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by H. Patrick Furman and Daniel A. Vigil

On January 1, 1993, the Colorado Rules of Professional Conduct ("Rules") take effect. They replace the Code of Professional Responsibility ("Code") that has governed the professional conduct of Colorado lawyers since 1970. The Rules appear in Title 7 of the Colorado Revised Statutes (1992 Supplement), and in the October 1992 issue of *The Colorado Lawyer*.[1]

The Rules, which are modeled on the American Bar Association's Model Rules of Professional Conduct ("Model Rules"), are the product of several years of study by the joint Colorado Supreme Court and Colorado Bar Association Model Rules Committee. After public hearings, the Supreme Court adopted the Rules on May 7, 1992.

A complete discussion of the Rules, written by members of the committee, accompanied the Rules themselves in the October issue of *The Colorado Lawyer*.[2] It should be read carefully. This article is a supplement to the October article and addresses those rules which specifically affect prosecutors and criminal defense lawyers.

Scope of Representation: Rule 1.2

Rule 1.2 establishes limits on the scope of counsel's representation of a client. Generally, counsel must consult with a client and abide by the client's decisions about the objectives of the representation and the means used to obtain those objectives. The rule specifically provides that in a criminal case, counsel must abide by the client's decisions as to the plea to be entered, whether to waive jury trial and whether to testify. The prudent lawyer should memorialize, in a written document signed by the client, the fact of compliance with this requirement.

Colorado's Rules contain a subsection (f) to Rule 1.2 which does not appear in the Model Rules. This subsection makes it clear that the scope of representation may not include any type of appeal to prejudice. Rule 1.2(f) states:

> In representing a client, a lawyer shall not engage in conduct that exhibits or is intended to appeal to or engender bias against a person on account of that person's race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, whether that conduct is directed to other counsel, court personnel, witnesses, parties, judges, judicial officers, or any persons involved in the legal process.

In *People v. Sharpe*,[3] the Colorado Supreme Court disciplined a prosecutor who was prosecuting Hispanic co-defendants for saying to defense counsel, "I don't believe either one of those chili-eating bastards." The court used DR 1-102(a)(6) of the Code—a rather vague and general proscription against conduct that adversely reflects on fitness to practice law—as a basis for discipline. Rule 1.2(f) is far more specific and clearly renders such comments unethical.

Confidentiality of Information: Rule 1.6

Rule 1.6 deals with counsel's ethical duty regarding confidential information. Unlike the Code, Rule 1.6 does not distinguish between "confidences" and "secrets." Rule 1.6(a) protects "information relating to representation" and bars disclosure of such information except in certain limited circumstances, as discussed below.

Rule 1.6(a) is more restrictive than the Code[4] because, at least in theory, the Code allowed counsel to reveal "secrets" which the client had not requested be held inviolate. The Code allowed this disclosure if it would not be embarrassing or would not likely be detrimental to the client. Rule 1.6 provides no such exception to the rule of confidentiality.

Rule 1.6(b) does retain a future crimes exception nearly identical to that of the Code: "A lawyer may reveal the intention of the lawyer's client to commit a crime and the information necessary to prevent the crime." The Colorado Supreme Court did not adopt the more restrictive

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rule endorsed by the ABA, which permits disclosure only if the contemplated crime is unlikely to result in death or substantial bodily injury.[5]

Rule 1.6(c) contains a second exception to the confidentiality requirement which allows counsel to reveal confidential information (1) to the extent counsel reasonably believes necessary to establish a claim or defense on behalf of counsel in a controversy between counsel and client; (2) to establish a defense to a criminal charge or civil claim against counsel based on conduct in which the client was involved; or (3) to respond in any proceeding concerning counsel's representation of the client. Rule 1.6(c) is slightly more expansive than its Code counterpart.[6]

Rule 1.6 in no way modifies or interferes with the operation of the attorney-client privilege, which is defined by statute in Colorado.[7] The Comment to Rule 1.6 reminds practitioners that the attorney-client privilege applies in proceedings in which a lawyer is called as a witness or otherwise required to produce evidence concerning a client. The rule, on the other hand, applies in situations other than those where evidence is sought from the lawyer through compulsion of law.

Conflict of Interest: Rule 1.7

Rule 1.7 is the general rule dealing with conflicts of interest. It reads in relevant part as follows:

> (b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

Rule 1.7(b)(2) provides for client consent after consultation. However, Rule 1.7(c) provides that a client's consent cannot be validly obtained when a disinterested lawyer would conclude that the client should not agree to the representation under the circumstances. Thus, obtaining client consent must be treated carefully.

