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Formal Demand for Resignation

1 message

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Mon, Jan 19, 2026 at 1:55 PM

To: Tonda Curry <tcurry@vanzandtcounty.org>

Dear Ms. Tonda Curry,

I am writing to you in your capacity as the Criminal District Attorney for Van Zandt County to formally demand your immediate resignation from office. This request is based on unethical, unprofessional, and unbecoming conduct, specifically your public revelation of protected health information under the Health Insurance Portability and Accountability Act (HIPAA) and the Americans with Disabilities Act (ADA), as well as your threats of arrest directed at Mr. John Borgstedt for engaging in lawful activities—such as cooking BBQ—while living with a disability. These actions not only appear to violate federal laws designed to protect individuals' privacy and rights but also contravene the Texas Disciplinary Rules of Professional Conduct, which govern the ethical standards for attorneys in our state. Below, I outline the specific legal violations implicated by your reported behavior, supported by relevant statutes and precedents.

Alleged Violations of HIPAA HIPAA, codified at 45 C.F.R. Parts 160 and 164, establishes national standards to protect individuals' medical records and other protected health information (PHI). As a public official and licensed attorney, you are expected to handle any PHI encountered in the course of your duties with the utmost confidentiality. Unauthorized disclosure of PHI is strictly prohibited and can result in severe penalties.

Potential Violation: Your public statements revealed sensitive health information about Mr. Borgstedt's disability, which constitutes PHI under HIPAA. Such disclosures, if made without authorization or a VALID law enforcement exception, violate the Privacy Rule (45 C.F.R. § 164.502). Prosecutors may access PHI for LEGITIMATE investigative purposes (45 C.F.R. § 164.512(f)), but public revelation exceeds permissible use and could be deemed a "knowing" disclosure, especially at a political event.

Penalties: Criminal violations of HIPAA are enforced by the U.S. Department of Justice (42 U.S.C. § 1320d-6). Offenses committed with intent to misuse PHI for personal gain or malicious harm can result in fines up to \$250,000 and imprisonment for up to 10 years. Additionally, Texas Health & Safety Code Chapter 181 (Texas Medical Records Privacy Act) mirrors HIPAA and empowers the Texas Attorney General to impose civil penalties up to \$250,000 per violation, along with potential disciplinary action against licensed professionals.

Enforcement Precedents: The Office for Civil Rights (OCR) within the U.S. Department of Health and Human Services investigates HIPAA complaints, and state attorneys general can also pursue actions. Recent cases, such as those involving improper subpoenas for medical records in high-profile prosecutions (e.g., similar to issues raised in the Luigi Mangione case), highlight the risks of overbroad or unauthorized disclosures by prosecutors.

These actions undermine public trust in the justice system and expose you to potential civil, criminal, and administrative sanctions.

Alleged Violations of the ADA The Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against individuals with disabilities in various contexts, including public services and employment. Title II of the ADA applies to state and local governments, requiring that public officials like district attorneys refrain from discriminatory practices.

Potential Violation: Threatening Mr. Borgstedt with arrest for "cooking BBQ while being disabled" appears to constitute interference with his ADA rights. Under 42 U.S.C. § 12203(b), it is unlawful to coerce, intimidate, threaten, or interfere with an individual's exercise of ADA protections. Such threats, if based on his disability, could be viewed as retaliation or discrimination, particularly if they target his participation in community activities (e.g., charity BBQ events) that are otherwise lawful.

Penalties: Violations can lead to investigations by the U.S. Department of Justice, with remedies including injunctive relief, compensatory damages, and civil penalties up to \$75,000 for a first violation (28 C.F.R. § 35.175). The ADA does not excuse threats or adverse actions based on stereotypes about disabilities; determinations of "direct threat" must be based on objective evidence, not assumptions (29 C.F.R. § 1630.2(r)).

Enforcement Precedents: The Equal Employment Opportunity Commission (EEOC) and DOJ have enforced similar cases where threats or intimidation interfered with disability rights, emphasizing that such conduct creates a hostile environment and violates core ADA principles.

This behavior not only discriminates against Mr. Borgstedt but also sets a dangerous precedent for how public officials treat individuals with disabilities in Van Zandt County.

Alleged Violations of Texas Disciplinary Rules of Professional Conduct. As a licensed attorney in Texas, you are bound by the Texas Disciplinary Rules of Professional Conduct (TDRPC), adopted under Texas Government Code Title 2, Subtitle G, Appendix A. These rules establish minimum standards to maintain the integrity of the legal profession.

Potential Violations: Rule 8.04(a)(1): Engaging in conduct that violates the TDRPC itself, including through unethical handling of confidential information or discriminatory actions.

Rule 8.04(a)(2): Committing a criminal act that reflects adversely on your honesty, trustworthiness, or fitness as a lawyer (e.g., potential HIPAA/ADA violations could qualify as misdemeanors or felonies).

Rule 8.04(a)(3): Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, such as misusing protected information for threats.

Rule 8.04(a)(5): Engaging in conduct that is prejudicial to the administration of justice, including unbecoming behavior that erodes public confidence in the legal system.

Penalties: The State Bar of Texas, through its Office of Chief Disciplinary Counsel, investigates grievances under the Texas Rules of Disciplinary Procedure. Violations can result in sanctions ranging from private reprimand to disbarment (Tex. R. Disc. P. 1.06(CC)). Serious misconduct, such as criminal acts or obstruction of justice, may lead to suspension or revocation of your law license.

Enforcement Precedents: The Texas Supreme Court and Board of Disciplinary Appeals have disciplined attorneys for similar unethical conduct, including improper disclosures and abuse of authority, emphasizing that prosecutors must uphold the highest ethical standards.

Your alleged actions demonstrate a profound lapse in judgment that is incompatible with the role of a district attorney, whose duty is to seek justice impartially and protect the rights of all citizens.

A stark example of the consequences of such misconduct can be seen in a recent federal civil rights case involving neighboring Wood County. In *Bevill v. City of Quitman, Texas et al.* (U.S. District Court for the Eastern District of Texas, Case No. 4:19-cv-00406), a former Quitman Police captain, Terry Bevill, successfully sued under 42 U.S.C. § 1983 for wrongful termination and retaliation after reporting alleged corruption among county officials. The jury awarded \$21.35 million in September 2024, including \$18 million in compensatory damages and \$3.35 million in punitive damages against the city and individual defendants. This verdict stemmed from violations

of Bevill's First Amendment rights, highlighting how abuse of authority by public officials can lead to massive liability for local governments.

Your actions risk exposing Van Zandt County to similar financial devastation. By publicly disclosing protected health information and issuing discriminatory threats, you invite Section 1983 lawsuits that could result in multimillion-dollar judgments borne by county taxpayers. The Wood County case serves as a cautionary tale: when officials prioritize personal agendas over constitutional protections, the costs—both reputational and monetary—can be staggering. Resigning now would mitigate these risks and spare the residents of Van Zandt County from funding potentially ruinous litigation.

In light of these serious violations, I urge you to resign immediately to preserve the integrity of your office and avoid further harm to the community. Failure to do so will necessitate formal complaints to the Office for Civil Rights (for HIPAA), the U.S. Department of Justice (for ADA and HIPAA), the Texas Attorney General, and the State Bar of Texas Grievance Committee.

I request a written response within 24 hours confirming your intent to resign or addressing these concerns. This matter is of utmost importance, and I am prepared to pursue all available legal avenues to ensure accountability.

Regards, Tim McLemee

Honorably Retired Van Zandt County Criminal District Attorney Investigator

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Best Regards,
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