

RULE 3.8: SPECIAL RESPONSIBILITIES OF A PROSECUTOR

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

- (a) pursue or prosecute a charge that the prosecutor knows is not supported by probable cause;
- (b) [RESERVED]
- (c) [RESERVED]
- (d) fail to make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, fail to disclose to the defense all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by an order of the tribunal;
- (e) subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes all of the following apply:
 - (1) the information sought is not protected from disclosure by any applicable privilege;
 - (2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution;
 - (3) there is no other feasible alternative to obtain the information.
- (f) fail to do the following when a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a convicted defendant is innocent of the crime for which the defendant was convicted:
 - (1) promptly disclose that evidence to an appropriate court or authority, and
 - (2) if the conviction was obtained in the prosecutor's jurisdiction,
 - (i) promptly disclose that evidence to the defendant unless a court authorizes delay, and
 - (ii) undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant is innocent of the crime.
- (g) fail to seek to remedy a conviction, even if all authorized appeals have concluded, when a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor's jurisdiction is innocent of the crime for which defendant was prosecuted.