Recently, in *People v. Chew*,[8] counsel was disciplined for, *inter alia*, representing co-defendants in criminal cases in two separate instances. As a basis for discipline, the Colorado Supreme Court relied on DR 5-105(A) and (B). Although neither the Code nor the Rules specifically prohibit a lawyer from ever representing co-defendants in criminal cases, doing so is very risky because the interests of criminal co-defendants are almost invariably in conflict. The ABA Defense Function Standards recommend strongly against the representation of co-defendants.[9] In addition, many commentators have recommended a rule flatly prohibiting joint representation.[10] For these reasons, representation of criminal co-defendants should be avoided.

"Rule 3.6 attempts to strike the appropriate balance between the right to a fair trial and the right to free expression."

Client Under a Disability: Rule 1.14

Rule 1.14 deals with a client whose ability to make adequately considered decisions in connection with the representation is impaired. The rule directs counsel to maintain a normal client-lawyer relationship as far as is reasonably possible. Such an impairment does not relieve counsel of the obligation to obtain information from the client to the extent possible.

However, CRS § 16-8-110 *et seq.* and *Jones v. District Court*[11] require defense counsel to raise the issue of the client's mental competence if counsel is in doubt as to the client's competence. Rule 1.14(c) reconciles these competing obligations by allowing counsel to seek the appointment of a guardian or take other protective action, but only when counsel reasonably believes that the client cannot act in his or her own best interest. Reconciling the obligations requires counsel to do all that can be done to work with a client under a disability. Only when the lawyer believes that the client cannot act in his or her own best interest may the lawyer seek protective action.

Meritorious Claims and Contentions: Rule 3.1

Rule 3.1 restates the longstanding rule[12] forbidding a lawyer to bring or defend a proceeding or issue which is frivolous. A good faith argument for an extension, modification or reversal of existing law is not frivolous. For criminal lawyers, the most important portion of Rule 3.1 is the second sentence, which contains an exception to the general rule and allows criminal defense lawyers to "nevertheless . . . defend the proceeding as to require that every element of the case be established."[13] Presumably, juries will continue to act as a check on the presentation of frivolous defenses.

Expediting Litigation: Rule 3.2

Rule 3.2 requires lawyers to make reasonable efforts to expedite litigation consistent with the interests of the client. The Comment to Rule 3.2 makes it clear that

> realizing a financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of a client.

Statutory and constitutional speedy trial rights generally control the expeditiousness with which criminal cases are resolved. However, the Comment notes that Rule 3.2 is important and is an improvement over the Code, which said virtually nothing about this issue.[14]

Candor Toward the Tribunal: Rule 3.3

Rule 3.3 expresses counsel's ethical obligation to be honest with the tribunal. (Counsel should review the October article for a discussion of Rule 3.3.) The requirement of candor toward the tribunal, previously expressed in DR 7-102, contains at least one significant change from the Code of which counsel must be aware: revealing perjury by a client.

When dealing with a client who has expressed an intention to commit perjury, counsel must first attempt to dissuade the client from the perjury. If this effort is unsuccessful, counsel should move to withdraw from the case.[15] While this second step may simply throw the ethical dilemma into someone else's lap, it does eliminate the problem for the lawyer at hand. Furthermore, it is a course of action approved by the Colorado Supreme Court under the Code.[16]

The real problem arises if the motion to withdraw is denied. Various responses to this problem have been offered in the past. The Code required counsel to reveal a perjury to the court unless (and this is a broad exception) the knowledge of that fraud was protected as a confidential communication.[17] One commen-

tator proposed treating the client as any other witness and leaving it to the jury to decide the truth or falsity of the testimony.[18] The ABA proposed, but never adopted, a rule allowing counsel to put the perjurious client on the stand but having the client present the perjurious testimony in narrative fashion without the assistance of counsel.[19]

Rule 3.3 is clearly different from the Code in that the duty to respond to client perjury applies even if counsel's knowledge of the perjury is based on a confidential communication. Rule 3.3(b) provides that the duty applies even if fulfilling it "requires disclosure of information otherwise protected by Rule 1.6."

Rule 3.3(a)(2) provides as follows:

> A lawyer shall not knowingly fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.

