

FEDERAL RULES OF CRIMINAL PROCEDURE

(As amended to January 3, 2012)

HISTORICAL NOTE

The original Federal Rules of Criminal Procedure were adopted by order of the Supreme Court on Dec. 26, 1944, transmitted to Congress by the Attorney General on Jan. 3, 1945, and became effective on Mar. 21, 1946.

The Rules have been amended Dec. 27, 1948, eff. Jan. 1, 1949; Dec. 27, 1948, eff. Oct. 20, 1949; Apr. 12, 1954, eff. July 1, 1954; Apr. 9, 1956, eff. July 8, 1956; Feb. 28, 1966, eff. July 1, 1966; Dec. 4, 1967, eff. July 1, 1968; Mar. 1, 1971, eff. July 1, 1971; Apr. 24, 1972, eff. Oct. 1, 1972; Nov. 20, 1972, eff. July 1, 1975, pursuant to Pub. L. 93-595; Mar. 18, 1974, eff. July 1, 1974; Apr. 22, 1974, eff. in part Aug. 1, 1975, and Dec. 1, 1975, pursuant to Pub. L. 93-361 and Pub. L. 94-64; Dec. 12, 1975, Pub. L. 94-149, §5, 89 Stat. 806; Apr. 26, 1976, eff. in part Aug. 1, 1976, and Oct. 1, 1977, pursuant to Pub. L. 94-349 and Pub. L. 95-78; Apr. 30, 1979, eff. in part Aug. 1, 1979, and Dec. 1, 1980, pursuant to Pub. L. 96-42; Apr. 28, 1982, eff. Aug. 1, 1982; Oct. 12, 1982, Pub. L. 97-291, §3, 96 Stat. 1249; Apr. 28, 1983, eff. Aug. 1, 1983; Oct. 12, 1984, Pub. L. 98-473, title II, §§209, 215, 404, 98 Stat. 1986, 2014, 2067; Oct. 30, 1984, Pub. L. 98-596, §11(a), (b), 98 Stat. 3138; Apr. 29, 1985, eff. Aug. 1, 1985; Oct. 27, 1986, Pub. L. 99-570, title I, §1009(a), 100 Stat. 3207-8; Nov. 10, 1986, Pub. L. 99-646, §§12(b), 24, 25(a), 54(a), 100 Stat. 3594, 3597, 3607; Mar. 9, 1987, eff. Aug. 1, 1987; Apr. 25, 1988, eff. Aug. 1, 1988; Nov. 18, 1988, Pub. L. 100-690, title VI, §6483, title VII, §§7076, 7089(c), 102 Stat. 4382, 4406, 4409; Apr. 25, 1989, eff. Dec. 1, 1989; May 1, 1990, eff. Dec. 1, 1990; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 29, 1994, eff. Dec. 1, 1994; Sept. 13, 1994, Pub. L. 103-322, title XXIII, §230101(b), title XXXIII, §330003(h), 108 Stat. 2078, 2141; Apr. 27, 1995, eff. Dec. 1, 1995; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 24, 1996, Pub. L. 104-132, title II, §207(a), 110 Stat. 1236; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 17, 2000, eff. Dec. 1, 2000; Oct. 26, 2001, Pub. L. 107-56, title II, §§203(a), 219, 115 Stat. 278, 291; Apr. 29, 2002, eff. Dec. 1, 2002; Nov. 2, 2002, Pub. L. 107-273, div. C, title I, §11019(b), 116 Stat. 1825; Nov. 25, 2002, Pub. L. 107-296, title VIII, §895, 116 Stat. 2256; Apr. 30, 2003, Pub. L. 108-21, title VI, §610(b), 117 Stat. 692; Apr. 26, 2004, eff. Dec. 1, 2004; Pub. L. 108-458, title VI, §6501(a), Dec. 17, 2004, 118 Stat. 3760; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 26, 2011, eff. Dec. 1, 2011.

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TITLE I. APPLICABILITY

Rule 1. Scope; Definitions

(a) SCOPE.

