

Alabama Rules of Criminal Procedure

Rule 1. Scope; Purpose, Objectives, and Construction; Computation and Enlargement of Time; Definitions; Effective Date.

Rule 1.4. Definitions.

Unless otherwise defined in a particular rule, whenever they appear in these rules, the terms below shall have the following meanings:

(a) "Appearance Bond." See Rule 7.1(b).

(b) "Charge" means a complaint, indictment, or information.

(c) "Civil Contempt." See Rule 33.1(d).

(d) "Complaint." See Rule 2.3.

(e) "Constructive Contempt." See Rule 33.1(b).

(f) "Criminal Contempt." See Rule 33.1(c).

(g) "Criminal Court" means any court of the State of Alabama or any political subdivision thereof with trial jurisdiction over an offense, as defined in Rule 1.4(s).

(h) "Criminal Proceeding" means the prosecution of any offense as defined in Rule 1.4(s), and may be commenced only by complaint or indictment.

(i) "Determination of Guilt." See Rule 26.1(a)(3).

(j) "Direct Contempt." See Rule 33.1(a).

(k) "District Attorney" means, unless otherwise defined in a particular rule, the duly qualified and acting district attorney, subordinates acting under the district attorney's specific authority, or such other person appointed or charged by law with responsibility for prosecuting an offense. The term includes the Attorney General, Deputy Attorney General, assistant attorneys general, and others acting under the Attorney General's specific authority or pursuant to his supervision and direction.

(l) "Indictment." See Rule 13.1(a).

(m) "Indigent." See Rule 6.3(a).

(n) "Information." See Rule 13.1(b).

(o) "Judgment." See Rule 26.1(a)(1).

(p) "Law Enforcement Officer" means an officer, employee or agent of the State of Alabama or any political subdivision thereof who is required by law to:

(i) Maintain public order;

(ii) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(iii) Investigate the commission or suspected commission of offenses.

(q) "Magistrate" means only district and municipal magistrates under Rule 18, A.R.J.A. and Ala.Code 1975, §§ 12-17-250 et seq.

(r) "Minor Misdemeanor" means a misdemeanor or municipal ordinance violation for which the defendant will not be punished by a sentence of imprisonment.

(s) "Offense" means conduct for which a sentence to a term of imprisonment, or the death penalty, or for which a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state.

(t) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(u) "Personal Recognizance." See Rule 7.1(a).

(v) "Presentment." See Rule 13.1(a).

(w) "Presiding Judge" means (i) for circuit courts, the presiding judge selected according to Ala.Code 1975, § 12-17-23, and Rule 6(A), A.R.J.A., (ii) for district courts, the judge selected according to Rule 6(B), A.R.J.A., and (iii) for municipal courts not electing to come within the district courts, the judge selected according to law or local practice.

(x) "Professional Bondsman." See Rule 7.1(f).

(y) "Prosecutor" means any municipal attorney, district attorney, attorney general, and others acting under his or her specific direction and authority, appointed or charged by law with the responsibility for prosecuting an offense.

(z) "Secured Appearance Bond." See Rule 7.1(c).

(aa) "Security." See Rule 7.1(d).

(bb) "Sentence." See Rule 26.1(a)(2).

(cc) "Surety." See Rule 7.1(e).

(dd) "Venire" means all jurors drawn for jury service as provided in Rule 12.1(a) and Ala.Code 1975, § 12-16-70.

(ee) "Warrant of Arrest." See Rule 3.2. The terms "warrant" and "writ," as used throughout these rules to refer to a written order of arrest, shall be synonymous and interchangeable.

[Amended 7-23-91; Amended 9-19-91, eff. 10-1-91; Amended eff. 12-1-97.]

Committee Comments as Amended Effective August 1, 1997

Terms are defined functionally whenever feasible. Rule 1.4 serves both to set forth definitions of terms generally used throughout these rules and as a cross-reference to terms used in specific rules. As defined in this rule, a law enforcement officer is one who meets all three requirements of Rule 1.4(p).

The second sentence of Rule 1.4(k) was added to preserve the Attorney General's prosecutorial powers and authority under Ala.Code 1975, §§ 36-15-13 through 36-15-15, which were recognized in *Graddick v. Galanos*, 379 So.2d 592 (Ala.1980). See also *Carlton v. State*, 507 So.2d 998 (Ala.Crim.App.1986), upholding the *Graddick* powers. This sentence shall not be construed either to expand or to restrict the power of the Attorney General in the prosecution of cases.