Perjury is, of course, both criminal and fraudulent. The Comment notes the intense debate which the problem of client perjury has engendered, but takes the position that a defendant's right to testify does not include the right to the assistance of counsel in the commission of perjury. The Comment also notes counsel's obligation under Rule 1.2(d) to avoid implication in the commission of a criminal offense.[20]

Rule 3.3(a)(4) provides as follows:

> A lawyer shall not knowingly offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

The first two remedial measures suggested in the Comment are to call on the client to rectify the situation and to move to withdraw. However, if these efforts fail, the only advice offered in the Comment is the language of the rule itself: "take reasonable remedial measures."

With respect to what these other remedial measures may be, the rule rejects the suggestions discussed above of the ABA and the commentator.[21] No other specific measures are suggested. The Colorado Supreme deleted any answer to the question of whether remedial measures include disclosure to the court.[22]

There are two other possible remedial measures. They are (1) revealing the perjury directly to the trial court and (2) revealing the perjury to another judge. Revealing the perjury to another judge could take the form of making a record in front of a different trial judge or making a record outside the presence of the trial judge for appellate review.

The decision in *People v. Schultheis*[23] rejected a requirement that counsel reveal privileged communications to the trial court during the trial.[24] The court approved the procedure that counsel employed, which was to make a record about the perjury outside the presence of the trial court for appellate review. This record, in the event of a conviction, enables the appellate court to assess more accurately whether the defendant was denied the effective assistance of counsel. However, in the event of an acquittal, this record might never be reviewed, and the perjury would go undetected.

Counsel should consider two points before continuing to rely on *Schultheis*. First, that case was decided under the Code. It is unclear whether this response to the problem of witness perjury will be approved by the court under the Rules because the Rules show a clear intent to deal with client perjury more strongly. Second, *Schultheis* involved perjury by a witness, not a defendant. There are additional constitutional considerations when the witness is also the defendant.

The only limitation on the duty to reveal client perjury recognized in the Comments to the Rules is the possibility that a court might find that constitutional rights to due process and counsel require a lawyer to present false testimony by a client in a criminal case. However, the U.S. Supreme Court has indicated that a criminal defendant has no constitutional right to commit perjury.[25] Thus, protection for such perjury would have to be found in a state constitutional provision. While the Comment to Rule 3.3 indicates that some states have found such protection,[26] no Colorado court has found it in the Colorado Constitution.

The net result is confusion. It is clear that the Rules attempt to place a greater burden on counsel to prevent and reveal client perjury, yet it remains unclear precisely how counsel should meet that burden.

With respect to the perjurious nonclient witness, Rule 3.3(a)(4) forbids counsel knowingly to offer evidence which counsel knows is false. This is similar to DR 7-102(a)(4). "Knowingly" denotes actual knowledge.[27] If counsel does not know the evidence is false, but reasonably believes it is false, counsel may (not must) refuse to offer it under Rule 3.3(c). "Believes" denotes "that the person involved actually supposed the fact in question to be true."[28]

The other requirements of Rule 3.3 are similar to those contained in the Code. Rule 3.3(a)(3) forbids counsel knowingly to fail to disclose controlling case law which is directly adverse to counsel's position and which was not revealed by opposing counsel. This longstanding obligation, previously expressed in DR 7-106(B)(1), has historically been viewed merely as a challenge to counsel's ability to distinguish adverse cases from the case at bar. Properly viewed, however, it is an expression of the commitment of the legal profession to integrity and professionalism.

Rule 3.3(d) establishes an additional duty of candor in *ex parte* proceedings. Counsel in an *ex parte* proceeding has a duty to inform the tribunal of all material facts known to counsel, favorable or adverse, which will enable the tribunal to make an informed decision. *Ex parte* proceedings include grand jury proceedings,[29] which raises the question of how much exculpatory evidence a prosecutor should be required to present to a grand jury.

Application of Rule 3.3(d) to prosecutors presenting cases to grand juries was apparently not considered by the drafters.[30] The U.S. Supreme Court recently held that neither the Fifth Amendment nor the court's supervisory powers allow a court to dismiss an indictment for failure to present exculpatory evidence.[31] Presumably, Rule 3.3(d) is not intended to turn grand juries into full-blown adjudicative bodies. However, the rule seems to impose some duty on prosecutors to present exculpatory evidence.

