Relationship to Other Standards (Standard 3–1.4)

. . . Both Model Rule 3.6 and the Fair Trial and Free Press Standards contain lists of the types of statements that can ordinarily be presumed to violate or not to violate the strictures of this section. Fair Trial and Free Press Standards 8–1.1(b) and (c) provide as follows:

(b) Statements relating to the following matters are ordinarily likely to have a substantial likelihood of prejudicing a criminal proceeding:

* * * * *

(3) the opinion of the lawyer on the guilt of the defendant, the merits of the case or the merits of the evidence in the case;

(4) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make a statement;

(5) the performance of any examinations or tests, or the accused's refusal or failure to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

* * * * *

(8) information which the lawyer knows or has reason to know would be inadmissible as evidence in a trial;

Standard 3–1.5 Duty to Respond to Misconduct

(a) Where a prosecutor knows that another person associated with the prosecutor's office is engaged in action, intends to act or refuses to act in a manner that is a violation of a legal obligation to the prosecutor's office or a violation of law, the prosecutor should follow the policies of the prosecutor's office concerning such matters.

(ABA Standards for Criminal Justice Prosecution Function and Defense Function, Standard 3–1.5 (a), p. 17)

D.C. DISTRICT COURT RULES RE: LEAKS TO PRESS

RULES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Title III. Criminal Rules.

(b) Conduct of Attorneys in Criminal Cases.

(1) It is the duty of the lawyer or law firm not to release or authorize release of information or opinion which a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent criminal litigation with which the lawyer or the law firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(2) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(3) the prosecution . . . shall not release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by means of public communication, relating to that matter and concerning:

(ii) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(iii) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(v) The possibility of a plea of guilty to the offense charged or a lesser offense;

(vi) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

(District of Columbia Rules of Court—Rules of the US District Court for D.C., Title III. Criminal Rules, Rule 308b)

(c) Orders in Widely Publicized or Sensational Cases. In a widely publicized or sensational criminal case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties, witnesses and attorneys likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order.

(District of Columbia Rules of Court—Rules of the US District Court for D.C., Title III. Criminal Rules, Rule 308b)

Mr. Speaker, the Department of Justice guidelines concerning leaks to the press, 1–7.510, Non-Disclosure of Information:

At no time shall any component or personnel of the Department of Justice furnish any statement or information that he or she knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding.

From the United States Attorneys' Manual, Chapter 7, Section 1–7.510.

Disclosure of Information Concerning Ongoing Investigations:

The Department shall not respond to questions about the existence of an ongoing investigation or comment on its nature or progress.

1–7.550. Concerns of Prejudice:

Department personnel should refrain from making available the following:

Section a. Observations about a defendant's character;

Section b. Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement;

Section d. Statements concerning the identity, testimony, or credibility of prospective witnesses;

Section e. Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial;

Section f. Any opinion as to the defendant's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea of a lesser offense.

From the United States Attorneys' Manual, Chapter 7, Section 1–7.550.

Rules of Professional Responsibility of the D.C. Bar, re Leaks to the Press.

Rule 3.8. Special Responsibilities of a Prosecutor:

The prosecutor in a criminal case shall not make extrajudicial comments which serve to heighten condemnation of the accused. For example, Rule 3.6 prohibits extrajudicial statements that will have a substantial likelihood of destroying the impartiality of the judge or jury. What is avoidable is extrajudicial comment by a prosecutor that serves unnecessarily to heighten public condemnation of the accused without a legitimate law enforcement purpose before the criminal process has taken its course.

Finally, Mr. Speaker, with regard to the American Bar Association's standards concerning leaks to the press.

Standards 3–1.4(b):

A prosecutor should exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under this Standard. Statements relating to the following matters are ordinarily likely to have a substantial likelihood of prejudicing a criminal procedure.

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The opinion of the lawyer on the guilt of the defendant, the merits of the case or the merits of the evidence in the case, the existence or contents of any confession, admission or statement by the accused, or the refusal or failure of the accused to make a statement.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MILLER) is recognized for 5 minutes.

(Mr. MILLER of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SUPPORT MY LEGISLATION TO REFORM THE IRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOX) is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to address my colleagues tonight with regard to the importance of the reform of IRS. They certainly have gone a step in the right direction, Mr. Speaker, both in the House and the Senate with the IRS restructuring format, and that is certainly a bill I expect to have conference committee approve, have both Chambers approve and then eventually be signed by the President.

But added on to that is certainly another piece of legislation called the Taxpayer Bill of Rights III which I have introduced, Mr. Speaker, and its purpose is to make sure we go even further for our constituents to make sure that they are protected when it comes to dealings with the IRS. We only have to look to September of 1997 when the Senate Finance Committee held hearings and had IRS agents under anonymity, under hoods with scrambled speech testifying in front of Mr. ROTH's committee just to the problems that have been outlined, whether it be fishing expeditions or the fact that mom and pop stores were the ones that were

targeted for IRS investigations, the ones least likely to have either attorneys or accountants to assist them in determining whether or not an IRS tax was due or not.

And so in my legislation, besides the fact that we changed the burden of proof, instead of presuming that in fact the constituents are guilty, instead the constituents or taxpayers in this case will be presumed innocent and the IRS Commissioner would have to prove otherwise, in addition the legislation calls for increased probable cause, no more quotas.