(1) *In General.* These rules govern the procedure in all criminal proceedings in the United States district courts, the United States courts of appeals, and the Supreme Court of the United States.

(2) *State or Local Judicial Officer.* When a rule so states, it applies to a proceeding before a state or local judicial officer.

(3) *Territorial Courts.* These rules also govern the procedure in all criminal proceedings in the following courts:

- (A) the district court of Guam;
- (B) the district court for the Northern Mariana Islands, except as otherwise provided by law; and
- (C) the district court of the Virgin Islands, except that the prosecution of offenses in that court must be by indictment or information as otherwise provided by law.

(4) *Removed Proceedings.* Although these rules govern all proceedings after removal from a state court, state law governs a dismissal by the prosecution.

(5) *Excluded Proceedings.* Proceedings not governed by these rules include:

- (A) the extradition and rendition of a fugitive;
- (B) a civil property forfeiture for violating a federal statute;
- (C) the collection of a fine or penalty;
- (D) a proceeding under a statute governing juvenile delinquency to the extent the procedure is inconsistent with the statute, unless Rule 20(d) provides otherwise;
- (E) a dispute between seamen under 22 U.S.C. §§ 256–258; and
- (F) a proceeding against a witness in a foreign country under 28 U.S.C. § 1784.

(b) DEFINITIONS. The following definitions apply to these rules:

- (1) “Attorney for the government” means:
 - (A) the Attorney General or an authorized assistant;

(B) a United States attorney or an authorized assistant;

(C) when applicable to cases arising under Guam law, the Guam Attorney General or other person whom Guam law authorizes to act in the matter; and

(D) any other attorney authorized by law to conduct proceedings under these rules as a prosecutor.

(2) “Court” means a federal judge performing functions authorized by law.

(3) “Federal judge” means:

(A) a justice or judge of the United States as these terms are defined in 28 U.S.C. § 451;

(B) a magistrate judge; and

(C) a judge confirmed by the United States Senate and empowered by statute in any commonwealth, territory, or possession to perform a function to which a particular rule relates.

(4) “Judge” means a federal judge or a state or local judicial officer.

(5) “Magistrate judge” means a United States magistrate judge as defined in 28 U.S.C. §§ 631–639.

(6) “Oath” includes an affirmation.

(7) “Organization” is defined in 18 U.S.C. § 18.

(8) “Petty offense” is defined in 18 U.S.C. § 19.

(9) “State” includes the District of Columbia, and any commonwealth, territory, or possession of the United States.

(10) “State or local judicial officer” means:

(A) a state or local officer authorized to act under 18 U.S.C. § 3041; and

(B) a judicial officer empowered by statute in the District of Columbia or in any commonwealth, territory, or possession to perform a function to which a particular rule relates.

(11) “Telephone” means any technology for transmitting live electronic voice communication.

(12) “Victim” means a “crime victim” as defined in 18 U.S.C. § 3771(e).

(c) AUTHORITY OF A JUSTICE OR JUDGE OF THE UNITED STATES. When these rules authorize a magistrate judge to act, any other federal judge may also act.

(As amended Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 28, 1982, eff. Aug. 1, 1982; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 26, 2011, eff. Dec. 1, 2011.)

NOTES OF ADVISORY COMMITTEE ON RULES—1944

1. These rules are prescribed under the authority of two acts of Congress, namely: the Act of June 29, 1940, c. 445, 18 U.S.C. 687 (Proceedings in criminal cases prior to and including verdict; power of Supreme Court to prescribe rules), and the Act of November 21, 1941, c. 492, 18 U.S.C. 689 (Proceedings to punish for criminal contempt of court; application to sections 687 and 688).

2. The courts of the United States covered by the rules are enumerated in Rule 54(a). In addition to Federal courts in the continental United States they include district courts in Alaska, Hawaii, Puerto Rico and the Virgin Islands. In the Canal Zone only the rules governing proceedings after verdict, finding or plea of guilty are applicable.

3. While the rules apply to proceedings before commissioners when acting as committing magistrates,