All of these rules relating to candor toward the tribunal are circumscribed by Rule 3.3(b), which provides that the duties described in Rule 3.3(a) "continue to the conclusion of the proceeding." The ABA has interpreted "to the conclusion of the proceeding" to mean prior to final judgment and when disclosure is necessary to prevent the judgment from being corrupted by the client's unlawful conduct.[32]

Fairness to Opposing Party And Counsel: Rule 3.4

Rule 3.4, entitled "Fairness to Opposing Party and Counsel," is premised on the principle that the adversary system works best when the opposing parties have full access to the evidence and when witnesses and the trial process remain free of improper influences. The rule forbids a variety of conduct which undermines this principle.

While the forbidden conduct is of a sort more commonly occurring in civil litigation, Rule 3.4 applies to all litigation. Most of the provisions are similar to those in the Code.[33] The only portion of the rule specifically applying to criminal cases is subsection (e), which precludes counsel from expressing a personal opinion as to the justness of a cause or the guilt or innocence of an accused.[34]

Impartiality and Decorum of The Tribunal: Rule 3.5

Rule 3.5 prohibits lawyers from (1) seeking to illegally influence judges, witnesses or other officials, (2) engaging in *ex parte* communications with such persons except as permitted by law and (3) engaging in conduct intended to disrupt a tribunal. The Comment to this rule suggests that lawyers familiarize themselves with the Code of Judicial Conduct in order to avoid contributing to a violation of that code. The Committee Comment to Rule 3.5 notes that this rule simply makes it unethical to do that which is already illegal. It views the new rule as an improvement over DR 7-106(C) because it is more specific.

Trial Publicity: Rule 3.6

Rule 3.6 deals with trial publicity and is the analog to DR 7-107 of the Code. The rule is based on the ABA Model Code of Professional Responsibility and the ABA Standards Relating to Fair Trial and Free Press. It attempts to strike the appropriate balance between the right to a fair trial and the right to free expression. This rule is subservient to the special rules relating to juvenile, domestic relations, mental disability and other proceedings.[35]

Rule 3.6(a) sets forth the basics as follows:

> A lawyer shall not make an extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it is likely to create a grave danger of imminent and substantial harm to the fairness of an adjudicative proceeding.

Rule 3.6(b) provides several types of statements ordinarily likely to have such an effect. The most significant examples in criminal cases include statements relating to character, credibility, reputation, criminal record, expected testimony, plea negotiations, statements or silence of the accused, test results, inadmissible prejudicial evidence and opinions as to guilt or innocence.

Rule 3.6(c) sets forth various exceptions to the general rule. Most of these relate to information in the public record or are necessary to protect the public. In criminal cases, Rule 3.6(c)(7) allows counsel to state, without elaboration: (1) the identity, residence, occupation and family status of the accused; (2) information needed to help apprehend a fugitive defendant; (3) the time and place of arrest; and (4) the identity of the arresting officer.

Special Responsibilities of a Prosecutor: Rule 3.8

Rule 3.8, entitled "Special Responsibilities of a Prosecutor," mirrors the Model Rule and is based on the ABA Standards of Criminal Justice relating to the prosecution function. The Code set forth the ethical duties of prosecutors in DR 7-103.[36] The Rules provide a more detailed description of the ethical responsibilities of prosecutors. In addition to forbidding prosecutors from pursuing charges in the absence of probable cause[37] and requiring disclosure of exculpatory material,[38] the rule lists several other duties.

Prosecutors must make reasonable efforts to assure that the accused has been

advised of the right to counsel and the procedure for obtaining counsel.[39] Unless there has been a valid waiver of counsel, prosecutors should not seek to obtain a waiver of important pretrial rights.[40] These procedures should be read in conjunction with legislation passed this year altering the rights of indigent defendants to court-appointed counsel in the pretrial stages of certain misdemeanor charges.[41]

Prosecutors must not only follow the guidelines about public statements contained in Rule 3.6, but also exercise reasonable care to prevent investigators, police, employees and other court personnel from making such statements.

Finally, Rule 3.8(f) addresses the problem of prosecutorial subpoenas aimed at criminal defense lawyers. This issue is addressed at length in the October article mentioned above.[42] Practitioners are encouraged to review that discussion.

Communications with Persons Represented by Counsel: Rule 4.2

Rule 4.2 addresses communication with a person represented by counsel. It prohibits counsel from communication with a party that counsel knows is represented about the subject matter of the representation, unless counsel has the consent of the other lawyer or is authorized by law to communicate. The rule is essentially the same as DR 7-104(A) of the Code.

