation, O'Toole sought to have Sezon removed from the cases.

The pleas were eventually resolved by an outside judge, but an appeal is still pending.

3. In 1997, Ashtabula Police Officer William Glover was executed by Odraye Jones. Mr. Jones was subsequently convicted and sentenced to death. Officer Glover left a wife, Marianne Glover, who would later remarry and become known as Marianne Waldman.

In late 2022, the United States Sixth Circuit Court of Appeals reversed the death sentence and remanded the case to the Ashtabula County Common Pleas Court with a mandate that Mr. Jones be resentenced. Thereafter, Judge Schroeder convened several hearings to effectuate the resentencing process according to law, and to accord Mr. Jones due process of law in the

resentencing. Marianne Waldman would travel from Ontario and attend these emotionally difficult hearings with the support of her new husband.

Despite the gravity of the case and proceedings, O'Toole decided to be in Florida rather than attend the hearings. When she finally returned from Florida she attended a hearing on February 27, 2023 wherein she quarreled with Judge Schroeder over her lack of preparation and her apparent lack of candor with the Court.

At the conclusion of this hearing, O'Toole sparred with Marianne Waldman and attempted to separate her from the other members of the Ashtabula Police Department who were attending the hearing to support Marianne Waldman. O'Toole then sparred with the police officers.

Judge Schroeder would convene the next hearing on March 31, 2023. O'Toole would be at that hearing, but this time accompanied by assistant prosecutor Fortunato⁴. This assistant prosecutor had no previous involvement in the case, but a fair reading of the transcript reveals that O'Toole strategically placed Fortunato in the courtroom to overhear the conversations of Marianne Waldman and her husband. O'Toole would again argue with the judge over fundamental procedural matters and her lack of preparation. While what happened at that hearing should be a concern for all Ashtabula County citizens, what happened afterward is appalling.

The transcript, which the reader is encouraged to review (Exhibits 1 and 2) speaks for itself, the relevant portions of which are excerpted here:

LOUIS WALDMAN: My name is

Lou, Louis Waldman, W-a-l-d-m-a-n. I am the
husband of Marianne Waldman, and she is the
widow of Officer William Glover, Jr. I

⁴ As discussed *infra*, Fortunato would be involved in other seriously unprofessional incidents without remorse from O'Toole or her office.

accompanied her this date to this court as moral support.

At the conclusion of the court hearing today, I was talking solely to my wife, and I made some comments on how I perceived Ms. O'Toole to be as counsel. The gentleman was seated at the back pew pretty much in front of my wife and I, and he continually was looking back every now and then at me and my wife and the people seated in the first pew. And I found it a little bit unnerving that he was doing so.

And he turned around, and after I made the statement, he asked one of the victim services females, "What's his name?" And I turned around to him and I said, "Why don't you ask me to my face?" And he said, "What's your name?" in a very curt manner. And I went, "My name is Lou Waldman. I'm the husband of Marianne Waldman", and I explained "the widow of Officer William Glover, Jr."

And I asked him what his name was, and he made some comment. I -- it happened so quick, I don't actually recall.

And I made the comment to him the

same as I said to my wife, because I'm sure he overheard it is why he looked over, and I dropped an F-bomb, the word "fuck". Pardon my language, the Court.

And, ah, he said, "Get out" or "leave", something very angrily at me, "I'm an officer of the Court and you'll leave this court now."

I saluted him and said, "Aye-Aye, Captain", and walked out.

That concludes my narrative.

THE COURT: Do you know who this individual, what his name is?

LOUIS WALDMAN: I -- I do now. Christopher, something with a surname, starts with an F, I believe. It's something that sounds Italian. I'm not sure. Feruga, For -- I'm not sure. But he's -- I found that he was an assistant prosecutor or something like that.

LOUIS WALDMAN: The sentence I used originally that caused everything and at the very end I dropped the inappropriate word was that Ms. O'Toole is a maniacal incompetent narcissist, and the fact that she would vacate a capital murder -- I'm sorry, I'm Canadian, so I don't know the exact term -- you would vacate a death penalty, you're so willing to do it, I just found that -- that was my statement to my wife.

And then in what can only be characterized as a reckless disregard of Marsy's Law, O'Toole made the following statement:

MS. O'TOOLE: Ah, yes,
Your Honor; however, with, ah, one -- I don't think he was a victim, for the record. Um,

O'Toole then threatened to withdraw their victim's advocate.

But that being -- that being said, also based on this, we will be withdrawing and assigning him -- just based on the complaint, we will be withdrawing and assigning him to a different victim's advocate, these folks to a different victim's advocate, outside of our office for this -- right? If it's this -- then -- then if they're this disgruntled, then we should -- we'll -- we'll assign them to Home Safe or someone else.

THE COURT: Well, we'll ask her that.

Mrs. Waldman proceeded to testify:

MARIANNE WALDMAN: Thank you,
Your Honor.
I was -- we were getting ready to

leave the courtroom, and my husband did lean over and whisper to me, slightly elevated from a normal whisper but it was not loud enough, you know, like I'm talking to somebody across the room, and he did tell me exactly what he just told you he said, about her being maniacal, self-serving, et cetera, et cetera.

