



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA 17120

KATHLEEN G. KANE
ATTORNEY GENERAL

16TH FLOOR
STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-3301

**APPOINTMENT OF SPECIAL DEPUTY ATTORNEY GENERAL
TO CONDUCT INDEPENDENT INVESTIGATION**

Charge of the Independent Special Deputy Attorney General

1. In order to assure public confidence in the integrity of the prosecutorial and judicial functions in the Commonwealth and in light of potential conflicts of interest, pursuant to Section 201(c) of the Commonwealth Attorneys Act, 71 P.S. §§ 732-201, *et seq.*, and consistent with the expired Independent Counsel Authorization Act, 18 Pa.C.S. §§ 9301, *et seq.*, I hereby appoint Douglas F. Gansler as a Special Deputy Attorney General charged with conducting an independent investigation and prosecution of any crimes under the Pennsylvania Crimes Code arising from or related to the use of Commonwealth e-mail communications systems reflected in the tens of thousands of emails, including those that Attorney General Kathleen G. Kane provided to Supreme Court Chief Justice Ronald D. Castille on October 8, 2014, relating to matters including, but not limited to, improper disclosure of criminal investigative or grand jury matters and the viewing or transmission of sexually explicit, racially or otherwise discriminatory or illegal materials by any current or former member of the Office of Attorney General, any member of the Judiciary of the Commonwealth of Pennsylvania and other public officials, or other related acts that may include evidence of improper collusion, lack of impartiality and independence, or obstruction of court proceedings or other government functions

Powers of Special Deputy Attorney General

2. Pursuant to Sections 205 and 206 of the Commonwealth Attorneys Act, Special Deputy Attorney General Douglas F. Gansler shall have all the investigative and prosecutorial powers to investigate the matters described above and prosecute any crimes under the Pennsylvania Crimes Code related to or arising therefrom the powers that the Attorney General possesses, including, but are not limited to:
 - a. Conducting proceedings before grand juries and other investigations;
 - b. Participating in court proceedings and engaging in any litigation, including civil and criminal matters, that the Special Deputy Attorney General considers necessary;
 - c. Appealing any decision of a court in any case or proceeding in which the Special Deputy Attorney General participates in an official capacity;
 - d. Reviewing all documentary evidence available from any source;
 - e. Determining whether to contest the assertion of any testimonial privilege;
 - f. Receiving appropriate security clearances and, if necessary, contesting in court, including, where appropriate, participating in an in camera proceeding, any claim of privilege or attempt to withhold evidence on grounds of security;
 - g. Making applications to any State court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas or other court orders and exercising the authority vested in the Attorney General or a district attorney;
 - h. Inspecting, obtaining or using the original or a copy of any tax return in accordance with applicable statutes and regulations; and

- i. Initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing information and handling all aspects of any case in the name of the Commonwealth.

Staff and Resources for Special Deputy Attorney General

3. For the purposes of carrying out the duties of the Special Deputy Attorney General, he may request, and the Attorney General shall provide, the assistance on special assignment of investigators, attorneys or experts from the Office of the Attorney General to assist the Special Deputy Attorney General in carrying out the charge of paragraphs 1 and 2 above.
4. The Office of Attorney General will provide, at the request of the Special Deputy Attorney General, necessary office space, office supplies, administrative support and other items necessary to carry out the duties and responsibilities of the Special Deputy Attorney General as set forth in paragraphs 1 and 2 above.
5. The Special Deputy Attorney General may request assistance from the Pennsylvania State Police in carrying out the functions of the Special Deputy Attorney General, and the Pennsylvania State Police shall provide that assistance, which may include the use of the resources and personnel necessary to perform his duties.

Referral of Matters or Expansion of Jurisdiction

6. If in the course of his investigation or prosecutions, the Special Deputy Attorney General identifies information or matters outside the scope of his charge set forth in paragraph 1 that he believes should be the subject of investigation or prosecution, he may refer them to appropriate law enforcement, regulatory agencies or bar for investigation or may request that the Attorney General supplement his charge set forth in paragraph 1 so that he may investigate and/or prosecute any crimes relating to such matters.

Required Reports

7. The Special Deputy Attorney General shall publicly file a report with the Attorney General at the conclusion of his work, or at interim periods as he deems appropriate, that sets forth fully and completely a description of his investigation, any prosecutions undertaken, and any recommendations for changes in the administration of justice in the Commonwealth based on his investigation. The Special Deputy Attorney General shall make any portion of his public report filed available to any individual named in the report for the purposes of receiving within a time limit set by the Special Deputy Attorney General any comments or factual information that the individual may submit. Absent good cause, the comments or factual information shall be included as an appendix to the final report.

Information Relating to Impeachment

8. The Special Deputy Attorney General shall advise the Pennsylvania House of Representatives of any substantial and credible information which he receives in carrying out his responsibilities that may constitute grounds for an impeachment under Article VI of the Constitution of Pennsylvania.

Removal of Special Deputy Attorney General and Termination of Duty

9. The Special Deputy Attorney General may be removed from office only by the personal action of the Attorney General in writing and only for good cause, physical disability, mental incapacity or any other condition that substantially impairs the performance of his duties. For purposes of this paragraph, the term "good cause" includes, but is not limited to, violations of any ethics rules governing the Attorney General.

10. The Special Deputy Attorney General may seek judicial review of his removal in a civil action commenced in the Commonwealth Court and request reinstatement or other appropriate relief by order of the Commonwealth Court.
11. The Special Deputy Attorney General's appointment shall terminate upon Special Deputy Attorney General's notification to the Attorney General that that the investigation and prosecution of all matters within the jurisdiction set forth in paragraph 1 above have been completed and he files a final report in compliance with paragraph 7. Six months after his appointment, and every six months thereafter, the Special Deputy Attorney General shall provide a public report setting forth the status of his investigation.

Custody of Records of the Special Deputy Attorney General

12. Upon termination of the Special Deputy Attorney General's appointment, he shall transfer to the Bureau of Archives and History of the Pennsylvania Historical and Museum Commission all records which have been created or received through his work. Before this transfer, the Special Deputy Attorney General shall clearly identify which of these records are subject to the Pennsylvania Rules of Criminal Procedure as grand jury materials.

Payment of the Special Deputy Attorney General

13. The Special Deputy Attorney General shall receive compensation at the per diem rate equal to the annual rate of basic pay payable to the Attorney General, and he shall be entitled to the payment of travel expenses.

Standard Retention Provisions

14. The Office of Attorney General shall enter into a contract with BuckleySandler LLP with standard contract terms customarily used by the Attorney General for the engagement of outside counsel at fair and reasonable rates, addressing matters such as malpractice insurance, conflicts, anti-discrimination policies, and other routine matters relating to the engagement of counsel.

HEREBY APPROVED, this 16th day of December, 2015.



Kathleen G. Kane
Attorney General