The operation of Rule 4.2 is limited to communications about the subject of the representation. Consider a defendant who has been charged with theft and has retained counsel. If the defendant is also under investigation for, but has not been charged with, the sale of marijuana, a prosecutor may ethically direct an undercover police officer to meet with the defendant, without notifying counsel, to discuss the purchase of marijuana. This prosecutorial action is ethical because the subject discussed was something other than the subject of the representation. The Colorado Supreme Court previously held that such an action by a prosecutor was not ethical under the Code.[43]

Dealing with Unrepresented Persons: Rule 4.3

Rule 4.3 addresses counsel's dealings with an unrepresented person. It requires counsel to make it clear that he or she represents a client and is not a disinterested party. When counsel knows, or reasonably should know, that the unrepresented person misunderstands counsel's role, counsel must take reasonable steps to correct the misunderstanding. Counsel shall not give advice to the unrepresented person other than advice to obtain counsel.

CRS § 16-7-301 provides that a district attorney should engage in plea discussions or reach plea agreements with the defendant only through, or in the presence of, defense counsel. The statute then addresses several exceptions allowing the district attorney to deal directly with the defendant. When a district attorney is dealing directly with a defendant pursuant to one of the exceptions, the district attorney must comply with Rule 4.3.

Accepting Appointments: Rule 6.2

Rule 6.2 deals with court appointments. Pursuant to Rule 6.2, a lawyer shall not seek to avoid appointment by a tribunal except for good cause. Good cause exists when (1) representing the client is likely to result in a violation of the Rules or the law, (2) it places an unreasonable and oppressive burden on counsel or (3) "the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client."

Distinguishing between the "repugnance of the cause" and the "repugnance of the subject matter," the Comment to Rule 6.2 states that

> good cause does not include such factors as the repugnance of the subject matter of the proceeding. . . .

The difference between these two phrases is not explained. The Comment also makes it clear that the identity or position of a person involved in the case, or the belief of the lawyer that the defendant in a criminal proceeding is guilty, does not constitute good cause for refusing to accept an appointment.

Finally, counsel should note that Rule 6.2 uses the word "shall," which is clearly mandatory language. Under the Code, all provisions discussing court appointments were aspirational ethical considerations.

Information About Legal Services: Rules 7.1-7.5

Rules 7.1 through 7.5 address information about legal services. These rules deal with communications concerning a lawyer's services, advertising, direct contact with prospective clients, communi-

cation of fields of practice and firm names and letterheads. Counsel can find a discussion of these rules in the October article. Two rules of special concern to criminal lawyers are discussed in this section.

Rule 7.3 addresses contact with prospective clients and regulates solicitation. Pursuant to Rules 7.1 and 7.3, and consistent with *Shapero v. Kentucky Bar Association*,[44] a lawyer may use a written or recorded communication to solicit professional employment from a prospective client known to be in need of legal services in a particular matter.

Thus, targeted mailings are ethical under the Rules. However, they are disfavored by the Colorado legislature and the Colorado Bar Association ("CBA"). A 1992 statute prohibits the use of public and criminal justice records for the purpose of soliciting business for pecuniary gain.[45]

The CBA Board of Governors recently adopted a proposal aimed at restricting the use of targeted mailings. The proposal recommends that Rule 7.3 be amended by the addition of a new subsection making it unethical for a lawyer to solicit a client by written or recorded communication if the lawyer knows or reasonably should know that the physical, emotional or mental state of the prospective client precludes that person from exercising reasonable judgment in employing a lawyer. The proposal creates a presumption that a prospective client is able to exercise reasonable judgment if at least twenty days have passed since the event for which the legal representation is being solicited. The proposal has been forwarded to the Colorado Supreme Court.

Rule 7.4 deals with communications about fields of practice. A lawyer may communicate the fact that the lawyer does or does not practice criminal law or any other field. A lawyer may state or imply that the lawyer is a criminal law specialist as long as the communication does not violate the proscriptions in Rule 7.1 against false or misleading communications, the creation of unjustified expectations or unsubstantiated comparisons with other lawyers.

Conclusion

The legal profession remains one which essentially governs itself. The ability to remain free from outside regulation depends on those in the profession keeping their own house in order.

