

**American Bar Association
CPR Policy Implementation Committee**

Variations of the ABA Model Rules of Professional Conduct

Rule 3.6: Trial Publicity

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

(1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;

(2) information contained in a public record;

(3) that an investigation of a matter is in progress;

(4) the scheduling or result of any step in litigation;

(5) a request for assistance in obtaining evidence and information necessary thereto;

(6) 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

(7) in a criminal case, in addition to subparagraphs (1) through (6):

(i) the identity, residence, occupation and family status of the accused;

(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

	<p>(iii) the fact, time and place of arrest; and</p> <p>(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.</p> <p>(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.</p> <p>(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).</p> <p>Variations from ABA Model Rule are noted. Based on reports of state committees reviewing recent changes to the model rules. For information on individual state committee reports, see http://www.abanet.org/cpr/jclr/home.html.</p> <p>Comments not included.</p> <p>*Current links to state Rules of Professional conduct can be found on the ABA website: http://www.abanet.org/cpr/links.html*</p>
AL Effective 2/19/09	<p>(a) Deletes “who is participating...of a matter” from first sentence; adds “that a reasonable person would expect to be disseminated by means of public communication if” after “extrajudicial statement;” Deletes “will be disseminated...communication;” deletes “in the matter” at the end of the paragraph;</p> <p>Adds (b):</p> <p><i>(b) A statement referred to in paragraph (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:</i></p> <p><i>(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;</i></p> <p><i>(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;</i></p>

	<p>(3) <i>the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</i></p> <p>(4) <i>any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;</i></p> <p>(5) <i>information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or</i></p> <p>(6) <i>the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</i></p> <p>(c) Similar to MR (b) but adds reference to paragraph (b)(1-5), adds “involved in the investigation or litigation of a matter” after “a lawyer” and adds “without elaboration” to end of paragraph;</p> <p>(c)(1) similar to MR (b)(1) but changes wording to: <i>the general nature of the claim or defense;</i></p> <p>(c)(3) adds “including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved” to end of paragraph;</p> <p>(c)(7) deletes clause beginning with “in addition;”</p> <p>(c)(8) is almost identical to MR (c) but adds reference to paragraph (b); Does not adopt (d).</p>
AK Effective 4/15/09	Same as MR
AZ Effective 12/1/03	Same as MR
AR Effective 5/1/05	Same as MR
CA Current Rule	[California’s Rules of Professional Conduct are structured differently from the ABA Model Rules. Please see California Rules : http://calbar.ca.gov/calbar/pdfs/rules/Rules_Professional-Conduct.pdf]
CO Effective 1/1/08	Same as MR
CT Effective 1/1/07	Does not have MR (b) (b) and (c): same as MR (c) and (d)
DE Effective 7/1/03	Same as MR
District of Columbia Effective 2/1/07	Same as MR (a) but replaces “who is participating or has participated in the investigation or litigation of a matter” with “engaged in a case being tried to a judge or jury,” adds “mass” before “public” and replaces materials after “will” with “create a serious and imminent threat of

	material prejudice to the proceeding” Does not have MR (b) – (d)
FL Effective 5/22/06	
GA* Effective 1/1/01	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> (b) Reserved; Adds to end: <i>The maximum penalty for a violation of this Rule is a public reprimand.</i>
HI* Effective 1/1/94	<i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i> (a) Replaces “that the lawyer...will be” with “that a reasonable person would expect to be;” adds “if the lawyer knows or reasonably should know that it” after “public communication.”
ID Effective 7/1/04	Same as MR
IL Effective 1/1/2010	(a) Replaces “and will have...an adjudicative” with “and would pose a serious and imminent threat to the fairness of an adjudicative.”
IN Effective 1/1/05	adds as (d): A statement referred to in paragraph (a) will be rebuttably presumed to have a substantial likelihood of materially prejudicing an adjudicative proceeding when it refers to that proceeding and the statement is related to: <ol style="list-style-type: none"> (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness; (2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement; (3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented; (4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration; (5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a

