

IN THE SUPREME COURT OF MARYLAND

R U L E S O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted its Two Hundred and Seventeenth Report to the Supreme Court of Maryland, recommending proposed new Rule 16-504.1 and amendments to current Rules 16-502, 16-503, 16-504, and 16-901 of the Maryland Rules of Procedure; and

This Court having considered the proposed Rules changes, together with comments received, at an open meeting, notice of which was posted as prescribed by law, and making on its own motion certain amendments to the proposed Rules changes, it is this 22nd day of September, 2023

ORDERED, by the Supreme Court of Maryland, that new Rule 16-504.1 be, and it is hereby, adopted in the form attached to this Order; and it is further

ORDERED that amendments to Rules 16-502, 16-503, 16-504, and 16-901 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that the Rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 1, 2024 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that a copy of this Order be posted promptly on the website of the Maryland Judiciary.

/s/ Matthew J. Fader  
Matthew J. Fader

/s/ Shirley M. Watts  
Shirley M. Watts

/s/ Michele D. Hotten  
Michele D. Hotten

/s/ Brynja M. Booth  
Brynja M. Booth

/s/ Jonathan Biran  
Jonathan Biran

/s/ Steven B. Gould  
Steven B. Gould

/s/ Angela M. Eaves  
Angela M. Eaves

Filed: September 22, 2023

/s/ Gregory Hilton

Clerk

Supreme Court of Maryland

Pursuant to the Maryland Uniform Electronic Legal Materials Act (§§ 10-1601 et seq. of the State Government Article) this document is authentic.



Gregory Hilton, Clerk

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 500 - RECORDING OF PROCEEDINGS

AMEND Rule 16-502 by requiring in section (a) that recordings be made "by a person authorized by the court to do so," by adding Rule 16-504.1 to the Rules listed in subsection (b) (2), by adding new subsection (b) (3) pertaining to official recordings, by adding "or on its own initiative" and rewording the first sentence of section (f), by adding an evidentiary standard for entering an order to shield information in section (f), by requiring the log kept pursuant to the second sentence of section (f) to be in a form approved by the State Court Administrator, by clarifying references to closed proceedings and Rule 16-914 (g) in subsections (g) (1) and (g) (3), by adding a Committee note following subsection (g) (1) pertaining to Rule 16-914 (g), by adding new subsection (g) (4) pertaining to notice of restricted access to a recording, by adding new subsection (g) (5) pertaining to restrictions on use of copies of a recording obtained pursuant to subsection (g) (3), by adding new subsection (g) (6) establishing the penalty for violation of a restriction on use, and by making stylistic changes, as follows:

Rule 16-502. IN DISTRICT COURT

(a) Proceedings to be Recorded

All trials, hearings, testimony, and other judicial proceedings before a District Court Judge held either in a courtroom or by remote electronic means shall be recorded verbatim in their entirety by a person authorized by the court to do so, except that, unless otherwise ordered by the court, the person responsible for recording need not report or separately record an audio or audio-video recording offered as evidence at a hearing or trial.

Committee note: Section (a) of this Rule does not apply to ADR proceedings conducted pursuant to Title 17, Chapter 300 of these Rules.

(b) Method of Recording

(1) Generally

Proceedings shall be recorded by an audio recording device provided by the court.

(2) As Authorized By Chief Judge

The Chief Judge of the District Court may authorize recording by additional means, including audio-video recording. Audio-video recording of a proceeding and access to an audio-video recording shall be in accordance with this Rule and Rules 16-503, ~~and 16-504~~, and 16-504.1.

(3) Official Recordings

Except for extended coverage of court proceedings permitted under Title 16, Chapter 600 of these Rules, only

official recordings of judicial proceedings in the District Court made in accordance with this Rule are permitted.

(c) Control of and Direct Access to Electronic Recordings

(1) Under Control of District Court

Electronic recordings made pursuant to this Rule shall be under the control of the District Court.

(2) Restricted Access or Possession

No person other than an authorized Court official or employee of the District Court may have direct access to or possession of an official electronic recording.

(d) Filing of Recordings

Subject to section (c) of this Rule, audio recordings and any other recording authorized by the Chief Judge of the District Court shall be maintained by the court in accordance with the standards specified in an administrative order of the Chief Justice of the Supreme Court.

