

BELINDA HILL
FIRST ASSISTANT



CRIMINAL JUSTICE CENTER
1201 FRANKLIN, SUITE 600
HOUSTON, TEXAS 77002-1901

**DEVON ANDERSON
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS**

July 14, 2015

Ms. JoAnne Musick, President
Harris County Criminal Lawyers Association
P.O. Box 924523
Houston, Texas 77292-4523

Re: Your recent letter regarding former Assistant District Attorney Dan Rizzo

Dear Ms. Musick:

I am writing in response to your June 12, 2015 correspondence regarding former Assistant District Attorney Dan Rizzo.

On behalf of the members of the Harris County Criminal Lawyers Association, you have asked for a criminal investigation of Mr. Rizzo for perjury, obstruction of justice, official oppression and tampering with a witness for his conduct related to the prosecutions of Alfred Brown and Ericka Dockery. You have suggested that this office request the appointment of an attorney pro tem to conduct such an investigation.

The conduct you have attributed to Mr. Rizzo occurred from 2003 to 2005. The statutory limitations period for prosecuting the offenses described in your letter has already passed, and there is no legal theory under which this office (or an attorney pro tem) could extend that period. Your letter does not proffer any exceptions or tolling provisions to the statute of limitations, and I am aware of none other than Article 12.05 of the Code of Criminal Procedure, which is inapplicable in this case. That said, I welcome any briefing that you or your membership would like to provide on why the statute of limitations may be tolled or excepted in these circumstances.

You have also asked this office to investigate whether "Ms. Dockery's conviction for Aggravated Perjury should be overturned because of the unethical actions of Mr. Rizzo." As you are aware, in 2005 Ms. Dockery pled guilty and was placed on deferred adjudication. After satisfactory completion of her community supervision, the court terminated her supervision in 2007. At present, the only means to overturn the court's order of deferred adjudication would be through a writ of habeas corpus filed pursuant to Article 11.072 of the Code of Criminal Procedure. Should such a writ be filed by Ms. Dockery or by anyone on her behalf, this office will review and respond accordingly.

Ms. JoAnne Musick

July 14, 2015

Page 2.

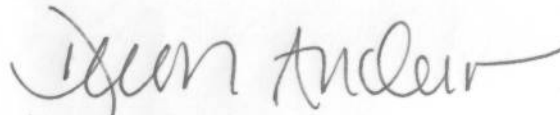
Finally, you have asked this office to investigate whether we should “lodge a formal complaint with the Texas State Bar seeking appropriate sanctions for Mr. Rizzo’s conduct.”

Rule 15.06A of the Texas Rules of Disciplinary Procedure provides that an attorney may not be disciplined for professional misconduct that occurred more than four years before the date on which a grievance is received. Again, as the alleged conduct occurred from 2003 to 2005, there is no legitimate basis upon which our office could “lodge” such a complaint with the State Bar. We are mindful that there are exceptions to this general rule, however, we are constrained to conclude that the exceptions do not apply in this instance.

We understand that you may disagree with our conclusion in this regard. Should you not agree with our assessment, nothing prevents your association or any one or more of its members from bringing a complaint against Mr. Rizzo with the State Bar.

Thank you for your correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Devon Anderson". The signature is written in dark ink and is positioned above the printed name.

DEVON ANDERSON
District Attorney