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	<p>substantial risk of prejudicing an impartial trial; or</p> <p>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</p>
IA Effective 7/1/05	<p>adds as (e): Any communication made under paragraph (b) that includes information that a defendant will be or has been charged with a crime must also include a statement explaining that a criminal charge is merely an accusation and the defendant is presumed innocent until and unless proven guilty.</p>
KS Effective 7/1/07	<p>Same as MR</p>
KY Effective 7/15/09	<p>Same as MR but adds: SCR 3.130 to title Adds heading: "SCR 3.130(3.6) shall read"</p>
LA Effective 3/1/04	<p>Same as MR</p>
ME Effective 8/1/09	<p>Does not adopt MR RULE 3.6 Trial Publicity <i>A lawyer involved in the prosecution or defense of a criminal matter or in representing a party to a civil cause shall not make or participate in making any extra-judicial statement which poses a substantial danger of interference with the administration of justice.</i></p>
MD Effective 7/1/05	
MA Rules effective 9/1/08	<p>(a) Replaces "that the lawyer knows...know will be" with "that a reasonable person would expect to be;" inserts after "public communication:" "if the lawyer knows or reasonably should know that it;" Adds: <i>(e) This rule does not preclude a lawyer from replying to charges of misconduct publicly made against him or her or from participating in the proceedings of a legislative, administrative, or other investigative body.</i></p>
MI Rules effective 10/1/88 Amendments effective 1/1/2011	<p>(a) Adds at the end: <i>A statement is likely to have a substantial likelihood of materially prejudicing an adjudicative proceeding when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:</i> <i>(1) the character, credibility, reputation, or criminal record of a party, of a suspect in a criminal investigation or of a witness, or the identity of a witness, or the expected testimony of a party or witness;</i> <i>(2) in a criminal case or proceeding that could result in</i></p>

	<p><i>incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect, or that person's refusal or failure to make a statement;</i></p> <p><i>(3) the performance or results of any examination or test, the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</i></p> <p><i>(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;</i></p> <p><i>(5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; or</i></p> <p><i>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely as accusation and that the defendant is presumed innocent until and unless proven guilty.</i></p> <p>(b) Adds after "a lawyer" "who is participating or has participated in the investigation or litigation of a matter may state without elaboration:"</p> <p>(b)(1) Adds "the nature of" at the beginning; Deletes the language after "defense involved;"</p> <p>(b)(7) Replaces language with "in a criminal case, also:"</p> <p>(c) Replaces with: <i>No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).</i></p>
<p>MN Effective 10/1/05</p>	<p>(a): limits (a) to criminal matters: A lawyer who is participating or has participated in the investigation or litigation of a criminal matter shall not make an extrajudicial statement about the matter that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing a jury trial in a pending criminal matter.</p> <p>deletes (b)</p> <p>Other paragraphs renumbered accordingly</p>
<p>MS Effective 11/3/05</p>	<p>(a): retains former MR, deletes "who is participating or has participated in the investigation or litigation of a matter" and "in the matter"</p> <p>Adds: (b) A statement referred to in paragraph (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:</p> <p>(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;</p> <p>(2) in a criminal case or proceeding that could result in incarceration, the</p>

	<p>possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;</p> <p>(3) the performance or results of any examination or test of the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</p> <p>(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;</p> <p>(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or</p> <p>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</p> <p>(c): same as MR (b) but adds “and (b)(1) – (5)” after “(a),” “involved in the investigation or litigation of a matter” after “a lawyer” and “without elaboration” to end</p> <p>(c)(1): the general nature of the claim or defense;</p> <p>(c)(2): same as MR (b)(2) but adds “the” to beginning</p> <p>(c)(3): same as MR (b)(3) but adds “including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved;” to end</p> <p>(c)(4) – (6): same as MR (b)(4) – (6)</p> <p>(c)(7): same as MR (b)(7) but deletes material after “case”</p> <p>(c)(7)(i) – (iv): same as MR (b)(1) – (iv)</p> <p>Does not have MR (c) or (d)</p>
<p>MO Effective 7/1/07</p>	<p>(b) Inserts “Rule 4-3.6” before “paragraph (a)”</p> <p>(7) Changes MR clause “(1) through (6)” to “Rule 4-3.6(b)(1) to (b)(6)”</p> <p>(c)&(d): Adds designation “Rule 4-3.6” to “(a)”</p>
<p>MT Effective 4/1/04</p>	<p>Same as MR</p>
<p>NE Effective 9/1/05</p>	<p>Same as MR</p>
<p>NV Effective 5/1/06</p>	<p>Same as MR</p>
<p>NH Effective 1/1/08</p>	<p>Adds (b): <i>A statement referred to in paragraph (a) will more likely than not have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to: (1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness; (2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the</i></p>