Cross reference: See Rule 16-505 (a) providing for an administrative order of the Chief Justice of the Supreme Court.

(e) Court Reporters and Persons Responsible for Recording Court Proceedings

Regulations and standards adopted by the Chief Justice of the Supreme Court pursuant to Rule 16-505 (a) apply with respect to court reporters and persons responsible for recording court proceedings employed in or designated by the District Court.

(f) Safeguarding Confidential Portions of Proceedings

~~If a portion of a proceeding involves placing on the record matters that, on motion, the court finds should and lawfully may be shielded from public access and inspection, the court shall direct that appropriate safeguards be placed on that portion of the recording.~~ The court shall direct that appropriate safeguards be placed on a specified portion of the recording if the court, on motion or on its own initiative, finds by clear and convincing evidence (1) that a compelling reason exists under the particular circumstances to shield the information in that part of the recording from public access and inspection and (2) that no substantial harm will result from the shielding. The clerk shall create a log in a form approved by the State Court Administrator listing the recording references for the beginning and end of the safeguarded portions of the recording. The log shall be kept in the court file, and a copy of the log shall be kept with the recording.

(g) Right to Obtain Copy of Audio Recording

(1) Generally

Except (A) ~~for proceedings closed pursuant to law, for proceedings as to which Rule 16-914 (g) applies, (B) as provided in Rule 16-914 (g), (C)~~ (B) as otherwise provided in this Rule, or ~~(D)~~ (C) as ordered by the court for good cause, the authorized custodian of an official audio recording shall make a copy of

the audio recording available to any person upon written request and, unless waived by the court, upon payment of the reasonable costs of making the copy.

Committee note: Rule 16-914 (g) prohibits public access to transcripts and recordings of closed proceedings and proceedings in actions as to which all documentary case records are required to be shielded.

(2) Redacted Portions of Recording

Unless otherwise ordered by the District Administrative Judge, the custodian of the recording shall assure that all portions of the recording that the court directed be safeguarded pursuant to section (f) of this Rule are redacted from any copy of a recording made for a person under subsection (g)(1) of this Rule. Delivery of the copy may be delayed for a period reasonably required to accomplish the redaction.

(3) Exceptions

Upon written request by any of the following persons and subject to the conditions in this Rule, the custodian shall make available to the ~~following persons~~ requesting person a copy of the audio recording of ~~proceedings that were closed pursuant to law, that are subject to Rule 16-914 (g),~~ a proceeding as to which Rule 16-914 (g) applies or a proceeding from which safeguarded portions have not been redacted:

- (A) the Chief Justice of the Supreme Court;
- (B) the Chief Judge of the District Court;



(C) the District Administrative Judge having supervisory authority over the court;

(D) the presiding judge in the case;

(E) the Commission on Judicial Disabilities or, at its direction, Investigative Counsel;

(F) Bar Counsel;

(G) unless otherwise ordered by the court, a party to the proceeding or the attorney for a party;

(H) a stenographer or transcription service designated by the court for the purpose of preparing an official transcript of the proceeding, provided that (i) the transcript of unredacted safeguarded portions of a proceeding, when filed with the court, shall be placed under seal or otherwise shielded by order of court and (ii) no transcript of a proceeding closed pursuant to law or containing unredacted safeguarded portions shall be prepared for or delivered to any person not listed in subsection (g) (3) of this Rule; and

(I) any other person authorized by the District Administrative Judge.

(4) Notice of Restricted Access

The custodian who provides a copy of a recording pursuant to subsection (g) (3) of this Rule shall mark or otherwise indicate whether the recording contains, in whole or in part, a proceeding as to which Rule 16-914 (g) applies or

public access is limited pursuant to section (f) of this Rule.  
If the copy of the recording contains any such proceedings, the  
custodian shall specify each section of the recording as to  
which the restrictions set forth in subsection (g) (5) of this  
Rule are applicable.

(5) Restrictions on Use by Authorized Persons

(A) Generally

Except as provided in subsection (g) (5) (B) of this  
Rule or authorized by an order of court, a person who, under  
subsection (g) (3) of this Rule, receives a copy of an electronic  
recording as to which all or a portion is subject to Rule 16-914  
(g) or as to which public access is limited pursuant to section  
(f) of this Rule, shall not (i) make or cause to be made any  
additional copy of the shielded portion of the recording or (ii)  
play the shielded portion of the recording for or give or  
electronically transmit the shielded portion of the recording to  
any person not entitled to it under subsection (g) (3) of this  
Rule.