And the gentleman leaned over -- and this is the same gentleman who several times throughout the hearing today kept looking back at me. Um, one of the officers sitting next to me, my husband, anybody who ever moved or said even a whisper, he was looking back at us and giving us looks.

She would go on to testify that O'Toole and Fortunato engaged in rank **intimidation** of a victim:

And, personally, I take this as intimidation because of what happened at the last hearing when we were here, and I had a discussion with Ms. O'Toole after the hearing and it did not go very well.

...

Mrs. Waldman concluded:

In reference to what Ms. O'Toole just said, we have had nothing but excellent service from the victim witness advocates in this case. There is no reason for us to go to anywhere else, and I would prefer it not because when you're in a -- this position, you establish a rapport with these people . And they have been there for me 24/7. If I need anything, they're there for us. This is an -- a horrendous thing for us to have to go through, so support where you can get it is vital.

And just because these two people are supporting myself and my family and were also witness to this incident, Ms. O'Toole now wants to remove them? I think that's highly improper.

We are sickened, angered, and repulsed by the intimidation and retaliation against the Waldmans.⁵ O'Toole and her minion should be deeply ashamed, but we suspect their hubris prevents shame. No crime victim should be exposed to the aggressive incompetence of the Ashtabula County Prosecutor's office.

We are disgusted by O'Toole's treatment of our local law enforcement and her lack of sympathy, support and concern for the APD in the Odraye Jones trial.

4. In November 2022, Ashtabula County Commissioner Kathryn Whittington⁶ sought a protection order against a stalker engaging in constant texting and calling since November 2020. This conduct continued until this person was arrested in December 2022. This person was well known to law enforcement with a history of arrests and troubled conduct.

Commissioner Whittington sensibly sought protection from the sheriff's office, because of an incident on December 8 where the stalker was charged with criminal mischief and attempt to commit an offense for being in the county employee parking lot at Commissioner Whittington's vehicle that was parked in a commissioner assigned parking spot.

The prosecutor delayed seeking charges, but the stalker was charged with criminal mischief and attempt to commit an offense. At a hearing in Eastern County Court concerning the potential incarceration of the stalker and a protective order, the prosecutor, despite the troubling history of the stalker, refused to seek the incarceration of the stalker. O'Toole would later be heard to have said that the stalker should not be in jail.

Whittington would later learn that the prosecutor had filed to dismiss the case. Whittington never received notifications from O'Toole's office regarding the court dates and never heard from the Victims of Crime office overseen by the prosecutor.

At the sentencing hearing, an assistant prosecutor reporting directly to O'Toole misrepresented to Judge Specht that Mrs. Whittington did not want the stalker jailed. This was a lie. The prosecutor's office misrepresented Mrs. Whittington. O'Toole never took responsibility for this lie and never apologized for the conduct of her office.

We find the conduct of O'Toole and her office toward a female public official and her family at risk for their safety to be unsupportive, dishonest and disgraceful.

⁵ To be clear, Fortunato, as a claimed "officer of the court" has no authority to remove anyone from a courtroom, let alone a person subject to the protection of Marsy's Law. O'Toole laughably informed the Court that she would investigate Fortunato's conduct that day. We are still waiting.

⁶ As discussed *infra*, Commissioner Whittington is, by law, a client of the Ashtabula County Prosecutor.

B. O'Toole and her office have a fractured relationship with the various law enforcement entities in Ashtabula County. O'Toole not only hates crime victims, but also hates the police. Criminal cases are mishandled. She is deeply distrusted by law enforcement. Both the community and law enforcement are at risk; the situation is untenable.

The Ashtabula County Republican Party fully and vigorously supports law enforcement and its mission to promote a stable, safe and just society. We believe that a prosecutor must likewise fully and vigorously support law enforcement and these goals. The great men and women on the thin blue line are undeserving of O'Toole's abuse.

1. **"Police officers are the real criminals in Ashtabula County."** - Colleen Mary O'Toole, June 30, 2021, at noon in the Prosecutor's CV conference room and on Zoom conference with Brave Choices.

2. Spoke of the Drug Task Force Team as **Extortionists** for performing undercover work.- Colleen Mary O'Toole, June 30, 2021, at noon in the Prosecutor's CV conference room and on Zoom conference with Brave Choices.⁷

3. Numerous police and law enforcement agencies have reported to us their lack of confidence in O'Toole. For many reasons beyond the scope of this resolution, beyond her obvious calumnies against the police, they have no working relationship with her or her office. O'Toole and her office lose evidence, fail to adequately advise officers when their testimony might be needed, and routinely fail to prepare officer testimony for hearings and trials.

4. Examples of mishandled and botched criminal cases abound, to the consternation and horror of law enforcement. One in particular is *State v. Campbell*, 2019 CR 739. This case was another circus conducted by O'Toole's assistant Fortunato. In the *Campbell* case, the defendant was indicted on numerous felonies, including three counts of involuntary manslaughter, corrupting another with drugs, two counts of trafficking in fentanyl related compounds, aggravated trafficking in drugs, possession of heroin, aggravated possession of drugs, possessing criminal tools, and two counts of trafficking in heroin.

This case proceeded to jury trial on February 17, 2022. At trial, the evidence lawfully seized by law enforcement was not offered into evidence, the BCI report was not offered into evidence, and there was otherwise no authenticating or corroborating evidence as to the illegal substance.