As you have heard the testimony in the Senate hearings, there in fact were quotas for different IRS offices across the country which said there had to be so many audits or investigations, and certainly having quotas is certainly not the kind of jurisprudence that our courts envisioned or this country through its leaders would envision.

In addition, the bill calls for whistleblower protection, so if you report wrongdoing by an IRS employee or an office, that in fact you could not be audited then because you came forth to tell the truth.

In addition, the IRS would be responsible for any bad advice it gives, just as much as anyone else would who is in a similar official setting. IRS would be held to whatever advice it does give even though others may have relied to their detriment.

In addition, when the IRS overreaches and causes a taxpayer, an individual, business or legal loss, then the IRS would be responsible for that, and obviously it is our hope that through the anecdotal evidence which has been brought forward in the Senate hearings as well as House hearings, that in fact the American public can feel more secure as a result of this legislation, that there will not be quotas, fishing expeditions or in fact overreaching by the IRS in the future.

And finally, the bill calls for mediators to be appointed, Mr. Speaker, in the event that a taxpayer wants to settle a claim, that in fact the IRS would have to appoint a mediator for the purpose of trying to settle that claim.

And I applaud Members on both sides of the aisle for their efforts to work together to make sure we recast the IRS into an agency that is concentrated on service and in fairness. And while I am sure most of the IRS, if not the majority of the employees working there are doing what they think is best, the fact is that we have to change the code and the way the IRS is operating under changes of burden of proof which will, together with the agency, make sure that we make the reforms that the American people want and they deserve.

CRISIS IN AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. MINGE) is recognized for 5 minutes.

Mr. MINGE. Mr. Speaker, in the late 1990's we are facing a crisis in agriculture that is reminiscent of what we faced in the mid-1980's. It is also reminiscent of what we faced a century ago when William Jennings Bryan talked about crucifying American farmers on a cross of gold, when he talked about how our cities could be burned or factories could be destroyed and they would rise again, but if you destroy American agriculture, you can destroy our civilization. We have a unique responsibility, I submit, at the Federal level to show a continuing concern about the state of the agricultural economy.

It is unique in our country in the sense that we have a virtually pure form of competition for many of the crops and products that we produce among the producers. It is a true law of supply and demand that governs the market and governs the price. Other sectors of our economy are not bound by these stark principles to nearly the same extent.

Businesses can choose and work to differentiate the service that they provide, the product that they sell, from the competition. It may not be different, but the perception is it is different. Whether it be breakfast food, beer or some other commodity, we know that through careful advertising and brand promotion the consumers feel that they actually are receiving something substantially different from one producer compared to another.

But if you go to the country and you say you are interested in buying No. 2 yellow corn, it does not make any difference which farm that corn came from. No. 2 yellow corn is fungible with all other No. 2 yellow corn produced, or spring wheat or durum wheat or soybeans, and the list of products grown on our farms goes on and on.

Similarly, although one hog producer can strive for better genetics and more efficient production, when it comes to the marketplace, as long as those genetics and that production principle is basically the same, one farmer is receiving the same price as the next.

So what has this led to here in the late 1990s? Well, the price of corn in my part of the country, the northern corn belt, is dropping to $2 a bushel and possibly lower. We see wheat dropping below $3 a bushel. These two key crops are more important to the American farm economy than any others, and when the prices are dropping in those key crops, and we know that production costs are up, we are talking about some pretty serious difficulty.

In 1996 we passed a new farm bill with a 7-year life. It provided for transition payments and transition programs. And how was that farm bill serving us in the late 1990's, just barely 2 years later? My colleagues, I regret to report it is not serving us well.

The transition payments, which are costing the U.S. Treasury tens of billions of dollars, have been capitalized into land costs, higher rents for producers, more difficult for new and beginning farmers to establish themselves. Unfortunately, these transition payments are not providing the farmers with a nest egg that they can put to one side in a good year and use in a poor year. Instead, it is money that has to be spent in what was hoped to be a good year, and when the poor year comes there is nothing at all.

We are in a poor year. Figures from the U.S. Commerce Department indicate that agricultural income is down 98 percent in North Dakota, 98 percent from 1996 to 1997. In Missouri it is down 72 percent. In Minnesota it is down 38 percent. These are dramatic figures. It is leading to hundreds, if not thousands, of bankruptcies and farm closures and foreclosures.

We must act in this body to recognize that unless Congress and the Federal Government helps farmers by creating tools that they can use to manage risk, we are going to continue to lose hundreds of thousands of farmers over the next few years in the United States, a loss we cannot afford.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

DO NOT VETO THE IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BERMAN) is recognized for 5 minutes.

Mr. BERMAN. Mr. Speaker, I am taking out this special order here today in conjunction with my friend and colleague from Texas (Mr. FROST) to discuss H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997. The President must decide tomorrow whether or not to veto H.R. 2709, which was sent to him on June 10.

This is legislation which Congress and the administration have discussed and debated again and again. It was first introduced in October 1997, followed by hearings and briefings with the administration, including at least two lengthy meetings between Vice President GORE and congressional sponsors of the legislation. In June it was sent to the President after a 392 to 22 vote.

The Senate passed this legislation 90 TO 4. It has such great support in the Congress because it is aimed at halting one of the major threats to international stability, Iran's program of developing missile delivery systems for its nuclear, chemical and biological weapons program.

There is no doubt about the Iranian program. Iran's Shihab-3 and Shihab-4 missiles are being designed with external help, reportedly primarily but not