(B) Exceptions

A person who receives a copy of an electronic  
recording under subsection (g) (3) of this Rule may: (i) play the  
recording, including any shielded or redacted portions, for a  
person who is a non-sequestered witness in the hearing, trial,  
or judicial proceeding that is the subject of the electronic

recording, or (ii) play the recording for or give or electronically transmit the recording, including any shielded or redacted portions, to an agent, employee, or consultant of the authorized person for use in connection with that person's official business duties. Investigative Counsel of the Commission on Judicial Disabilities and Bar Counsel, if they receive a copy of an electronic recording under subsection (g) (3) of this Rule, may play the recording for or give or electronically transmit the recording, including any shielded or redacted portions, to others in connection with the duties of those offices. A person permitted to listen to or electronically receive the shielded or redacted portions of the recording is subject to the restrictions on use in subsection (g) (5) of this Rule.

(6) Violation of Restrictions on Use

A willful violation of subsection (g) (5) of this Rule may be punished as a contempt.

Source: This Rule is derived from former Rule 16-504 (2016).

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 500 - RECORDING OF PROCEEDINGS

AMEND Rule 16-503 by stating that recordings pursuant to subsection (a) (1) shall be made "by a person authorized by the court to do so" and by adding new section (c) pertaining to official recordings, as follows:

Rule 16-503. IN CIRCUIT COURT

(a) Proceedings to be Recorded

(1) Proceedings in the Presence of Judge

All trials, hearings, testimony, and other judicial proceedings before a circuit court judge held either in a courtroom or by remote electronic means shall be recorded verbatim in their entirety by a person authorized by the court to do so, except that, unless otherwise ordered by the court, the person responsible for recording need not report or separately record an audio or audio-video recording offered as evidence at a hearing or trial.

. . .

(c) Official Recordings

Except for extended coverage of court proceedings permitted under Title 16, Chapter 600 of these Rules, only

official recordings of judicial proceedings in a circuit court  
made in accordance with this Rule are permitted.

Source: This Rule is derived in part from former Rule 16-404  
(2016). Section (c) is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 500 - RECORDING OF PROCEEDINGS

AMEND Rule 16-504 by adding a provision relating to shielding and redaction in subsection (f) (1) (C), by adding "or on its own initiative" and rewording the first sentence of section (g), by adding an evidentiary standard for entering an order to shield information in section (g), by requiring the log kept pursuant to the second sentence of section (g) to be in a form approved by the State Court Administrator, by adding new section (h) governing access to recordings by authorized persons, by deleting current sections (h) through (j), and by making stylistic changes, as follows:

Rule 16-504. ELECTRONIC RECORDING OF CIRCUIT COURT PROCEEDINGS

(a) Control of and Direct Access to Electronic Recordings

(1) Under Control of Court

Electronic recordings made pursuant to Rule 16-503 and this Rule are under the control of the court.

(2) Restricted Access or Possession

No person other than a duly authorized official or employee of the circuit court shall have direct access to or possession of an official electronic recording.

(b) Filing of Recordings

Audio and audio-video recordings shall be maintained by the court in accordance with standards specified in an administrative order of the Chief Justice of the Supreme Court.

(c) Court Reporters

Regulations and standards adopted by the Chief Justice of the Supreme Court under Rule 16-505 (a) apply with respect to court reporters employed in or designated by a circuit court.

(d) Presence of Court Reporters Not Necessary

Unless otherwise ordered by the court with the approval of the administrative judge, if circuit court proceedings are recorded by audio or audio-video recording, ~~which that is~~ otherwise is ~~effectively~~ monitored effectively, a court reporter need not be present in the courtroom.

(e) Identification Label

Whenever proceedings are recorded by electronic audio or audio-video means, the clerk or other designee of the court shall affix to each electronic audio or audio-video recording a label containing the following information:

- (1) the name of the court;
- (2) the docket reference of each proceeding included on the recording;
- (3) the date on which each proceeding was recorded; and

(4) any other identifying letters, marks, or numbers necessary to identify each proceeding recorded.

