

Alabama Rules of Criminal Procedure

Rule 16. Discovery.

Rule 16.2. Discovery by the state/municipality.

(a) DOCUMENTS AND TANGIBLE OBJECTS. Upon written request of the state/municipality, the defendant shall, within fourteen (14) days after the request has been filed in court as required by Rule 16.4(c), or within such shorter or longer period as may be ordered by the court, on motion, for good cause shown, permit the state/municipality to analyze, inspect, and copy or photograph books, papers, documents, photographs, tangible objects, buildings, places, or portions of any of these things, which are within the possession, custody, or control of the defendant and which the defendant intends to introduce in evidence at the trial.

(b) PERSONAL PHYSICAL EVIDENCE. Upon motion of the state/municipality and solely in connection with the particular offense with which the defendant is charged, the court shall order the defendant to:

- (1) Appear in a line-up;
- (2) Speak for identification by witnesses;
- (3) Be fingerprinted, palm-printed, foot-printed, or voice-printed;
- (4) Pose for photographs not involving reenactment of an event;
- (5) Try on clothing;
- (6) Permit the taking of samples of defendant's hair, blood, saliva, urine, or other specified materials which involve no unreasonable intrusions into the body;
- (7) Provide specimens of defendant's handwriting; or
- (8) Submit to a reasonable physical inspection or medical examination of defendant's body, but such inspection or examination will not include a psychiatric or psychological examination, unless such psychiatric or psychological examination is authorized under the provisions of Rule 11.2(a)(1) and (2), Rule 25.4, or Rule 26.4.

The defendant shall be entitled to the presence of counsel at the taking of such evidence. This section shall supplement and not limit any other procedures established by law.

(c) REPORTS OF EXAMINATIONS AND TESTS. Upon written request of the state/municipality, the defendant shall, within fourteen (14) days after the request has been filed in court as required by Rule 16.4(c), or within such shorter or longer period as may be ordered by the court, on motion, for good cause shown, permit the state/municipality to inspect and to copy any results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, which are within the possession or control of the defendant and which the defendant intends to introduce in evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial, if the results or reports relate to the witness's testimony.

(d) INFORMATION NOT DISCOVERABLE. Except as to scientific or medical reports, this rule does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the defendant or the defendant's attorneys or defendant's agents in connection with the investigation or defense of the case; nor shall this rule authorize discovery or inspection of statements made by the defendant to defendant's attorneys or agents, or statements made by state/municipality or defense witnesses, or prospective state/municipality or defense witnesses, to the defendant, the defendant's attorneys, or agents.

Committee Comments

Section (a) is a modification of present Rule 16(b), Fed.R.Crim.P. It is different from the federal rule in that it does not condition the state's right to discovery upon the defendant's request for discovery. It also eliminates the need for the state to prove that the objects sought are material.

Section (c) provides for discovery by the state similar to that allowed to the defendant in Rule 16.1(d). The same reasoning applies. The state should have a pre-trial opportunity to examine and challenge expert reports of the defendant which will be introduced into evidence.

Section (d) parallels Rule 16.1(e), protecting the work product of the state. This language is similar to Rule 16(b)(2), Fed.R.Crim.P.