The outcome of the trial was a disgrace and an insult to law enforcement. The defendant, except for the possession of a scale, was found not guilty.

5. In another case involving another luminary of O'Toole's, Matthew Ameer, (more on a Ameer below) the prosecutors lost a critical audio recording of a defendant's confession to a crime.

⁷ This information has been provided to us by law enforcement officers. We decline to identify them at this time.

State v. Hare 2020 CR 390. The prosecutor's office attempted to shift the blame to the Ashtabula Police Department.

6. O'Toole has destroyed the relationship with the county sheriff. The prosecutor - sheriff relationship is the most important law enforcement relationship in Ashtabula County.

In early 2023, an intemperate Colleen O'Toole appeared outside of Sheriff Niemi's office and loudly proclaimed that the sheriff was fraudulent and corrupt within earshot of staff and visitors.

She never apologized to Sheriff Niemi nor explained her calumny that accompanied her unprofessional, intemperate, and impudent behavior.

We find O'Toole's treatment of law enforcement in these divisive and challenging times to be a complete embarrassment and a disgrace.

C. O'Toole has picked unnecessary fights with numerous public officials and with the judges. She has created conflicts with her own clients and she has sought legal advice against her own clients. Her relationships are universally poor, impairing the business of the public. These impaired relationships have cost and will continue to cost the taxpayers dearly.

The Ashtabula County Republican Party expects all elected officials to work collaboratively and cooperatively for the greater good of our county. We abhor conflicts between government officials that are fought at taxpayer expense. We expect a prosecutor to be a leader and to build bridges and relationships between elected officials for the common good.

1. O'Toole interferes with the business of public officeholders. Ohio law clearly restricts her to giving legal advice upon request.⁸ However, she routinely steps out of the scope of her job and inserts herself into policy matters. Not only is such conduct outside of the scope of her duties, but she has created bad blood with county officials.

Policy matters affecting our community are none of O'Toole's business. Besides, as discussed herein, she does not even live here.

2. O'Toole refuses to heed the instructions of other county officials and rejects reasonable attempts at collaboration. She instead seeks disputes, rather than building relationships.

One troubling dispute involved O'Toole's use of Furtherance of Justice Funds **for the renovation of bathrooms** in the prosecutor's office. O'Toole repeatedly asked the county commissioners for renovations to the bathrooms in the Civil Building over a period of months. The commissioners and County Administrator Janet Discher rejected her request as not necessary, promising a review and discussion about the topic during a capital planning meeting later in 2023.

⁸ R.C. 309.09(A).

Subsequently, the commissioners learned from the maintenance staff that work was being performed by contractors in the building housing the prosecutor, and that they were removing toilets and making modifications to bathrooms on both the second floor and lower level, at the behest of O'Toole. This was a clear violation of county policy for two reasons: first, she was not given permission (as the commissioners are responsible for the buildings), and second, this was union work and a project that would likely be handled by the county's internal staff.

Once the commissioners learned of the outside work crew, they issued a stop work order that was hand delivered by the county administrator to the prosecutor's staff and then delivered to the contractors directly for a second time. Commissioner Kozlowski subsequently received a text sometime later from O'Toole demanding to place Janet Discher on administrative leave because of her conduct/interaction with her and her staff and that the county administrator "violated multiple state statutes." Clearly implicit in this statement was the threat of criminal prosecution. Kozlowski refused to reply, as a lawyer's threat of criminal prosecution to obtain an advantage in a civil dispute is unethical.⁹

That following weekend Kozlowski learned that the O'Toole brought in the contractors again to finish the work, contrary to the commissioner's directive that no work was to be performed as the commissioners did not give authorization. When Kozlowski approached her about bringing the contractors back on over the weekend, she lied and misrepresented that in fact no work was completed.

The reader can watch the **surveillance video** from that quiet Sunday morning, and observe O'Toole **letting in the contractors into the building** to complete the work on a Sunday. (Exhibit 3 [video]) This type of aggressive and dishonest behavior from a county prosecutor is repulsive.

Lying to her clients was not enough. Subsequently, the commissioners became aware - through outside sources - that O'Toole sought legal advice from the Ohio Attorney General AGAINST her clients, the county commissioners, over her bathroom caper.

A few weeks later, the Attorney General issued an opinion (Exhibit 4) completely refuting O'Toole's position and her contempt for the county commissioners, with the Attorney General stating that that it is in fact the commissioners who are exclusively responsible for the buildings and the prosecutor's physical office, and that the commissioners and the county administrator did have the ability to enter the buildings as it relates to maintaining them. O'Toole's attempt to exclude them from their own building, and play by her own set of contemptuous rules, was forcefully rejected by the Attorney General.

The refusal to reasonably cooperate with the county commissioners, threats to criminally prosecute to obtain an advantage in a civil matter, lying to the commissioners, and seeking legal

⁹ "...a lawyer shall not present, participate in presenting, or threaten to present criminal charges or professional misconduct allegations solely to obtain an advantage in a civil matter." Rule 1.2(e), *Ohio R. Prof. Conduct*.

opinions against the commissioners without informing them, and being completely refuted in the effort, is disqualifying from office, and is the antithesis of leadership.