(f) Information Required to be Kept

(1) Duty to Keep

The clerk or other designee of the court shall keep the following items:

(A) a proceeding log identifying (i) each proceeding recorded on an audio or audio-video recording, (ii) the time the proceeding commenced, (iii) the time of each recess, and (iv) the time the proceeding concluded;

(B) an exhibit list;

(C) a testimonial log listing (i) the recording references for the beginning and end of each witness's testimony and (ii) each portion of the audio or audio-video recording that has been safeguarded pursuant to section (g) of this Rule or redacted pursuant to Rule 16-504.1. The log shall specify whether the safeguarding is a shielding pursuant to section (g) of this Rule or a redaction from a disseminated copy pursuant to Rule 16-504.1.

(2) Location of Exhibit List and Logs

The exhibit list shall be kept in the court file. The proceeding and testimonial logs shall be kept with the audio or audio-video recording.

(g) Safeguarding Confidential Portions of Proceeding



~~If a portion of a proceeding involves placing on the record matters that, on motion, the court finds should and lawfully may be shielded from public access and inspection the court shall direct that appropriate safeguards be placed on that portion of the recording. The court shall direct that appropriate safeguards be placed on a specified portion of the recording if the court, on motion or on its own initiative, finds by clear and convincing evidence (1) that a compelling reason exists under the particular circumstances to shield the information in that part of the recording from public access and inspection and (2) that no substantial harm will result from the shielding.~~ For audio and audio-video recordings, the clerk or other designee of the court shall create a log in a form approved by the State Court Administrator listing the recording references for the beginning and end of the safeguarded portions of the recording.

(h) Access to Recordings by Authorized Persons

(1) Permitted Access

Upon written request by any of the following persons and subject to the conditions in this Rule, the custodian shall make available to the requesting person a copy of the audio or, if available, the audio-video recording of a proceeding, including a recording of a proceeding as to which Rule 16-914 (g) applies and including each portion of the recording as to which public

access is limited pursuant to section (g) of this Rule or Rule 16-504.1 (b):

(A) the Chief Justice of the Supreme Court;

(B) the County Administrative Judge;

(C) the Circuit Administrative Judge having supervisory authority over the court;

(D) the presiding judge in the case;

(E) the Commission on Judicial Disabilities or, at its direction, Investigative Counsel;

(F) Bar Counsel;

(G) with respect to audio recordings or the audio portion of an audio-video recording, unless otherwise ordered by the court, a party to the proceeding or the attorney for a party;

(H) a stenographer or transcription service designated by the court for the purpose of preparing an official transcript of the proceeding, provided that (i) the transcript of unredacted safeguarded portions of a proceeding, when filed with the court, shall be placed under seal or otherwise shielded by order of court, and (ii) no transcript of a proceeding closed pursuant to law or containing unredacted safeguarded portions shall be prepared for or delivered to any person not listed in subsection (h) (1) of this Rule;

(I) any other person authorized by the County Administrative Judge; and

(J) with respect to audio-video recordings, the Supreme Court or the Appellate Court pursuant to Rule 8-415 (c).

Committee note: With leave of court and for good cause shown, where the video portion of a recording viewed pursuant to Rule 16-504.1 (a)(2) contains information of evidentiary value not available on a transcript or audio recording, nothing in this subsection would prohibit the video portion of a recording that is in the custody of the court from being introduced into evidence at a hearing, trial, or other judicial proceeding. This note does not pertain to the replaying of a video recording that has not been admitted into evidence during a party's closing argument in a judicial proceeding. As appropriate and necessary, the presiding judicial officer shall facilitate obtaining from the custodian access to that portion of the recording to be admitted into evidence. The recording itself shall remain in the custody of the official custodian and a copy shall be included in the record.

(2) Notice of Restricted Access

The custodian who provides a copy of a recording pursuant to subsection (h)(1) of this Rule shall mark or otherwise indicate whether the recording contains, in whole or in part, a proceeding as to which Rule 16-914 (g) applies or a proceeding as to which public access is limited pursuant to section (g) of this Rule or Rule 16-504.1 (b). If the copy of the recording contains any such proceedings, the custodian shall specify each section of the recording as to which the restrictions set forth in subsection (h)(3) of this Rule are applicable.

Committee note: Rule 16-914 (g) prohibits public access to transcripts and recordings of closed proceedings and proceedings in actions as to which all documentary case records are required to be shielded.

