

CLE OUTLINE
ROLE OF THE PROSECUTOR

RULE 3.8

Alabama Rules of Professional Conduct

by

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GOAL: To discuss the role of the prosecutor in a criminal case and how it relates to Rule 16.1 in the Alabama Rules of Criminal Procedure.

- I. Role of the Prosecutor
“The District Attorney’s interest... in a criminal prosecution is not that he shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the two fold aim of which is that guilt shall not escape or innocence suffer.” (BERGER v UNITED STATES)-1935

- II. Rule 3.8 -Alabama Rules of Professional Conduct (1) The prosecutor in a criminal case shall:
 - (a) Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
 - (b) Make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;
 - (c) Not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;

(d) Not willfully 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, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

(e) Exercise reasonable care to prevent anyone under the control or direct supervision of the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6, and shall not cause or influence anyone to make a statement that the prosecutor would be prohibited from making under Rule 3.6;

III. Rule 16.1- Alabama Rules of Criminal Procedure

(a) Changes in the discovery process.

(b) Changes in docket/trial process.

(c) Issues with collection of materials.

(d) Goals for the future.