3. O'Toole's fights with public officials extend to the judges of this county. Upon taking office, she immediately went to war with the Ashtabula County judiciary. The issues are numerous and some are too complex to be included within the scope of this resolution. A brief summary of these actions of O'Toole and her staff include:

- a. The failure to comply with local rules and requirements regarding the service of subpoenas, resulting in the dismissal of criminal cases;¹⁰
- b. The refusal to comply with Ashtabula County local rules regarding speedy trial computations, resulting in felony case dismissals or seriously compromised prosecutions.
- c. Making publicly and very generally disparaging statements about court backlogs, when not all of the judges have cases outside of the rules of superintendence.
- d. Making generally disparaging comments about all of the judges, and specifically referring to two judges as "knuckle dragging Neanderthals";
- e. Unilateral withdrawal of the prosecution for participation in specialized court dockets, imperiling governmental grants for those specialized dockets.
- f. Attempting to terminate a court employee without requisite authority;
- g. Unreasonably delaying legal reviews of certain agreements and related matters for the upgrade of the court's IT and electronic dockets, and attempting to insert herself into the process beyond her narrow role of legal review. Her actions have jeopardized the project and an \$850,000.00 grant;
- h. Demanding that a county commissioner cut off funding to the courts;
- i. Interfering with the decision making process to possibly merge the Eastern and Western County Courts.

4. O'Toole's wars with the judges have cost the taxpayers dearly. Because of O'Toole's abject inability to work with the judges on any reasonable basis, many of these matters were referred into mediation. Because of O'Toole's inability to exercise leadership, reconcile differences and comply with rules, the Ashtabula County Commissioners were required to retain legal counsel for the judges at the ongoing expense of **over \$75,000.00**.

¹⁰ e.g., Crim R. 17.

5. Although a side show, but more evidence of the concerning lack of poise and professionalism on the part of O'Toole, is a confrontation between O'Toole and Common Pleas Court Magistrate Edith Jonas on December 29, 2022 in the Ashtabula County Courthouse. While the particular nature or topic of the dispute is neither important nor entirely clear to us, O'Toole's intemperate behavior toward a fellow lawyer, court officer, and public official is important. According to the Jefferson Police Department:

As she approached the conference room door, Prosecutor O'Toole jumped up from her seat and came out of the room. She advised O'Toole immediately started yelling and pointing her finger at her. She stated O'Toole was within 12 inches of her face and continued to yell and make accusations and would not let her speak. Edith stated she could not exactly recall what was said as she was in shock over the matter.

Edith advised that she has never been talked to like that before and felt threatened from the hostility demonstrated by Prosecutor O'Toole. Edith further stated that she has an office next door to O'Toole and is concerned as to what she was going to find when she got to her office. She advised that she contacted the Court Administrator and Administrative judge and advised them of the

*This type of behavior¹¹, requiring the intervention of the police department in a dispute between a prosecutor and a court magistrate is beyond unacceptable. A lawyer is a **professional**, and must always act in a restrained and dignified manner, and particularly in dealings with the judiciary. We find O'Toole's conduct to be disgraceful, and find her not worthy of the public's confidence.*

O'Toole must leave office immediately. While good faith disagreements are necessarily inevitable, a prosecutor must have a good working relationship with the members of the judiciary. Such a relationship is critical to the fair and impartial administration of justice, and to the business of the public. Instead, she has introduced nothing but chaos, severely compromising the best interest of our citizens. Her continuation in office burdens the taxpayers, imperils the legal system, and impairs equal protection, due process, and the rule of law.

D. O'Toole has badly mismanaged the Ashtabula County Prosecutor's Office, hiring troubled lawyers, effectuating an incredible turnover rate, and has failed to serve the statutory clients of the prosecutor.

The office of the county prosecutor is much more than a lawyer or set of lawyers enforcing the criminal law and seeking convictions of wrongdoers. It is in fact a law firm representing numerous officeholders and governmental entities across Ashtabula County. The county commissioners, the sheriff, the judges, the auditor, treasurer, engineer, township trustees, the

¹¹ See footnote 19, *infra*.

many agencies of county government, and numerous others are the CLIENTS of the prosecutor.¹² It is the reasonable expectation of the Ashtabula County Republican Party and of the citizens of this county that the prosecutor retain distinguished lawyers of academic excellence, free from disciplinary complaints, controversy, and unprofessionalism - who actually live here or relocate here - to serve the officials and governmental organizations of our community.

1. A simple examination of Exhibit 5 to this resolution tells a disturbing story. No law firm, business, or other organization would sustain long with a rate of turnover as the Ashtabula County Prosecutor's Office. Quality legal work and client representation in these difficult and litigious times at very minimum requires consistency in quality staffing. Clients and officeholders need to build long and trusting relationships to have faith in and act upon legal advice. The atmosphere of chaos and confusion in the prosecutor's office is evident in Exhibit 5.

Not only does this exhibit show the rapidly revolving door of chaos¹³, but further evidences a startling mismanagement of lawyers. With only one exception, the full-time lawyers in the prosecutor's office are all paid approximately the same amount of money. O'Toole apparently does not care about achievement, years of experience, academic qualifications, commitment to community, or a lawyer's unique emphasis in certain or more significant areas of the law. She ignores the experience of those who were already there.

The inexperienced "newbie" gets paid the same as a veteran. And almost none of the newbies live here, or are required to live here.