(3) Restrictions on Use by Authorized Persons

(A) Generally

Except as provided in subsection (h) (3) (B) of this Rule or authorized by an order of court, a person who, under section (h) of this Rule, receives a copy of an electronic recording as to which all or a portion is subject to Rule 16-914 (g) or as to which public access is limited pursuant to section (g) of this Rule or Rule 16-504.1 (b), shall not (i) make or cause to be made any additional copy of the shielded or redacted portion of the recording or (ii) play the shielded or redacted portion of the recording for or give or electronically transmit the shielded or redacted portion of the recording to any person not entitled to it under subsection (h) (1) of this Rule.

(B) Exceptions

A person who receives a copy of an electronic recording under section (h) of this Rule may: (i) play the recording, including any shielded or redacted portions, for a person who is a non-sequestered witness in the hearing, trial, or judicial proceeding that is the subject of the electronic recording, or (ii) play the recording for or give or electronically transmit the recording, including any shielded or redacted portions, to an agent, employee, or consultant of the authorized person for use in connection with that person's official business duties. Investigative Counsel of the

Commission on Judicial Disabilities or Bar Counsel, if they receive a copy of an electronic recording under section (h) of this Rule, may play the recording for or give or electronically transmit the recording, including any shielded or redacted portions, to others in connection with the duties of those offices. A person permitted to listen to or electronically receive the shielded or redacted portions of the recording is subject to the restrictions on use in subsection (h) (3) (A) of this Rule.

(4) Violation of Restriction on Use

A willful violation of any restriction on use of an electronic recording set forth in section (h) of this Rule may be punished as a contempt.

~~(h) Right to Obtain Copy of Audio Recording~~

~~(1) Generally~~

~~Except (A) for proceedings closed pursuant to law, (B) as provided in Rule 16-914 (g), (C) as otherwise provided in this Rule, or (D) as ordered by the court, the authorized custodian of an audio recording shall make a copy of the audio recording or, if practicable, the audio portion of an audio-video recording, available to any person upon written request and, unless waived by the court, upon payment of the reasonable costs of making the copy.~~

~~(2) Redacted Portions of Recording~~

~~Unless otherwise ordered by the County Administrative Judge, the custodian of the recording shall assure that all portions of the recording that the court has directed be safeguarded pursuant to section (g) of this Rule are redacted from any copy of a recording made for a person under subsection (h) (1) of this Rule. Delivery of the copy may be delayed for a period reasonably required to accomplish the redaction.~~

~~(3) Exceptions~~

~~Upon written request and subject to the conditions in section (h) of this Rule, the custodian shall make available to the following persons a copy of the audio recording or, if practicable, the audio portion of an audio-video recording of proceedings that were closed pursuant to law, proceedings that were subject to Rule 16-914 (g), or proceedings from which safeguarded portions have not been redacted:~~

~~(A) the Chief Judge of the Court of Appeals;~~

~~(B) the County Administrative Judge;~~

~~(C) the Circuit Administrative Judge having supervisory authority over the court;~~

~~(D) the presiding judge in the case;~~

~~(E) the Commission on Judicial Disabilities or, at its direction, Investigative Counsel;~~

~~(F) Bar Counsel;~~

~~(G) unless otherwise ordered by the court, a party to the proceeding or the attorney for a party;~~

~~(H) a stenographer or transcription service designated by the court for the purpose of preparing an official transcript of the proceeding, provided that (i) the transcript of unredacted safeguarded portions of a proceeding, when filed with the court, shall be placed under seal or otherwise shielded by order of court, and (ii) no transcript of a proceeding closed pursuant to law or containing unredacted safeguarded portions shall be prepared for or delivered to any person not listed in subsection (h)(3) of this Rule; and~~

~~(I) any other person authorized by the County Administrative Judge.~~

~~(3) Violation of Restriction on Use~~

~~A willful violation of subsection (j)(2) of this Rule may be punished as a contempt.~~

~~(i) Right to Listen to and View Audio-Video Recording~~

~~(1) Generally~~

~~Except for (A) proceedings closed pursuant to law, (B) proceedings that were subject to Rule 16-914 (g), (C) as otherwise provided in this Rule, or (D) as ordered by the Court, the authorized custodian of an audio-video recording, upon written request from any person, shall permit the person to listen to and view the recording at a time and place designated~~

~~by the court, under the supervision of the custodian or other designated court official or employee.~~