	<p><i>offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement; (3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented; (4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration; or (5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial.</i></p> <p>State Rule (c) identical to MR (b) Deletes MR (c)</p>
NJ Effective 1/1/04	<p>(a): deleted “will be disseminated by means of public communication” and, at the end, “in the matter.” did not include (d) of MR.</p>
NM Effective 11/2/09	<p>Replaced with Rule 16-306: “A. Extrajudicial statements. A lawyer shall not make any extrajudicial or out-of-forum statement in a proceeding that may be tried to a jury that the lawyer knows or reasonably should know: (1) is false; or (2) creates a clear and present danger of prejudicing the proceeding. B. Attorney's obligations with respect to other persons. A lawyer shall make reasonable efforts to insure compliance with this rule by associated attorneys, employees and members of law enforcement and investigative agencies.”</p>
NY Effective 4/1/09	<p>Replaces MR wording, “the investigation or litigation of a matter” with “criminal or civil matter”</p> <p>Adds: (b) <i>A statement ordinarily is likely to prejudice materially an adjudicative proceeding when it refers to a civil matter triable to a jury, a criminal matter or any other proceeding that could result in incarceration, and the statement relates to:</i> (1) <i>the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness or the expected testimony of a party or witness;</i> (2) <i>in a criminal matter that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission or statement given by a defendant or suspect, or that person’s refusal or failure to make a statement;</i> (3) <i>the performance or results of any examination or test, or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</i> (4) <i>any opinion as to the guilt or innocence of a defendant or</i></p>

	<p><i>suspect in a criminal matter that could result in incarceration;</i> <i>(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would, if disclosed, create a substantial risk of prejudicing an impartial trial; or</i> <i>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</i></p> <p>(c) replaces “Notwithstanding paragraph (a), a lawyer may state” with “Provided that the statement complies with paragraph (a), a lawyer may state the following without elaboration.”</p> <p>(7) replaces “case” with “matter;” deletes “in addition to subparagraphs (1) through (6).”</p> <p>(i): adds “age” (ii): deletes “the” (iii): Identical to MR (iv) (iv): Similar to MR (iii): Adds after “place of arrest”: “resistance, pursuit and use of weapons, and a description of physical evidence seized, other than as contained only in a confession, admission or statement.”</p> <p>(d) deletes “undue” between “substantial” and “prejudicial”</p>
NC Effective 3/1/03	adds (e): "The foregoing provisions of Rule 3.6 do not preclude a lawyer from replying to charges of misconduct publicly made against the lawyer or from participating in the proceedings of legislative, administrative, or other investigative bodies."
ND Effective 8/1/06	Same as MR
OH Effective 2/1/07	(b): adds “of this rule and if permitted by Rule 1.6” after “(a)” and “any of the following” to end (b)(7): adds “of this rule, any of the following” to end
OK Effective 1/1/08	(a): Replaces clause “that the lawyer knows....matter” with “that a reasonable lawyer would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have an imminent and materially prejudicial effect on the fact-finding process in an adjudicatory proceeding relating to the matter and involving lay fact-finders or the possibility of incarceration” to end. Deletes MR (b) State rule (b) identical to MR (c) State rule (c) identical to MR (d)
OR Effective 12/1/06	(c) Notwithstanding paragraph (a), a lawyer may: (1) reply to charges of misconduct publicly made against the lawyer; or (2) participate in the proceedings of legislative, administrative or other investigative bodies. Adds (e): A lawyer shall exercise reasonable care to prevent the lawyer's

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	employees from making an extrajudicial statement that the lawyer would be prohibited from making under this rule.
PA Effective 7/1/06	Same as MR
RI Effective 4/15/07	Same as MR
SC Effective 10/1/05	Same as MR
SD Effective 1/1/04	Same as MR
TN Effective 1/1/2011	Same as MR
TX* Effective 3/1/05	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>“Rule 3.07: Trial Publicity;” (a) Adds to beginning: “In the course of representing a client;” deletes “who is...of a matter;” replaces “that the lawyer ..know will be” with “a reasonable person would expect to be;” deletes “in the matter;” adds to end: “A lawyer shall not counsel or assist another person to make such a statement;” Does not have MR (b), (c), or (d); Adds instead:</p> <p style="padding-left: 40px;"><i>(b) A lawyer ordinarily will violate paragraph (a), and the likelihood of a violation increases if the adjudication is ongoing or imminent, by making an extrajudicial statement of the type referred to in that paragraph when the statement refers to:</i></p> <p style="padding-left: 80px;"><i>(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness; or the expected testimony of a party or witness;</i></p> <p style="padding-left: 80px;"><i>(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense; the existence or contents of any confession, admission, or statement given by a defendant or suspect; or that person’s refusal or failure to make a statement;</i></p> <p style="padding-left: 80px;"><i>(3) the performance, refusal to perform, or results of any examination or test; the refusal or failure of a person to allow or submit to an examination or test; or the identity or nature of physical evidence expected to be presented;</i></p> <p style="padding-left: 80px;"><i>(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration; or</i></p> <p style="padding-left: 80px;"><i>(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing</i></p>