2. Prosecutors and public defenders have an obvious and necessary conflict of interest. One represents the state, the other, the accused. Public defenders serve a legitimate and an important role in the criminal justice system, holding the courts and law enforcement to the highest standards and integrity, while providing constitutionally assured representation, due process and equal protection to the accused. Moreover, Ohio courts have long held that one cannot be a prosecuting attorney and also represent criminal defendants in the Ohio courts.

As far as O'Toole is concerned, this obvious and inherent conflict is meaningless and irrelevant. In December 2021, the prosecutor's office actually ran an ad (Exhibit 6) seeking to **hire public defenders** in response to a supposed mandate to engage in "systemically overhauling the criminal justice system in Ashtabula County...."¹⁴ The ad concludes with the banal and puerile statement that "we also have fun."

Some fun.

¹² R.C. 309.09

¹³ On information, there was one lawyer from Cuyahoga County (a losing judicial candidate) that was employed there for one day.

¹⁴ As discussed below, the statements in this hiring advertisement further evidence O'Toole's leftist commitment to restorative justice.

One such criminal defense lawyer hired by O'Toole was a curious character by the name of Kaye Ranke, who resigned from the prosecutor's office in December 2021. Ms. Ranke had **twice**¹⁵ been sanctioned by the Ohio Supreme Court for lawyer misconduct. Despite her troubled history, and despite being a criminal defense lawyer still actively defending criminal cases in Geauga and Cuyahoga Counties, O'Toole hired her anyway.

O'Toole appeared in Judge Harris' courtroom in 2021 attempting to obtain the appointment of Ranke as a special prosecutor in a felony case, despite the fact that Ranke was still actively representing criminal defense clients, and had no felony prosecution experience. In a judgment entry in the case of *State v. Olah*, 2018 CR 759 [10/21/21], Judge Harris noted the conflict and refused O'Toole's request to appoint Ranke:

Prosecutor O'Toole acknowledged that Attorney Carolyn Kaye Ranke is currently engaged in the private practice of law, where she represents individuals who are defendants in criminal cases where the State of Ohio is the Plaintiff. Prosecutor O'Toole acknowledged that Carolyn Kaye Ranke has no experience prosecuting felony jury trials. Prosecutor O'Toole also acknowledged that Carolyn Kaye Ranke was suspended from the practice of law by the Ohio Supreme Court for the period of September 22, 2011 through November 24, 2015.

...

Based upon the facts that the Ashtabula County Prosecutor's Office has apparently the largest staff in its history, the smallest caseload in the last ten years, a staff that has six Assistant Prosecuting Attorneys who have felony jury trial experience and who have no history of having been suspended from the practice of law, this Court finds that the motion of Ashtabula County Prosecutor Colleen Mary O'Toole requesting that Attorney Carolyn Kaye Ranke be appointed a Special Prosecutor in the above-captioned cases is **OVERRULED**.

The intransigence of O'Toole and Ranke would also appear in the well-publicized case of *State vs. Volpi*, 2019 CR 500. Again, Judge Harris would have to call out O'Toole and Ranke for the obvious:

¹⁵ *CMBA v. Ranke*, 127 Ohio St.3d 126, 2010-Ohio-5036; *Disciplinary Counsel v. Ranke*, 130 Ohio St.3d 139, 2011-Ohio-4730. Ranke would have her law license restored in 2015.

The Court brought to the attention of all three attorneys that the undersigned Judge had been advised that Carolyn Kaye Ranke, who has been designated as an Assistant County Prosecutor to try the above-captioned case starting October 12, 2021, may be the counsel of record for a criminal defendant in one or more criminal cases in the Cuyahoga County Ohio Court of Common Pleas, where the State of Ohio is the Plaintiff.

The office of the Ashtabula County Prosecutor Colleen Mary O'Toole has been placed on notice that her Assistant County Prosecutor Carolyn Kaye Ranke may have a conflict of interest in the above-captioned case if she is still listed as a criminal defense counsel of record in the Court of Common Pleas of Cuyahoga County, Ohio.

IT IS SO ORDERED.

However, O'Toole and Ranke were not finished with their whirlwind of conflicts. O'Toole then proceeded to pressure some members of the Ashtabula County Public Defender Commission to appoint Ranke into the position of the statutory public defender of Ashtabula County. Given the troubled history of this individual, and the odd proceedings before Judge Harris, the public defender commission declined.

The reticence of the public defender commission would prove to be prescient. Remarkably, at the same time, Ranke was engaged in conduct in the Cuyahoga County courts in which she was accused of making false statements, refusing to cooperate with investigators, and failing to perform legal services for which she was paid. This conduct resulted in yet **another** disciplinary complaint against Ranke. Case No. 2022-049. Exhibit 8.

We find O'Toole's lack of professional judgment as to Ranke to be astonishing.

3. O'Toole retained another troubled lawyer named Matthew Ameer. Mr. Ameer was twice thrown out of Ashtabula County courtrooms for unprofessional conduct. As discussed above, he was apparently involved in losing a recording of a defendant's confession to a crime.

