
Rules of Professional Conduct

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RULES OF PROFESSIONAL CONDUCT (RPC)

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APPENDIX
GUIDELINES FOR APPLYING RULE OF PROFESSIONAL CONDUCT 3.6

I. Criminal

A. The kind of statement referred to in Rule 3.6 which may potentially prejudice criminal proceedings is a statement which relates to:

- (1) The character, credibility, reputation or criminal record of a suspect or defendant;
- (2) The possibility of a plea of guilty to the offense or the existence or contents of a confession, admission or statement given by a suspect or defendant or that persons refusal or failure to make a statement;
- (3) The performance or results of any investigative examination or test such as a polygraph examination or a laboratory test or the failure of a person to submit to an examination or test;
- (4) Any opinion as to the guilt or innocence of any suspect or defendant;
- (5) The credibility or anticipated testimony of a prospective witness; and
- (6) Information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial.

B. The public has a legitimate interest in the conduct of judicial proceedings and the administration of justice. Lawyers involved in the litigation of criminal matters may state without elaboration:

- (1) The general nature of the charge or defense;
- (2) The information contained in the public record; and
- (3) The scheduling of any step in litigation, including a scheduled court hearing to enter a plea of guilty.

C. The public also has a right to know about threats to its safety and measures aimed at assuring its security. Toward that end a public prosecutor or other lawyer involved in the investigation of a criminal case may state:

- (1) That an investigation is in progress, including the general scope of the investigation and, except when prohibited by law, the identity of the persons involved;
- (2) A request for assistance in obtaining evidence and information;
- (3) A warning of danger concerning the behavior of a person involved when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
- (4)
 - (i) The identity, residence, occupation and family status of the accused;
 - (ii) information necessary to aid in apprehension of the accused;
 - (iii) the fact, time and place of arrest; and
 - (iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

II. Civil

The kind of statement referred to in Rule 3.6 which may potentially prejudice civil matters triable to a jury is a statement designed to influence the jury or to detract from the impartiality of the proceedings.

[Amended effective September 1, 2006.]
