

## MEDIA POLICY

One of the many duties of the District Attorney is to afford the public the benefit of a free press, Texas Code of Criminal Procedure, Article 2.03(b). There are, however, many recognized restrictions to the dissemination of the information held by the prosecution's office in order to insure a fair trial for both the state and the accused; to make sure that the presumption of innocence is not impaired; and to make sure that on-going criminal investigation will not be jeopardized by the release of information.

Rule 3.07 of the Texas Disciplinary Rules of Professional Conduct restrict all attorneys from making extrajudicial statements that have a substantial likelihood of materially prejudicing an adjudicatory proceeding.

Areas generally authorized under Rule 3.07 include:

- a. The general nature of the case.
- b. Information contained in a public record.
- c. The progress and general scope of a pending investigation (to the extent that the information relates to a pending *grand jury* investigation, we are statutorily barred from discussing the proceedings, *see* TEX. CODE CRIM. PROC. 20.02(a)).
- d. The identity of and biographical information concerning the complaining party (unless prohibited by law).
- e. The scheduling or result of any step in litigation.
- f. A request for assistance in obtaining evidence, and information necessary thereto.
- g. 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.
- h. The accused person's name, age, residence, employment, marital status, and similar biographical information.
- i. The amount of bail.
- j. The identity of the investigating and arresting agency, and the length of the investigation.
- k. The circumstances of arrest, including time, place, resistance, pursuit and weapons used.

***If the dissemination of the "generally authorized" information could reasonably impact the ability of the defendant to obtain a fair trial, disclose must be restricted.***

Areas discouraged under Rule 3.07 include:

- a. 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 a witness.
- b. The possibility of a plea of guilty (including information related to plea negotiations).

- c. The contents of any admission or confession (or the defendant's refusal to make one).
- d. The results of (or refusal to perform) any examination or test, including fingerprint, polygraph, ballistic, or laboratory tests.
- e. Any opinion as to the accused's guilt or innocence.
- f. Any information that is likely inadmissible as evidence at trial and would create a substantial risk of prejudicing an impartial trial.

***Information connected to an on-going criminal investigation will not be disclosed if it is determined that disclosing such information may interfere with a criminal investigation by alerting the potential targets of the investigation, putting potential witnesses in danger, and/or allowing evidence to be destroyed or hidden.***

**Referred Criminal Investigations/Prosecutions.** Occasionally, it may be necessary to request the assistance from an out-side agency to conduct a criminal investigation and/or prosecution of a criminal matter within the 79<sup>th</sup> Judicial District. Some of the reasons for seeking the assistance of the outside agencies may include the following: 1) the complexity of the case such as in a criminal investigation/prosecution that includes multiple jurisdictions or requires specialized resources; 2) a criminal investigation/prosecution involving an elected official or department head of a local branch of the government; 3) a criminal investigation/prosecution that involves public integrity allegations; or 4) a criminal investigation/prosecution where a potential conflict of interest has been identified.

In the event that an out-side agency is conducting an investigation, but our office is handling the prosecution, we will disclose information based on the policies found in this document. In the event that an out-side agency or attorney pro tem is handling the prosecution, however, my office will not disclose any information and will refer the requester to the agency/attorney pro tem.

**Public Information Act.** From time to time, it may be necessary to present a Public Information Act (PIA) request for information held in our office. The District Attorney's Office has a duty to hold back records that should not be released, however, we also have a duty to assist the public in obtaining documents which they are entitled.

If a PIA request is submitted to the District Attorney's Office which contains any information that is privileged, protected, or excepted from release, the DAO will request a ruling from the Attorney General's Office; however, in an effort to afford the public the benefit of a free press, the DAO will review any documents that we have identified as conforming with the PIA request to see if there is any information that can be released. If there is information that can be released in a redacted format, we will inform the requestor of its availability and make that available. In order to receive the redacted document, we ask that you withdraw the PIA request. If the redacted information does not satisfy your request, you can resubmit the PIA request.

Some common exceptions to PIA disclosure include:

Information connected to pending or anticipated litigation (TGC 552.103)

Attorney-Client Communications (TGC 552.107)

Pending criminal investigation or prosecution; closed criminal cases not resulting in conviction or deferred adjudication; or attorney work product (TGC 552.108)

**Additional Restrictions.** Below are a few additional areas where the release of information has been prohibited or restricted:

Victim's addresses and phone numbers (TCCP 55.09)

Confidentiality of Identifying Information of Sex Offense Victims (TCCP 57.02)

Confidentiality of Identifying Information of Family Violence Victims (TCCP 57B.02)

Sealing of Court Records Containing Medical Information for Certain Child Victims (TCCP 57C.02)

Confidentiality of Identifying Information of Victims of Trafficking of Persons (TCCP 57D.02)

Grand Jury proceedings (TCCP 20.02)

Expunged records (TCCP 55.03)

Records related to crimes committed by children (TCCP 44.281, 44.2811)

Evidence depicting or describing abuse or sexual conduct by child or minor (TCCP 38.45, 39.15)

Public release of indictment delayed until the capias is served (TCCP 20.22(b))

Personal Information about Jurors (TCCP 35.29)

Personal Information about Grand Jurors (TCCP 19.42)

Release and confidentiality of records of missing children/persons (TCCP 63.006, 63.007, 63.017)

Release of criminal information (TCCP 61.03, 61.04, 61.05)

Address Confidentiality Program (TCCP 56.88)