In May of 2022, Ameer told a witness to change his testimony and used profanities in a trial towards defense counsel in Judge Harris' courtroom. On May 25, 2022 a witness called Victims of Crime to file a complaint against Matt Ameer for his actions during this trial. The witness requested that Mr. Ameer submit to a drug screen due to his irrational behavior in the

courtroom. On information, Ameer was arrested for an OVI in Ohio¹⁶ resulting in probation, and was prosecuted for OVI in Pennsylvania in May 2022.¹⁷

Despite the undisputed fact that the disciplinary rules governing lawyers in Ohio require that a lawyer act in a professional and dignified manner when appearing before a tribunal, and a generally accepted requirement that lawyers act professionally, O'Toole kept this lawyer on staff for many months until he resigned in December 2022.

O'Toole's incredible lack of professional judgment in retaining such an employee speaks for itself.

4. O'Toole hired another lawyer from outside our region, while he was under suspicion for forging a judge's signature.¹⁸ We identify this lawyer as "Assistant Prosecutor 1" or "AP 1." We received information that AP 1 (and possibly other assistant prosecutors) had explicit instructions to "find dirt" on the judges to get them out of office. We were also told of a video staff meeting where the following exchange allegedly took place:

- o Colleen- "AP 1, have you found anything on Judge Specht yet?"
- o AP 1- "Not yet, but I am getting him to let his guard down."
- o Colleen- "We need to get something on him NOW."
- o AP 1- "I am working on it."

Crackpot efforts to harm the judiciary are beyond the pale, and have no place in public service.

5. Another interesting character on the staff of O'Toole is a lawyer by the name of Christopher Fortunato. As we know from this resolution, court transcripts, and media coverage, it was this individual that botched the *Campbell* case and acted in a ghoulish manner toward Marianne Waldman, her husband, and members of the Ashtabula Police Department in the Odraye Jones case. But there is more.

In the matter of *State v. Fiske*, a hearing was conducted On April 22, 2022, involving issues pertaining to the lack of production of evidence by the prosecutor's office. Mr. Fortunato appeared at that hearing in front of Judge Sezon and on the record in open court mocked the Ashtabula County Public Defender, Margaret Brunarski, as the "public pretender".

While Fortunato would later apologize to Judge Sezon for his childish and unprofessional outburst, neither Fortunato nor O'Toole offered an apology to Ms. Brunarski for this appalling lack of courtroom decorum, respect and professional courtesy. The mockery of a lawyer that has little ability to choose clients, that is required to represent unpopular persons, and must

¹⁶ *State v. Ameer* (Medina Muni.) 06TRC06700

¹⁷ *Comm. v. Ameer* (Erie Co. C.P. 2022) CP-25-CR-0001738-2022

¹⁸ We have not been able to verify the allegations or the disposition of the allegations. Other than stating that they exist, we do not comment on them. Regardless, this corroborates the committee's position that O'Toole has a penchant for hiring lawyers from outside our area despite being under suspicion or investigation.

always deal with the prosecutor's office, is intolerable behavior. It speaks volumes about O'Toole and her office's inability to build relationships for the benefit of justice and the public.

We can only conclude that O'Toole either tolerates or is completely comfortable with a lack of professionalism by her lawyers.

But the intimidation of the Waldmans, the Fiske case and the botched fentanyl case were still not enough. More recently, Fortunato appeared again this time on the front page of the *Star Beacon* on April 22, 2023. In a public meeting, it was reported that Fortunato strongly implied that Judge Harris was a misogynist, making the astonishing and uncorroborated allegation that "Judge Harris does not like a strong woman." Clearly, the prosecutor's office under O'Toole now feels free reign to baselessly impugn our local judiciary. At best Fortunato "engaged in undignified and discourteous conduct that is degrading to a tribunal." Rule 3.5(a)(6), *Ohio Rules Prof. Conduct*.¹⁹ Baseless allegations against judges are always unethical and shameful, and especially when committed by lawyers like O'Toole and Fortunato. *Because the prosecutor must always do the public's business before Judge Harris, we are deeply distressed by Fortunato's calumny against Judge Harris, and his other antics and their potential consequences for our citizens.*

We demand a much higher standard, and are entitled to ethical lawyers capable of leadership and professionalism. O'Toole's tolerance- if not promotion- of incivility and unethical conduct is disgraceful.

[REDACTED]

REDACTED AT THE REQUEST OF DAWN CANTALAMESSA

[REDACTED]

¹⁹ Moreover: "A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. Adjudicatory officials, not being wholly free to defend themselves, are entitled to receive the support of the bar against unjustified criticism ... the lawyer should do so with restraint and avoid intemperate statements that tend to lessen public confidence in the legal system." Preamble, *Ohio R. Prof. Conduct*.

²⁰ [REDACTED]

²¹ [REDACTED]

[REDACTED]

REDACTED AT THE REQUEST OF DAWN CANTALAMESSA

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22 [REDACTED]

23 [REDACTED] COPY

26 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

REDACTED AT THE REQUEST OF DAWN CANTALAMESSA

[REDACTED]

7. The office chaos has taken a toll on the representation of various county entities, including the commissioners, township trustees, county agencies, and other vital components of county and township government. Several townships have reported to us that their legal work has not been getting completed by the prosecutor's office, and some of the townships have been forced to incur significant outside legal expense with outside law firms to obtain completion of their legal work or representation.