	<p><i>an impartial trial.</i></p> <p><i>(c) A lawyer ordinarily will not violate paragraph (a) by making an extrajudicial statement of the type referred to in that paragraph when the lawyer merely states:</i></p> <ul style="list-style-type: none"> <i>(1) the general nature of the claim or defense;</i> <i>(2) the information contained in a public record;</i> <i>(3) that an investigation of the matter is in progress, including the general scope of the investigation, the offense, claim or defense involved;</i> <i>(4) except when prohibited by law, the identity of the persons involved in the matter;</i> <i>(5) the scheduling or result of any step in litigation;</i> <i>(6) a request for assistance in obtaining evidence, and information necessary thereto;</i> <i>(7) a warning of danger concerning the behavior of a person involved, when there is a reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and</i> <i>(8) if a criminal case:</i> <ul style="list-style-type: none"> <i>(i) the identity, residence, occupation and family status of the accused;</i> <i>(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;</i> <i>(iii) the fact, time and place of arrest; and</i> <i>(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.</i>
<p>UT Effective 11/1/05</p>	<p>Same as MR</p>
<p>VT Effective 9/1/09</p>	<p>(7)(i) Adds “and family status” after “occupation.”</p>
<p>VA Effective 1/1/04</p>	<p>(a) A lawyer participating in or associated with the investigation or the prosecution or the defense of a criminal matter that may be tried by a jury shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication that the lawyer knows, or should know, will have a substantial likelihood of interfering with the fairness of the trial by a jury.</p> <p>(b) A lawyer shall exercise reasonable care to prevent employees and associates from making an extrajudicial statement that the lawyer would be prohibited from making under this Rule.</p>
<p>WA Effective 9/1/06</p>	<p>Adds 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:</p>

	<p>(1) The character, credibility, reputation or criminal record of a suspect or defendant;</p> <p>(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;</p> <p>(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;</p> <p>(4) Any opinion as to the guilt or innocence of any suspect or defendant;</p> <p>(5) The credibility or anticipated testimony of a prospective witness; and</p> <p>(6) Information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial.</p> <p>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:</p> <p>(1) The general nature of the charge or defense;</p> <p>(2) The information contained in the public record; and</p> <p>(3) The scheduling of any step in litigation, including a scheduled court hearing to enter a plea of guilty.</p> <p>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:</p> <p>(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;</p> <p>(2) A request for assistance in obtaining evidence and information;</p> <p>(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</p> <p>(4) (i) The identity, residence, occupation and family status of the accused;</p> <p>(ii) information necessary to aid in apprehension of the accused;</p> <p>(iii) the fact, time and place of arrest; and</p> <p>(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.</p> <p>II. Civil</p> <p>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.</p>
<p>WV* Effective 1/1/89</p>	<p><i>*Has not amended Rule since the most recent amendments to the ABA Model Rules</i></p> <p>Rule 3.6. Trial publicity.</p> <p><i>(a) A lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public</i></p>

	<p><i>communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding.</i></p> <p><i>(b) A statement referred to in paragraph (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:</i></p> <p><i>(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;</i></p> <p><i>(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;</i></p> <p><i>(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</i></p> <p><i>(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;</i></p> <p><i>(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or</i></p> <p><i>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</i></p> <p><i>(c) Notwithstanding paragraphs (a) and (b) (1-5), a lawyer involved in the investigation or litigation of a matter may state without elaboration:</i></p> <p><i>(1) the general nature of the claim or defense;</i></p> <p><i>(2) the information contained in a public record;</i></p> <p><i>(3) that an investigation of the matter is in progress, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved;</i></p> <p><i>(4) the scheduling or result of any step in litigation;</i></p> <p><i>(5) a request for assistance in obtaining evidence and information necessary thereto;</i></p> <p><i>(6) 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</i></p> <p><i>(7) in a criminal case:</i></p> <p><i>(i) the identity, residence, occupation and family status of the accused;</i></p> <p><i>(ii) if the accused has not been apprehended, information necessary to</i></p>
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	<p><i>aid in apprehension of that person;</i> <i>(iii) the fact, time and place of arrest; and</i> <i>(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.</i></p>
WI Effective 7/1/07	<p>Adds (b) A statement referred to in par. (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in deprivation of liberty, and the statement relates to:</p> <p>(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;</p> <p>(2) in a criminal case or proceeding that could result in deprivation of liberty, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;</p> <p>(3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;</p> <p>(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in deprivation of liberty;</p> <p>(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or</p> <p>(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.</p> <p>(c): same as MR (b) but adds “and (b)(1) through (5)” after “(a)” (c)(1) – (7): same as MR (b)(1) – (7) (d): same as MR (c) but adds “likelihood of” after “substantial” (e): same as MR (d)</p>
WY Effective 7/1/06	<p>(b)(1), adds to beginning: “the general nature of a”</p>

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