~~Committee note: If space is limited and there are multiple requests, the custodian may require several persons to listen to and view the recording at the same time or accommodate the requests in the order they were received.~~

~~(2) Safeguarded Portions of Recording~~

~~Unless otherwise ordered by the County Administrative Judge, the custodian of the recording shall assure that all portions of the recording that the court directed to be safeguarded pursuant to section (g) of this Rule are not available for listening or viewing. Access to the recording may be delayed for a period reasonably necessary to accomplish the safeguarding.~~

~~(3) Copying Prohibited~~

~~A person listening to and viewing the recording may not make a copy of it or have in his or her possession any device that, by itself or in combination with any other device, can make a copy. The custodian or other designated court official or employee shall take reasonable steps to enforce this prohibition, and any willful violation of the prohibition may be punished as a contempt.~~

~~(j) Right to Obtain Copy of Audio-Video Recording~~

~~(1) Who May Obtain Copy~~



~~Upon written request and subject to the conditions in this section, the custodian shall make available to the following persons a copy of the audio-video recording, including a recording of (A) proceedings that were closed pursuant to law, (B) proceedings that were subject to Rule 16-914 (g), (C) or proceedings or from which safeguarded portions have not been redacted:~~

~~(A) the Chief Judge of the Court of Appeals;~~

~~(B) the County Administrative Judge;~~

~~(C) the Circuit Administrative Judge having supervisory authority over the court;~~

~~(D) the presiding judge in the case;~~

~~(E) the Commission on Judicial Disabilities or, at its direction, Investigative Counsel;~~

~~(F) Bar Counsel;~~

~~(G) unless otherwise ordered by the court, a party to the proceeding or the attorney for a party;~~

~~(H) a stenographer or transcription service designated by the court for the purpose of preparing an official transcript of the proceeding, provided that, (i) if the recording is of a proceeding closed pursuant to law or from which safeguarded portions have not been redacted, the transcript, when filed with the court, shall be placed under seal or otherwise shielded by order of the court, and (ii) no transcript of a proceeding~~

~~closed pursuant to law or containing unredacted safeguarded portions shall be prepared for or delivered to any person not listed in subsection (j) (1) of this Rule;~~

~~(I) the Court of Appeals or the Court of Special Appeals pursuant to Rule 8-415 (c); and~~

~~(J) any other person authorized by the County Administrative Judge.~~

~~(2) Restrictions on Use~~

~~Unless authorized by an order of court, a person who receives a copy of an electronic recording under this section shall not:~~

~~(A) make or cause to be made any additional copy of the recording; or~~

~~(B) except for a non-sequestered witness or an agent, employee, or consultant of the party or attorney, give or electronically transmit the recording to any person not entitled to it under subsection (j) (1) of this Rule.~~

~~(3) Violation of Restriction on Use~~

~~A willful violation of subsection (j) (2) of this Rule may be punished as a contempt.~~

~~Cross reference: See Rule 16-505 (a) concerning regulations and standards applicable to court reporting in all courts of the State.~~

Source: This Rule is derived from former Rules 16-404, 16-405, and 16-406 (2016) and is in part new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURT ADMINISTRATION

CHAPTER 500 - RECORDING OF PROCEEDINGS

ADD new Rule 16-504.1, as follows:

Rule 16-504.1. PUBLIC ACCESS TO ELECTRONIC RECORDING OF CIRCUIT COURT PROCEEDINGS

(a) Generally

Except for proceedings as to which Rule 16-914 (g) applies, portions of proceedings safeguarded pursuant to Rule 16-504 (g), and portions of proceedings as to which the court has entered an order under section (b) of this Rule, the authorized custodian of an audio recording or audio-video recording made pursuant to Rule 16-504 shall:

(1) make a copy of the audio recording or, if practicable, the audio portion of an audio-video recording available to any person upon written request and, unless waived by the court, upon payment of the reasonable costs of making the copy; and

Committee note: Portions of a criminal proceeding redacted from a disseminated copy pursuant to section (b) of this Rule may be listened to pursuant to subsection (a)(2) of this Rule.

(2) upon written request from a person, permit the person to listen to the audio recording or, if available, listen to and view the audio-video recording at a time and place designated by

the court, under the supervision of the custodian or other designated court official or employee. A person listening to or listening to and viewing the recording may not make a copy of it or have in the person's possession any device that, by itself or in combination with any other device, can make a copy. The custodian or other designated court official or employee shall take reasonable steps to enforce this prohibition.