O'Toole has attempted to blame the lack of representation on the county commissioners, because of a budget cut in 2023. However, the evidence is clear that the situation has been created by the chaos and defections in O'Toole's office. One of her former assistants admitted this in a colloquy that took place in Judge Harris's courtroom in October 2022:

27 [REDACTED]
28 [REDACTED]

[REDACTED]

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O'Toole has attempted to blame the lack of representation on the county commissioners, because of a budget cut in 2023. However, the evidence is clear that the situation has been created by the chaos and defections in O'Toole's office. One of her former assistants admitted this in a colloquy that took place in Judge Harris's courtroom in October 2022:

Judge: When is your **last day** here?

Catherine Colgan: Next Friday. Next Friday, your honor.

Judge: And then we don't know who will be handling this?

Catherine Colgan: No, I do not, I'm sorry.

Judge: Do any of the other people over there show up at the office? Because you're the only one I ever see. There are six lawyers listed in the office in the Civil Division, you're the only one I see. Do any of the other ones come to the office?

Catherine Colgan: Occasionally.

Judge: Who might that be?

Catherine Colgan: Jessica Fross. **To my knowledge, I am the only Assistant- Civil Assistant who's actually doing civil work.**

Board of Health of the Ashtabula County General Health Dist. vs. Kenneth & Sharon Pierce, et al., Case No. 2021 CV 445, 10/12/22. (emphasis added).

8. Before O'Toole's arrival, the prosecutor's office was staffed with quality, decent, committed and hard working lawyers and staff- an operation containing successful criminal and civil lawyers, free of allegations or clouds of suspicion, checkered histories, or disciplinary histories. These respected veterans are mostly gone now, thanks to O'Toole's truculent mismanagement and revolving door of chaos.

Ashtabula County is now paying the catastrophic price for the door of chaos.

F. O'Toole's claimed conviction rate is an aggressive lie. It is in fact very poor, placing Ashtabula County citizens at risk.

1. As has been discussed herein, O'Toole has lost the confidence of Ashtabula County law enforcement.
2. On her website, O'Toole claims a conviction rate of over 97%, which is not explained, and statistically, is impossible. Instead, this committee has consulted with the Common Pleas judges and has determined her actual conviction rate in the Ashtabula County

courts is far below her exaggerated claim. For example, in Judge Harris' courtroom in 2022:

2022 Jury Trials-102 Indicted Counts

8/102 Counts were dismissed by the Court.
(7.8%)

11/102 Counts were dismissed by the
Assistant Prosecutor. (10.8%)

43/102 Counts were NOT GUILTY verdicts
issued by the Juries. (42.2%)

62/102 Counts resulted in dismissals.
(60.2%)

40/102 Counts were Guilty verdicts issued
by Juries. (39.2%)

Of the 83 Counts decided by juries, 40 guilty
verdicts and 43 not guilty verdicts. (48%)

Conviction Rate : 39.2%

Convictions were obtained on only 40 of 102 Indicted Counts.

3. Similarly, we found a paltry conviction rate of **60 percent** in Judge Schroeder's courtroom. (Exhibit 10).

4. O'Toole also withdrew her office from participation in the Mental Health Court, Drug Court, and Veterans Court. This withdrawal from mechanisms that better our community put additional people living on the margins at risk.

The conviction rates and refusal to participate in specialized dockets are a disgrace and should be a matter of alarming and urgent concern to every citizen of this county. The vulnerable of our community deserve much better.

D. O'Toole does not live in Ashtabula County

We find that O'Toole does not live in Ashtabula county.

As the general public is aware from media reports, when O'Toole ran for prosecutor, her residency in the city of Ashtabula was contested. The Ashtabula County Board of Elections overruled the objections to her alleged residency in the city.

Shortly after taking the oath of office, there is significant evidence that she sought residency elsewhere. According to publicly available documents, (Exhibit 11), she made an offer on a condominium in Highland Heights in Cuyahoga County. She purchased the condominium, and continues to own the condominium, where she has been seen to drive to and to reside. (Exhibit 12).

She is rarely seen at the house near the harbor in Ashtabula. In the winter time, no tire tracks have been observed in the snow. She is rumored to spend large amounts of time in Florida³¹, despite being a full time prosecutor. She is rarely seen in our community, and is not invested in our community.

E. We find that O'Toole is a hard leftist. She subscribes to the jurisprudence of "restorative justice," a paradigm that puts victims on an equal footing with their perpetrators and that rejects the punishment of criminals.

³¹ As of this writing, she is yet again in Florida.

1. **“Police officers are the real criminals in Ashtabula County.”** - Colleen Mary O’Toole, June 30, 2021, at noon in the Prosecutor’s CV conference room and on Zoom conference with Brave Choices.

2. Spoke of the Drug Task Force Team as **Extortionists** for performing undercover work.- Colleen Mary O’Toole, June 30, 2021, at noon in the Prosecutor’s CV conference room and on Zoom conference with Brave Choices.³²

3. O’Toole is an adherent to the highly controversial and divisive concept of “restorative justice.” Restorative justice is a Soros backed and funded initiative. When she arrived in Ashtabula County, some of the judges reported to us that she sought their acceptance of restorative justice initiatives. She even recently announced a cryptic initiative to “deflect” people from arrest.

