

PROPOSED AMENDMENTS TO THE OHIO RULES OF PROFESSIONAL CONDUCT

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

1 **Rule 3.8 Special responsibilities of a prosecutor**

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3 The prosecutor in a criminal case shall not do any of the following:

4
5 (a) pursue or prosecute a charge that the prosecutor knows is not supported by
6 probable cause;

7
8 (b) [Reserved]

9
10 (c) [reserved]

11
12 (d) fail to make timely disclosure to the defense of all evidence or information known
13 to the prosecutor that tends to negate the guilt of the accused or mitigates the offense,
14 and, in connection with sentencing, fail to disclose to the defense all unprivileged
15 mitigating information known to the prosecutor, except when the prosecutor is relieved of
16 this responsibility by an order of the tribunal;

17
18 (e) subpoena a lawyer in a grand jury or other criminal proceeding to present
19 evidence about a past or present client unless the prosecutor reasonably believes all of the
20 following apply:

21
22 (1) the information sought is not protected from disclosure by any applicable
23 privilege;

24
25 (2) the evidence sought is essential to the successful completion of an ongoing
26 investigation or prosecution;

27
28 (3) there is no other feasible alternative to obtain the information.

29
30 (f) [Reserved] fail to do the following when a prosecutor knows of new, credible, and
31 material evidence creating a reasonable likelihood that a convicted defendant is innocent
32 of the crime for which the defendant was convicted:

33
34 (1) promptly disclose that evidence to an appropriate court or authority, and

35
36 (2) if the conviction was obtained in the prosecutor's jurisdiction,

37
38 (i) promptly disclose that evidence to the defendant unless a court
39 authorizes delay, and

40
41 (ii) undertake further investigation, or make reasonable efforts to cause
42 an investigation, to determine whether the defendant is innocent of
43 the crime.
44

45 (g) fail to seek to remedy a conviction, even if all authorized appeals have concluded,
46 when a prosecutor knows of clear and convincing evidence establishing that a defendant
47 in the prosecutor's jurisdiction is innocent of the crime for which defendant was
48 prosecuted.