Committee note: If space is limited and there are multiple requests, the custodian may require several persons to listen to or listen to and view the recording at the same time or accommodate the requests in the order they were received.

Cross reference: See Rule 16-914 (g) pertaining to public access to transcripts and recordings of closed proceedings or proceedings in an action as to which all documentary case records are required to be shielded.

(b) Criminal Proceedings - Redaction from Disseminated Copy of Audio Recording

(1) Motion; Findings; Order

Regardless of whether a request for a copy of a recording of a criminal proceeding has been made pursuant to subsection (a) (1) of this Rule, on motion of a party or other interested person or on its own initiative, the court may order that a specified portion of a criminal proceeding be redacted from a copy of an audio recording subject to dissemination pursuant to subsection (a) (1) of this Rule if, by written order or on the record, the court makes a finding by clear and convincing evidence that (A) a compelling reason under the

particular circumstances exists for the redaction and (B) no substantial harm will result from the redaction. The court shall specify the portion of the proceeding that is to be redacted, when the redaction requirement will expire, if ever, and the reason for the redaction, which may include:

(i) the impact of the dissemination of the audio recording on the right of the defendant or the State to a fair trial if the redaction is not made;

(ii) the age, mental condition, or medical condition of a witness whose testimony is sought to be redacted;

(iii) the intimate nature of the testimony sought to be redacted;

(iv) the likelihood of harm to a party, victim, or witness if the redaction is not made; or

(v) other good cause.

(2) Least Restrictive Means

An order to redact a portion of a criminal proceeding from copies of the audio proceeding issued pursuant to subsection (b) (1) of this Rule shall be as narrow as practicable in scope and duration to effectuate the interest sought to be protected.

Committee note: The duration of the redaction requirement may be for a specified time, such as until entry of judgment or other disposition in the case, or for an indefinite period.

(3) Procedure

The clerk or other designee of the court shall create a log listing the recording references for the beginning and end of the portions of the recording as to which an order of redaction has been entered pursuant to subsection (b)(1) of this Rule. Unless the court orders otherwise, the testimony shall be redacted from all copies of the audio recording of the proceeding disseminated pursuant to subsection (a)(1) of this Rule, but shall not be redacted from the recording that a person may listen to or listen to and view pursuant to subsection (a)(2) of this Rule.

(4) Reconsideration

If, on motion of a party or other interested person, the court makes a finding that there has been a material change in circumstances and finds that the requirements of subsection (b)(1) of this Rule no longer are satisfied, the court shall modify or rescind an order issued under that subsection.

(c) Duty of Custodian

The custodian of a recording shall assure that (1) the copy of a recording disseminated pursuant to subsection (a)(1) of this Rule and (2) a recording listened to or listened to and viewed pursuant to subsection (a)(2) of this Rule comply with Rule 16-504 (g) and section (b) of this Rule, as applicable. Delivery of a copy of a recording or the ability to listen to or listen to and view the recording may be delayed for a period

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reasonably necessary to accomplish the required safeguarding or redaction.

Source: This Rule is derived in part from former sections (h) and (i) of Rule 16-504 (2023) and is in part new.

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURT ADMINISTRATION  
CHAPTER 900 - ACCESS TO JUDICIAL RECORDS  
DIVISION 1 - GENERAL PROVISIONS

AMEND Rule 16-901 by adding references to Rules 16-502 and 16-504.1 in the cross reference following section (b), as follows:

Rule 16-901. SCOPE OF CHAPTER

. . .

(b) Access by Judicial Employees, Parties, Attorneys of Record, and Certain Government Agencies

The Rules in this Chapter do not limit access to (1) judicial records by authorized judicial officials or employees in the performance of their official duties or to government agencies or officials to whom access is permitted by law, or (2) a case record by a party or attorney of record in the action.

Cross reference: For other Rules that affect access to judicial records, see Rule 16-502 (In District Court), Rule 16-504 (Electronic Recording of Circuit Court Proceedings), Rule 16-504.1 (Access to Electronic Recording of Circuit Court Proceedings), and Rule 20-109 (Access to Electronic Records in MDEC Actions).

Source: This Rule is new.