Restorative justice is purportedly a set of principles and practices that create a different approach to dealing with crime and its impacts. It supposedly seeks to repair harm by providing an opportunity for those harmed and those who take responsibility for the harm to communicate about and address their needs in the aftermath of a crime, rather than as “punishment”.³³ Stated differently, the victim and the perpetrator are on equal footing, with the punishment or imprisonment completely off the table. Critical Theory and restorative justice are closely related.³⁴

Restorative justice adherents³⁵ do not believe in arrest, trial and imprisonment. By their own admission, the Soros funded Prison Fellowship International and the Restorative Justice Exchange state:

The three core elements of restorative justice are the interconnected concepts of Encounter, Repair, and Transform. Each element is discrete and essential. Together they represent a journey toward wellbeing and wholeness that victims, offenders, and community members can experience. Encounter leads to repair, and repair leads to transformation.³⁶

This leftist gobbledegook has found its way into Soros funded prosecutorial campaigns across America.³⁷

For example, when San Francisco’s former District Attorney, Chesa Boudin, ran for office in November 2019, he focused his campaign on ending incarceration with restorative justice models, rather than the punitive aspects of criminal law. There are many examples of restorative justice centered prosecutors across this country. We are all well aware of what has happened in

³² See footnote 7 above

³³ <https://law.wisc.edu/fjr/rjp/justice.html>

³⁴ Vandearing, *The Significance of Critical Theory for Restorative Justice in Education* (2010)

³⁵ See, e.g. <https://www.sujathabaliga.com>

³⁶ <https://restorativejustice.org/what-is-restorative-justice/>

³⁷

<https://www.dailysignal.com/2020/10/18/soros-funded-prosecutors-put-social-justice-above-law-and-order-analysts-say/>

our once beautiful American cities, including San Francisco.³⁸ *Ashtabula County does not need to join the ranks of disaster and chaos.*

4. We are aware of many circumstances of generous plea bargains. One very recent example included a child rape case charged as gross sexual imposition pleaded down to attempted endangerment, as reported by the *Star Beacon*.

5. Colleen O'Toole does not support the Right to Life movement. Our brothers and sisters in this movement have fought valiantly for the cause of dignity and life. The *Dobbs* decision was an important generational victory for conservatives, and a precious opportunity to enforce laws that protect life. Except it was very clear that O'Toole had no interest in enforcing life saving laws anytime soon. Her lack of commitment, enthusiasm, and blase tone was evident in an interview with Cleveland media:

"Who wants to prosecute a case and spend all kinds of resources before the law is settled on the case?" the prosecutor asked, rhetorically. "Am I going to spend a whole lot of resources until that issue is settled just to have all those cases reversed?"

Even then, she added that **prosecutors may not make it a priority to enforce.**³⁹

O'Toole is no conservative.

F. Conclusion

The Ashtabula County Republican Party polices its own.

O'Toole has embarrassed, harmed, and disgraced our community, and more particularly, the Republican Party.

We bring this resolution forward fully cognizant of the harm that has been visited upon victims of crime, of the degradation of our justice system, of the shameful debasement of our law enforcement officers, of the unnecessary burdens placed on our valued judges, commissioners, township trustees and all local government officials- completely at the hands of O'Toole, in violation of her oath of office, and at the expense of the people of Ashtabula County.

We call upon our fellow citizens to join us in our demand.

Colleen Mary O'Toole, we instruct you to resign.

IT IS ACCORDINGLY RESOLVED:

³⁸ Even liberal San Francisco ended its experiment with restorative justice and turned Boudin out of office.

³⁹<https://www.news5cleveland.com/news/politics/ohio-politics/cuyahoga-co-prosecutor-says-he-wont-enforce-six-week-abortion-ban-in-cleveland-or-county>

1. That Colleen Mary O'Toole immediately resign from the office of the Prosecuting Attorney of Ashtabula County, unequivocally, without condition, and without delay;
2. That the Ashtabula County Republican Party formally and permanently disassociates itself from Colleen Mary O'Toole, and Chairman Frye is directed to take such action as is necessary to further effectuate her permanent expulsion;
3. That Chairman Frye order the Oversight Committee of the Ashtabula County Republican Party to convene to review and to possibly commence action to remove O'Toole from office, including but not limited to a removal action under R.C. 309.05 and such other relief that may be available in the Ohio and federal courts;
4. That Chairman Frye order the Oversight Committee of the Ashtabula County Republican Party to convene to review and possibly commence action to challenge O'Toole's status as an elector in Ashtabula County, in accordance with law;
5. That this resolution be exhibited by the Ashtabula County Republican Party on its social media and on its website and in such other places deemed necessary by Chairman Frye;
6. That a copy of this resolution be provided to local media outlets;
7. That a copy of this resolution be provided to the Ashtabula County Board of Elections;
8. That a copy of this resolution be provided to the Ohio Attorney General;
9. That a copy of this resolution be provided to the Ashtabula County Bar Association;
10. That Chairman Frye is empowered and directed to take such additional and necessary action as may be reasonable to effectuate this resolution.

UPON EXHIBITION AND MOTION BY Todd Fenlason

SECOND BY: Nick Wagman

ROLL CALL OF THE COMMITTEE Unanimous

Adopted by a vote of the Executive Committee.

IT IS SO RESOLVED

IT IS SO ORDERED

ATTEST:

/s/ Charlie Fry

Charlie Frye

Chairman of the Ashtabula County Republican Party