

**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.]