Because criminal cases are often in the news, the public's perception of whether the legal profession's house is in order is frequently based on the professionalism of criminal lawyers. Adherence to the Rules of Professional Conduct is not only the right thing to do, it is necessary to maintain the independence of the bar.

NOTES

1. "Code of Professional Responsibility," 21 *The Colorado Lawyer* 2125 (Oct. 1992).
2. Hennessey, ed., "Colorado's New Rules of Professional Conduct: A More Comprehensive and Useful Guide for Lawyers," 21 *The Colorado Lawyer* 2101 (Oct. 1992).
3. 781 P.2d 659 (Colo. 1989).
4. DR 4-101(A).
5. American Bar Association Model Rules of Professional Conduct, Rule 1.6.
6. DR 4-101(C)(4).
7. CRS § 13-90-107(1)(b).
8. 830 P.2d 488 (Colo. 1992).
9. ABA Defense Function Standard 4-3.5 (b) (2d ed. 1979):

> The potential for conflict of interest in representing multiple defendants is so grave that ordinarily a lawyer should decline to act for more than one of several co-defendants except in unusual circumstances. . . .

10. Wolfrum, *Modern Legal Ethics* 412 (1986).
11. 617 P.2d 803 (Colo. 1986).
12. *See* DR 7-102(A) and DR 2-109.
13. This rule also applies to lawyers representing respondents in proceedings which may result in incarceration, *e.g.*, contempt.
14. The closest the Code came to discussing the need to expedite litigation was general appeals to the effective administration of justice. *See* DR 1-102(A)(5) and EC 7-20. Additionally, the Code noted in DR 7-101 that it was not an ethical violation to be punctual, which is hardly a strong statement in support of expeditiousness.
15. *People v. Schultheis*, 638 P.2d 8 (Colo. 1981); *Nix v. Whiteside*, 475 U.S. 157 (1986); Rule 3.3, Comment 11.
16. *Schultheis*, *supra*, note 15 at 13.
17. DR 7-102.
18. Freedman, "Professional Responsibility and the Criminal Defense Lawyer: The Three Hardest Questions," 64 *Mich. L.Rev.* 1469 (1966).
19. ABA Standards Relating to the Administration of Justice, Proposed Standard 4-7.7 (1979).
20. Rule 3.3, Comment 10.
21. Rule 3.3, Comment 9.
22. *Supra*, note 2 at 2114.
23. *Supra*, note 15.
24. *Id.* at 13.
25. *Nix*, *supra*, note 15.
26. The authors have been unable to find such rulings.
27. Definitions are contained in the "Terminology" section of the Preamble.
28. *Id.*
29. Rule 3.8, Comment [1].
30. Conversation with committee member William Pizzi (Sept. 17, 1992).
31. *U.S. v. Williams*, 112 S.Ct. 1735 (1992). The four dissenters argued that courts did have such power and noted that the *Manual for United States Attorneys* required disclosure of such evidence if it is known by the prosecutor.
32. ABA Committee on Ethics and Professional Responsibility, Formal Opinion 287.
33. *See* DR 1-102(A) and DR 7-106(C).
34. *See generally People v. Jones*, 832 P.2d 1036 (Colo.App. 1991).
35. Rule 3.4(c) requires compliance with any such special rules.
36. *See also* EC 7-13 and EC 7-14.
37. Rule 3.8(a).
38. Rule 3.8(d).
39. Rule 3.8(b).
40. Rule 3.8(c).
41. CRS §§ 16-7-207 and -301.
42. *Supra*, note 2 at 2116.
43. *People v. Hyun Soo Son*, 723 P.2d 1337 (Colo. 1986).
44. 488 U.S. 466 (1988).
45. CRS § 24-72-305.5.

CBA International Law Committee to Meet December 17

The CBA International Law Committee will hold its monthly luncheon meeting at noon on December 17 in the Denver Athletic Club. Attorney Karen Ostrander-Krug will speak on "Doing Business with the Former Soviet Republics. Ostrander-Krug has practiced law in Russia and is the only U.S. attorney licensed to practice law in the Ukraine. CLE credit is anticipated.

The cost of the luncheon is $13.50, payable to the Colorado Bar Association. Anyone who reserves a lunch and does not cancel at least forty-eight hours before the luncheon will be charged for the lunch. Reservations should be faxed by noon on December 15 to Jan Hammerman in Denver at (303) 446-0803. If faxing is not possible, phone Mr. Hammerman at (303) 446-0011.