

## HARVEY KRONBERG'S QUORUM REPORT

TEXAS POLITICS REPORTING SINCE 1981

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### HK: Two hours of extraordinary testimony puts AG Ken Paxton on glide path to impeachment

**Phelan takes control of the narrative, the Speaker can call the House back in on his own for Impeachment. Talk turns to Abbott choice to replace Paxton.**

In two hours of the most riveting testimony seen in the *Texas Capitol* since hearings were first streamed, four attorneys, all with deep experience in public integrity issues revealed the results of their investigation of Attorney General **Ken Paxton**. The depth and breadth of their revelations stunned the committee and are at this very moment reverberating throughout the Capitol.

We will get to the politics and procedure in a moment.

Others will catalog the dozens of allegations of improprieties, unethical and yes, potential criminal behavior. The investigators even [laid out a list of subjects](#) for potential criminal prosecutions resulting from their documented findings.

There were multiple tracks or transgressions ranging from the reasonably well-known indictment for securities fraud and subsequent investigations of Paxton for the same offenses in 2012 even after having been sued in 2009.

But some of the more damning allegations to come to light were Paxton's personal interventions including allegedly handing off to **Nate Paul** unredacted law enforcement files justifying the search warrant of the Austin developer.

Stunningly, the investigators reported that Paxton directed staff to come up with an "informal" AG opinion in two days that favored Paul. A typical AG opinion takes weeks if not months and has to be signed off by a series of OAG officials. In this case, none of that was done **nor was the faux AG Opinion ever posted on the official website along with every other AG opinion.**

The result of the two-day turnaround opinion? Foreclosure auctions require ten people to be present. Because of covid restrictions, the faux Opinion ruled that groups of ten could not convene which forestalled foreclosure auctions.

The Opinion was ordered on a Friday and delivered just hours before Nate Paul had thirteen foreclosures subject to auction.

But among the list of transgressions, perhaps the most disturbing was Paxton ignoring procedure and warnings from his staff of potential criminality to hire a Nate Paul attorney to work inside the OAG to undermine FBI and other law enforcement investigations. This attorney then represented himself as a “special prosecutor,” sending out 39 subpoenas, mostly to financial institutions that were peripherally related to an alleged fraud perpetrated by Paul.

Vice-Chair **Ann Johnson** declared that Paxton had literally “hijacked” OAG to help Paul.

No Attorney General in modern history has had senior staff report their boss’ potentially illegal behavior to the FBI. Of course, they were subjected to what looks like official oppression.

Knowing the resolve of Speaker **Dade Phelan**, Chairman **Murr**, and Vice-Chair **Johnson**, this looked like the trial run upcoming *Articles of Impeachment* against **Paxton**. The last impeachment led to the removal of Judge **O.P. Carillo** in 1976

Not since the chairman’s revolt against then Speaker **Tom Craddick** starting in 2007 has an effort to unseat an official so rocked the Capitol. But in 2007, it was an insurrection inspired by angry chairmen. This effort against Paxton was quietly begun in March, has been methodical, and has the full force of institutional subpoena behind it.

There really is no path forward other than impeachment. Of course, Paxton can offer up a defense and fight it but the investigators even went through a variety of defenses posted on the OAG website that were certifiably false or misleading.

Even if **Abbott**, **Patrick** and Paxton share the same significant “contributors”, the Attorney General is now officially on the limb by himself. Unless House and Senate Republicans decide to do a **Donald Trump** style defense and just vote Party, the noose has tightened.

However unlike Trump, Paxton does not have the same kind of loyal base. Now likely abandoned, he has limited sources of funding and could be facing multiple felony indictments even if the Legislature declines to act.

Neither Abbott nor Patrick nor even *Republican Party of Texas* Chairman **Matt Rinaldi** are likely to spend any of their political capital on this hot mess. Most GOP lawmakers privately concede that Paxton is an embarrassment and an albatross in their own campaigns.

With four days left in session, what can happen?

Neither the Governor nor the pending *sine die* are significant in the forward motion of possible impeachment.

**Section 665.004 (2)** of the **Government Code** declares that if the House is not in session, the Speaker can call them back under his own authority for Impeachment proceedings.

The Senate has numerous paths back to an Impeachment trial even if the Governor or Lt. Governor do not call them back. If Patrick doesn't act, the **President Pro Tempore** with a majority of the Senate can convene.

Although Patrick dominates the Senate, standing in the way of an Impeachment trial earns him nothing and could be the straw that finally leads to Texas Senate rebellion.

As a side note, in one of his many machinations, Paxton needed an AG Opinion which only certain officials can request. Senator **Bryan Hughes** agreed to submit the AG Opinion request given to him by Paxton so it could be officially processed.

Senator **Angela Paxton** would likely recuse herself.

But wait, it gets more interesting. According to Article 15, Section 5 of the **Texas Constitution**, Paxton would be suspended from office pending impeachment proceedings allowing the Governor to make a provisional appointment.

Several names are already being bandied about.

In one bold and enormously ethical stroke, Speaker Phelan has elbowed past the Governor and Lt. Governor to claim the narrative. This may well reconfigure power in the Pink Dome and serves notice to an all too complacent Republican Party that there are strong elements inside that want to clean up the process and remove a cancerous distraction.

Of course, Greg Abbott would not appoint someone he did not think he could control.

But in the words of **Sherlock Holmes**, the game is afoot.

By Harvey Kronberg

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